

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

AGENDA  
BOARD MEETING  
December 9, 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 Board 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. Public Comment speakers that are present and have submitted their completed Public Comment form to the Recording Secretary at least 5 minutes prior to the scheduled start of the meeting will be called to speak. Each speaker shall be limited to 3 minutes. Any member of the public may also submit written comments which, if received during regular business hours at least 48 hours in advance of the meeting, will be included as part of the record and distributed to the Board members in advance of the meeting.

**C. APPROVAL OF OCTOBER 14, 2021 BOARD MEETING MINUTES (action item)**

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

**E. REPORTS**

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

**F. REGULAR AGENDA ITEMS**

1. **FEDERAL LEGISLATIVE UPDATES** – *Jim Davenport, Partner, Thorn Run Partners* (info item)
2. **FISCAL YEAR 2021 FINANCIAL STATEMENTS** – *Michael Carlisle, Director of Accounting and Finance and Joel A. Knopp, Shareholder, MSL CPAs & Advisors* (action item)
3. **STRATEGIC PLAN** – *Michelle Maikisch, Chief of Staff/Public Affairs Officer* (info item)

(CONTINUED ON PAGE 2)

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

4. SR 429 WIDENING FROM WEST ROAD TO SR 414 – *Will Hawthorne, Director of Engineering* (action item)
5. RELOAD: CUSTOMER SERVICE LANES – *Jim Greer, Chief of Technology/Operations* (info item)
6. BOARD OFFICER ELECTIONS – *Diego “Woody” Rodriguez, General Counsel* (action item)

## G. BOARD MEMBER COMMENT

## H. ADJOURNMENT

This meeting is open to the public.

*Section 286.0105, Florida Statutes states that if a person decides to appeal any decision made by a board, agency, or commission with respect to any matter considered at a meeting or hearing, 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](mailto: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

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES  
BOARD MEETING  
October 14, 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 9:00 a.m. by Chairman Dyer.

### Board Members Present:

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

### Board Members Not Present:

Commissioner Brandon Arrington, Osceola County

### Staff Present at Dais:

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

### Non-Voting Advisor Present:

Nicola Liquori, Executive Director, Florida's Turnpike Enterprise

## B. PUBLIC COMMENT

- There were no public comment cards received from those in attendance.
- There were no written public comments received by the deadline.

**C. APPROVAL OF SEPTEMBER 9, 2021 BOARD MEETING MINUTES**

A motion was made by Commissioner Siplin and seconded by Mr. Martinez to approve the September 9, 2021 Board Meeting Minutes as presented. The motion carried unanimously with nine (9) board members in attendance voting AYE by voice vote. Commissioner Arrington was not present.

**D. APPROVAL OF CONSENT AGENDA**

The Consent Agenda was presented for approval.

**ADMINISTRATIVE SERVICES**

1. Approval of Intergovernmental Coordination and Review and Public Transportation Collaborative Planning Agreement
2. Approval of Fifth Contract Renewal with Rubin, Turnbull & Associates, Inc. for Advocacy and Consultant Services, Contract No. 001382 (Agreement Value: \$90,000.00)

**CONSTRUCTION**

3. Approval of First Contract Renewal with Rummel, Klepper & Kahl, LLP for Systemwide Construction Engineering and Inspection Services, Contract No. 001487 (Agreement Value \$0)
4. Approval of Contract Award to SEMA Construction, Inc. for South Access Road Slope Repair, Project No. 599-759, Contract No. 001768 (Agreement Value: \$4,298,000.00)

**ENGINEERING**

5. Approval of Contract Award to Scalar Consulting Group, Inc. for Design Consultant Services for SR 528 Widening from Goldenrod Road to Narcoossee Road, Project No. 528-168, Contract No. 001742 (Agreement Value: not-to-exceed \$2,135,000.00)
6. Approval of First Contract Renewal with Dewberry Engineers, Inc. for General Engineering Consultant Services, Contract No. 001145 (Agreement Value: \$16,946,240.00)
7. Approval of Supplemental Agreement No. 5 with Kisinger Campo & Associates, Corp. for Design Professional Services for SR 429 Widening from Stoneybrook West Parkway (South) to Florida's Turnpike, Project No. 429-154, Contract No. 001397 (Agreement Value: not-to-exceed \$1,314,066.97)

8. Approval of Supplemental Agreement No. 1 with TLP Engineering Consultants, Inc. for Design Services for SR 408 Tampa Avenue Interchange, Project No. 408-315, Contract No. 001617 (Agreement Value: not-to-exceed \$2,321,436.50)
9. Approval of Memorandum of Agreement Between CFX and the Florida Department of Transportation for Use of Maitland Boulevard Right of Way to Construct the SR 414 Expressway Extension

#### LEGAL

10. Approval of Second Contract Renewal with Shutts and Bowen, LLP for Right-of-Way Counsel Services, Contract No. 001431 (Agreement Value: \$0)
11. Approval of Second Contract Renewal with Nelson Mullins Riley and Scarborough LLP for Right-of-Way Counsel Services, Contract No. 001477 (Agreement Value: \$ 0)
12. Approval of Purchase Agreement Between the CFX and Orange County, Florida (Tiny Road/Tilden Road), Project Number 429-654, CFX Parcels 64-228, Part C, 64-828, and 64-829

#### MAINTENANCE

13. Approval of Star Cleaning USA, Inc. as a Subcontractor to Jorgensen Contract Services, LLC for Roadway and Bridge Maintenance Services, Contract No. 001151
14. Approval of Supplemental Agreement No. 7 with Traffic Engineering and Management, LLC d/b/a Control Specialists for Traffic Signal Maintenance Services, Contract No. 001322 (Agreement Value: not-to-exceed \$120,000.00)
15. Approval of Third Contract Renewal with Chapco Fence LLC for Fence Repair Services along the Poinciana Parkway, Contract No. 001536 (Agreement Value: \$30,000.00)

#### TECHNOLOGY/TOLL OPERATIONS

16. Approval of Second Contract Renewal with Shimmick Construction Company, Inc. for Toll Facilities Operations and Management Services, Contract No. 001661 (Agreement Value: \$16,848,135.02)
17. Approval of Contract Award to KPMG LLP for Information Technology Consultant Services, Contract No. 001798 (Agreement Value: \$4,027,000.00)
18. Approval of Agreement with AT&T Corp. for Voice and Data Services, Contract No. 001841 (Agreement Value: \$98,280.00)

19. Approval of Purchase Order to CDW-G LLC for In-Booth Computer Equipment (Agreement Value: \$190,873.80)
20. Approval of Amendment No. 1 to Purchase Order No. 005198 to SHI International Corp. for Microsoft Azure Cloud Services (Agreement Value: \$360,000.00)
21. Approval of Purchase Order to SHI International Corp. for Striim Software and Support Services (Agreement Value: \$53,769.36)

#### TRAFFIC OPERATIONS

22. Approval of Purchase Order to Temple, Inc. for Ruggedcom RSG 2300 Field Ethernet Switch Equipment, Project No. 599-542 (Agreement Value: \$249,288.55)
23. Approval of Electrical Services & Supply, LLC as a Subcontractor to Kapsch TrafficCom USA, Inc. for Maintenance of ITS Infrastructure, Contract No. 001689

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

#### E. REPORTS

1. CHAIRMAN'S REPORT

Chairman Dyer commented on the following:

- Today's agenda items;
- There will not be a November board meeting. The next meeting is scheduled for December 9<sup>th</sup>; and
- The Florida Automated Vehicle Summit hosted by CFX is November 29<sup>th</sup> through December 1<sup>st</sup> at Rosen Shingle Creek Resort.

2. TREASURER'S REPORT

Mayor Demings reported that as of the end of August, CFX's toll revenue year-to-date was \$99,959,362, which is 13% over budget and 42% over prior year.

Total Operations, Maintenance and Administration expenses were \$8,577,089 which is 8.7% under budget.

After debt service, the total net revenue available for projects for the year was \$56.3 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:

- Ms. Kelley described the SR 414 FDOT/CFX coordination. She thanked Secretary Perdue and his team for working with CFX to make this important project a reality;
- Ms. Kelley explained the three (3) relevant measures that have been added to the dashboard;
- Seminole County's request for a study of a direct connect from SR 417 to the Sanford Airport;
- Fitch Ratings changed CFX's outlook from negative to stable; and
- On December 9<sup>th</sup> Ms. Lamaute will be sharing the historical events that led to the creation of the Central Florida Beltway.

### F. REGULAR AGENDA ITEMS

#### 1. APPOINTMENT OF BRIAN C. BATTLES TO FINANCE COMMITTEE BY BOARD MEMBER JAY MADARA

Mr. Jay Madara submitted the nomination of Mr. Brian C. Battles to the Finance Committee.

A motion was made by Mr. Madara and seconded by Mayor Dyer for approval to appoint Mr. Brian C. Battles to the Finance Committee. The motion carried unanimously with nine (9) board members in attendance voting AYE by voice vote. Commissioner Arrington was not present.

#### 2. SR 429 WIDENING FROM FLORIDA'S TURNPIKE TO WEST ROAD

Mr. Will Hawthorne, Director of Engineering provided the history, details, project timeline and bids received for the SR 429 Widening from Florida's Turnpike to West Road project.

A motion was made by Commissioner Smith and seconded by Mayor Demings for approval of the award of the contract to Prince Contracting, LLC for the SR 429 Widening from Florida's Turnpike to West Road in the amount of \$177,987,429.00. The motion carried unanimously with nine (9) board members in attendance voting AYE by voice vote. Commissioner Arrington was not present.



3. **NORTHEAST CONNECTOR EXPRESSWAY PHASE 1 APPROVAL FOR PUBLIC HEARING**

Mr. Will Hawthorne, Director of Engineering introduced Dan Kristoff, Project Manager with RS&H. Mr. Hawthorne explained the Project Development & Environmental Study conducted, the study area, study background, public input, key inputs, and the preferred alternative.

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

A motion was made by Commissioner Siplin and seconded by Mr. Martinez for approval to move forward with a Public Hearing for the Northeast Connector Expressway Phase 1 Project Development & Environmental Study Preferred Alternative as presented. The motion carried unanimously with nine (9) board members in attendance voting AYE by voice vote. Commissioner Arrington was not present.

G. **BOARD MEMBER COMMENT**

Mayor Dyer welcomed Secretary Kevin Thibault.

H. **ADJOURNMENT**

Chairman Dyer adjourned the meeting at approximately 9:26 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](mailto:PublicRecords@CFXway.com), or 4974 ORL Tower Road, Orlando, FL 32807. Additionally, videotapes of Board meetings are available at the CFX website, [www.CFXway.com](http://www.CFXway.com).*

**D.**

Consent Agenda

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## CONSENT AGENDA December 9, 2021

### CONSTRUCTION

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

Project 528-143	SEMA Construction, Inc.	\$ 538,914.56
Project 538-165	The Lane Construction Corp.	\$1,563,608.11
Project 599-526C	SICE, Inc.	(\$ 330,726.16)
2. Approval of Contract Award to Johnson, Mirmiran & Thompson, Inc. for Construction Engineering and Inspection Services (CEI) for SR 429 Widening From West Road to SR 414, Project No. 429-153, Contract No. 001809 (Agreement Value: not-to-exceed \$10,670,000.00)
3. Approval of Contract Award to Cathcart Construction Company – Florida, LLC for McCoy Road Facility Improvements - Water and Sewer Lines, Project No. 599-416A/B, Contract No. 001833 (Agreement Value: \$651,254.45)
4. Approval of Contract Awards to United Signs & Signals, Inc., Traffic Control Devices, LLC and The New Florida Industrial Electric, Inc. for Rapid Response Contracts for Signs, Signals, ITS and Lighting, Contract Nos. 001864, 001865 and 001866 (Agreement Value: not-to-exceed \$3,000,000.00 each)
5. Approval of Contract Award to United Signs & Signals, Inc. for SR 414 Guide Sign Replacements, Project No. 414-640, Contract No. 001846 (Agreement Value: \$5,374,600.41)

### ENGINEERING

6. Approval of Supplemental Agreement No. 5 with TLP Engineering Consultants, Inc. for Design Consultant Services for SR 417 Widening from International Drive to John Young Parkway – Post Design Services, Project No. 417-141, Contract No. 001312 (Agreement Value: not-to-exceed \$62,446.11)
7. Approval of Final Ranking and Authorization of Contract Awards to Avant Engineering Group, LLC and Protean Design Group, Inc. for Miscellaneous Design Services – Small Sustainable Business Enterprise, Contract Nos. 001835 and 001836 (Agreement Value: \$3,000,000.00 each)
8. Approval of Final Ranking and Authorization of Contract Award to the Balmoral Group for Miscellaneous Planning Consultant Services – Small Sustainable Business Enterprise Contract No. 001844 (Agreement Value: \$1,800,000.00)
9. Approval of Contract Award to Real Image Solutions for Interactive 3D Virtual Modeling, Contract No. 001870 (Agreement Value: not-to-exceed \$500,000.00)

### HUMAN RESOURCES

10. Approval of Second Contract Renewal with Tews Consulting, Inc. for Staffing Services, Contract No. 001678 (Agreement Value: \$90,000.00)

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## INTERNAL AUDIT

11. Acceptance of Internal Audit Report:
  - a. Prior Audit Recommendations: Semi-Annual Follow Up
  - b. Secure Code Review

## LEGAL

12. Approval of Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement Between the City of Apopka and CFX for Harmon Road, Project Number: 429-604  
Portion of Parcels: 63-125 Pond and 63-117 Pond
13. Approval of Right of Way Transfer and Continuing Maintenance Agreement Between the CFX and City of Apopka, Florida (Harmon Road), Project Numbers: 429-200 and 429-604, Portions of Parcels 63-117 and 63-118
14. Approval of Relocation of Drainage Easement Agreement Between CFX, City Of Apopka, Florida, and DHIC-Oakpoint, LLC, Project Number: SR 429, Parcel Number: 63-810
15. Approval of Real Estate Purchase Agreement Between CFX and Farmland Reserve, Inc., Project Number: 528-757 (Agreement Value: \$94,300.00)
16. Approval of Easement and Maintenance Agreement Between CFX and Orange County, Florida, Project Number: State Road 408, Parcel Numbers: 1-227 Partial, 1-251 Partial, 1-252 (a/k/a 8093), Pond 12 and 1-226, 1-228 Partial, 1-247 Partial (a/k/a 8093a), Pond 1

## MAINTENANCE

17. Approval of First Contract Renewal with Jorgensen Contract Services, LLC for Roadway and Bridge Maintenance Services – SR 408, SR 417, SR 528 and Goldenrod Road Extension, Contract No. 001151 (Agreement Value: \$3,750,000.00)
18. Ratification of Contract Award to Jorgensen Contract Services, L.L.C. for Roadway and Bridge Maintenance Services – SR 453, SR 429, SR 414 and SR 451, Contract No. 001861 (Agreement Value: \$2,100,000.00)

## RECORDS MANAGEMENT

19. Approval of First Contract Renewal with Access Information Protected for Offsite Records Storage Services, Contract No. 001523 (Agreement Value: \$0)

## TECHNOLOGY/TOLL OPERATIONS

20. Approval of Second Contract Renewal with Kyra Solutions, Inc. for Image Processing Solution, Contract No. 001660 (Agreement Value: \$500,000.00)

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

21. Approval of Purchase Order to Microsoft Corporation for Support Services (Agreement Value: \$115,897.00)

## TRAFFIC OPERATIONS

22. Approval of Coke Consulting, LLC as Subconsultant to AECOM Technical Services, Inc. for General Systems Consultant Services, Contract No. 001215

23. Approval of Supplemental Agreement No. 5 with Vanasse Hangen Brustlin, Inc. for Design Consultant Services for Three-Line Dynamic Message Signs (DMS) Replacement Project – Post Design Services, Project No. 599-545, Contract No. 001419 (Agreement Value: \$88,862.78)

The following items are for information only:

- A. The following is a list of advertisement(s) from October 17, 2021 through December 5, 2021:
1. 408-831: SR 408/417 Interchange Landscape
  2. 417-246: SR 417 (Seminole Expressway) to Orlando Sanford International Airport Connector Concept, Feasibility and Mobility Study
  3. 429-154: SR 429 Widening from Tilden Road to Florida's Turnpike
  4. 528-172: SR 528 West Mainline Data Collection Gentries – Design
  5. 528-163: SR 528 and SR 520 Interchange Lighting Project
  6. External Auditing Services

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. 408-128A: SR 408 Dynamic Messaging Signs and ITS Improvements
  2. 408-167: SR 408 Lighting Replacements (LAMS System) from I-4 to SR 417 - Construction
  3. 408-315A: SR 408 East Bound Widening between US 441 and I-4 - Design
  4. 408-430: CFX HQ 2<sup>nd</sup> Floor Renovations
  5. 417-760: SR 417 Resurfacing between SR 528 and Curry Ford Road – Construction
  6. 429-427: Independence Mainline Photovoltaics Deployment – Design/Build
  7. 451-767: SR 451 Resurfacing – Construction
  8. 528/SR 436 Interchange Landscape
  9. 528-160: SR 528 Widening from Narcoossee Road to SR 417 – Construction
  10. 528-757: SR 528 Farm Access 1 Bridge Removal – Construction
  11. 534-241: SR 534/SR 417 Interchange (Segment 1) – Design
  12. 538-234: Poinciana Parkway Extension from US 17/92 to Ronald Reagan Parkway – CEI Services
  13. 538-235: Poinciana Parkway Extension from CR 532 to US 17/92 – CEI Services
  14. 599-416C: McCoy Road Facility Building Reconstruction – Construction
  15. 599-765: Systemwide Toll Plaza Facia and Roof Replacements - Construction
  16. SR 408 West Bound Widening from Semoran Boulevard to Goldenrod Road
  17. Advocacy Services
  18. Bond Counsel Services
  19. Disclosure Counsel Services
  20. Highway Lighting Maintenance Services SR 414, SR 429, SR 451 & SR 453
  21. Systemwide Facilities Maintenance
  22. Vegetation Control for Mechanically Stabilized Earth and Sound Walls SR 414, SR 429, SR 451 & SR 453


**CONSENT AGENDA ITEM**

**#1**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

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

DATE: November 9, 2021

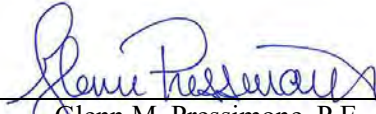
SUBJECT: Construction Contract Modifications

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 (\$) December 2021	Total Amount (\$) to Date*	Time Increase or Decrease
528-143	SEMA Construction, Inc.	SR 528 / SR 436 Interchange Improvements	\$ 106,520,000.00	\$ 500,926.32	\$ 538,914.56	\$ 107,559,840.88	0
538-165	The Lane Construction Corp.	SR 538 Widening, Ronald Reagan Pkwy to Cypress Pkwy	\$ 92,628,420.00	\$ 185,206.81	\$ 1,563,608.11	\$ 94,377,234.92	0
599-526C	SICE, Inc.	Wrong Way Driving Detection III	\$ 4,205,688.65	\$ -	\$ (330,726.16)	\$ 3,874,962.49	0
<b>TOTAL</b>					\$	1,771,796.51	

\* 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 & SR 528 Widening**  
**SEMA Construction, Inc.**  
**SA 528-143-1221-04**

Lighting Retrofits

Per the contract, an assessment of the existing lighting system was performed. Necessary upgrades and repairs were identified and completed. Existing lighting pay items were adjusted to reflect the actual quantities required to complete the work.

ADD THE FOLLOWING ITEMS:

Pole Grounding	\$	2,277.57
Strain Relief Installed	\$	8,334.70
Duct Seal Installed	\$	20,747.52
PCDS Slack Adjusted	\$	5,619.12
Mow Pad Installed	\$	68,089.50
Pole T-Base Replaced	\$	5,708.40
Lamacoid Tag Fixed	\$	213.00
Dirt Clean from Pole	\$	4,864.46
Dirt Clean from Pull Box	\$	13,963.95
Wall Box Screws Replaced	\$	2,356.56
Prime Contractor Retrofit Support	\$	9,108.74
	\$	<u>141,283.52</u>

INCREASE THE FOLLOWING ITEM:

Replace Existing Pole Cable Distribution System	\$	270,400.00
---	----	------------

DECREASE THE FOLLOWING ITEMS:

Replace Surge Arrestor to Exist MG Square PCDS	\$	(9,200.00)
Replace Lighting Pull Box Lid	\$	(5,440.00)
F&I Ground Rod Assembly	\$	(7,360.00)
Removal & Replacement of Split Bolt Electrical Splices	\$	<u>(232,560.00)</u>
	\$	<u>(254,560.00)</u>

Subtotal: Lighting Retrofits	\$	157,123.52
------------------------------	----	------------

Architectural Precast Pylons - Dimension Revisions

The dimensions of the architectural precast pylons required adjustment to maintain aesthetic consistency with CFX's standards.

ADD THE FOLLOWING ITEM:

Architectural Precast Pylons - Dimension Revisions	\$	212,028.75
--	----	------------

Repair Box Culvert

Existing box culverts within the project limits were inspected to ascertain their current condition and document necessary repairs for an upcoming project. One repair was completed under this project in order to avoid unnecessary reconstruction costs to the pavement currently being widened on NB SR 436.

ADD THE FOLLOWING ITEM:

Repair Box Culvert	\$	29,346.20
--------------------	----	-----------



Utility Conflicts

The Contractor discovered conflicts with a gas line, an active watermain and an abandoned watermain casing when installing a section of the stormwater system on the project. Modifications to drainage structures and removal and reinstallation of previously placed stormwater pipe were required to avoid the conflicting utilities.

INCREASE THE FOLLOWING ITEM:	
Pipe Culvert, Optional Material, Round, 18" S/CD	\$ 37,264.00
DECREASE THE FOLLOWING ITEM:	
Pipe Culvert Optional Material, Round, 24" S/CD	\$ (65,760.00)
ADD THE FOLLOWING ITEM:	
Drainage conflict with Utility	\$ 57,488.08
Subtotal: Utility Conflicts	\$ 28,992.08

Tentative Final Quantities

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

INCREASE THE FOLLOWING ITEMS:	
Subsoil Excavation	\$ 13,576.20
Embankment	\$ 8,401.71
Type B Stabilization	\$ 693.22
Optional Base, Base Group 02	\$ 1,647.00
Optional Base, Base Group 06	\$ 1,371.20
Optional Base, Base Group 15	\$ 76,250.00
Superpave Asphaltic Conc, TL C	\$ 11,412.50
Concrete Class IV, Retaining Wall	\$ 3,388.00
Reinforcing Steel - Retaining Wall	\$ 450.00
Shoulder Gutter	\$ 1,536.00
Concrete Ditch Pavement, Non Reinforced, 3"	\$ 4,636.00
Fence Gate, Vinyl, Dbl, 18.1-20.0' Opening	\$ 1,400.00
Conduit, F&KI, Embedded, Conc. Barriers & Traffic Railings	\$ 30,420.00
Multi-Post Sign, F&I, Ground Mount, 201-300 SF	\$ 19,400.00
Sign Panels, Remove, 101-200 SF with Lighting	\$ 7,200.00
Sign Panels, Overlays, 101-200 SF	\$ 10,000.00
RipRap-Rubble, Bank & Shore	\$ 2,844.00
Conduit, 6" HDPE, Outer Duct w/3~1" HDPE & 1~2" PVC (Direct Bore) (F&I)	\$ 3,160.00
Conduit, 6" HDPE Outer Duct w/1~2" PVD (Directional Bore) (F&I)	\$ 1,870.00
Conduit, 6" HDPE Outer Duct w/2~2" PVD (Directional Bore) (F&I)	\$ 185.00
	<hr/>
	\$ 199,840.83
DECREASE THE FOLLOWING ITEMS:	
Optional Base, Base Group 10	\$ (25,000.00)
Milling Exist Asph Pavt, 3/4' Avg Depth	\$ (222.82)
Inlets, Dt, Bot, Type C, <10'	\$ (5,400.00)
Fencing Type B, 5.1-6.0, /w Vinyl Coating	\$ (5,194.00)
Sign Panel, Remove Panel, 201-300 SF w/ Lighting	\$ (8,700.00)
Flowable Fill, Culvert Filling	\$ (4,200.00)
Pipe Culvert, Opt. Mat'l, Round, Jack & Bore, 30" Storm and Cross Drain	\$ (16,120.00)
Existing Culvert Inspection	\$ (19,900.00)
Conduit, 3~1" HDPE (Directional Bore) (F&I)	\$ (3,680.00)
	<hr/>
	\$ (88,416.82)
Subtotal: Tentative Final Quantities	\$ 111,424.01

**TOTAL AMOUNT FOR PROJECT 528-143**

**\$ 538,914.56**

**Project 538-165: SR 538 Widening, Ronald Reagan Parkway to Cypress Parkway**  
**The Lane Construction Corporation**  
**SA 538-165-1221-03**

Redesign for Future Ultimate 6-Lane Configuration

The Design/Build firm was directed to accommodate drainage for a future ultimate 6-lane configuration.

ADD THE FOLLOWING ITEMS:

Redesign of the drainage system for the future 6-lane configuration	\$ 105,291.00
Storm drainage system for the future 6-lane configuration	\$ 1,233,079.45
	<u>\$ 1,338,370.45</u>

Subtotal: Redesign for Future Ultimate 6-Lane Configuration \$ 1,338,370.45

Redesign of Pond 4-1 and Pond 5-1

The Design/Build firm was directed to change the original environmental permitting, add additional permitting, re-design the drainage system and construct the changed storm drainage system to accommodate for the deletion of Pond 4-1 from CFX's stormwater system and to reroute the stormwater drainage to Pond 5-1.

ADD THE FOLLOWING ITEMS:

Change environmental permitting from a concept permit to a construction permit	\$ 14,124.00
Additional permitting and design costs to eliminate Pond 4-1	\$ 125,360.50
Additional construction costs to reroute stormwater drainage to Pond 5-1 and eliminate Pond 4-1	\$ 85,753.16
	<u>\$ 225,237.66</u>

Subtotal: Redesign of Pond 4-1 and Pond 5-1 \$ 225,237.66

**TOTAL AMOUNT FOR PROJECT 538-165** **\$ 1,563,608.11**

**Project 599-526C: Wrong Way Driving Detection III**  
**SICE, Inc.**  
**SA 599-526C-1221-01**

Adjustments to Final Quantities for Completed Contract Items

Adjusted quantities for completed pay items in the contract. The following will adjust these contract quantities to reflect the actual authorized or field measured quantities installed under the contract.

INCREASE THE FOLLOWING ITEMS:

Fiber Optic Cable, (12 SM Fiber) (F&I)	\$	5,357.10
Pull Box (F&I)	\$	3,693.20
Small Fiber Optic Pull Box, 24" Dia, (F&I)	\$	3,323.85
Pull Box (Remove-All Types)	\$	568.18
Conduit, 3-1" HDPE (Trench or Plow) (F&I)	\$	418.90
Conduit, 3-1" HDPE (Directional Bore) (F&I)	\$	2,020.57
Conduit, 1-1" HDPE and 2-2" PVC (Directional Bore) (F&I)	\$	7,825.95
Conduit, 3-1" HDPE and 2-2" PVC (Directional Bore) (F&I)	\$	1,366.78
Conduit, 4-1" HDPE and 2-2" PVC (Directional Bore) (F&I)	\$	10,143.00
Conduit, 1-2" PVC (Trench or Plow) (F&I)	\$	2,193.75
Conduit, 2-2" PVC (Trench or Plow) (F&I)	\$	1,138.06
Conduit, 2-2" PVC (Directional Bore) (F&I)	\$	23,887.05
Conduit, 1-1" RGS Aboveground (F&I)	\$	548.78
Conduit, 1-2" RGS Aboveground (F&I)	\$	10,909.44
Conduit, 2-2" RGS Aboveground (F&I)	\$	3,562.50
Conduit, 3-2" and 1-1" PVC (Trench or Plow) (F&I)	\$	72.72
Conduit, 1-1" and 2-0.75" PVC (Trench or Plow) (F&I)	\$	34.10
Conduit, 6" HDPE Outer Duct w/ 3-1" HDPE and 1-2" PVC (Directional Bore) (F&I)	\$	3,698.62
Conduit, 6" HDPE Outer Duct w/ 4-1" HDPE and 2-2" PVC (Directional Bore) (F&I)	\$	5,607.57
Conduit, 8" HDPE Outer Duct w/ 4-1" HDPE and 4-2" PVC (Directional Bore) (F&I)	\$	312.50
Conduit, 6" HDPE Outer Duct w/ 2-2" PVC (Directional Bore) (F&I)	\$	20,521.32
Conduit, 6" HDPE Outer Duct w/ 3-2" PVC (Directional Bore) (F&I)	\$	3,977.00
Tubular Route Marker (Fiber)	\$	187.50
Electrical Power Transformer (F&I)	\$	1,092.61
Electrical Conductors (Insulated) (No. 2) (F&I)	\$	771.12
Electrical Conductors (Insulated) (No. 6) (F&I)	\$	1,679.80
Electrical Conductors (Insulated) (No. 10) (F&I)	\$	521.51
Composite Cable (Remove)	\$	34.20
Type P-IIA Concrete Pole	\$	15,807.92
Prestressed Concrete Pole, Complete Removal-Pedestal/Service Pole	\$	1,090.90
Fiber Optic Patch Panel, 12 Port (F&I)	\$	1,437.50
Cut-to-length Fiber Optic Jumper (F&I)	\$	1,350.00
RFB WWDS Pole Spare Parts (Furnish Only)	\$	22,761.81
	\$	<u>157,915.81</u>

DECREASE THE FOLLOWING ITEMS:

Fiber Optic Cable (Existing-Remove)	\$	(561.45)
Conduit, 2-1" HDPE (Trench or Plow) (F&I)	\$	(809.72)
Conduit, 1-2" HDPE (Directional Bore) (F&I)	\$	(890.96)
Conduit, 1-1" HDPE and 1-2" PVC (Directional Bore) (F&I)	\$	(15,167.80)
Conduit, 1-1" HDPE and 2-2" PVC (Trench or Plow) (F&I)	\$	(1,091.20)
Conduit, 3-1" HDPE and 1-2" PVC (Directional Bore) (F&I)	\$	(4,887.06)
Conduit, 1-2" PVC (Directional Bore) (F&I)	\$	(1,431.90)
Conduit, 3-2" PVC (Trench or Plow) (F&I)	\$	(247.08)
Conduit, 1- 0.5" RGS (Aboveground) (F&I)	\$	(386.41)
Conduit, 2- 0.75" RGS (Aboveground) (F&I)	\$	(1,250.00)

Conduit, 1- 1" and 2- 0.75" PVC (Wall Mounted) (F&I)	\$ (852.30)
Conduit, 3- 1" and 1- 0.75" PVC (Wall Mounted) (F&I)	\$ (781.25)
Conduit, 1- 2" and 1- 1" and 2- 0.75" PVC (Trench or Plow) (F&I)	\$ (170.41)
Conduit, 6" HDPE Outer Duct w/ 3- 1" HDPE and 2- 2" PVC (Directional Bore) (F&I)	\$ (14,396.74)
Conduit, 6" HDPE Outer Duct w/ 1- 2" PVC (Directional Bore) (F&I)	\$ (8,512.50)
Electrical Power Service Assembly (Adjust) (F&I)	\$ (2,550.00)
Closet Connector Housing Panel (Remove)	\$ (22.72)
Gigabit Ethernet Field Switch (Remove)	\$ (545.46)
Retroreflective Sign Strip (F&I) 2"	\$ (107.95)
Thermoplastic, Standard, White, Message ("ONLY")	\$ (255.68)
Thermoplastic, Standard, White, Arrow	\$ (238.64)
Thermoplastic, Standard, Yellow, 2-4 Dotted Guide Line/6-10 Dotted Extension Line, 6"	\$ (19.80)
RFB WWDS Spare Parts Kit (Furnish Only)	\$ (383,490.00)
Dispute Review Board Allowance	\$ (30,000.00)
Work Order Allowance	\$ (19,974.94)
	<u>\$ (488,641.97)</u>

Subtotal: Adjustments to Final Quantities for Completed Contract Items \$ (330,726.16)

**TOTAL AMOUNT FOR PROJECT 599-526C** **\$ (330,726.16)**


**CONSENT AGENDA ITEM**

**#2**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: November 19, 2021

SUBJECT: Approval of Contract Award to Johnson, Mirmiran & Thompson, Inc.  
for Construction Engineering and Inspection Services (CEI) for SR 429  
Widening From West Road to SR 414  
Project No. 429-153, Contract No. 001809

---

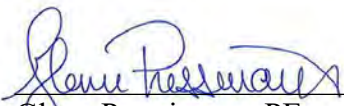
The Board approved on September 9, 2021, the final ranking and authorization to negotiate with firms for CEI Services for SR 429 widening from West Road to SR 414.

Board award of the contract to Johnson, Mirmiran & Thompson, Inc. is requested in a not-to-exceed amount of \$10,670,000.00.

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

Reviewed by:

  
Ben Dreiling, PE  
Director of Construction

  
Glenn Pressimone, PE

# AGREEMENT



AND

## JOHNSON, MIRMIRAN & THOMPSON, INC.

CONSTRUCTION ENGINEERING AND INSPECTION SERVICES  
FOR

SR 429 WIDENING FROM WEST RD. TO SR 414

PROJECT NO. 429-153  
CONTRACT NO. 001809

CONTRACT DATE: December 09, 2021  
CONTRACT AMOUNT: \$10,670,000.00

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 WEST RD. TO SR 414  
PROJECT NO. 429-153**

**CONSTRUCTION ENGINEERING AND INSPECTION SERVICES**

**CONTRACT NO. 001809**

**DECEMBER 2021**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**



## TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
AG	Agreement	1 to 19
	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 .....	16
24.0	NOTICE .....	16
25.0	HEADINGS.....	16
26.0	CONTRACT LANGUAGE AND INTERPRETATION.....	17
27.0	ASSIGNMENT .....	17
28.0	SEVERABILITY .....	17
29.0	INTEGRATION.....	17
30.0	ATTACHMENTS .....	18

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AGREEMENT FOR CONSTRUCTION ENGINEERING AND INSPECTION SERVICES  
CONTRACT NO. 001809**

THIS AGREEMENT, made and entered into this 9<sup>th</sup> day of December 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 Johnson, Mirmiran & Thompson, Inc. hereinafter called “CONSULTANT”, carrying on professional practice in engineering with offices located at 615 Crescent Executive Court, Suite 106, Lake Mary, Florida 32746.

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. 01809, SR 429 Widening from West Rd. to SR 414. 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. 001809 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 32 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 34 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:

A2, Inc.	AE Engineering, Inc.
Elipsis Engineering & Consulting, LLC	Mehta and Associates, Inc.
PI Consulting Services, LLC	GRL Engineers, Inc.
KTA-Tator, Inc.	Newkirk Engineering, Inc.
EAC Consulting, Inc	

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

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

## 5.0 COMPENSATION

CFX agrees to pay the CONSULTANT compensation as detailed in **Exhibit "B"**, Method of Compensation, attached hereto and made a part hereof, in the not-to-exceed amount of \$10,670,000.00. 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 4303 Vineland Road, Ste F3, Orlando, Florida 32811.

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

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

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

An excerpt of Section 119.0701, Florida Statutes is below.

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

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

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

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

## 7.0 COMPLIANCE WITH LAWS

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

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

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

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

The CONSULTANT hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached **Exhibit "C"**, Details of Costs and Fees, supporting the compensation provided in Paragraph 5.0 are accurate, complete and current as of the date of this Agreement. It is further agreed that said price provided in Paragraph 5.0 hereof shall be adjusted to exclude any significant sums where CFX shall determine the price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments shall be made within one year following the date of final billing or acceptance of the work by CFX, whichever is later.

## 9.0 TERMINATION

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

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



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

If CFX abandons the work or subtracts from the work, suspends, or terminates the Agreement as presently outlined, the CONSULTANT shall be compensated for actual costs, as determined in **Exhibit "B"**, for work properly performed by the CONSULTANT prior to abandonment or termination of the Agreement. The ownership of all engineering documents completed or partially completed at the time of such termination or abandonment, shall be transferred to retained by CFX.

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

## 10.0 ADJUSTMENTS

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the Director of Construction who shall decide all questions, difficulties and dispute of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof; and his decision upon all claims, questions and disputes shall be final. Adjustments of compensation and term of the Agreement, because of any major changes in the work that may become necessary or desirable as the work progresses, shall be left to the absolute discretion of the Director and Supplemental Agreement(s) of such a nature as required may be entered into by the parties in accordance herewith. Disputes between the Director of Construction and the CONSULTANT that cannot be resolved shall be referred to CFX's Executive Director whose decision shall be final.

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

reasonable; however, in no event will the filing of the claim or the resolution or litigation thereof, through administrative procedures or the courts, relieve the CONSULTANT from the obligation to timely perform the supplemental work.

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

The CONSULTANT shall indemnify and hold harmless CFX, and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the design professional in the performance of the Agreement.

Subject to the provisions and limitations set forth in law, the CONSULTANT expressly agrees to indemnify, defend, and hold harmless CFX, and its officers, and employees, from any claim, liabilities, losses, damages, and costs, including, but not limited to, reasonable attorneys' fees, arising from any act, error or omission of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the Agreement, except that the CONSULTANT will not be liable under this paragraph for claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of CFX, its officers, or employees during the performance of the Agreement.

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

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

CFX is an agency of the State of Florida whose limits of liability are set forth in Section 768.28, Florida Statutes, and nothing herein shall be construed to extend the limits of liability of CFX beyond that provided in Section 768.28, Florida Statutes. Nothing herein is intended as a waiver of CFX's sovereign immunity under Section 768.28, Florida Statutes, or law. Nothing hereby shall inure to the benefit of any third party for any purpose, which might allow claims

otherwise barred by sovereign immunity or operation of law. Furthermore, all of CFX's obligations are limited to the payment of no more than the amount limitation per person and in the aggregate contained in Section 768.28, Florida Statutes, except for payments for work properly performed, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.

The obligations in Section 11.0, Hold Harmless and Indemnification, shall survive the expiration or termination of this Agreement and continue in full force and effect.

## 12.0 INFRINGEMENT OF PATENTS AND COPYRIGHTS

The CONSULTANT shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. The CONSULTANT shall, at its expense, hold harmless and defend CFX against any claim, suit or proceeding brought against CFX which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under this Agreement, constitute an infringement of any patent or copyright of the United States. The CONSULTANT shall pay all damages and costs awarded against CFX. The obligations in Section 12.0, Infringement of Patents and Copyrights, shall survive the expiration or termination of this Agreement and continue in full force and effect.

## 13.0 INSURANCE

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

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

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

13.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence,

Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to CFX) or the general aggregate limit shall be twice the required occurrence limit. CFX shall be listed as an additional insured. ISO Form CG 20 10 11 85 or if not available, ISO Forms CG 20 10 10 01 and CG 20 37 10 01, or if not available, their equivalent acceptable to CFX, shall be used to meet these requirements and a photocopy of same shall be provided with the Certificate. The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

13.2 Business Automobile Liability coverage shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

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

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

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

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

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

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

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

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

Johnson, Mirmiran & Thompson, Inc.  
615 Crescent Executive Court, Suite 106  
Lake Mary, Florida 32746  
Attn: Sergio Quevedo, 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 ]

Project No. 429-153  
Contract No. 001809

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 December 09, 2021.

**JOHNSON, MIRMIRAN  
& THOMPSON, INC.**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

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

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

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

Print Name: Aneth Williams

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

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

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

*Approved as to form and execution, only.*

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

Print Name: Diego "Woody" Rodriguez

**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. 001809, S.R. 429 Widening from West Road to S.R. 414, Project No. 429-153.

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

1. Resident Engineer/Sr. Project Engineer

Registration by the Florida State Board of Engineer Examiners as a Professional Engineer and ten (10) years of highway construction engineering experience. Experience shall include at least five (5) years of major bridge construction and at least five (5) years of roadway construction. Qualifications include the ability to communicate effectively and actively direct a highly complex and specialized construction engineering administration and inspection program; plan and organize the work of subordinate staff members; consult with CFX's Director of Construction and his staff; develop and review policies, methods, practices and procedures; review the program for conformity with FDOT standards and as amended by CFX. The Resident Engineer must be able to interpret and monitor scheduled construction progress; must be qualified to manage field changes, change orders, claims and public complaints.

2. Project Engineer/Project Administrator

A Civil Engineering Degree plus six (6) years of highway construction engineering experience;

or ten (10) years of responsible highway construction engineering experience. Experience shall include at least two (2) years of major bridge construction. Receives general instruction regarding assignments and is expected to exercise initiative and independent judgment in solution of work problems. Directs and assigns specific tasks to inspectors and assistants for all phases of the construction project. A master's degree may be substituted for one (1) year of experience.

3. Office Engineer/Contract Support Specialist

High school graduate plus five (5) years construction project related experience. Should exercise independent judgment in planning work details and making technical decisions related to office aspects of the project. Receives general supervision and verbal instructions from Resident Engineer. Must be able to interpret project drawings and technical specifications, organize and summarize construction quantities, and perform computer data entry. Must have technical skill to maintain As-Built (record) drawings.

4. 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: November 15, 2021

SUBJECT: Approval of Contract Award to Cathcart Construction Company –  
Florida, LLC for McCoy Road Facility Improvements - Water and Sewer Lines  
Project No. 599-416A/B, Contract No. 001833

---

An Invitation to Bid for the above referenced project was advertised on September 12, 2021. Three (3) responses were received by the November 9, 2021 deadline.

Bid results were as follows:

<u>Bidder</u>	<u>Bid Amount</u>
1. Cathcart Construction Company – Florida, LLC	\$ 651,254.45
2. Carr & Collier, Inc.	\$ 809,700.00
3. Southern Development & Construction, Inc.	\$1,026,740.00


The engineer's estimate for this project is \$463,015.00. Included in the Five-Year Work Plan is \$500,000.00.

The work to be performed includes providing all labor, materials, equipment, and incidentals necessary to construct a water mainline and sewer line for the CFX Maintenance Building located at 7011 McCoy Road.

Board award of the contract to Cathcart Construction Company – Florida, LLC in the amount of \$651,254.45 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

## CATHCART CONSTRUCTION COMPANY - FLORIDA, LLC

MCCOY ROAD FACILITY IMPROVEMENTS –  
WATER LINE AND SEWER LINE

PROJECT NO. 599-416A (599-416B)  
CONTRACT NO. 001833

CONTRACT DATE: DECEMBER 09, 2021  
CONTRACT AMOUNT: \$651,254.45

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**

**MCCOY ROAD FACILITY IMPROVEMENTS –  
WATER LINE AND SEWER LINE**

**PROJECT NO. 599-416A (599-416B)  
CONTRACT NO. 001833**

**DECEMBER 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 – 130
	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-8
	(See Technical Specifications Table of Contents for listing of individual specifications sections.)	
TSS	TECHNICAL SPECIAL SPECIFICATIONS	01010-1 to 15104-5
	(See Technical Specifications Table of Contents for listing of individual specifications sections.)	
SP	SPECIAL PROVISIONS	SP-1 to SP-9
	(See Special Provisions Table of Contents for listing of individual specifications sections.)	
	Addendum No. 1	Addendum No. 2
P	PROPOSAL	P-1 to P-12
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2
PCB	PUBLIC CONSTRUCTION BOND	PCB-1 to PCB-4
Plans		



## CONTRACT

This Contract No. 001833 (the "Contract"), made this 9<sup>th</sup> day of December 2021, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and CATHCART CONSTRUCTION COMPANY - FLORIDA, LLC, of 2564 Connection Point, Oviedo, FL 32765, hereinafter the CONTRACTOR:

WITNESSETH: The CONTRACTOR shall, for the consideration herein mentioned and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents (and under security as set forth in the attached Performance and Payment Bond) all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed to the satisfaction of the duly authorized representatives of CFX, who shall have at all times full opportunity to inspect the materials furnished and the work done under this Contract.

The work to be done under this Contract includes construction of all items associated with Project No. 599-416A (599-416B), McCoy Road Facility Improvements – Water Line and Sewer Line, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 120 calendar days. The Contract Amount is \$651,254.45. This Contract was awarded by the Governing Board of CFX at its meeting on December 9, 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 Special Specifications,
7. The Technical Specifications,
8. The General Specifications,
9. The Standard Specifications,
10. The Design Standards, and
11. The Proposal.

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

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: \_\_\_\_\_  
Director of Procurement  
Aneth Williams  
\_\_\_\_\_  
Print Name

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

CATHCART CONSTRUCTION COMPANY - FLORIDA, LLC

By: \_\_\_\_\_  
Signature  
\_\_\_\_\_  
Print Name  
\_\_\_\_\_  
Title

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

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

Approved as to form and execution, only.

\_\_\_\_\_  
General Counsel for CFX  
\_\_\_\_\_  
Diego "Woody" Rodriguez  
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	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	37
3.3 Conformity of Work with Plans	38
3.3.1 Record Drawings	
3.4 Pre-Award Meeting	39
3.5 Orders and Instructions	40
3.5.1 Observation of the Work	
3.5.2 Examination of the Work	
3.5.3 Communications	
3.6 Engineering and Layout	42
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	45
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	47
3.8.1 Cooperation by Contractor	
3.8.2 Failure of CFX to Reject Work During Construction	
3.8.3 Failure to Remove and Renew Defective Materials and Work	
3.9 Final Inspection and Acceptance	48
3.9.1 Maintenance Until Final Acceptance	
3.9.2 Inspection for Substantial Completion	
3.9.3 Final Inspection	
3.9.4 Final Acceptance	
3.9.5 Recovery Rights Subsequent to Final Payment	
3.10 Audit and Examination of Contract Records and Bid Records	49

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
3.11 Escrow of Bid Records	51
3.12 Prevailing Party Attorney's Fees	52
Section 4 - Control of Materials	54
4.1 Acceptance Criteria	54
4.1.1 General	
4.1.2 Sampling and Testing	
4.1.3 Certification	
4.1.4 Warranty and Guaranty	
4.2 Designation of a Specific Product as a Criterion ("Or Equal" Clause)	55
4.3 Source of Supply and Quality Requirements	55
4.3.1 Only Approved Materials to be Used	
4.3.2 Notification of Placing Order	
4.3.3 Approval of Source of Supply	
4.4 Inspection and Tests at Source of Supply	56
4.4.1 General	
4.4.2 Cooperation by Contractor	
4.4.3 Retest of Materials	
4.5 Storage of Materials and Samples	57
4.5.1 Method of Storage	
4.5.2 Use of Right of Way for Storage	
4.5.3 Responsibility for Stored Materials	
4.5.4 Storage Facilities for Samples	
4.6 Defective Materials	57
Section 5 - Legal Requirements and Responsibility to the Public	59
5.1 Laws to be Observed	59
5.1.1 General	
5.1.2 Plant Quarantine Regulations	
5.1.3 Introduction or Release of Prohibited 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	61
5.3 Patented Devices, Materials and Processes	61

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	62
5.5 Sanitary Provisions	62
5.6 Control of the Contractor's Equipment	62
5.6.1 Traffic Interference	
5.6.2 Overloaded Equipment	
5.6.3 Crossings	
5.6.4 Protection from Damage by Tractor-Type Equipment	
5.6.5 Contractor's Equipment on Bridge Structures	
5.6.6 Posting of the Legal Gross Vehicular Weight	
5.7 Structures Over Navigable Waters	64
5.7.1 Compliance with Jurisdictional Regulations	
5.8 Use of Explosives	64
5.9 Preservation of Property	64
5.9.1 General	
5.9.2 Failure to Restore Damaged Property	
5.9.3 Contractor's Use of Streets and Roads	
5.9.4 Traffic Signs, Signal Equipment, Highway Lighting and Guardrail	
5.9.5 Operations Within Railroad Right of Way	
5.9.6 Utilities	
5.10 Responsibility for Damages, Claims, etc.	69
5.10.1 Contractor to Provide Defense Against Claims and Suits	
5.10.2 Guaranty of Payment for Claims	
5.11 Insurance	71
5.11.1 Schedule of Required Limits for Workers' Compensation, General Liability and Automobile Liability	
5.11.2 Workers' Compensation and Employer's Liability Insurance	
5.11.3 Comprehensive General Liability Insurance	
5.11.4 Comprehensive Automobile Liability Insurance	
5.11.5 Umbrella/Excess Liability Insurance	
5.11.6 Builder's Risk	
5.11.7 Railroad Insurance	
5.11.8 Pollution Legal Liability	
5.11.9 Professional Liability	
5.12 Contract Bond (Public Construction Bond) Required	77
5.12.1 General Requirements of the Bond	
5.12.2 Continued Acceptability of Surety	
5.13 Contractor's Responsibility for Work	77
5.14 Opening Section of Highway to Traffic	78
5.15 Scales for Weighing Materials	78

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	78
5.17 Regulations of Air Pollution	78
5.17.1 General	
5.17.2 Dust Control	
5.17.3 Asphalt Material	
5.17.4 Asphalt Plants	
5.18 Dredging and Filling	79
5.19 Erosion Control	79
5.20 Contractor's Motor Vehicle Registration	79
5.21 Internal Revenue Service Form W-9	79
5.22 Tolls and Access	80
5.23 Requests for References or Performance Evaluations	80
5.24 Unauthorized Aliens	80
5.25 Public Records	81
5.26 Inspector General	82
5.27 Convicted Vendor List	82
5.28 Discriminatory Vendor List	82
5.29 Severability	82
5.30 Companies Pursuant to Florida Statute Sections 287.135 and 215.473	83
 Section 6 - Prosecution and Progress of the Work	 84
6.1 Subletting or Assigning of Contract	84
6.2 Work Performed by Equipment Rental Agreement	86
6.3 Prosecution of Work	86
6.3.1 Sufficient Labor, Materials and Equipment	
6.3.2 Impacts by Adjacent Projects	
6.3.3 Submission of Preliminary, Baseline, Updated Baseline, and 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	87
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	91
6.6 Temporary Suspension of Contractor's Operations	91
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	92
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	94
6.8.1 General	
6.9 Default and Termination of Contract	95
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	98
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	98
6.12 Recovery of Damages Suffered by Third Parties	98
6.13 Express Warranty	99
 Section 7 - Measurement and Payment	 100
 7.1 Measurement of Quantities	 100
7.1.1 Measurement Standards	
7.1.2 Method of Measurements	
7.1.3 Determination of Pay Areas	
 7.1.4 Construction Outside Authorized Limits	



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	101
7.2.1 Items Included in Payment	
7.2.2 Non-Duplication of Payment	
7.3 Compensation for Altered Quantities	101
7.3.1 General	
7.3.2 Payment Based on Plan Quantity	
7.3.3 Lump Sum Quantities	
7.3.4 Deviation from Plan Dimensions	
7.4 Force Account Work	104
7.4.1 Method of Payment	
7.4.2 Records	
7.4.3 Preliminary Order-of-Magnitude Estimate	
7.5 Deleted Work	107
7.6 Partial Payments	107
7.6.1 General	
7.6.2 Unsatisfactory Payment Record	
7.6.3 Withholding Payment for Defective Work	
7.6.4 Partial Payments for Delivery of Certain Materials	
7.6.5 Certification of Payment to Subcontractors	
7.6.6 Reduction of Payment for Unsatisfactory Services or Products	
7.7 Record of Construction Materials	110
7.7.1 General	
7.7.2 Non-Commercial Materials	
7.8 Disputed Amounts Due Contractor	111
7.9 Acceptance and Final Payment	111
7.10 Offsetting Payments	113
Section 8 – Disadvantaged/Minority/Women Business Enterprise (D/M/WBE) Participation	114
8.1 General	114
8.2 Disadvantaged/Minority and Women Owned Businesses – Participation Objectives	115
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	120
Section 9 - Binding Arbitration	121
Section 10 – Disputes Resolution	123
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.

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 decrees by the Contractor or its subcontractors and suppliers.

5.1.2 Plant Quarantine Regulations: The Contractor shall contact the local or other available representatives of the U.S. Department of Agriculture Animal and Plant Health Inspection Service and the Florida Department of Agriculture and Consumer Services to ascertain any current restrictions regarding plant pests which may be imposed by those agencies. Contractor shall remain current with regard to the latest quarantine boundary lines during the construction period. Any restrictions imposed by authorized agencies may affect Contractor's operations involving items such as clearing and grubbing, earthwork, grassing and mulching, sodding, landscaping and other items that may involve the movement of Materials containing plant pests across quarantine lines. Any infringement, damages, remedial activities and/or costs thereof associated with imposed agency restrictions will be borne by the Contractor.

5.1.3 Introduction or Release of Prohibited Aquatic Plants, Plant Pests or Noxious Weeds: The Contractor shall not introduce or release prohibited aquatic plants, plant pests or noxious weeds into the Project limits for any reason. The Contractor shall immediately notify the CEI upon discovery of any prohibited aquatic plants, plant pests or noxious weeds within the Project limits. The Contractor shall not move prohibited aquatic plants, plant pests or noxious weeds and their reproductive parts without a permit from the respective State and/or Federal agency. Prohibited aquatic plants, plant pests and noxious weeds are defined in Rule 16C-52 and Rule 5B-57, Florida Administrative Code. Furnish the CEI, prior to incorporation into the project, with a certification from the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, stating that the sod, hay, straw, and mulch materials are free of noxious weeds, including Tropical Soda Apple.

- 5.1.4 Compliance with Federal Endangered Species Act: Prior to establishing any off-project activity in conjunction with the Project (e.g., borrow pits, concrete or asphalt plant sites, material or Equipment storage sites), the Contractor shall certify to CFX that the Contractor has made, through the use of a qualified environmental scientist, such investigations as may be necessary to comply with the Federal Endangered Species Act. The Contractor shall immediately notify CFX if the Contractor's investigation reveals the need for a biological assessment to determine what measures, if any, are necessary to mitigate the impact on endangered species. The cost for any required biological assessment or subsequent measures required to mitigate the impact on endangered species shall be solely at the Contractor's expense.

No Work shall be performed on site preparation for any off-project activity until CFX receives the Contractor's certification.

- 5.1.5 Occupational Safety and Health Requirements: The Contractor shall take precautions necessary for the protection of life, health and general occupational welfare of all persons (including employees of both the Contractor, CFX and all of its officers, agents and consultants) until the Work has been completed and accepted by CFX.

The Contractor and all Subcontractors shall not allow any person employed in performance of the Work to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to health or safety, as determined under the safety and health standards, set forth in Title 29, Code of Federal Regulations, Part 1518 published in the Federal Register on April 17, 1971, as promulgated by the United States Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act, (83 Stat. 96) including any subsequent revisions and updates.

- 5.1.6 Discovery of Unmarked Human Burial Site: The Contractor shall notify the CEI within two hours of the Contractor's or subcontractor's discovery of an unmarked human burial site. All Contractor or subcontractor activity that may disturb the site shall cease immediately upon discovery of the site. The Contractor shall not resume activity at the burial site until written authorization is received from the CEI.

- 5.1.7 Insecticides and Herbicides: Contractor shall contact the Local County Extension Office for a list of approved Insecticides or Herbicides. Contractor shall: adhere to all labeling instructions; exercise extreme caution to prevent damage to vegetation adjacent to the treated area; and replace any damage as the result of these Materials being applied outside the designated treatment area at no expense to CFX.

## 5.2 Permits and Licenses

- 5.2.1 General: Except as specifically provided for elsewhere in the Specifications, the Contractor shall secure all permits and licenses and give all notices necessary and incidental to the due and lawful prosecution of the Work. The Contractor shall pay all charges and fees for any required licenses and permits.
- 5.2.2 Whenever the Work under or incidental to the Project requires structures and/or dredge/fill/construction activities within the Project limits in waters of the State, CFX will obtain the necessary permits. Any modifications or revisions to an original permit will also be obtained by CFX provided that it is shown that such modifications or revisions are required to complete the construction operations specifically called for in the Plans or Specifications and within the right-of-way limits.

The Contractor shall be responsible to obtain any permits that may be required for Work performed by the Contractor outside the right-of-way or easements for the Project.

In performing the Work, when under the jurisdiction of any environmental regulatory agency, the Contractor shall comply with all regulations issued by such agencies and with all general, special and particular conditions relating to construction activities of any kind and all permits issued to CFX as though such conditions were issued to the Contractor. The Contractor will be responsible for posting any permit placards in a protected location at the worksite.

In case of any discrepancy between any permit condition and a requirement of the Plans or Specifications, the permit condition shall prevail.

If the permit conditions require Work or the furnishing of Materials not specifically provided for in the basis of payment clause for a pay item, such Work or furnishing of Materials will be considered unforeseeable Work by CFX and the Contractor will be compensated in accordance with Article 2.5 of these General Specifications. Special sequencing or scheduling of operations that may be required by permit conditions will not be considered unforeseeable Work by CFX and no additional compensation will be made to the Contractor.

## 5.3 Patented Devices, Materials and Processes

Payments to the Contractor are understood to include all royalties and costs arising from patents, trademarks and copyrights in any way involved with the Work. Whenever the Contractor is required or desires to use any design, device, material or process covered by letters of patent, trademark, trade secret or copyright, CFX's and the Contractor's right for

such use shall be provided by suitable legal agreement with the patentee or owner of the copyright. A copy of such agreement shall be submitted to CFX; however, whether or not such agreement is made or filed, the Contractor and its surety, in all cases, shall indemnify and hold harmless CFX and all of its officers, agents, consultants and employees, from any and all claims for infringement by reason of the use of any such patented design, device, material or process, on the Work and shall indemnify CFX and all of its officers, agents, consultants and employees for any costs, expenses and damages which CFX may be obligated to pay by reason of any such infringement, at any time during the Work and for a period of three years after completion and acceptance of the Project by CFX.

#### 5.4 Right-of-Way Furnished by CFX

Except as may be otherwise stipulated in the Specifications or as may be shown on the Plans, all right-of-way necessary for completion of the Project will be furnished by CFX without cost to the Contractor. If borrow material areas furnished by CFX contain limerock, such material shall not be removed from the pit without specific written approval from CFX.

#### 5.5 Sanitary Provisions

The Contractor shall provide and maintain in a neat and sanitary condition such accommodations for the use of Contractor's employees as are necessary to comply with the requirements and regulations of the State and local boards of health. The Contractor shall not create any public nuisance.

#### 5.6 Control of the Contractor's Equipment

5.6.1 Traffic Interference: Contractor shall not permit Equipment to unreasonably interfere with traffic while the Equipment is on or traversing a road or street.

5.6.2 Overloaded Equipment: Any hauling unit or Equipment loaded in excess of the maximum weights set out in the Florida Uniform Traffic Control Law (or lower weights that may be legally established for any section of road or bridge by the FDOT or local authorities) shall not be operated on any road or street except as provided in subarticle 5.6.3 below for crossings or as provided by a special permit issued by the governmental unit having jurisdiction over a particular road or bridge. This restriction applies to all roads and bridges inside and outside the Project limits as long as these roads and bridges are open for public use. Roads and bridges, which are to be demolished, may be overloaded after they are permanently closed to the public. All liability for loss or damages resulting from Equipment operated on a structure permanently closed to the public shall be the responsibility of the Contractor.



- 5.6.3 Crossings: Where it is necessary to cross an existing road, including specifically the existing travel lanes of a divided highway within the limits of the Project, the Contractor shall obtain the necessary permits from the governmental unit having jurisdiction. The Contractor shall comply with all permit conditions at no additional cost to CFX. The Contractor will be required to provide flagging and watchman service or approved signal devices, for the protection of traffic at all such crossings, in accordance with an approved written plan for that activity.
- 5.6.4 Protection from Damage by Tractor-Type Equipment: Positive measures shall be taken by the Contractor to assure that tractor-type Equipment does not cause damage to roads. If any such damage occurs, the Contractor shall immediately repair the damage to the satisfaction of the governmental unit having jurisdiction over the road and at no cost to CFX.
- 5.6.5 Contractor's Equipment on Bridge Structures: The Contractor, through its Specialty Engineer, shall analyze the effect of imposed loads on bridge structures, within the limits of the Project, resulting from the following operations:
- 1) Overloaded Equipment as defined in subarticle 5.6.2 above:
    - a) Operating on or crossing over completed bridge structures.
    - b) Operating on or crossing over partially completed bridge structures.
  - 2) Equipment within legal load limits:
    - a) Operating on or crossing over partially completed bridge structures.
  - 3) Construction cranes:
    - a) Operating on completed bridge structures.
    - b) Operating on partially completed bridge structures.

Any pipe culvert or box culvert qualifying as a bridge, as defined under subarticle 1.3.3 of these General Specifications is excluded from the above requirements.

A completed bridge structure is a structure in which all elemental components comprising the load carrying assembly have been completed, assembled and connected in their final position. The components to be considered shall also include any related mediums transferring load to any bridge structure.

The Contractor shall determine the effect the Equipment loads have on the bridge structure and the procedures by which the loaded Equipment can be used without exceeding the load capacity for which the structure was designed.

The Contractor shall submit to the CEI for approval eight (8) copies of design calculations, layout drawings and erection drawings showing how the Contractor's Equipment will be used so that the bridge structure will not be overstressed. One (1) of the eight (8) copies of the drawings and the cover sheet of one (1) of the eight (8) copies of the calculations shall be signed and sealed by the Contractor's Specialty Engineer as the CFX record set.

- 5.6.6 Posting of the Legal Gross Vehicular Weight: The maximum legal gross weight, as set out in the Florida Uniform Traffic Code, shall be displayed in a permanent manner on each side of any dump truck or any dump type tractor-trailer unit hauling embankment material, construction aggregates, road base material or hot bituminous mixture to the Project over any public road. The weight shall be displayed in a location clearly visible to the scale operator, in numbers that contrast in color with the background and are readily visible and readable from a distance of 50 feet.

## 5.7 Structures Over Navigable Waters

- 5.7.1 Compliance with Jurisdictional Regulations: Where structures are erected in, adjacent to or over navigable waters, the Contractor shall observe all regulations and instructions of jurisdictions having control over such waters. The Contractor shall not obstruct navigation channels without permission from the proper authority and shall provide and maintain navigation lights and signals in accordance with jurisdictional requirements.

## 5.8 Use of Explosives

The use of explosives will not be allowed.

## 5.9 Preservation of Property

- 5.9.1 General: The Contractor shall preserve from damage all property along the line of Work or which is in the vicinity of or is any way affected by the Work, the removal or destruction of which is not called for by the Plans. This requirement shall apply to public and private property, public and private utilities (except as modified by subarticle 5.9.6 below), trees, shrubs, crops, signs, monuments, fences, guardrail, pipe, underground structures, public highways (except natural wear and tear of highway resulting from legitimate use thereof by the Contractor) and the like. Property damaged due to the activities of the Contractor shall be immediately restored, at Contractor's expense, to a condition similar or equal to that existing before such damage or injury was done by the Contractor.

The Contractor shall protect existing bridges from damage caused by Contractor's operations during the entire construction period. The Contractor will not be required to provide routine repairs or maintenance for such structures but will be required, at Contractor's expense, to make immediate repairs of any damage caused by the Contractor's operations.

The Contractor shall protect all geodetic monuments, horizontal or vertical, located within the limits of construction.

5.9.2 Failure to Restore Damaged Property: If the Contractor fails to restore such property, bridge or road CFX may, at its sole option and with 48 hours notice to the Contractor, proceed to repair, rebuild or otherwise restore the damaged property, bridge or road at Contractor's cost or expense. The cost of such repairs will be deducted by CFX from any monies due or which may become due the Contractor.

### 5.9.3 Contractor's Use of Streets and Roads

5.9.3.1 On Systems Other than the CFX System: Where the Contractor hauls material or Equipment to the Project over roads and bridges on the state park road system, state highway system, county road system or city street system and such hauling causes damage, the Contractor, at Contractor's cost and expense, shall immediately repair such roads or bridges to as good a condition as existed before the hauling began.

5.9.3.2 On the CFX System: The Contractor shall also be responsible for repairing damage caused by hauling Materials to the Project along roads and bridges outside the limits of the Project which are on the CFX system (roads under the jurisdiction of CFX) or are specifically designated in the Plans as haul roads from CFX furnished Materials pits.

5.9.3.3 Within the Limits of the Project: The Contractor shall not operate Equipment or hauling units of such weight as to cause damage to previously constructed elements of the Project including but not necessarily limited to, bridges, drainage structures, base course and pavement. Equipment or hauling units loaded in excess of the maximum weights set out in subarticle 5.6.2 above shall not be operated on existing pavements that are to remain in place (including pavement being resurfaced), cement-treated subgrades and bases, concrete pavement, any course of asphalt pavement and bridges. Exceptions to these weight restrictions may be allowed for movement of necessary Equipment to and from its work site, for hauling of offsite fabricated components to be incorporated into the Project and for crossings as detailed in subarticle 5.6.3 above.

5.9.3.4 Cleaning and Maintenance of Streets and Roads: Whenever the Contractor utilizes any streets or roads, whether on the CFX system or otherwise, for cyclical material hauling operations, for example embankment, excavation, etc., the condition of all affected streets or roads will be assessed by the Contractor through an initial video survey with the CEI prior to hauling operations. Throughout the hauling operations or when changes to haul routes occur, the Contractor shall provide updated video surveys performed every two weeks to monitor the current street, road and/or facility conditions. The video survey will be submitted in duplicate to the CEI and narrated to identify the respective street, road or facility, with detail of specific features, condition, etc. Any deterioration, whatsoever, to the condition of the streets or roads from this initial video survey and subsequent two-week updates will be viewed as being a result of the Contractor's operations and shall be repaired to equal or better condition, at the Contractor's expense, within two weeks after notification by the CEI. The Contractor will be responsible to prevent, clean and replace areas of the travel ways and appurtenances (including but not limited to bridge decks, drainage, roadway surface, striping) utilized by the Contractor where tracking and/or spillage of materials have occurred. Cleaning and preventive measures that will not deteriorate the existing facility conditions will be utilized and may include pressure washing, sanding etc.

- 5.9.4 Traffic Signs, Signal Equipment, Highway Lighting, and Guardrail: Contractor shall protect all existing roadside signs, signal equipment, highway lighting and guardrail, for which permanent removal is not indicated, against damage or displacement. Whenever such signs, signal equipment, highway lighting or guardrail lie within the limits of construction, or wherever so directed by the CEI due to urgency of construction operations, take up and properly store the existing roadside signs, signal equipment, highway lighting and guardrail and subsequently reset them at their original locations or, in the case of widened pavement or roadbed, at locations designated by the CEI.

If CFX determines that damage to such existing or permanent installations of traffic signs, signal equipment, highway lighting or guardrail is caused by a third party(ies), and is not otherwise due to any fault or activities of the Contractor, CFX will, except for any damage resulting from vandalism, compensate the Contractor for the costs associated with the repairs. Contractor shall repair damage caused by vandalism at no expense to CFX.

- 5.9.5 Operations Within Railroad Right of Way

5.9.5.1 Notification to the Railroad Company: The Contractor shall notify the CEI and the railroad company's division engineer or superintendent a minimum of 72 hours in advance of beginning any operations within the limits of the railroad right of

way, any operations requiring movement of employees, trucks or other Equipment across the tracks of the railroad company at other than established public crossings, and any other Work which may affect railroad operations or property.

5.9.5.2 Contractor's Responsibilities: The Contractor shall comply with the requirements that the railroad company's division engineer or superintendent considers necessary to safeguard the railroad's property and operations. Any damage, delay or injury and any suits, actions or claims made because of damages or injuries resulting from the Contractor's operations within or adjacent to railroad right of way shall be the Contractor's responsibility.

5.9.5.3 Watchman or Flagging Services: When protective services are necessary during certain periods of the Project to provide safety for railroad operations, the railroad company will provide such services (watchman or flagging) and CFX will reimburse the railroad company for the cost thereof. The Contractor shall schedule Work that affects railroad operations to minimize the need for protective services by the railroad company.

## 5.9.6 Utilities

5.9.6.1 Arrangements for Protection or Adjustment: Work shall not commence at points where the Contractor's operations adjacent to utility facilities may result in expense, loss or disruption of service to the public or owners of the utilities until the Contractor has made all arrangements necessary for the protection of the utilities. The Contractor shall be solely and directly responsible to the owners and operators of such utilities for any damage, injury, expense, loss, inconvenience, or delay caused by the Contractor's operations.

CFX will make the necessary arrangements with the utilities owners for removal or adjustment of utilities where such removal or adjustment is determined by CFX to be essential to the performance of the Work. Relocations or adjustments requested by the Contractor based on the Contractor's proposed use of a particular method of construction or type of Equipment will not be considered as being essential to the Work if other commonly used methods and Equipment could be used without the necessity of relocating or adjusting the utility. CFX will determine the responsibility for any such required adjustments of utilities. Relocations or adjustments requested because of delivery to the Project of Materials furnished by the Contractor shall be the responsibility and expense of the Contractor.

Circumstance under which CFX will consider utility relocations or adjustments essential include, but are not necessarily limited to, the following:

- 1) Utilities lying within the vertical and horizontal construction limits plus the reasonably required working room necessary for operation of

Equipment normally used for the particular type of construction except as provide in subparagraph 4 below. In the case of overhead electrical conductors which carry more than 400 volts, a minimum of 10 feet clearance between the conductor and the nearest possible approach of any part of the Equipment will be required, except where the utility owner effects safeguards approved by the Florida Department of Labor and Employment Security.

2) Utilities lying within the horizontal limits of the Project and within 12 inches below the ground surface or the excavation surface on which the construction Equipment is to be operated or within 12 inches below the bottom of any stabilizing course called for on the Plans.

3) Utilities lying within the normal limits of excavation for underground drainage facilities or other structures (except as provided in subparagraph 4 below). Such normal limits shall extend to side slopes along the angle of repose as established by sound engineering practice, unless the Plans or Specifications require the sides of the excavation to be supported by sheeting or the Contractor elects to sheet such excavation for the Contractor's convenience.

4) Where utilities cross pipe trenches transversely within the excavation area but not within positions from which relocation or removal is necessary, the utility owner will be responsible for providing and effecting all reasonable measures for their support and protection during construction operations. The Contractor shall cooperate with the utility owner in the owner's effecting such support and protective measures. The Contractor shall be responsible for any damage to the utility that is caused by neglect or failure on the Contractor's part to cooperate and to use proper precaution in performing the Work.

In the event that a temporary relocation of a utility or a particular sequence of timing in the relocation of a utility is necessary, such relocation shall be done only as directed by CFX. CFX will not be responsible for utility adjustments or temporary relocation work or for the conditions resulting therefrom, where such adjustments are: not necessitated by the construction of the Project; or done solely for the benefit or convenience of the utility owner or its contractor (or the Contractor where Contractor's construction procedures are considered by CFX to be other than normal); or not shown on the approved Plans for the utilities relocation or the construction.

5.9.6.2 Cooperation with Utility Owners: The Contractor shall cooperate with the utility owners in the removal and/or rearrangement of utilities. If utility service is interrupted due to construction operations, the Contractor shall immediately notify the owner of the utility and the CEI and cooperate in the prompt restoration of

service. If water service is interrupted, the Contractor's repair work shall be continuous until the service is restored. No Work shall be undertaken around fire hydrants until the local fire authority has approved provisions for continued service.

5.9.6.3 Utility Adjustments: Utility adjustments and reconstruction Work may be underway during the Work. The Contractor shall effectively cooperate, coordinate, and schedule utility adjustments with utility construction crews in maintaining utility service. The Contractor shall use caution when working adjacent to utilities that have been relocated. The Contractor shall repair, at Contractor's expense, damages to relocated utilities resulting from Contractor's operations.

5.9.6.4 Weekly Meetings: Contractor shall conduct weekly meetings on the job site with all the affected utility companies and the CEI in attendance to coordinate Project construction and utility relocation, and shall submit a list of all attendees one week in advance to the CEI for approval.

Provide the approved Work Progress Schedule and Work Plan for the project to document the schedule and plan for road construction and utility adjustments. When utility relocations no longer affect construction activities, the Contractor may discontinue the meetings with the CEI's approval.

## 5.10 Responsibility for Damages, Claims, etc.

5.10.1 Contractor to Provide Defense Against Claims and Suits: To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless CFX (its officers, agents and employees) from and against claims, damages, losses and expenses (including but not limited to attorneys' fees), arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom. However, the indemnification herein provided is only to the extent caused in whole or in part by any act, omission or default of the Contractor, subcontractor, sub-subcontractor, materialman, agents of any tier, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described herein. The monetary limit on the indemnification provided herein to CFX or its officers, agents and employees shall be the total amount of the Agreement in aggregate or the insurance policy amount as required in article 5.11 herein, whichever is greater. The total amount of the Agreement in aggregate will be determined by the date the notice of claim was received by CFX.

In claims against any person or entity indemnified under this subarticle by an

employee of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this subarticle shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

The obligations of the Contractor under this subarticle shall not extend to the liability of the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, designs or specification, or (2) the giving of or the failure to give direction or instructions by the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

The Contractor's obligation to indemnify and pay for the defense or, at CFX's option, to participate and associate with CFX in the defense and trial of any damage claim or suit and any related settlement negotiations, shall arise within seven (7) days of receipt by the Contractor of the CFX notice of claim for indemnification to the Contractor. The notice of claim for indemnification will be served by certified mail.

The Contractor's obligation to indemnify within seven (7) days of receipt of such notice will not be excused because of the Contractor's inability to evaluate liability or because the Contractor evaluates liability and determines the Contractor is not liable or determines CFX is solely negligent. The Contractor will pay all costs and fees related to this obligation and its enforcement by CFX.

This Contract shall not create in the public or any member thereof, a third party beneficiary hereunder or to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the Contract.

- 5.10.2 Guaranty of Payment for Claims: The Contractor guarantees the payment of all just claims for Materials, Equipment, supplies, tools or labor and other just claims against the Contractor or any subcontractor in connection with the Contract. Final acceptance and payment by CFX will not release the Contractor's bond until all such claims are paid or released.

## 5.11 Insurance

Anything contained herein to the contrary notwithstanding, during the term of the Contract and for such additional time as may be further required, the Contractor shall provide, pay for and maintain in full force and effect insurance outlined in subarticles 5.11.1 through 5.11.9



below for coverage at not less than the prescribed minimum limits of liability, covering the Contractor's activities and those of any and all subcontractors (including officers, directors, employees or agents of each and their successors). All insurance shall be provided through companies authorized to do business in the State of Florida and considered acceptable by CFX.

Upon execution of the Contract, the Contractor shall furnish to CFX, Certificates of Insurance bearing an original manual signature of the authorized representative of the insurance company. No Work shall commence under the Contract unless and until the required Certificates of Insurance described herein are in effect and have been approved by CFX. The Certificate of Insurance shall be issued to CFX and shall reference the complete and correct Project number, as well as the full and complete name of each insurance company, including city and state of domicile, as listed by A.M. Best Company. All insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, 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:

<b>Contract Amount</b>	<b>Workers' Comp/ Employer's Liability</b>	<b>General Liability (per occurrence/ aggregate)</b>	<b>Automobile Liability</b>
Up to \$3 million	Statutory / \$500,000	\$1,000,000 / \$2,000,000	\$1,000,000
\$3 million and Up	Statutory / \$1,000,000	\$5,000,000 / \$10,000,000	\$5,000,000

5.11.2 Worker's Compensation and Employer's Liability Insurance: The Contractor shall maintain coverage for its employees in accordance with the laws of the State of Florida. The amount of coverage shall not be less than the limits of insurance as required in subarticle 5.11.1.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the Contractor, its employees, agents and subcontractors.

5.11.3 Comprehensive General Liability Insurance: Coverage shall be maintained by the Contractor providing Comprehensive General Liability Insurance as provided on Insurance Services Office form GC 00 01 or an equivalent thereof. Limits of Liability for Bodily Injury Liability and/or Property Damage Liability shall not be less than the limits of insurance as required in Section 5.11.1.

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

Products and Completed Operations coverage, evidenced by a Certificate of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3) Cost of Cleanup/Remediation.

Limits

Each Occurrence - \$ 2,000,000

General Aggregate - \$ 4,000,000

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

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

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

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

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.

<b>Contract Amount</b>	<b>Minimum Limit</b>	<b>Maximum Deductible</b>
Up to \$1 million	50% of project cost, minimum of \$100,000 per occurrence	10% of project cost or \$25,000, whichever is smaller
\$1 million and Up	\$1,000,000	\$100,000

## 5.12 Contract Bond (Public Construction Bond) Required

5.12.1 General Requirements of the Bond: The Contractor shall furnish to CFX and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by CFX. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to CFX. The name, address and telephone number of the surety agent shall be clearly stated on the face of the Public Construction Bond.

5.12.2 Continued Acceptability of Surety: In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after CFX's initial approval of the company, then CFX may require that the Contractor immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to CFX. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the Contractor from its payment of premium on the defaulting bond, will be borne by CFX.

## 5.13 Contractor's Responsibility for Work

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

The Contractor 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](mailto:publicrecords@CFXWay.com), and 4974 ORL Tower Road, Orlando, FL. 32807).**

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

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

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event the CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act.

#### 5.26 Inspector General

It is the duty of every CONTRACTOR and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to section 20.055, Florida Statutes. The corporation, partnership, or person entering into an Agreement with the Central Florida Expressway Authority understands and will comply with subsection. 20.055(5), Florida Statutes.

#### 5.27 Convicted Vendor List

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

#### 5.28 Discriminatory Vendor List

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

#### 5.29 Severability

If any section of the Contract Documents that are incorporated into this Contract be judged void, unenforceable or illegal, then the illegal provision will be, if at all possible, interpreted or re-drafted into a valid, enforceable, legal provision as close to the parties' original

intention, and the remaining portions of the Contract will remain in full force and effect and will be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

5.30 Companies Pursuant to Florida Statute Section 287.135

Pursuant to Section 287.135(3)(a)4, if the company is found to have submitted a false certification as provided under subsection (5); been placed on the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or been engaged in business operations in Cuba or Syria, the contract may be terminated for cause at the option of CFX.

Pursuant to Section 287.135(3)(b), if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the contract may be terminated for cause at the option of CFX.

Submitting a false certification shall be deemed a material breach of contract or renewal. CFX shall provide notice, in writing, to the Contractor of CFX's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the CFX's determination of false certification was made in error then CFX shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes and as allowed by law.

END OF SECTION 5

## SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

### 6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without 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; 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. 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  
#4**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: November 16, 2021

SUBJECT: Approval of Contract Awards to United Signs & Signals, Inc., Traffic Control Devices, LLC and The New Florida Industrial Electric, Inc. for Rapid Response Contracts for Signs, Signals, ITS and Lighting  
Contract Nos. 001864, 001865 and 001866

---

An Invitation to Bid for qualified contractors to create a pool of rapid response contractors was advertised on October 10, 2021. Three (3) responses were received by the November 9, 2021 deadline.

United Signs & Signals, Traffic Control Devices, Inc., LLC and The New Florida Industrial Electric, Inc. were all selected. Contractors will perform signs, signals and lighting tasks through award by competitive quotes for each task order.

Board award of contracts listed above is requested. The terms of each contract will be for three years in the amount of \$3,000,000.00, not to exceed \$1,000,000.00, per year, per contract.

These contracts are a component of projects included in the Five-Year Work Plan.

Reviewed by:

  
Ben Dreiling, PE  
Director of Construction

  
Glenn Pressimone, PE

# CONTRACT



**AND**

**UNITED SIGNS & SIGNALS, INC.**

**RAPID RESPONSE AGREEMENT FOR SIGN, SIGNAL,  
AND ITS TASK ORDERS UNDER \$300,000 AND  
ELECTRICAL WORK TASK ORDERS UNDER \$75,000,  
AS ADJUSTED PER FLORIDA STATUTES § 255.20(2)**

**CONTRACT NO. 001864**

**CONTRACT DATE: DECEMBER 09, 2021**

**CONTRACT AMOUNT: \$3,000,000.00**

**CONTRACT, SCOPE OF SERVICES, TASK ORDER SAMPLE, PROPOSAL,  
GENERAL SPECIFICATIONS, TECHNICAL SPECIFICATIONS, AND FORMS**



# **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**CONTRACT, SCOPE OF SERVICES, TASK ORDER SAMPLE, PROPOSAL,  
GENERAL SPECIFICATIONS, TECHNICAL SPECIFICATIONS, AND FORMS**

**FOR**

**RAPID RESPONSE AGREEMENT FOR SIGN, SIGNAL, AND ITS TASK ORDERS  
UNDER \$300,000 AND ELECTRICAL WORK TASK ORDERS UNDER \$75,000, AS  
ADJUSTED PER FLORIDA STATUTES § 255.20(2)**

**CONTRACT NO. 001864**

**DECEMBER 2021**

## TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
C	RAPID RESPONSE AGREEMENT (See Agreement Table of Contents for listing of individual sections.)	1 to 26
	EXHIBIT A – SCOPE OF SERVICES EXHIBIT B – SAMPLE TASK ORDER EXHIBIT C – PROPOSAL	
	ATTACHMENT 1 – GENERAL SPECIFICATIONS ATTACHMENT 2 – TECHNICAL SPECIFICATIONS	
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2

RAPID RESPONSE AGREEMENT 001864

Table of Contents

1. SERVICES TO BE PROVIDED..... 2

2. ISSUANCE OF RAPID RESPONSE TASK ORDER (RRTO) REQUEST FOR QUOTE (RFQ)..... 2

3. CONTRACTOR’S ELIGIBILITY TO PARTICIPATE IN RAPID RESPONSE TASK ORDER (RRTO) REQUEST FOR QUOTE (RFQ)..... 3

4. ISSUANCE OF RAPID RESPONSE TASK ORDERS (RRTOs) ..... 4

5. TERM AND NOTICE..... 4

6. AGREEMENT AMOUNT AND COMPENSATION FOR SERVICES ..... 5

7. PUBLIC RECORDS ..... 6

8. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT..... 7

9. DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISES ..... 8

10. CONTRACTOR INSURANCE AND RRTO CONSTRUCTION BOND..... 8

    10.1 Comprehensive General Liability Insurance:..... 10

    10.2 Comprehensive Automobile Liability Insurance: ..... 11

    10.3 Umbrella/Excess Liability Insurance: ..... 11

    10.4 Builder’s Risk:..... 12

    10.5 Railroad Insurance: ..... 12

    10.6 Pollution Legal/Environmental Legal Liability Insurance (CPL):..... 13

    10.7 Worker’s Compensation and Employer’s Liability Insurance:..... 14

    10.8 Unemployment Insurance: ..... 14

    10.9 RRTO Construction Bond:..... 15

11. INDEMNITY..... 16

12. PRESS RELEASES..... 17

13. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS..... 17

14. PERMITS, LICENSES, ETC. .... 19

15. NONDISCRIMINATION ..... 19

16. COMPLIANCE WITH LAWS; EQUAL EMPLOYMENT OPPORTUNITY ..... 20

17. SUBLETTING AND ASSIGNMENT ..... 20

18. DISPUTES..... 20

19. OTHER SEVERABILITY ..... 21

20. INTEGRATION ..... 21

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

22. APPLICABLE LAW; VENUE ..... 22

23. RELATIONSHIPS ..... 22

24. INTERPRETATION ..... 22

25. SURVIVAL OF EXPIRATION OR TERMINATION..... 23

26. INSPECTOR GENERAL..... 23

27. E-VERIFY ..... 23

28. APPROPRIATION OF FUNDS ..... 24

29. RECITALS INCORPORATED ..... 24

30. NOTICE TO THE PARTIES ..... 24

31. EXHIBITS AND ATTACHMENTS..... 25

**Rapid Response Agreement No. 001864**

This Agreement is made this 9th day of December 2021, 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 UNITED SIGNS & SIGNALS, INC., a Florida Profit corporation, registered and authorized to do business in the State of Florida, whose principal address is 28248 CR 561, Tavares, FL. 32778, hereinafter “the CONTRACTOR.”

RECITALS:

**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 institute a Rapid Response Program and retain the services of a pool of Florida Department of Transportation Pre-qualified CONTRACTORS to perform Roadway Signing, Traffic Signal, Intelligent Transportation Systems, and Electrical Work through the issuance of written task orders as may be awarded to the CONTRACTOR by CFX; **and**

**WHEREAS**, on or about October 11, 2021, CFX issued an Invitation to Bid; Solicitation No. ITB001847 seeking Florida Department of Transportation Pre-qualified CONTRACTORS in Roadway Signing, Traffic Signal, Intelligent Transportation Systems, and Electrical Work to participate as part of the pool of qualified CONTRACTORS, and who will be required to submit quotes for Rapid Response Task Orders (RRTOs) or other response, and upon award, perform such tasks; **and**

**WHEREAS**, CONTRACTOR understands and acknowledges the General Specifications included as **Attachment 1**, and the Technical Specifications included as **Attachment 2**, are being provided to CONTRACTOR and shall be incorporated by reference into all RFQ’s and RRTO’s issued under solicitation ITB-001847 and this Agreement, respectfully. CONTRACTOR furthers understands and acknowledges that task specific modifications or changes may be made to the General and Technical Specifications based on individual Rapid Response Task Orders through the issuance of an RFQ and RRTO issued under solicitation ITB-001847 and this Agreement.; **and**

**WHEREAS**, CONTRACTOR was one of three (3) qualified firms that responded to the Invitation to Bid and was one of three (3) qualified firms ultimately selected and awarded Agreement No. 001864; **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**

CFX does hereby retain CONTRACTOR to furnish continuing construction services for Roadway Signing, Traffic Signal, and Intelligent Transportation Systems a RRTO with estimated construction costs less than \$300,000 and Electrical Work under \$75,000, as further described in **Exhibit A**. Required services will be specifically enumerated, described, and depicted in RRTOs authorizing performance of the specific project, task, or study, in the form substantially similar to **Exhibit B**, is hereby adopted and made part of this Agreement as completely as if incorporated herein. This Agreement alone does not authorize the performance of any work or require CFX to place any orders for work.

**2. ISSUANCE OF RAPID RESPONSE TASK ORDER (RRTO) REQUEST FOR QUOTE (RFQ)**

- A. CFX will issue Rapid Response Task Order (RRTO) Request for Quotes (RFQs) to all qualified CONTRACTORS awarded through CFX Solicitation No. 001847 and award the RRTO RFQ to the lowest priced CONTRACTOR who can meet CFX's scheduled start and completion dates.
- B. RRTO RFQs valued at \$100,000 or less and greater than \$100,000 shall be given a minimum of a three (3) day and five (5) day response times by qualified CONTRACTORS, respectively.
- C. CONTRACTOR declares and agrees to faithfully submit responses to all RRTO RFQs issued under this Agreement either by submission of a Quote or a "No Quote" response as provided in the RRTO RFQ.

**3. CONTRACTOR'S ELIGIBILITY TO PARTICIPATE IN RAPID RESPONSE TASK ORDER (RRTO) REQUEST FOR QUOTE (RFQ)**

(a) The CONTRACTOR understands and agrees to the following to be eligible to participate in a RRTO RFQ issued under this Agreement the CONTRACTOR at the time the RRTO RFQ is issued must have:

- i. An active registration and authorization with the Florida Department of State to do business in the State of Florida.
- ii. A current Florida Department of Transportation Pre-Qualification in all required workgroups as specified in the recitals of this Agreement.
- iii. Current Certificates of Insurance and Endorsements on file with the CFX Procurement Department.

(b) CONTRACTOR further understands and agrees:

- i. CFX is not required to notify the CONTRACTOR of its ineligibility to participate in a RRTO RFQ.
- ii. Ineligibility to participate in a RRTO RFQ shall be considered a "No Response" from the CONTRACTOR.
- iii. Three (3) consecutive "No Response" responses to individual RRTO RFQs issued under this Agreement or a combination of five (5) "No Response" responses during the term of this Agreement may be grounds for immediate Termination.

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

#### **4. ISSUANCE OF RAPID RESPONSE TASK ORDERS (RRTOs)**

Authorization for performance of construction services by CONTRACTOR under this Agreement will be in the form of written RRTOs issued and executed by CFX and signed by CONTRACTOR. Each RRTO will describe the services required, state the dates for commencement and completion of work, establish the amount and method of payment, and the amount of liquidated damages, if any. CFX makes no covenant or promise as to the number of available tasks, nor that CONTRACTOR will perform any task for CFX during the term or course of this Agreement. CFX reserves the right to contract with other parties for the services contemplated by this Agreement when it is determined by CFX to be in the best interest of CFX to do so.

The Agreement 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 Agreement.

CFX does not guarantee that the services described in the Scope of Services will be assigned during the term of the Agreement. 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.

#### **5. TERM AND NOTICE**

The term of the Agreement will be three (3) years from the date of award from CFX, hereinafter "Agreement Term." Expiration of the term of this Agreement will have no effect upon RRTO's issued pursuant to this Agreement and prior to the Agreement expiration date. The obligations of both parties under such RRTO's will remain in effect until completion of the work authorized by the RRTO.

CFX shall have the right to immediately terminate or suspend the Agreement, in whole or in part, at any time upon notice for convenience for any reason or for cause for CONTRACTOR's material failure to perform the provisions of the Agreement or for Default. A Default includes: a) Failure to respond to a RRTO RFQ; b) Failure to perform a RRTO; or c) any other deficiency in performance. 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.

CFX reserves the right to immediately cancel or immediately terminate this Agreement 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 Agreement 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.

## **6. AGREEMENT AMOUNT AND COMPENSATION FOR SERVICES**

6.1 The Agreement Amount for the Agreement Term is \$3,000,000.00, not to exceed a maximum of \$1,000,000 per term year.

6.2 CFX agrees to pay CONTRACTOR for services performed in accordance with awarded RRTOs based on the unit prices provided in the CONTRACTOR's Bid to CFX Solicitation No. ITB001847 attached to this Agreement hereto as **Exhibit "C"** and incorporated by reference as though set forth fully herein.

6.3 Unit Prices offered in **Exhibit "C"** attached to this Agreement establishes the maximum allowable price to be offered in a RRTO Quote issued under this Agreement. CONTRACTOR further understands and agrees that quotes in response to RRTO RFQs that have unit prices that exceed the Maximum Allowable Price will automatically be reduced to the Maximum Allowable Price for that item and the total of the CONTRACTOR's Quote shall be corrected to reflect said changes.

6.4 Pricing for lump sum items such as but not limited to, Mobilization, Maintenance of Traffic, Clearing and Grubbing, and Removal of Existing Structures will be solicited in individual RRTO RFQs. Maximum Allowable Percentages for lump sum items of the total of the Unit Price work shall be determined by CFX on a per task basis and will be provided in individual RRTO RFQs. CONTRACTOR further understands and agrees that Quotes in response to RRTO RFQs that have lump sum prices that exceed the Maximum Allowable Percentage established by the CFX will automatically be reduced to the Maximum Allowable Percentage for that item and the total of the Quote shall be corrected to reflect said changes.



6.5 CONTRACTOR understands and agrees that Quotes in response to RRTO RFQs that have corrected prices may withdraw their Quote by written request within 24 hours of notification from CFX without penalty.

## 7. 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 AGREEMENT, 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 Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the public agency.
4. Upon completion of the Agreement, 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 Agreement, 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 Agreement, 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 Agreement (including without limitation Agreement 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 Agreement 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 Agreement and continue in full force and effect as set forth above.

**8. 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 Agreement, 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 Agreement. 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 Agreement 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 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 Section 112.313, Florida Statutes, as it relates to work performed under this Agreement, which standards will be reference be made a part of this Agreement 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.

**9. DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISES**

CFX has adopted a program to provide opportunities for Disadvantaged/Minority Business Enterprises and Women’s Business Enterprises (“D/M/WBEs”). Under CFX’s program, CONTRACTOR is encouraged to grant D/M/WBE businesses the opportunity to participate in CFX’s Agreements.

CONTRACTOR understands and agrees that RRTOs issued under this Agreement shall include a 15% D/M/WBE objective unless waived by CFX.

CONTRACTOR further understands and agrees to provide a good faith effort in achieving the 15% D/M/WBE objective as described in a RRTO.

**10. CONTRACTOR INSURANCE AND RRTO CONSTRUCTION BOND**

Anything contained herein to the contrary notwithstanding, during the term of the Agreement 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 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 Agreement, 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 Agreement 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 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.

CONTRACTOR shall carry and keep in force during the period of this Agreement, 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 Agreement execution:

All insurance coverage required of the Contractor shall be primary and noncontributory over any insurance or self-insurance program carried by CFX.

Excluding 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.

#### 10.1 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. Insurance Limits of Liability for Bodily Injury Liability and/or Property Damage Liability shall not be less than having a minimum coverage of Five Million Dollars (\$5,000,000.00) per occurrence of bodily injury or property damage and a minimum of Ten Million Dollars (\$10,000,000.00) annual aggregate for both General and Products and Completed Operations. The contractual liability insurance coverage shall include coverage for responsibilities and liabilities assumed by CONTRACTOR under this Agreement.

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 for each Rapid Response Task Order 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 Rapid Response Task Order 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.

10.2 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 for bodily injury, death and property damage shall not be less than the Five Million Dollars (\$5,000,000.00) for each accident.

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.

10.3 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 this Agreement.

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

#### 10.4 Builder's Risk:

If a RRTO 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 Rapid Response Task Order 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 Rapid Response Task Order. 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.

#### 10.5 Railroad Insurance:

For each RRTO, 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.

10.6 Pollution Legal/Environmental Legal Liability Insurance (CPL):

The Contractor agrees to maintain Contractor's Pollution Legal/Environmental Legal Liability Insurance on a per-RRTO 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.

10.7 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 statutory / \$1,000,000;

10.8 Unemployment Insurance:

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

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 and noncontributory 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. 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 shall result in suspension of partial payments on monthly estimates until the certificates are received and accepted by CFX. Procurement of insurance shall not be construed to limit CONTRACTOR's obligations or liabilities under the Agreement. 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.

#### 10.9 RRTO Construction Bond:

The CONTRACTOR shall furnish to CFX and shall maintain in effect throughout the term of an awarded Rapid Response Task Order, an acceptable surety bond in a sum equal to the amount of the Rapid Response Task Order. 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 surety agent's name, address and telephone number shall be clearly stated on the face of the Construction Bond.

In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Rapid Response Task Order) 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.

## **11. 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 Agreement.

11.1 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 Agreement 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:

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

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

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

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

11.6 CONTRACTOR's failure to include terms in its subcontracts as required by this Agreement,

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

11.8 CONTRACTOR's breach of any of the warranties or representations contained in this Agreement.

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 Agreement 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.

## **12. 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, including without limitation CFX Property and CFX Intellectual Property, without first notifying CFX and securing its consent in writing.

## **13. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS**

CFX is and shall be and remain the sole owner of all rights, title, and interest in, to, and associated with all plans, documents, software in all forms, hardware, programs, procedures, specifications, drawings, brochures pamphlets, manuals, flyers, models, photographic or design images, negatives, videos and film, tapes, work product, information, data and other items (all whether in preliminary, draft, master, final, paper, electronic, or other form), along with the media on which they reside and with which they interface for function or aesthetics, that are generated or developed with respect to and in connection with this Agreement and the performance thereof (collectively, the "CFX Property"). CFX's ownership of CFX Property includes without limitation all common law, statutory and other rights, title, and interest in, to, and associated with trademark, service mark, copyright, patent, trade secret, and publicity (collectively, the "CFX Intellectual Property").

CONTRACTOR, its employees, agents, officers, and subcontractors acknowledge that E-PASS® is CFX's registered trademark name for CFX's electronic toll collection system and comprises a portion of CFX Intellectual Property.

CONTRACTOR, its employees, agents, officers, and subcontractors may not use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Agreement, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR, its employees, agents, officers, and subcontractors' access to and/or use of CFX Property and CFX Intellectual Property is without any warranty or representation by CFX regarding same.

For all materials listed hereinabove that are not generated or developed under this Agreement or performance hereof, but rather are brought in, provided, or installed by CONTRACTOR (collectively, the "CONTRACTOR Property"), and the intellectual property rights associated therewith (collectively, the "CONTRACTOR Intellectual Property"), CONTRACTOR (its employees, officers, agents, and subcontractors, which for purposes of this section shall collectively be referred to as "CONTRACTOR") warrants and represents the following:

13.1 CONTRACTOR was and is the sole owner of all right, title and interest in and to all CONTRACTOR Property and CONTRACTOR Intellectual Property; **OR**

13.2 CONTRACTOR has obtained, and was and is the sole holder of one or more freely assignable, transferable, non-exclusive licenses in and to the CONTRACTOR Property and CONTRACTOR Intellectual Property, as necessary to provide and install the CONTRACTOR Property and/or to assign or grant corresponding to CFX all licenses necessary for the full performance of this Agreement; and that the CONTRACTOR is current and will remain current on all royalty payments due and payable under any license where CONTRACTOR is licensee; **AND**

13.3 CONTRACTOR has not conveyed, and will not convey, any assignment, security interest, exclusive license, or other right, title, or interest that would interfere in any way with the CFX's use of the CONTRACTOR Property or any license granted to CFX for use of the CONTRACTOR Intellectual Property rights; **AND**

13.4 Subject to Chapter 119, Florida Statutes (Florida Public Records Act), CONTRACTOR shall maintain CFX Property and CFX Intellectual Property in strictest confidence and may not transfer, disclose, duplicate, or otherwise use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this

Agreement, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR shall not publish, copyright, trademark, service mark, patent, or claim trade secret, publicity, or other rights of any kind in any of the Property. In ensuring the confidentiality and security of CFX Property and CFX Intellectual Property, CONTRACTOR shall utilize the same standards of protection and confidentiality that CONTRACTOR uses to protect its own property and confidential information, but in no instance less than reasonable care plus the standards set forth anywhere in this Agreement.

CONTRACTOR further warrants and represents that there are no pending, threatened, or anticipated Claims against CONTRACTOR, its employees, officers, agents, or subcontractors with respect to the CONTRACTOR Property or CONTRACTOR Intellectual Property.

The provisions of this Section shall survive the term of this Agreement for the longer of:

13.5 The statute of limitations on any action arising out of either party's conduct relating to this section, whether such action may be brought by CFX, CONTRACTOR, or a third party; **or**

13.6 CFX's continued use (notwithstanding any temporary suspension of use) of any CONTRACTOR Property or CONTRACTOR Intellectual Property; **and**

13.7 Notwithstanding sections 13.5 and 13.6, the confidentiality and security provisions contained herein shall survive the term of this Agreement for ten (10) years beyond 13.5 and 13.6.

#### **14. PERMITS, LICENSES, ETC.**

Throughout the Term of the Agreement, 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.

#### **15. 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 Agreement.

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

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. 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.

**18. DISPUTES**

All services shall be performed by the CONTRACTOR to the reasonable satisfaction of CFX's Executive Director (or her delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Agreement, 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 Agreement 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.

Disputes specific to a Rapid Response Task Order shall be in accordance with the terms and conditions attached to the Rapid Response Task Order.

**19. OTHER SEVERABILITY**

If any section of this Agreement 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 Agreement 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 Agreement.

**20. INTEGRATION**

It is understood and agreed that the entire agreement of the parties is contained in this Agreement herein and that this Agreement 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 Agreement shall be governed by and construed in accordance with the laws of Florida. Venue of any legal or administrative proceedings arising out of this Agreement 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 Agreement, 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 Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, CONTRACTOR may immediately notify CFX and request clarification of CFX's interpretation of the Agreement.

## **25. SURVIVAL OF EXPIRATION OR TERMINATION**

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

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

25.2 Obligations upon expiration or termination of the Agreement; and

25.3 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.

## **26. 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 Agreement shall also be bound contractually to this and all applicable Florida statutory requirements.

## **27. 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 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.

**28. 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.

**29. RECITALS INCORPORATED**

The Recitals set forth at the beginning of this Agreement are deemed incorporated herein, and the parties hereto represent they are true, accurate and correct.

**30. 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  
4974 ORL Tower Road  
Orlando, Florida 32807  
ATTN: Director of Construction

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

CONTRACTOR: United Signs & Signals, Inc.  
28248 CR 561  
Tavares, FL. 32778  
ATTN: Micheal Mott

**31. EXHIBITS AND ATTACHMENTS**

This Agreement references the exhibits listed below.

Exhibit "A" Scope of Services

Exhibit "B" Sample Rapid Response Task Order with Rapid Response Task Order General Specification and Rapid Response Task Order Technical Specification

Exhibit "C" CONTRACTOR's Bid to CFX Solicitation ITB-001847

Attachment "1" – General Specifications

Attachment "2" – Technical Specifications

[ SIGNATURES TO FOLLOW ]

IN WITNESS WHEREOF, the authorized signatures named below have executed this Agreement on behalf of the parties as of the day and year first above written. This Agreement was awarded by CFX's Board of Directors at its meeting on December 09, 2021.

ACCEPTED AND AGREED TO BY:

UNITED SIGNS & SIGNALS, INC.

By: \_\_\_\_\_  
Name and Title

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

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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

Print Name: Aneth Williams

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

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

\_\_\_\_\_  
General Counsel for CFX  
\_\_\_\_\_  
Diego "Woody" Rodriguez  
Print Name

EXHIBIT "A"  
SCOPE OF SERVICES

RAPID RESPONSE AGREEMENT FOR SIGN, SIGNAL, AND ITS TASK ORDERS UNDER \$300,000 AND ELECTRICAL WORK TASK ORDERS UNDER \$75,000, AS ADJUSTED PER FLORIDA STATUTES § 255.20(2)  
INVITATION TO BID NO. ITB001847

CFX is seeking multiple contractors to perform sign, signal, and ITS task orders under \$300,000, and lighting task orders under \$75,000, as amended per Florida Statutes § 255.20(2). The adjusted task-order limit amount for calendar year 2021 for sign, signal, ITS task orders and electrical work task orders is \$405,207.03 and \$101,301.76, respectively. The task order limit amount will be automatically adjusted for task commencing in subsequent years as per Florida Statutes § 255.20(2). It is CFX's intention to award no greater than six (6) Agreements plus one if the 7th low bid is a designated Small Sustainable Business Enterprise (SSBE), Disadvantaged/Minority Business Enterprise or Women's Business Enterprise (D/M/WBE) bidder under this solicitation. Quotes for individual construction tasks will be solicited to all awardees with the award going to the lowest priced contractor who can meet CFX's scheduled start and completion dates. Authorization for performance of services by Contractors under this Agreement shall be in the form of written task orders.

The amounts listed above are in accordance with F.S. 255.20(2) which states "The threshold amount of \$300,000 for construction or \$75,000 for electrical work, as specified in subsection (1), must be adjusted by the percentage change in the Engineering News-Record's Building Cost Index from January 1, 2009, to January 1 of the year in which the project is scheduled to begin.

<b>Project Amount</b>	<b>Index 1/1/2009</b>	<b>Index 1/1/2021</b>	<b>Difference</b>	<b>Project Cost with Inflation</b>
\$300,000.00	4782	6459	1.350690088	\$405,207.03
\$75,000.00	4782	6459	1.350690088	\$101,301.76

The threshold amount for projects under this Agreement that are scheduled to begin year 2022, 2023, and 2024 will be automatically adjusted to reflect the percentage change in the Engineering News-Record's Building Cost Index from January 1 of the year in which the project is scheduled to begin.

EXHIBIT "B"  
RAPID RESPONSE TASK ORDER

Contract No.: \_\_\_\_\_,  
Contract Title: Rapid Response Agreement for Roadway Sign, Signal,  
Intelligent Transportation Systems, and Electrical Services  
Task Order No. \_\_\_\_\_

Contractor: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

ATTACHMENTS TO THIS TASK ORDER:  
 scope of services (Attachment A)  
 plans (Attachment B)  
 rate schedule from RFQ (Attachment C)  
 special provisions (Attachment D)  
 technical special provisions (Attachment D)  
 general specifications (By reference, included in  
CFX solicitation ITB001847)  
 Technical specifications (By reference, included in  
CFX solicitation ITB001847)  
 TRENCH SAFETY ACT COMPLIANCE  
STATEMENT

D/M/WBE Utilization Summary / Form (P6/P7)  
 \_\_\_\_\_  
METHOD OF COMPENSATION  
 retainage shall be withheld see Gen Spec.  
 Unit Price  
 \_\_\_\_\_

TIME FOR COMPLETION: The Work to be provided by the CONTRACTOR shall be substantially completed as described in the special provisions (Attachment D). Failure to meet the completion time shall be grounds for Termination of both the Rapid Response Task Order and the Rapid Response Agreement for Default.

TASK ORDER AMOUNT: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have made and executed this Task Order on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, for the purposes stated herein.

CONTRACTOR

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: \_\_\_\_\_  
\_\_\_\_\_  
(Title)

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

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

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

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

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

# Rapid Response Task Order General Specifications

The Rapid Response Task Order General Specifications are being provided to potential awardees of the Rapid Response Agreement at this time to be utilized as part of all future Rapid Response Task Orders that may be awarded under the Contractors' Rapid Response Agreement.

The Awardees of the Rapid Response Agreement understand and agree that the Rapid Response General Specifications may be updated or modified based on individual Rapid Response Task Orders or in the best interest of CFX. Awardees will be notified when such modifications or changes occur during the term of the Rapid Response Agreement.

By virtue of a submission of a quote in response to a Rapid Response Task Order Request for Quote, the Contractor agrees to all the terms and conditions of the Rapid Response General Specifications as they may be amended.



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	9
2.1    Intent of Contract	9
2.2    Work Not Covered by the General Specifications	9
2.3    Alteration of Plans	9
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    Omitted	
2.4    Claims by Contractor	19
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	26
2.6    Right To and Use of Materials Found at the Site of the Work	26
2.6.1    Ownership and Disposal of Existing Materials	
2.6.2    Ornamental Trees and Shrubs	
2.7    Restoration of Right of Way	26

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 3 - Control of the Work	28
3.1 Plans and Working Drawings	28
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	32
3.3 Conformity of Work with Plans	32
3.3.1 Record Drawings	
3.4 Pre-Award Meeting	33
3.5 Orders and Instructions	34
3.5.1 Observation of the Work	
3.5.2 Examination of the Work	
3.5.3 Communications	
3.6 Engineering and Layout	36
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 Payment	
3.7 Contractor's Supervision	39
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	41
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	42
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	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
3.10 Audit and Examination of Contract Records and Bid Records	44
3.11 Prevailing Party Attorney's Fees	45
Section 4 - Control of Materials	47
4.1 Acceptance Criteria	47
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)	48
4.3 Source of Supply and Quality Requirements	48
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	49
4.4.1 General	
4.4.2 Cooperation by Contractor	
4.4.3 Retest of Materials	
4.5 Storage of Materials and Samples	50
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	50
Section 5 - Legal Requirements and Responsibility to the Public	52
5.1 Laws to be Observed	52
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	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.2 Permits and Licenses	54
5.3 Patented Devices, Materials and Processes	54
5.4 Right of Way Furnished by CFX	55
5.5 Sanitary Provisions	55
5.6 Control of the Contractor's Equipment	55
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	57
5.7.1 Compliance with Jurisdictional Regulations	
5.8 Use of Explosives	57
5.9 Preservation of Property	57
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.	63
5.10.1 Contractor to Provide Defense Against Claims and Suits	
5.10.2 Guaranty of Payment for Claims	
5.11 Insurance	64
5.12 Contract Bond (Public Construction Bond) Required	64
5.12.1 General Requirements of the Bond	
5.12.2 Continued Acceptability of Surety	
5.13 Contractor's Responsibility for Work	65
5.14 Opening Section of Highway to Traffic	65
5.15 Scales for Weighing Materials	65
5.15.1 Applicable Regulations	
5.15.2 Base for Scales	
5.15.3 Protection and Maintenance	
5.16 Source of Forest Products	66

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.17 Regulations of Air Pollution	66
5.17.1 General	
5.17.2 Dust Control	
5.17.3 Asphalt Material	
5.17.4 Asphalt Plants	
5.18 Dredging and Filling	66
5.19 Erosion Control	67
5.20 Contractor's Motor Vehicle Registration	67
5.21 Internal Revenue Service Form W-9	67
5.22 Tolls and Access	67
5.23 Requests for References or Performance Evaluations	67
5.24 Unauthorized Aliens	68
5.25 Public Records	68
5.26 Inspector General	69
5.27 Convicted Vendor List	69
5.28 Discriminatory Vendor List	70
5.29 Severability	70
5.30 Companies Pursuant to Florida Statute Sections 287.135	70
5.31 E-Verify	71
 Section 6 - Prosecution and Progress of the Work	 72
6.1 Subletting or Assigning of Contract	72
6.2 Work Performed by Equipment Rental Agreement	74
6.3 Prosecution of Work	74
6.3.1 Sufficient Labor, Materials and Equipment	
6.3.2 Impacts by Adjacent Projects	
6.3.3 Submission of Working Schedule	
6.3.4 Beginning Work	
6.3.5 Provisions for Convenience of the Public	
6.3.6 Pre-Construction Conference	
6.4 Limitations of Operations	75
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 (Continued)

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	79
6.6 Temporary Suspension of Contractor's Operations	80
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	81
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	83
6.8.1 General	
6.9 Default and Termination of Contract	84
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	86
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	87
6.12 Recovery of Damages Suffered by Third Parties	87
6.13 Express Warranty	87
Section 7 - Measurement and Payment	89
7.1 Measurement of Quantities	89
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	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
7.1.6 Ladders and Instrument Stands for Bridge Construction	
7.2 Scope of Payments	90
7.2.1 Items Included in Payment	
7.2.2 Non-Duplication of Payment	
7.3 Compensation for Altered Quantities	90
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	93
7.4.1 Method of Payment	
7.4.2 Records	
7.4.3 Preliminary Order-of-Magnitude Estimate	
7.5 Deleted Work	96
7.6 Partial Payments	96
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	100
7.7.1 General	
7.7.2 Non-Commercial Materials	
7.8 Disputed Amounts Due Contractor	100
7.9 Acceptance and Final Payment	100
7.10 Offsetting Payments	102
Section 8 - Minority/Women Business Enterprise (M/WBE) Participation	103
8.1 General	103
8.2 Minority and Women Owned Businesses - Participation Objectives	104
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	109

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 9 - Binding Arbitration	110
Section 10 –Disputes Resolution	112
10.1 Disputes Resolution	112
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.
AIA	American Institute of Architects
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
AREA	American Railway Engineering Association
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWS	American Welding Society
AWPA	American Wood Preservers Association
AWWA	American Water Works Association
CRSI	Concrete Reinforcing Steel Institute
FDOT	Florida Department of Transportation
FNGA	Florida Nursery Growers Association
FSS	Federal Specifications and Standards
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society
IPCEA	Insulated Power Cable Engineers Association
MUTCD	Manual on Uniform Traffic Control Devices
NEC	National Electrical Code (as recommended by the National Fire Protection Association)
NEMA	National Electrical Manufacturers Association

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

### 1.3 Definitions

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

1.3.0 **Agreement** – Agreement refers to the main agreement with each Contractor in the specified Rapid Response (“RR”) pool, requiring responses to Requests for Quotes (“RFQ”) for Rapid Response Task Orders (“RRTOs”).

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

1.3.2 **Bid** - The offer or proposal of the Bidder submitted on the prescribed form setting forth the unit prices for the Contract, which will form the basis for the Quotes for RRTOs and RRTOs.

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

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

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

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

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

1.3.8 **Contract or RRTO** - The terms “Contract” or “RRTO” as used within the General Specifications means the RRTO issued for each project between CFX and the Contractor setting

forth the obligations of the parties thereto including but not limited to, the performance of the Work, the furnishing of labor and materials and the basis of payment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.3.31 **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.

1.3.32 **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.

1.3.33 **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.

1.3.34 **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.

1.3.35 **Rapid Response Task Order or RRTO** – Written authorization for performance of services in response to a Request for Quote (“RFQ”) .

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

1.3.37 **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.

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

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

1.3.40 **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.

1.3.41 **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.

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

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

A Specialty Engineer shall be qualified in accordance with the Rules of the Florida Department of Transportation, Chapter 14-75, Florida Administrative Code. Any corporation or partnership, which offers engineering services, must hold a current Certification of Authorization from the Florida State

Board of Professional Engineers. Prior approval by CFX is required if the Contractor wishes to use a Specialty Engineer not qualified in accordance with Chapter 14-75. Approval must be received prior to proceeding with the specialty design.

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

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

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

1.3.45 **Standard Specifications** - The FDOT Standard Specifications for Road and Bridge Construction, 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.

1.3.46 **State** - State of Florida

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

1.3.48 **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.

1.3.49 **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.

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

1. All pay item work is installed and functioning including Supplemental Agreement Work, Force Account, or Extra Work.
2. All disturbed areas have been restored and vegetative growth is emerging including landscaping.
3. All erosion control measures have been taken up, and sediments removed from traps and drainage structures.
4. All pavement areas are complete and final signing and stripping in place.

5. All Signals, Lighting, ITS, and Tolling systems are tested, commissioned, and operating.
6. All roadway appurtenances are installed, intact and functioning such as signs, guardrail, stripping, rumble strips, curbing, sidewalk, etc.
7. All structures such as bridges, walls, barriers, attenuators, overhead trusses, toll buildings, tolling gantries, etc. are in place with their final coatings applied, and devoid of blemishes or graffiti.
8. All temporary traffic control devices are removed, and traffic is using the facility as designed.
9. All testing is complete, and documentation has been received.

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

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

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

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

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

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

**1.3.56 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.

**1.3.57 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.

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

**1.3.59 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.

1.3.60 **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.

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

END OF SECTION 1



## SECTION 2 - SCOPE OF WORK

### 2.1 Intent of Contract

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

### 2.2 Work Not Covered by the General Specifications

Proposed construction and any contractual requirements not covered by these General Specifications may be covered by notes shown on the Plans or by the Technical Specifications, Special Provisions or Rapid Response Task Order.

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

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

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

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

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

Where A = Original Contract Amount

B = Original Contract Time

C = 8%

D = Average Overhead Per Day

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CFX approval of a Contractor proposed change does not relieve the Contractor of sole responsibility for all utility impacts, costs, delays or damages, whether direct or indirect, resulting from Contractor initiated changes in the design or construction activities from those in the original Contract, design plans (including traffic control plans) or other Contract Documents and which effect a change in utility work different from that shown in the utility plans, joint project agreements or utility relocation schedules.

2.3.6 Omitted.

## 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 ten (10) 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 fifteen (15) 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 ten (10) 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 fifteen (15) 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 fifteen (15) 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 five (5) days written notice to the Contractor, subcontractor, or supplier. The Contractor, subcontractor, or supplier shall make a good faith effort to cooperate with the auditors. As a condition precedent to recovery on any claim, the Contractor, subcontractor, or supplier must retain sufficient records, and provide full and reasonable access to such records to allow the CFX auditors to verify the claim. Failure to retain sufficient records of the claim or failure to provide full and reasonable access to such records shall constitute a waiver of that portion of such claim that cannot be verified and shall bar recovery thereunder. Further, and in addition to such audit access, upon the Contractor submitting a written claim, CFX shall have the right to request and receive, and the Contractor shall have the affirmative obligation to provide to CFX, copies of any and all documents in the possession of the Contractor or its subcontractors, materialmen or suppliers as may be deemed relevant by CFX in its review of the basis, validity or value of the Contractor's claim.

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

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

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

## 2.5 Unforeseeable Work

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

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

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

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

## 2.7 Restoration of Right of Way

Areas outside the Project limits within CFX right of way used as a plant site be shaped and

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

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

END OF SECTION 2

## SECTION 3 - CONTROL OF WORK

### 3.1 Plans and Working Drawings

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

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

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

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

#### 3.1.4 Shop Drawings

##### 3.1.4.1. Definitions:

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

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

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

3.1.4.2. Work Items Requiring Shop Drawings: The requirement for submittals for certain items may be waived by other provisions of these specifications; i.e. items constructed from standard drawings or those complying with alternate details for 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 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 at the preconstruction conference, 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 order of precedent of the documents shall be as follows:

1. The Rapid Response Task Order (which is referred to as the Contract herein);
2. The Memorandum of Agreement (if any),
3. The Plans,
4. The Special Provisions,
5. The Technical Specifications,
6. The General Specifications,
7. The Standard Specifications, and
8. The Design Standards.

Computed dimensions shall govern over scaled dimensions.

### 3.3 Conformity of Work with Plans

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

In the event CFX finds that the Materials or the finished product in which the Materials are used are not within reasonable close conformity with the Plans and Specifications, but that



reasonably acceptable Work has been produced, CFX will make a determination if the Work will be accepted and remain in place. In this event, CFX will document the basis of acceptance by Contract modification which will provide for an appropriate adjustment in the Contract price for such Work or Materials as CFX deems necessary to conform to CFX's determination based on engineering judgment.

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

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

3.3.1 Record Drawings: During the entire construction operation, the Contractor shall maintain records of all deviations from the plans and specifications including Request for Information (RFI), field directives, sketches, etc., and shall submit those deviations to the CEI. The submittal shall also include cross-sections, prepared by a registered surveyor, of all retention ponds in the Project limits. A minimum submittal would be full-sized prints in good condition with all changes in red, accurately plotted. The print shall be in good condition as determined by the CEI. The marked up prints shall be submitted within ten (10) days of the Project acceptance or termination of Work. Preparation of the record drawings shall be the responsibility of CFX. Retainage will not be released by CFX until the marked up prints and records have been submitted and accepted by CFX.

#### 3.4 Pre-Award Meeting

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

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

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

### 3.5 Orders and Instructions

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

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

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

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

3.5.1.1 Make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine in general if the Work is proceeding in accordance with the Plans and Specifications. CFX will not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the Work, will not be responsible for the construction means, methods, procedures, techniques and will not be responsible

for the Contractor's failure to perform the construction Work in accordance with the Plans and Specifications. CFX will not be responsible for safety precautions and procedures concerning the Work. During such visits and based on on-site observations, CFX may disapprove Work as failing to conform to the Plans and Specifications.

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

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

3.5.1.4 Prepare final record drawings.

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

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

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

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

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

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

### 3.6 Engineering and Layout

#### 3.6.1 Control Points Furnished by CFX

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

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

#### 3.6.2 Furnishing of Stake Material

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

### 3.6.3 Layout of Work

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

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

### 3.6.4 Specific Staking Requirements

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

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

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

For resurfacing and resurfacing/widening Work, the Contractor shall establish horizontal controls adequate to assure that the asphalt mix added coincides with the

existing pavement. In tangent sections, horizontal control points shall be set at 100-foot intervals by an instrument survey. In curve sections, horizontal control points shall be set at 25-foot intervals by locating and referencing the centerline of the existing pavement.

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

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

### 3.6.5 Personnel, Equipment, and Record Requirements

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

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

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

### 3.6.6 Payment

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

## 3.7 Contractor's Supervision

### 3.7.1 Prosecution of Work

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

### 3.7.2 Contractor's Superintendent

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

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

### 3.7.3 Supervision for Emergencies

The Contractor shall have a responsible person available at or reasonably near the Work site on a 24-hour basis, 7 days per week. This individual shall be designated

as the Contractor's contact in emergencies and in cases where immediate action must be taken to maintain traffic or to handle any other problem that might arise. The contact person shall have the ability to speak and understand the English language.

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

#### 3.7.4 Worksite Traffic Supervisor

The Contractor shall have a Worksite Traffic Supervisor who shall be responsible for initiating, installing and maintaining all traffic control devices required for maintenance of traffic. The Worksite Traffic Supervisor shall have at least 1 year of experience directly related to worksite traffic control in a supervisory or responsible capacity and shall be certified by the American Traffic Safety Services Association under its Worksite Traffic Supervisor Certification Program, or an FDOT-approved advanced training Provider. Approved advanced training Providers will be posted on the FDOT's web site at the following URL address: <http://www.dot.state.fl.us/rddesign/MOT/MOT.shtm>.

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

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

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



### 3.8 General Inspection Requirements

#### 3.8.1 Cooperation by Contractor

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

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

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

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

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

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

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

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

## 3.9 Final Inspection and Acceptance

### 3.9.1 Maintenance Until Final Acceptance

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

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

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

### 3.9.2 Inspection for Substantial Completion

The CEI will make a semi-final inspection within 7 days after written notice from the Contractor of completion of the Project in its entirety. If, at the semi-final inspection,

it is determined that all pay item work has been installed and other conditions as defined in Section 1.3, the project will be deemed Substantially Complete. Further, if all construction provided for and contemplated by the Contract is complete and acceptable to the CEI, such inspection shall constitute the final inspection as described below.

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

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

### 3.9.3 Final Inspection

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

### 3.9.4 Final Acceptance

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

### 3.9.5 Recovery Rights Subsequent to Final Payment

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

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

CFX reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Bid Records (as herein defined) of the Contractor or any subcontractor. By submitting a Bid, the Contractor or any first or second tier subcontractor submits to and agrees to comply with the provisions of this Article. In addition, the Contractor shall be entitled to enter into subcontracts with proper CFX approval provided that all subcontracts shall include the same or similar terms as are in this Contract with respect to subcontractors, providing CFX with equal or greater protections than herein.

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

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

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

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

truckers or material suppliers, profit contingencies and any manuals standard in the industry that may be used by the Contractor in determining its bid. These manuals shall be included in the Bid Records by reference and shall show the name and date of the publication and the publisher.

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

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

### 3.11 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.

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

#### 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.

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

- 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.

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

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.

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

- 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

Rapid Response Agreement, CFX Agreement No. 001504, Section 11, is hereby adopted and made part of this General Specification as completely as if incorporated herein.

#### 5.12 Contract Bond (Public Construction Bond) Required

5.12.1 General Requirements of the Bond: The Contractor shall furnish to CFX and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by CFX. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to CFX. The name, address and telephone number of the surety agent shall be clearly stated on the face of the Public Construction Bond.

5.12.2 Continued Acceptability of Surety: In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after CFX's initial approval of the company, then CFX may require that the Contractor immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to CFX. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the Contractor from its payment of premium on the defaulting bond, will be borne by CFX.

#### 5.13 Contractor's Responsibility for Work



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

The Contractor will not be held responsible for damage to any landscape items caused by an officially declared hurricane that occurs after the final acceptance of the entire Work but during any remaining portion of the 90-day establishment period.

#### 5.14 Opening Section of Highway to Traffic

When any bridge or section of roadway is, in the opinion of CFX, acceptable for travel, CFX may direct that the bridge or roadway be opened to traffic. Such opening shall not be considered, in any way, to be an acceptance of the bridge or roadway or any part thereof or as a waiver of any provision of the Contract. The Contractor shall make all repairs or renewals due to defective Work or Materials (or for any cause other than ordinary wear and tear) on such opened sections without additional compensation.

#### 5.15 Scales for Weighing Materials

5.15.1 Applicable Regulations: Prior to the use of any scales, the Contractor shall submit to the CEI a copy of a certificate of accuracy for the scales that is not more than 1 year old. All scales which are used for the determination of the weight of Materials upon which compensation will be made by CFX shall conform to the requirements of Chapter 531, Florida Statutes, pertaining to specifications, tolerances and regulations as administered by the Bureau of Weights and Measures of the Florida Department of Agriculture. CFX reserves the right to perform scale checks/inspections at its sole discretion.

5.15.2 Base for Scales: Such scales shall be placed on a substantial horizontal base that will assure proper support, rigidity and maintenance of level of the scales.

5.15.3 Protection and Maintenance: All scale parts shall be in proper condition as to level and vertical alignment and shall be fully protected against contamination by dust, dirt and other matter which might affect operation of the parts.

#### 5.16 Source of Forest Products

As required by Section 255.20, Florida Statutes, all timber, timber piling or other forest products which are used in the construction of the Project shall be produced and manufactured in the State of Florida, price and quality being equal and provided such Materials produced and manufactured in Florida are available.

## 5.17 Regulations of Air Pollution

5.17.1 General: All Work shall be done in accordance with all Federal, State and local laws and regulations regarding air pollution and burning.

5.17.2 Dust Control: The Contractor shall ensure that excessive dust is not transported beyond the limits of construction in populated areas. Dust control for embankment or other cleared or unsurfaced areas may be by application of water or calcium chloride, as directed by CFX. Any use of calcium chloride shall be in accordance with Section 102 of the Technical Specifications. When included in the Plans, mulch, seed, sod or temporary paving shall be installed as early as practical. Dust control for storage and handling of dusty materials may be made by wetting, covering or other means as approved by the CEI.

5.17.3 Asphalt Material: Any asphalt used shall be emulsified asphalt unless otherwise stated in the Plans and allowed by Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. Asphalt materials and components shall be stored and handled to minimize unnecessary release of hydrocarbon vapors.

5.17.4 Asphalt Plants: The operation and maintenance of asphalt plants shall be in accordance with Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. A valid permit as required under Chapter 17-2 shall be available at the plant site prior to the start of Work.

## 5.18 Dredging and Filling

If required by the Work, the Contractor shall comply with Section 370.033, Florida Statutes, regarding obtaining a certificate of registration from the Florida Department of Environmental Protection and keeping accurate records and logs of all dredge and fill activities.

## 5.19 Erosion Control

This Project will be constructed on properties that may be subject to environmental permits and regulation promulgated by city, county, state, federal, and regional authorities. Requirements for erosion control are included in the Technical Specifications.

#### 5.20 Contractor's Motor Vehicle Registration

The Contractor shall provide proof to CFX that all motor vehicles operated or caused to be operated by the Contractor are registered in compliance with Chapter 320, Florida Statutes. Such proof of registration shall be submitted in the form of a notarized affidavit to CFX. No payment will be made to the Contractor until the required proof of registration is on file with CFX.

#### 5.21 Internal Revenue Service Form W-9

The Contractor shall complete and return with the executed Contract, Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.

#### 5.22 Tolls and Access

The Contractor shall pay all tolls incurred from using CFX's Expressway System to transport personnel, equipment, or materials to and from the site of Work. Any costs incurred by the Contractor in payment of tolls shall be considered incidental and included in associated items. The term "equipment" in this context includes loaders, graders and similar self-propelled equipment, operating under their own power, passing through a toll plaza.

Contractor shall access the Project by existing expressway ramps. No access will be allowed through the right-of-way fence.

#### 5.23 Requests for References or Performance Evaluations

In the event CFX at any time receives any direct or third party inquiry or request concerning the Contractor, its employees or sub-contractors, or the performance of the Contractor, its employees or sub-contractors under this Contract, CFX, at any time and in all cases, may, but shall not be obligated to respond to any such inquiry or request, with or without notice to the Contractor, its employees, or subcontractors, as the case may be, but, in all cases, such response shall be limited to: (1) acknowledging that the Contractor has, or in the past has had, a contract with CFX; (2) the date, term and type of such contract; (3) whether a specified employee or subcontractor worked on the Contract, and if so, in what capacity; (4) whether such contract was terminated early for any reason other than the convenience of CFX; (5) whether such contract was eligible for renewal or extension; and, (6) if such contract was eligible for renewal or extension, whether in fact such contract was renewed or extended. Should the Contractor, its employees, its agents or subcontractors request that any further information be provided in response to such an inquiry or request, such additional information may be provided by CFX, in its sole discretion. Contractor for itself, its employees, its agents and sub-contractors, hereby expressly waives any and all claims of whatever kind or nature that the Contractor, its employees, its agents or sub-contractors may have, or may hereafter acquire, against CFX relating to, or arising out of CFX's response to any and all requests or inquiries concerning the Contractor, its employees or subcontractors

under this Contract, or the performance of the Contractor, its employees or subcontractors under this Contract.

#### 5.24 Unauthorized Aliens

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

#### 5.25 Public Records

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

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

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the public agency.

4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the CONTRACTOR or keep and maintain public records required by the public agency to perform the service. If the CONTRACTOR transfers all public records to the public agency upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event the CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act.

#### 5.26 Inspector General

It is the duty of every CONTRACTOR and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to section 20.055, Florida Statutes. The corporation, partnership, or person entering into an Agreement with the Central Florida Expressway Authority understands and will comply with subsection. 20.055(5), Florida Statutes.

#### 5.27 Convicted Vendor List

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

#### 5.28 Discriminatory Vendor List

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may

not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

#### 5.29 Severability

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

#### 5.30 Companies Pursuant to Florida Statute Section 287.135

Pursuant to Section 287.135(3)(a)4, if the company is found to have submitted a false certification as provided under subsection (5); been placed on the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or been engaged in business operations in Cuba or Syria, the contract may be terminated for cause at the option of CFX.

Pursuant to Section 287.135(3)(b), if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the contract may be terminated for cause at the option of CFX.

Submitting a false certification shall be deemed a material breach of contract or renewal. CFX shall provide notice, in writing, to the Contractor of CFX's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the CFX's determination of false certification was made in error then CFX shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes and as allowed by law.

#### 5.31 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.

END OF SECTION 5

## SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

### 6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without written consent of CFX. With CFX written consent, the Contractor will be permitted to sublet a portion of the Work but shall perform, with its own organization, Work amounting to not less than 50% of the total Contract amount less the total amount for those Contract items specifically designated as "Specialty Work" below or as otherwise designated as Specialty Work by CFX. CFX may, at their discretion, revise the allowable sublet percentage for select Rapid Response Task Orders. The granting or denying of consent to sublet work under this provision is at CFX's sole discretion.

The total Contract amount shall include the cost of Materials, manufactured component products and their transportation to the Project site. Off-site commercial production of Materials and manufactured component products purchased by the Contractor and their transportation to the Project will not be considered subcontracted Work.

If a part of a Contract item is sublet, only its proportional cost will be used in determining the percentage of subcontracted normal Work.

All subcontracts entered into by the Contractor shall be in writing and shall contain all pertinent provisions and applicable requirements of the Contract. All subcontracts shall require subcontractor to indemnify and hold harmless CFX on the same terms as contained in the General Specifications and the Contract. The Contractor shall furnish CFX with a copy of any subcontract requested by CFX. Subletting of Work shall not relieve the Contractor or surety of their respective liabilities.

The Contractor shall ensure that all Subcontractors are competent, careful and reliable. The Contractor shall submit the names and qualifications of all first and second tier subcontractors to CFX for approval prior to their beginning Work on the Project. All first and second tier subcontractors shall have the skills and experience necessary to properly perform the Work assigned and as required by the plans and specifications.

If, in the opinion of CFX, any Subcontractor employed by the Contractor is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such first or second tier subcontractor shall be immediately removed from the Project by the Contractor upon written direction from CFX. Such subcontractor shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such



subcontractor, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the subcontractor is removed. The Contractor shall indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Subcontractor based on the direction of CFX. All subcontracts shall expressly include an acknowledgment of CFX's right to remove any Subcontractor in accordance with this paragraph.

A Subcontractor shall be recognized only in the capacity of an employee or agent of the Contractor.

If the aggregate total of the dollar amount of Work performed by a subcontractor, including equipment rental agreements, equals or exceeds \$20,000, a formal subcontract agreement shall be entered into between the Contractor and the Subcontractor.

6.1.2 Specialty Work: The following Work is designated as Specialty Work:

- Auxiliary Power Unit
- Cleaning, Coating, Injection, Grouting, Grinding, Grooving or Sealing Concrete Surfaces
- Deep Well Installation
- Electrical Work
- Fencing
- Highway Lighting
- Installing Pipe or Pipe Liner by Jacking and Boring
- Installing Structural Plate Pipe Structure
- Landscaping
- Painting
- Plugging Water Wells
- Pressure Grouting
- Pumping Equipment
- Roadway Signing and Pavement Marking
- Riprap
- Removal of Buildings
- Rumble Strips
- Sealing Wells by Injection
- Septic Tank and Disposal System
- Signalization
- Utility Works
- Vehicular Impact Attenuator
- Water and Sewage Treatment Systems

## 6.2 Work Performed by Equipment Rental Agreement

The limitations set forth in 6.1, regarding the amount of Work that may be subcontracted, do not apply to Work performed by Equipment rental agreements. The Contractor shall notify CFX, in writing, if the Contractor intends to perform any Work through an Equipment rental agreement. The notification shall be submitted to CFX before any rental Equipment is used on the Project. The notification shall include a list of the Equipment being rented, the Work to be performed by the Equipment and whether the rental includes an Equipment operator. Notification to CFX will not be required for Equipment being rented (without operators) from an Equipment dealer or from a firm whose principle business is renting or leasing Equipment.

## 6.3 Prosecution of Work

6.3.1 Sufficient Labor, Materials and Equipment: The Contractor shall provide sufficient labor, Materials and Equipment to ensure the completion of the Work no later than the Contract completion date.

6.3.2 Impacts by Adjacent Projects: When there is a potential impact between two or more projects due to close proximity or due to logistics in moving labor, Materials, and Equipment between projects, all authorized representatives of the parties performing the projects have a responsibility to communicate and coordinate their work so that impacts to either party are eliminated or mitigated and do not endanger, delay, or create additional work or costs to either party. The Contractor shall not be compensated for any additional costs or delays so incurred by either party.

6.3.3 Submission of Working Schedule: Within five (5) 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 five (5) 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 five (5) 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 three (3) 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; 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. Contract Time will be charged during these holiday periods regardless of whether or not the Contractor's operations have been suspended. The Contractor is not entitled to any additional compensation for suspension of operations during such holiday periods.

During such suspensions, the Contractor shall remove all Equipment and Materials from the clear zone, except those required for the safety of the traveling public and retain sufficient personnel at the job site to properly meet the requirements of Sections 102 and 104 of the Technical Specifications. The Contractor is not entitled to any additional compensation for removal of Equipment from clear zones or for compliance with Section 102 and Section 104 during such holiday periods.



Any special events known to CFX that may impact Contractor operations are shown on the Plans.

## 6.7 Contract Time

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

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

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

6.7.2 Date of Beginning of Contract Time: The date on which Contract time will begin shall be the date of notice to begin Work or as specified in the Notice to Proceed.

6.7.3 Adjusting Contract Time:

6.7.3.1 Contract Time Extension: CFX has established an allowable Contract duration, in terms of calendar days, sufficient to complete the Work covered by the Contract. By execution of the Contract, the Contractor agrees that the calendar days are sufficient to perform the Work and it has priced its bid considering the Contract duration. If the Contractor's Work (which Work is actually on the critical path) is impacted by one or more of the following events, CFX may (but is not obligated to) consider approving an extension of time:

1. War or other act of public enemies.
2. Riot that would endanger the well-being of Contractor's employees.
3. Earthquake.
4. Unpredictable acts of jurisdictional governmental authorities acting outside the scope of current laws and ordinances.
5. Hurricane (or other weather event) but only if the weather event results in the declaration of an emergency by the Governor of the State of Florida within the geographical area which includes the Work area.

6. Utility relocation and adjustment Work only if all the following criteria are met:
  - a. Utility work actually affected progress toward completion of Work on the critical path.
  - b. The Contractor took all reasonable measures to minimize the effect of utility work on critical path activities including cooperative scheduling of his operations with the scheduled utility work.
7. Temperature restrictions that prohibit placement of friction course (FC-5 only) provided all other Work is completed.
8. Epidemics, quarantine restrictions, strikes (unless caused or provoked by actions of the Contractor, or its subcontractors, or its materialmen, or its suppliers or its agents), freight embargoes.
9. Impacts to the critical path caused by other contractors.

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

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

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

will be made for delays caused by delivery of materials or component equipment.

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

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

## 6.8 Failure of Contractor to Maintain Satisfactory Progress

6.8.1 General: Time is of the essence of the Contract. Unsatisfactory progress will be deemed to have occurred when:

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

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

## 6.9 Default and Termination of Contract

- 6.9.1 Determination of Default: CFX will give notice in writing to the Contractor and Contractor's surety of such delay, neglect, or default for the following:
- a. If the Contractor fails to begin the Work under the Contract within the time specified in the Notice to Proceed or;
  - b. fails to perform the Work with sufficient workmen and Equipment or with sufficient Materials to assure the prompt completion of the Contract as related to the schedule or;
  - c. performs the Work unsuitably or neglects or refuses to remove Materials or;
  - d. to perform anew such Work as may be rejected as unacceptable and unsuitable or;
  - e. discontinues the prosecution of the Work or;
  - f. fails to resume Work which has been discontinued within a reasonable time after notice to do so or;
  - g. fails to pay timely its subcontractors, suppliers or laborers or;
  - h. submits a false or fraudulent Certificate of Disbursement of Previous Payments form or;
  - i. becomes insolvent or is declared bankrupt or;
  - j. files for reorganization under the bankruptcy code or;
  - k. commits any act of bankruptcy or insolvency, either voluntarily or involuntarily or;
  - l. allows any final judgment to stand against it unsatisfied for a period of ten calendar days or;
  - m. makes an assignment for the benefit of creditors or;
  - n. for any other cause whatsoever, fails to carry on the Work in an acceptable manner or;
  - o. if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of CFX.
  - p. Failure to ensure that D/M/WBE firms have the maximum opportunity to participate in performance of the Contract shall constitute failing to prosecute the Work in an acceptable manner.

If the Contractor, within a period of 10 calendar days after the notice described above, does not proceed to correct the default, CFX may give notice of default in writing to the Contractor and the surety stating the nature of the default and providing the amount of time which will be allowed to correct the default.

If the Contractor (within the curative period described in the notice of default) does not correct the default, CFX will have full power and authority to remove the Work from the Contractor and to declare the Contract in default and terminated.

If the Contract is declared in default, CFX may require the Contractor's surety to take over and complete the Contract performance. Upon the failure or refusal of the surety to assume the Contract within the time demanded, CFX may take over the Work covered by the Contract.

CFX shall have no liability for profits related to unfinished Work on a Contract terminated for default.

- 6.9.2 Public Interest Termination of Contract: CFX may, by written notice, terminate the Contract or a portion thereof after determining that, for reasons beyond either CFX or Contractor control, the Contractor is prevented from proceeding with or completing the Work as originally contracted for, and that termination would therefore be in the public interest. Such reasons for termination may include but need not be necessarily limited to, executive orders of the President relating to prosecution of war or national defense, national emergency which creates a serious shortage of Materials, orders from duly constituted authorities relating to energy conservation and restraining order or injunctions obtained by third-party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor.

When the Contract or any portion thereof, is terminated (as aforesaid) before completion of all items of Work in the Contract, payment will be made for the actual number of units or items of Work completed, at the Contract unit price or as mutually agreed for items of Work partially completed. No claims for loss of anticipated profits will be considered.

Reimbursement for mobilization expenses (when not otherwise included in the Contract), including moving Equipment to the job, will be considered where the volume of Work completed is too small to compensate the Contractor for these expenses under the Contract unit prices; the intent being that an equitable settlement will be made with the Contractor.

Acceptable Materials procured by the Contractor for the Work, that have been inspected, tested, and approved by CFX and that are not incorporated in the Work, may be purchased from the Contractor at actual cost, as shown by receipted bills and actual cost records, at such points of delivery as may be designated by CFX.

Termination of the Contract or a portion thereof, under the provisions of this subarticle, shall not relieve the Contractor of Contractor's responsibilities for the completed portion nor shall it relieve Contractor's surety of its obligation for, and concerning any just claims arising out of, the Work performed.

CFX may also, upon seven days written notice to the Contractor, without cause and without prejudice to any other right or remedy of CFX, elect to terminate the Contract. In such case, the Contractor will be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, in accordance with existing pay items;
2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, Materials or Equipment as required by the Contract Documents in connection with uncompleted Work, plus mutually agreeable sums for overhead and profit on such expenses.

The Contractor shall not be paid because loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

6.9.3 Completion of Work by CFX: Upon declaration of default and termination of the Contract, CFX will have the right to appropriate or use any or all Materials and Equipment on the sites where Work is or was occurring which are suitable and acceptable and may enter into agreements with others for the completion of the Work under the Contract or may use other methods which in the opinion of CFX are required for Contract completion. All costs and charges incurred by CFX because of or related to the Contractor's default (including the costs of completing Contract performance) shall be charged against the Contractor. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the Contractor and the surety shall be jointly and severally liable and shall pay CFX the amount of the excess.

## 6.10 Liquidated Damages for Failure to Complete the Work

6.10.1 Liquidated Damages for Failure to Complete the Work: The Contractor shall pay to CFX liquidated damages in the amount specified in the Special Provisions per calendar day for failure of the Contractor to complete the Work within the Contract time stipulated or within such additional time as may have been granted by CFX.

6.10.2 Determination of Number of Days of Default: Default days shall be counted in calendar days.

6.10.3 Conditions Under Which Liquidated Damages are Imposed: If the Contractor (or in circumstance of the Contractor default, the surety) fails to complete the Work within the Contract time stipulated or within such extra time as may have been granted by

CFX, the Contractor (or the surety) shall pay to CFX, not as a penalty but as liquidated damages, the amount due.

6.10.4 Right of Collection: CFX reserves the right, at its sole option, to apply as payment on liquidated damages due any money which is due the Contractor by CFX.

6.10.5 Allowing the Contractor to Finish Work: Allowing the Contractor to continue and to finish the Work or any part of it, after the expiration of the Contract time allowed, including time extensions, shall in no way act as a waiver on the part of CFX of the liquidated damages due under the Contract.

6.10.6 Liability for Liquidated Damages: In the event of default of the Contract and the completion of the Work by CFX, the Contractor and the Contractor's surety shall be liable for the liquidated damages under the Contract. No liquidated damages shall be chargeable for any delay in the final completion of the Work due to any unreasonable action or delay on the part of CFX.

#### 6.11 Release of Contractor's Responsibility

The Contract will be considered completed when all Work has been finally accepted, in writing, by CFX. The Contractor will then be released from further obligation except as set forth in the Public Construction Bond and as provided in subarticle 3.9.5, Recovery Rights Subsequent to Final Payment.

#### 6.12 Recovery of Damages Suffered by Third Parties

In addition to liquidated damages, CFX may recover from the Contractor amounts paid by CFX for damages suffered by third parties unless the failure to timely complete the Work was caused by CFX acts or omissions.

#### 6.13 Express Warranty

The Contractor warrants and guarantees the Work to the full extent provided for in and required by the Contract Documents. Without limiting the foregoing or any other liability or obligation with respect to the Work, the Contractor shall, at its expense and by reason of its express warranty, make good any faulty, defective, or improper parts of the Work discovered within one (1) year from the date of final acceptance of the Project, expressed in writing, by CFX. The Contractor also warrants that all materials furnished hereunder meet the requirements of the Contract Documents and expressly warrants that they are both merchantable and fit for the purpose for which they are to be used under the Contract Documents.

Should any subcontractor or material supplier of Contractor provide an express warranty for its work or materials to the Contractor which is thereafter assigned to CFX or provide a warranty for its work or materials directly to CFX, such warranty shall not preclude CFX from the exercise of any alternative means of relief against Contractor, whether contractual, extra-contractual, statutory, legal or equitable.

END OF SECTION 6



## SECTION 7 - MEASUREMENT AND PAYMENT

### 7.1 Measurement of Quantities

7.1.1 Measurement Standards: Unless otherwise stipulated, all Work completed under the Contract shall be measured by CFX according to United States Standard Measures.

7.1.2 Method of Measurements: All measurements shall be taken horizontally or vertically unless otherwise stipulated in the Specifications.

7.1.3 Determination of Pay Areas:

7.1.3.1 Final Calculation: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is determined by calculation, the lengths and/or widths used in the calculations shall be either 1) the station to station dimensions shown on the Plans, 2) the station to station dimensions actually constructed within the limits designated by CFX or 3) the final dimensions measured along the surface of the completed Work within the neat lines shown on the Plans or designated by CFX. The method or combination of methods of measurement shall be those that reflect, with reasonable accuracy, the actual plane surface area, irrespective of surface and texture details of the finished Work as determined by CFX.

7.1.3.2 Plan Quantity: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is designated to be the plan quantity, the final pay quantity shall be the plan quantity subject to the provisions of subarticle 7.3.2. In general, the plan quantity shall be calculated using lengths based on station to station dimensions and widths based on neat lines shown on the Plans.

7.1.4 Construction Outside Authorized Limits: Except where such Work is performed upon written instruction of CFX, no payment will be made for surfaces constructed over a greater area than authorized or for material moved from outside of slope stakes and lines shown on the Plans.

7.1.5 Truck Requirements:

The Contractor shall certify that all trucks used have a manufacturer's certification or permanent decal showing the truck capacity rounded to the nearest tenth of a cubic yard placed on both sides of the truck. The capacity shall include the truck body only and any side boards added shall not be included in the certified truck body capacity.

7.1.6 Ladders and Instrument Stands for Bridge Construction: To facilitate necessary measurements, the Contractor shall provide substantial ladders to the tops of piers

and bents and shall place and move ladders as required by the CEI. For bridges crossing water or marshy areas, the Contractor shall provide fixed stands for instrument mounting and measurements.

## 7.2 Scope of Payments.

### 7.2.1 Items Included in Payment:

Accept the compensation as provided in the Contract as full payment for furnishing all materials and for performing all work contemplated and embraced under the Contract; also for all loss or damage arising out of the nature of the work or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its final acceptance; also for all other costs incurred under the provisions of the General Specifications.

For any item of work contained in the proposal, except as might be specifically provided otherwise in the basis of payment clause for the item, include in the Contract unit price (or lump sum price) for the pay item or items the cost of all labor, equipment, materials, tools, and incidentals required for the complete item of work, including all requirements of the Section specifying such item of work, except as specifically excluded from such payments.

7.2.2 Non-Duplication of Payment: In cases where the basis of payment clause in these Specifications relating to any unit price in the bid schedule requires that the unit price cover and be considered compensation for certain work or material essential to the item, CFX will not measure or pay for this same work or material under any other pay item that may appear elsewhere in these Specifications.

## 7.3 Compensation for Altered Quantities

7.3.1 General: When a change or combination of changes in the Plans results in an increase or decrease in the original Contract quantities and the Work added or deleted is of the same general character as that shown on the original Plans, the Contractor shall accept payment in full at the original Contract unit prices for the actual quantities of Work done. No allowance will be made for any loss of anticipated profits because of increase or decreases in quantities provided, however, that increased or decreased Work covered by a Supplemental Agreement will be paid for as stipulated in the Supplemental Agreement.

Compensation for alterations in Plans or quantities of Work requiring Supplemental Agreements shall be stipulated in such agreement, except when the Contractor proceeds with the Work without change of price being agreed upon. The Contractor

shall be paid for such increased or decreased quantities at the Contract unit prices bid in the Proposal for the items of Work. If no Contract unit price is provided in the Contract, the Contractor agrees to do the Work in accordance with Subarticle 2.3.2 of these General Specifications.

### 7.3.2 Payment Based on Plan Quantity:

7.3.2.1 Error in Plan Quantity: When the pay quantity for an item is designated to be the original plan quantity, such quantity will be revised only in the event that the quantity increases or decreases by more than 5% of the original plan quantity or the amount due for the item increases or decreases by more than \$5,000, whichever is smaller. In general, such revisions will be determined by final measurement or plan calculations (or both) as additions to or deductions from plan quantities. Changes resulting in pay quantity increase or decrease in excess of 25% will be in accordance with the criteria for significant changes as defined in subarticle 2.3.1 of these General Specifications.

If the Contractor determines that the plan quantity for any item is in error and additional or less compensation is due, the Contractor shall submit evidence of such error to CFX in the form of acceptable and verifiable measurements and calculations.

Similarly, if CFX determines an error or errors exist, it will make its measurements and calculations available to the Contractor. The plan quantity will not be revised solely on the basis of the Contractor's method of construction.

For earthwork items, the claimant must note any differences in the original ground surfaces from that shown in the original plan cross-sections that would result in a substantial error to the plan quantity, and must be properly documented by appropriate verifiable level notes, acceptable to both the Contractor and CFX, and provide sufficient opportunity to verify the data prior to disturbance of the original ground surface by construction operations. The claimant shall support any claim based upon a substantial error for differences in the original ground surface by documentation as provided above.

7.3.2.2 Authorized Changes in Limits of Work: When the pay quantity for an item is designated to be the original plan quantity and a plan change is authorized resulting in an increase or decrease in the quantity of an item, the plan quantity will be revised accordingly provided that such change will increase or decrease the amount due for more than \$100. In general, such revisions will be determined by final measurement or plan calculations or both, subject to the provisions of Subarticle 2.3.2 of these General Specifications.

7.3.2.3 Specified Adjustments to Pay Quantities: The limitations detailed in Subarticles 7.3.2.1 and 7.3.2.2 do not apply when 1) the Specifications provide that the pay quantity for an item to be paid for on the basis of area of finished Work is to be adjusted according to the ratio of measured thickness to nominal thickness, 2) the Specifications provide for a deduction due to test results falling outside of the allowable specification tolerance or 3) paying for extra length fence posts as detailed in the Standard Specifications Section 550, Fencing, sub article 550-6.3, Payment Rates for Extra-Length Posts.

### 7.3.3 Lump Sum Quantities:

7.3.3.1 Error in Plan Quantity: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated quantity, the lump sum compensation will be adjusted only in the event that either the Contractor submits satisfactory evidence or CFX determines and furnishes satisfactory evidence that the plan quantity shown is substantially in error as defined in 7.3.2.1.

7.3.3.2 Authorized Changes in the Work: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated plan quantity, compensation for that item will be adjusted proportionately when a plan change results in a significant increase or decrease in the quantity from the estimated plan quantity. When the Plans do not show an estimated plan quantity or the Specifications do not provide adjustments for contingencies, any authorized plan changes resulting in a significant increase or decrease in the cost of acceptably completing the item will be compensated for by establishing a new unit price through a Supplemental Agreement as provided in Subarticle 2.3.2. of these General Specifications.

7.3.4 Deviation from Plan Dimensions: If the Contractor fails to construct any item to plan or to authorized dimensions within the specified tolerances, the CEI, at his discretion will: require the Contractor to reconstruct the work to acceptable tolerances at no additional cost to CFX; accept the work and provide the Contractor no pay; or accept the work and provide the Contractor a reduced final pay quantity or reduced unit price. CFX will not make reductions to final pay quantities for those items designated to be paid on the basis of original plan quantity or a lump sum quantity under the provisions of this Article unless such reduction results in an aggregate monetary change per item of more than \$100, except that for earthwork items, the aggregate change must exceed \$5,000 or 5% of the original plan quantity, whichever is smaller. If, in the opinion of the CEI, the Contractor has made a deliberate attempt to take advantage of the construction tolerances as defined in Article 120-12.1 of the Standard Specifications to increase borrow excavation in fill sections or to decrease the required volume of roadway or lateral ditch excavation or embankment, CFX will

take appropriate measurements and will apply reductions in pay quantities. CFX will not use the construction tolerance, as defined in Article 120-12.1, as a pay tolerance. The construction tolerance is not to be construed as defining a revised authorized template.

7.4 Force Account Work: Work performed in addition to that set forth in the original Contract and which is paid for on the basis of actual cost of the Materials and labor, plus a fixed percentage of such costs, and at agreed rental rates for major Equipment used.

7.4.1 Method of Payment: All Work done on a force account basis performed by such labor, tools and Equipment as necessary to accomplish the Work, and authorized by CFX, will be paid for in the following manner:

(a) Labor:

Payment for labor and burden shall be based on actual costs of alteration, change, additional or unforeseen Work, plus a markup of 25%, agreed upon in writing before starting such Work, for every hour that the labor is actually engaged in such Work. Such amount shall be considered as full compensation for general supervision and the furnishing and repairing of small tools used on the Work. Agreed wage rates shall not be in excess of the rates paid for comparable Work on the Project.

(b) Materials and Supplies:

Payment for Materials and supplies, directly related to the alteration, change, additional or unforeseen Work, accepted by CFX and used on the Project shall be based on actual costs of such Materials incorporated into the Work, including Contractor paid transportation charges (exclusive of Equipment as hereinafter set forth), plus a markup of 17.5%. Material is defined as any item used in the Work that remains a part of the Project. The cost of supplies may be the pro-rata portion caused by the alteration, change, additional or unforeseen Work.

(c) Equipment:

The use of each piece of such machinery or Equipment and rental rates must be agreed upon in writing before the force account Work is begun.

Payment for Contractor owned machinery or Equipment (other than small tools) shall be determined as described below, plus a markup of 7.5%. Payment for rented Equipment shall be based on invoice cost plus 7.5%.

The portion of the cost for machinery or Equipment shall be based on the lesser of actual cost or “Rental Rate Blue Book for Construction Equipment” (RRBB) or “Rental Rate Blue Book for Older Construction Equipment” (RRBBOCE) as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at time of bid) using all instructions and adjustments contained therein and as modified below.

On all projects, CFX will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the RRBB and/or RRBBOCE. Allowable Machinery and Equipment Rates will be established as set out below:

- 1.) Reimbursement for the Equipment being operated shall be at a rate of 100% of the RRBB and/or 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 mark ups 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. In the event the sum of the Preliminary Order-of-Magnitude Estimate results in a Rapid Response Task Order total amount exceeding the allowable dollar limit set forth by CFX as governed by F.S. 255.20(2), CFX will be immediately notified and CFX has the right to reject the force Account Work as unauthorized.

#### 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 ten (10) 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 fifteen (15) 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 fifteen (15) days from the date of the tentative final estimate to resolve any outstanding issues. At the end of the fifteen (15) 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 fifteen (15) calendar days of the Offer of Final Payment shall constitute full acceptance of the balance due without qualification.

If the Contractor provides a qualified acceptance letter, then the Contractor agrees that a complete claim package in accordance with Article 2.4 of the General Specifications, and limited to the particulars in the qualified acceptance letter, will be provided within 120 calendar days of the Offer of Final Payment. Additionally, the Contractor agrees that any pending or future arbitration must be limited to the particulars in the qualified acceptance letter and must begin within 210 calendar days from the date of the Offer of Final Payment.

- B) The Contractor has properly maintained the Project as specified hereinbefore.
- C) The Contractor has furnished a sworn affidavit to the effect that all bills are paid and no suits are pending (other than those exceptions listed if any) in connection with the Work of the Contract and that the Contractor has not offered or made any gift or gratuity to or made any financial transaction of any nature with, any employee of CFX. Tort liability exceptions, if any, shall be accompanied by evidence of adequate insurance as required in Article 5.11 of these General Specifications.
- D) The surety on the Public Construction Bond has consented (by completion of its portion of the affidavit and surety release) to final payment to the Contractor and agrees that the making of such payment shall not relieve the surety of any of its obligations under the bond.
- E) The Contractor has submitted all mill tests and analysis reports to CFX.
- F) The Contractor has submitted insurance certificates for extended coverage as required by Article 5.11 of these General Specifications.

- G) The Contractor has previously submitted Record Drawings as required by Article 3.3.1 of these General Specifications.
- H) The Contractor has submitted the completed density log book as required by Article 120-10.4.2 of the Technical Specifications.
- I) The Contractor has submitted the final material testing certification as required by Article 105-6 of the Technical Specifications.
- J) The Contractor has submitted all warranties and operation and maintenance manuals required by various Articles and Subarticles of Specifications.

If the Contractor fails to furnish all required Contract Documents listed in B) through J) of this Article within 90 calendar days of the Offer of Final Payment, CFX may deduct from the retainage due the Contractor, \$1,000 for each calendar day beyond the 90 calendar days that the Contractor fails to provide the required Contract Documents.

#### 7.10 Offsetting Payments

If payment of any amount due CFX after settlement or arbitration is not made by the Contractor within 60 days, CFX may, at its sole discretion, offset such amount from payments due the Contractor for Work performed under any other contract with CFX, excluding amounts owed to subcontractors, suppliers and laborers. Offsetting any amount in this manner shall not be considered a breach of the Contract by CFX.

END OF SECTION 7

SECTION 8 – DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISE  
(D/M/WBE) PARTICIPATION

- 8.1 General: The Contractor is encouraged to continue to meet or demonstrate the participation objectives could not be met. At any time, CFX's Executive Director may grant a partial or complete waiver of the D/M/WBE objective for the Project due to consideration of property, public safety, and health, including financial impact to CFX.

CFX has provided an exception for the Contractor's failure to meet the participation objective established for this project. The exception requires that the Contractor provide CFX with documentation supporting the Contractor's Good Faith Effort to meet the stated objective. CFX will have the sole and final determination of whether the support documentation provided by the Contractor does, in fact, meet CFX's standard for a Good Faith Effort as detailed in this Section 8. The Contractor shall demonstrate, through documentation, that every reasonable effort has been made to achieve CFX's participation objective. The Contractor shall be responsible for securing proof of the D/M/WBE certification(s) for the proposed subcontractors/suppliers and be able to provide copies of the certification(s) to the CFX's Supplier Diversity Office.

The Contractor shall use good faith efforts to meet or exceed a D/M/WBE Goal of 15% of the sum of the approved RRTOs in accordance with the Agreement (page P-6).

As to a specific RRTO, the Contractor shall meet or exceed the amounts to be paid to D/M/WBEs stated in the Contractor's RRTO D/M/WBE Utilization Form (page P-7 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 RRTO D/M/WBE Utilization Form will require prior approval by the CFX Director of Supplier Diversity. Should the Contractor determine that a subcontractor/supplier named in the Utilization Form is unavailable or cannot perform the work, the Contractor shall request approval of a revised D/M/WBE Utilization Form. The revised Utilization Form shall be submitted, in writing, to the CFX Supplier Diversity Office at 4974 ORL Tower Road, Orlando, Florida 32807, or by facsimile to (407) 690-5011.

The Contractor will not be allowed to perform Work with its forces that has been identified on the Utilization Form to be performed by D/M/WBE firms. If a D/M/WBE subcontractor is unable to successfully perform the Work, the Contractor shall make a Good Faith Effort to replace that firm with another D/M/WBE firm. In evaluating a Contractor's Good Faith Efforts, CFX will consider:

- (1) Whether the Contractor, provided written notice to certified D/M/WBEs performing the type of Work that the Contractor intends to subcontract, advising the D/M/WBEs (a) of the specific Work the Contractor intends to subcontract; and (b) that their interest in the Contract is being solicited;
- (2) Whether the Contractor provided interested D/M/WBEs assistance in reviewing the Contract Plans and Specifications;
- (3) Whether the Contractor assisted interested D/M/WBEs in obtaining any required bonding, lines of credit, or insurance;
- (4) Whether the Contractor's efforts were merely pro forma and given all relevant circumstances, could not reasonably be expected to produce sufficient D/M/WBE participation to meet the objective.

The above list is not intended to be exclusive or exhaustive and CFX will look not only at the different kinds of efforts that the Contractor has made but also the quality, quantity and intensity of these efforts.

## 8.2 Disadvantaged, Minority and Women Owned Businesses - Participation Objective

8.2.1 General: The Contractor shall ensure that D/M/WBE as defined herein will have the maximum opportunity to participate in the performance of subcontracts. In this regard, the Contractor shall take all necessary and reasonable steps to accomplish that result.

8.2.2 Definitions: The following words and phrases shall have the respective meanings set forth below unless a different meaning is plainly required by the context:

- (1) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States or lawfully admitted permanent residents and who are women, Black Americans, Hispanic American, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Individuals in the following groups are presumed to be socially and economically disadvantaged:
  - (a) "Black Americans", which includes persons having origins in any of



the black racial groups of Africa;

- (b) “Hispanic Americans”, which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;
  - (c) “Asian-Pacific Americans”, which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific and the Northern Marianas;
  - (d) “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
  - (e) “Asian-Indian Americans”, which includes persons whose origins are from India, Pakistan, and Bangladesh; and
  - (f) “Women”.
- (2) “Joint Venture” means an association of two or more firms to carry out a single business enterprise for which purpose the firms combined their property, money, effects, skills or knowledge.
  - (3) “Certified” means a finding by Orange County, Florida, the City of Orlando, Florida, and Florida Department of Transportation that the business is a bona fide Minority, Women or Disadvantaged owned and operated business.
  - (4) “Independently Owned and Operated” means a business that is not affiliated or associated with the general contractor or prime contractor providing work or services on CFX project(s) or procurement in which the D/M/WBE seeks to participate. Affiliated status may be determined through common ownership, management, employees, facilities, inventory or any other factors, which would prevent or inhibit independent status
  - (5) “Women Business Enterprise” comprises all women. All women business owners will be classified as a Women Business Enterprise.

8.2.3 Specific Requirements: The Contractor shall, among other things, implement techniques to facilitate D/M/WBE participation in contracting activities including, but not limited to:

1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations;
2. Providing assistance to D/M/WBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance;
3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate;
4. Contacting Minority Contractor Associations, city, and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible D/M/WBE contractors to apply for certification.
5. Meeting with appropriate officials of CFX, including its Supplier Diversity Office, to assist with the Contractor's efforts to locate D/M/WBEs and assist with developing joint ventures, partnering, and mentorship.

8.2.4 Qualified Participation: CFX will count D/M/WBE participation toward meeting D/M/WBE objective as follows:

1. The total dollar value of the contract to be awarded to the certified D/M/WBE will not be counted toward the applicable D/M/WBE objective unless approved by CFX.
2. A portion of the total dollar value of a contract, with an eligible joint venture, equal to the percentage of the ownership and control of the D/M/WBE partner in the joint venture may be counted toward the D/M/WBE objective.
3. Only expenditures to D/M/WBEs that perform a commercially useful function may be counted toward the D/M/WBE objective. A D/M/WBE is considered to perform a commercially useful function when it actually performs and manages at least 51 percent of the work subcontracted to it. To determine whether a D/M/WBE is performing a commercially useful function, CFX will evaluate all relevant factors such as the amount of Work subcontracted and industry practices.
4. Consistent with normal industry practices, a D/M/WBE may enter into

subcontracts. If a D/M/WBE subcontracts 50 percent or more of the Work assigned to it, the D/M/WBE shall be presumed not to be performing a commercially useful function.

5. Expenditures for materials and supplies obtained from D/M/WBE suppliers and manufacturers may be counted toward the D/M/WBE objective, provided that the D/M/WBEs assume the actual and contractual responsibility for the provision of the materials and supplies. The percentage allowed toward the D/M/WBE objective is as follows:
  - (a) All expenditures to a D/M/WBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale) may be counted toward the D/M/WBE objective.
  - (b)
    1. A Contractor may count toward its D/M/WBE objective 60 percent of its expenditures for materials and supplies required under a contract and obtained from a D/M/WBE regular dealer, and 100 percent of such expenditures to a D/M/WBE manufacturer.
    2. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.
    3. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this Section.

(c) A Contractor may count toward the D/M/WBE objective for the following expenditures to D/M/WBE firm(s) that are not manufacturers or regular dealers:

1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials of supplies required for performance of the Contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.
2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
4. Those sums that, subsequent to the receipt of bids, CFX elects, under the provisions of the Direct Materials Purchase Option, to purchase materials originally proposed by the Contractor to CFX to have been an element of the Work of a certified D/M/WBE contractor/subcontractor/vendor.

8.2.5 Records and Reports: The Contractor shall develop a record keeping system to monitor its D/M/WBE participation and shall maintain the following records:

1. the procedures adopted to comply with these special provisions;
2. The number of subordinated contracts on CFX projects awarded to D/M/WBEs;
3. the dollar value of the contracts awarded to D/M/WBEs;

4. the percentage of the dollar value of all subordinate contracts awarded to D/M/WBEs as a percentage of the total contract amount;
5. a description of the general categories of contracts awarded to D/M/WBEs;
6. the specific efforts employed to identify and award contracts to D/M/WBEs;
7. maintenance of records of payments and monthly reports to CFX;
8. Subcontract Agreement between Contractor and D/M/WBE subcontractors; and
9. any other records required by CFX's Project Manager or Executive Director.

The records maintained by the Contractor in accordance with this Section shall be provided to CFX for review within 48 hours of the CFX request. The Contractor shall submit a properly executed D/M/WBE Payment Certification monthly during the life of the D/M/WBE subcontract whether payment is made or not.

### 8.3 Subletting of Contracts - Participation Objective

No request to sublet Work will be approved unless it is in compliance with the Contractor's approved D/M/WBE Utilization Form "Certification of Subcontract Amount to D/M/WBE Contractor", shall be completed and submitted with the Request For Authorization To Sublet Work. One copy of the certification will be attached to each copy of the Request For Authorization To Sublet Work.

END OF SECTION 8

## SECTION 9 - BINDING ARBITRATION

9.1 CFX and the Contractor shall submit any and all unsettled claims, counterclaims, and disputes to the Disputes Review Board (DRB) prior to initiating a demand for arbitration pursuant to this Section.

9.2 No demand for arbitration of any claim, dispute or other matter referred to the DRB initially for decision will be made until after final acceptance, per Article 3.9, of all Contract Work by CFX. The filing party shall pay all applicable fees associated with requested arbitration proceedings.

The failure to demand arbitration within thirty (30) days after final acceptance will result in the DRB's decision being final and binding upon CFX and Contractor.

9.3 Notice of the demand for arbitration is satisfied when it is filed in writing with the other party to the Contract and with the American Arbitration Association (including required fees). A copy will be sent to the Board for information.

9.4 The arbitration shall occur in Orlando, Florida and shall be conducted by a three (3) member panel pursuant to and under the auspices of the Construction Industry Arbitration Rules of the American Arbitration Association.

9.5 Procedure for Binding Arbitration

Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining, subject to the limitations of this Section. The agreement to arbitrate (and any other agreement or consent to arbitrate entered into in accordance herewith) will be specifically enforceable under the laws of Florida.

Arbitration shall include by consolidation, joinder or in any other manner any person or entity who is not a party to the Contract in circumstances where:

- the inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration, and
- such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings, and
- the written consent of the other person or entity sought to be included and of CFX and Contractor has been obtained for such inclusion, which consent shall make specific reference to this paragraph.

In order to assure complete resolution of any claim or controversy, the Contractor shall provide and require (in the agreements with subcontractors and material suppliers) for joinder in such arbitration proceedings. Therefore, if a claim, dispute or other matter in question between CFX and Contractor involves the work of a Subcontractor, either CFX or Contractor may join such subcontractor as a party to the arbitration. Nothing in this paragraph or in the provision of such subcontract consenting to joinder shall create any claim, right or cause of action in favor of subcontractor or supplier, and against CFX, CEI, or any of their consultants that does not otherwise exist.

In connection with the arbitration proceedings all participants shall be afforded pre-hearing discovery in accordance with the rules of the American Arbitration Association.

END OF SECTION 9

## SECTION 10- DISPUTES RESOLUTION

### 10.1 Disputes Resolution

#### 10.1.1 Disputes Review Board

A Disputes Review Board (“Board”) will be established to assist in the resolution of disputes arising out of the Work on the Project. This document describes the purpose, procedure, function and features of the Board.

The Board will provide special expertise to assist and facilitate the timely and equitable resolution of disputes and controversies between CFX and the Contractor in an effort to avoid construction delays and future claims.

It is not intended for CFX or the Contractor to avoid the normal responsibility to cooperatively and fairly settle differences by indiscriminately requesting dispute resolution by the Board. It is intended the Board encourage CFX and the Contractor to first try resolving potential disputes without resorting to the procedure set forth herein.

The Board will be used only when the claims procedure detailed in the Contract has been followed and has been unsuccessful. It is a condition of the Contract that the parties use the Board. Adherence to the Contract claims procedure is a condition precedent to the submission of a dispute to the Board, and the submission of an unresolved dispute to the Board is, in turn, a condition precedent to arbitration of such issue.

The Board will fairly and impartially consider disputes referred to it. The Board will receive testimony and other relevant evidence regarding such disputes, will analyze the facts within the parameters of the Contract, and will then provide written recommendations (to CFX and Contractor) to assist in the resolution of the disputes. The recommendations of the Board will not be binding on either CFX or the Contractor; however, the Board’s recommendations and findings shall be admissible for all purposes in any subsequent arbitration proceedings or the judicial enforcement thereof.

#### 10.1.2 Continuance of Work During Dispute

During the dispute resolution process the Contractor shall conform to the CEI’s decision or order and continue with the Work as directed by the CEI in a diligent manner and without delay. Such Work will be governed by all applicable provisions of the Contract. With respect to any protested Work, the Contractor will keep complete records of extra costs and time incurred. Except for sealed Bid Records, the Contractor will permit CEI and the Board access to any records needed for evaluating the dispute, without any claim of privilege or confidentiality.



### 10.1.3 Disputes Review Board Membership

The Board will consist of three Members, one Member selected by CFX and approved by the Contractor, and one Member selected by the Contractor and approved by CFX. The first two Members will mutually select and agree on the third Member, which third Member shall not be subject to approval by either the Contractor or CFX. Normally, the third Member will act as Chairman for all Board activities. If the third Member declines to act as Chairman, the Members shall select an alternative Chairman. Neither the Contractor nor CFX shall seek to influence the Chairman selection decision.

The Contractor and CFX shall each submit the name and credentials of their proposed Member to the other within ten (10) days of the Contract award. The two Members, upon acceptance, shall meet promptly and mutually agree on the third Member. A Notice to Proceed shall not be issued until the Board Members have been selected and have signed the Three-Party Agreement. All three Members shall attend the Pre-Construction Meeting.

All Board Members shall be experienced with major road and bridge construction and the associated construction methods involved in the Project, in the interpretation of contract documents and in contract dispute resolution. The goal in selecting the third Member is to complement the construction experience of the first two Members and to provide leadership of the Board's activities.

It is imperative that Board Members show no partiality to either the Contractor or CFX, or have any conflict of interest.

The criteria and limitations for membership will be as follows:

- a. The person selected will not have any direct or indirect ownership or financial interest in (i) the Contractor, (ii) CEI or the CFX General Engineering Consultant ("GEC"), (iii) any subcontractor or supplier of the Project, or (iv) the employer of other Board Members.
- b. Except for services as a Board Member on CFX projects, no Member shall have been an employee, contractor or consultant to the Contractor or CFX, CEI, the GEC or any subcontractor or supplier for the Project within a period of ten (10) years prior to the Contract award.
- c. No Member will have had a close personal, professional or business relationship with CFX or the Contractor (or an employee or officer of CFX or the Contractor).
- d. No Member will have had any prior involvement in the Project (other than as a dispute board member) of a nature which could be construed to compromise an ability to impartially resolve disputes.

- e. No Member will be employed by the Contractor, the CEI, the GEC or any subcontractor or supplier of the Project during the term of the Contract, except as a Board Member pursuant to the Three Party Agreement.
- f. During the term of the Contract no discussion or agreement will be made between a Board Member and CFX or Contractor regarding employment after the Contract is completed.
- g. During the term of the Contract, ex-parte communications between a Board Member and a party to the Three Party Agreement is prohibited.

Before appointments are final, the first two prospective Members will submit complete disclosure statements for the approval of both CFX and the Contractor. Each statement (in the form prepared by CFX) will include a statement of experience and a declaration describing all past, present and anticipated or planned future relationships to the Project and with the parties to the Contract. Disclosure of professional or personal relationships with parties to the Contract will be included. The third Board Member will supply a similar statement to the first two Board Members (and to CFX and the Contractor) before the third Member appointment is finalized.

CFX and the Contractor will each select a Member, execute the Three Party Agreement (described below) and assure the Members execute the Three-Party Agreement within the first three (3) weeks after Contract award. CFX and the Contractor will immediately notify the selected Members to begin selection of the third Member. The first two Members will ensure the third Member meets all of the criteria listed above. The third Member will be selected within two (2) weeks after the first two Members are notified to proceed with the selection of the third Member. If there is an impasse in the selection of the third Member, the third Member will be selected by CFX and the Contractor, with the first consideration to the nominees reviewed by the first two Members.

In the event of death, disability or resignation of a Member, such Member shall be replaced in the same manner as the Member being replaced was selected. If for whatever other reason a Member fails or is unable to serve, the Chairman (or failing the action of the Chairman, then either of the other Members) shall inform the parties and such non-serving Member shall be replaced in the same manner as the Member being replaced was selected. Any replacement made by the parties shall be completed within fifteen (15) days after the event giving rise to the vacancy on the Board, failing which the replacement shall be made by the two remaining Members of the Board. Replacement shall be considered completed when the new Member executes the Dispute Review Board Three Party Agreement.

#### 10.1.4 Board Operations

The Board will formulate procedures of operation that shall be flexible with respect to the functioning of the Board. The Board may formulate new or revised procedures respecting its operation from time to time to accommodate the needs of the Board and the circumstances.

Each Board Member shall be provided a complete set of the Contract Documents. CFX and the Contractor shall keep the Board informed of construction activity and progress by submitting written progress reports and other relevant data at least monthly. The Board will visit the Project at regular intervals and/or at times of critical construction events and meet with CEI and the Contractor. In circumstances of unresolved disputes, the Board will meet at least monthly until the unresolved disputes are concluded. The frequency of visits will be agreed upon by CFX, the Contractor and the Board, depending upon the progress of the Work.

Regular meetings will be held at the job site. Each meeting will consist of an informal discussion and a field inspection of the Work. The informal discussion will be attended by selected personnel from CFX, the CEI and the Contractor. Agenda for regular meetings of the Board will generally include the following:

- a. Meeting opened by the Chairman of the Board.
- b. Remarks by the CEI.
- c. A description by the CEI and the Contractor of Work accomplished since the last meeting, current status of the Work schedule, schedule for the future, potential problems and proposed solutions to anticipated problems.
- d. Discussion by the CEI of Work schedule, potential new disputes or claims, status of past disputes and claims and other issues.
- e. Set a date for next meeting.

The CEI will prepare minutes of all Board meetings and circulate them for comments, revisions and/or approval by all concerned.

The field inspection will cover all active segments of the Work. The Board will be accompanied by representatives of both the CEI and the Contractor. Soliciting any Board Member's advice or consultation regarding the Work or the Contract is expressly prohibited.

#### 10.1.5 Procedure for Disputes Resolution

Disputes will be considered as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation. Steps may be omitted as agreed by both parties and the time periods stated below may be shortened in order to hasten resolution.

- a. If either CFX or Contractor object to any decision of the CEI with respect to claims, change order requests, or other actions or orders of the CEI, the objecting party may file a written protest with the CEI within fifteen (15) days after the CEI's disputed decision, action or order. The written protest must clearly state in detail the basis for the objection.
- b. The CEI will consider the written protest to its decision or directive, and make a final decision on the basis of the pertinent Contract provisions, together with the facts and circumstances involved in the protest. The decision will be furnished to CFX and Contractor in writing within fifteen (15) days after receipt of the written protest.
- c. The CEI's decision with respect to the protest will be final, unless a written exception is filed by CFX or Contractor with the CEI within fifteen (15) days after receiving the protest decision. If either rejects the CEI's final decision, the disputed matter may be referred to the Board by either CFX or the Contractor.
- d. Upon receipt by the Board of a written dispute, the Board will first decide when to conduct the hearing. If the matter is not urgent, it may be heard at the next regularly scheduled Board meeting. For an urgent matter, the Board will meet at its earliest convenience.
- e. Either party furnishing written evidence or documentation to the Board will furnish copies of such information to the other party a minimum of fifteen (15) days prior to the date the Board sets to hear the dispute. If the Board requests additional documentation or evidence prior to, during or after the hearing, CFX and/or the Contractor will provide the requested information to the Board and to the other party. Because each side needs a reasonable opportunity to understand and rebut the opposing side's point of view, failure of either party to timely provide written documentation in accordance with this provision shall result in such written documentation being excluded from the hearing before the Board unless the other party consents to its admission or consents to a delay in the hearing.

- f. The Contractor and CFX will each be afforded an opportunity to be heard by the Board and to offer evidence. The Board will consider all relevant evidence presented and analyze the same solely within the parameters of the Contract. Hearsay evidence shall be admissible but shall not be the sole basis for any recommendation of the Board.
- g. The Board's recommendations for resolution of the dispute will be given in writing within fifteen (15) days of completion of the hearing(s). In cases of extreme complexity, both parties may agree to allow additional time for the Board to formulate its recommendations. Generally, the Board will initially focus its attention (in the written report) only to matters of entitlement, and allow the parties to thereafter determine the monetary relief. If both parties request, and sufficient documentation is available, the Board may also make a recommendation of monetary relief, but only after formulation of the entitlement recommendation and only after the parties have attempted to agree upon the monetary relief amount.
- h. If the Board's recommendation for resolution is not unanimous, the dissenting member shall prepare a separate written opinion.
- i. Within fifteen (15) days of receiving the Board's recommendations, both CFX and the Contractor will respond to the other and to the Board in writing, signifying either acceptance or rejection of the Board's recommendations. The failure of a party to respond within the fifteen (15) day period will be deemed an acceptance by such party of the Board's recommendations. If CFX and the Contractor are able to resolve the dispute (with or without the aid of the Board's recommendations), CFX will promptly process any required Contract changes.
- j. If the dispute remains unresolved because of a bona fide lack of clear understanding of the recommendation, either party may request the Board clarify specific portions of its recommendations. Further, if new evidence becomes available, either party may request the Board reconsider its prior recommendation. Only evidence which did not exist at the time of the hearing, or which existed but which could not be discovered with reasonable and normal diligence shall be considered new evidence.
- k. If the Board's recommendation is rejected, either party may thereafter initiate resolution of the dispute by binding arbitration conducted pursuant to the Contract.

Both CFX and the Contractor should carefully consider the Board's recommendations, as the recommendations are binding unless written notice is provided to the other party within 30 days of the recommendations stating the party's intent to bring the disputed issue to arbitration. However, if the Board's recommendations do not resolve the dispute, all records and written recommendations, including any minority reports, will be admissible for informational purposes in any subsequent dispute resolution procedures. Such informational purposes shall include but not be limited to establishing that the Board considered the dispute, the qualifications of the Board Members, and the Board's recommendation that resulted from the dispute resolution process.

#### 10.1.6 Conduct of Disputes Hearings

Each party shall file three copies of its written arguments with the Board no less than seven days prior to the scheduled hearing and shall simultaneously deliver a copy of such written arguments to the opposing party. Each party shall also submit to the Board along with its written arguments copies of its written evidence and documentation which has been previously provided to the opposing party as provided above.

Normally, the hearing will be conducted at the job site. However, any location more convenient and which provides all required facilities and access to necessary documentation is satisfactory.

While the Board will keep a record of its sessions during consideration of a dispute, the Board will not be required to keep its record in any particular form. The nature and completeness of the record will depend upon the nature and magnitude of the dispute and the desires of the parties. If possible, the hearings shall be kept informal. Formal records of the Board meetings may be taken and transcribed by a court reporter if requested by a party (at the requesting party's cost). Audio and/or video recording of the meeting is discouraged and shall only be made with the prior agreement of all parties and a majority of the Board.

CFX and the Contractor will have representatives at all dispute resolution hearings. The party requesting Board review will first discuss the dispute, followed by the other party. Each party will then be allowed successive rebuttals until all aspects are fully covered to the Board's satisfaction. The Members and the parties may ask questions, request clarification or ask for additional data. In large or complex cases, additional hearings may be necessary in order to consider and fully understand all evidence presented by both parties.

During the hearings, no Member will express any opinion concerning the merit of any facet of the dispute.

After the hearings are concluded, the Board will meet in private to formulate recommendations supported by two or more Members. All Board deliberations will be conducted in private, with individual views kept strictly confidential. No minutes shall be

prepared of the Board's private meetings. The Board's recommendations and discussions of its reasoning will be submitted as a written report to both parties. The recommendations will be based on the pertinent Contract provisions and the facts and circumstances involved in the dispute.

The Board will make every effort to reach a unanimous decision. If a unanimous decision is not possible, the dissenting Member may (but is not required to) prepare a minority report.

#### 10.1.7 Compensation

The Contractor shall pay the fees of all three Board Members for services rendered under the Three Party Agreement. An allowance pay item has been established in the Contract for the reimbursing the Contractor. Funds remaining in the pay item, if any, at the completion of the Project will belong to CFX. CFX and the Contractor shall agree on the procedures and method of processing payments made against the allowance. CFX or the CEI will mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services. If the Board desires special services, such as legal consultation, accounting, data research, etc., both parties must agree and the costs will be paid from the allowance.

#### 10.1.8 Three Party Agreement

The Contractor, CFX and the Members of the Board will execute the Dispute Review Board Three Party Agreement within four (4) weeks of the final selection of the third Member.

END OF SECTION 10

**ATTACHMENT A**

**DISPUTES REVIEW BOARD  
THREE PARTY AGREEMENT**

**THIS THREE PARTY AGREEMENT (“Agreement”)** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”)**, \_\_\_\_\_ (**“Contractor”**) and the **DISPUTES REVIEW BOARD (“Board”)**, consisting of three members: \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ (**“Members”**).

WHEREAS, CFX is now engaged in the construction of the \_\_\_\_\_, and

WHEREAS, the \_\_\_\_\_ contract (**“Contract”**) provides for the establishment and operation of the Board to assist in resolving disputes and claims.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein (or attached, incorporated and made a part hereof), the parties agree as set forth herein.

**I**

**DESCRIPTION OF PURPOSE**

To facilitate resolution of disputes between the Contractor and CFX, CFX has provided (in the Contract) for the establishment of the Board. The function of the Board is to fairly and impartially consider Contract disputes placed before it and provide written recommendations for resolution to both CFX and the Contractor. The Members of the Board shall perform the services designated in Section II, Scope of Work.

**II**

**SCOPE OF WORK**

The Scope of Work includes, but is not limited to, the following items:

A. Third Board Member Selection. The first duty of CFX and the Contractor selected Members of the Board is to select the third Member. The third Member shall not have any current financial or employment ties with either the Contractor or CFX. The selection goal is to obtain a third Board Member who will complement the first two by furnishing expertise, leadership and experience to facilitate the Board’s operations. The first two Board Members selected shall proceed with the selection of the third Board Member upon receiving their appointment. If the first two Members are unable to select a third Member within four (4) weeks, CFX and the Contractor will select the third Member.



B. Procedures. After selecting the third Board Member and prior to considering a dispute, the Board shall establish procedures to govern the conduct of its business and reporting procedures based on the Guidelines, attached as an Appendix to this Agreement. The Board recommendations (resulting from a consideration of a dispute) shall be furnished in writing to CFX and the Contractor. The recommendations shall be based solely on the pertinent Contract provisions and the facts as reasonably determined by the Board. The Board shall have no authority to disregard or unilaterally modify pertinent Contract provisions including, but not necessarily limited to, those provisions pertaining to notices and claims procedures.

C. Furnishing Documents. CFX shall, at the time of each Board Member's appointment, furnish such Member a copy of the Contract. Both CFX and the Contractor shall, no later than seven (7) days prior to the scheduled Board hearing, submit to the Board three copies of all written documents and arguments that such party wishes the Board to consider. Each party shall provide its written documentation to the other side no later than fifteen (15) days prior to the scheduled Board hearing and shall provide a copy of its written argument to the other side no later than seven (7) days before the hearing in order to afford the other side the opportunity to review such documents and prepare any necessary rebuttal for the hearing.

D. Site Visits. The Board shall visit the project site to: (i) keep abreast of construction activities, and (ii) develop a familiarity of the work in progress. The frequency, exact time and duration of visits shall be in accordance with the attached Guidelines or as mutually agreed between CFX, the Contractor and the Board.

In the circumstance of an alleged differing site condition (or specific construction problem), it will be advantageous for the Board to view any relevant conditions. If viewing by the Board would cause delay to the project, photographs and descriptions of conditions collected by either (or both) party will suffice.

E. Board Consideration of Disputes or Claims. Upon receipt by the Board of a written appeal of a dispute (from either the Contractor or CFX) the Board shall convene to review and consider the dispute. CFX, the Contractor and the Board shall determine the time and location of Board meetings. Both CFX and the Contractor shall be given the opportunity to present evidence and argument at such meetings. Absent good cause to the contrary, written evidence shall be limited to that evidence which was previously supplied to both the Board and the other party in accordance with the previous paragraph. Mere negligence in providing such written evidence shall not be considered good cause for its admission. Hearsay evidence shall be permitted but shall not be the sole basis for any recommendation by the Board. Additionally, Board Members may rely on their personal knowledge based on prior site visits, ongoing document reviews, and general project familiarity. Each party may,

but is not required to, submit its proposed recommendations for resolving the dispute to the Board for its consideration.

Board Members are to act impartially and independently in weighing the evidence and in considering the respective positions of the parties within the confines and literal interpretation of the Contract terms. The recommendations concerning any such dispute are advisory and not binding on either party. The Board shall make every effort to reach a unanimous recommendation. If a unanimous recommendation is not possible, the dissenting Member shall prepare a minority report.

The Board's recommendations, together with explanations of its reasoning, shall be submitted as a written report to both parties. The recommendation shall be based solely on the pertinent provisions of the Contract, applicable laws and regulations, and the relevant facts as determined by the Board based upon the evidence presented. It is important for the Board to express, clearly and completely, the logic and reasoning leading to the recommendation so that both parties fully understand the recommendation.

Either CFX or the Contractor may request the Board to reconsider its recommendation. However, reconsideration will only be allowed when there is new evidence to present, or a clarification is required.

F. Miscellaneous Board Responsibilities. In addition to the matters set forth above:

1. The Board Member shall become familiar with the Contract Documents, review periodic reports, and maintain a current file of the project.
2. Except for providing the services required in this Agreement, the Board and its individual Members shall refrain from giving any advice to either party concerning conduct of the work or the resolution of problems. Ex-parte communications between a party and a Board Member are prohibited.
3. The Board shall perform services not specifically listed herein to the extent necessary to achieve the purposes of this Agreement.

G. Board Member Replacement. If the need occurs to appoint a replacement Board Member, the replacement Board Member shall be appointed in the same manner as the original Board Members were appointed. The selection of a replacement Board Member

shall begin promptly upon notification of the necessity for a replacement. The Agreement will be supplemented to indicate change in Board membership.

### **III CONTRACTOR RESPONSIBILITY**

A party shall furnish to each Board Member one copy of all pertinent documents that are or may become necessary for the Board to perform its function. Pertinent documents are any drawings or sketches, calculations, procedures, schedules, estimates or other documents that are used in the performance of the work or in justifying or substantiating the party's position. A copy of such pertinent documents must also be furnished to the other party.

### **IV CFX RESPONSIBILITIES**

CFX shall furnish the following services and items:

A. Contract Related Documents. CFX shall furnish the Board copies of all Contract Documents, Supplemental Agreements, written instructions issued by the CEI or CFX to the Contractor, or other documents pertinent to the performance of the Contract and necessary for the Board to perform its function.

B. Coordination and Services. CFX (in cooperation with the Contractor) will coordinate the operations of the Board. CFX, through the CEI, will arrange or provide conference facilities at or near the site and provide secretarial and copying services.

### **V TIME FOR BEGINNING AND COMPLETION**

The Board shall be in operation throughout the term of the Contract and, if needed, for a reasonable post-construction period.

The Board Members shall not begin any work under the terms of this Agreement until authorized by CFX in writing.

### **VI PAYMENT**

The fees and expenses of all three Board Members for services rendered under this

Agreement will be an expense to the Contractor with reimbursement under the pay item allowance as provided below. Payment for services of the CFX-appointed, Contractor-appointed, and the third Board Members will be full compensation for work performed or services rendered, and for all expenses, such as food, lodging, travel, telephone, postage etc.

A. Payment.

Each Board Member will be paid One Thousand Dollars (\$1,000.00) per day for each day the Board meets. This daily rate includes fees and expenses related to membership on the Board. Subsequent changes in the rate must be authorized by a Supplemental Agreement to this Agreement.

B. Inspection of Costs Records. The Board Members shall keep available the cost records and accounts pertaining to this Agreement for inspection by representatives of CFX for a period of three (3) years after final payment. If any litigation, claim or audit arising out of, in connection with or related to this Agreement is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim or audit involving the records is completed.

## **VII ASSIGNMENT OF TASKS OF WORK**

Neither the Board nor the Board Members may assign or delegate any of the work of this Agreement.

## **VIII TERMINATION OF AGREEMENT**

With the mutual consent of CFX and the Contractor, this Agreement may be terminated at any time. However, individual Board Members may be terminated with or without cause, but only by their original appointer, i.e., CFX may terminate the CFX appointed Member, the Contractor may terminate the Contractor's appointed Member, and the first two Members must agree to terminate the third Member.

**IX  
LEGAL RELATIONS**

A. Each Board Member in the performance of duties on the Board is acting in the capacity of an independent agent and not as an employee of either CFX or the Contractor.

B. CFX and the Contractor expressly acknowledge that each Board Member is acting in a capacity intended to facilitate resolution of disputes. Accordingly, to the fullest extent permitted by law, each Board Member shall be accorded quasi-judicial immunity for any actions or decisions associated with the consideration, hearing and recommendation of resolution for disputes referred to the Board.

C. Except for the negligent acts or omissions of a Board Member, or for activities outside of the scope of this Agreement, each Board Member shall be held harmless for any personal or professional liability arising from or related to Board activities. To the fullest extent permitted by law, CFX and the Contractor shall defend and indemnify all Board Members against claims, losses, demands, costs and damages (including reasonable attorney's fees) for bodily injury, property damage or economic loss arising out of or related to Board Members carrying out Board functions. The foregoing indemnity is a joint and several obligations of the Contractor and CFX.

**X  
ARBITRATION, VENUE, APPLICABLE LAW**

Any dispute, claim or controversy between the parties hereto arising out of or related to this Agreement shall be resolved by arbitration. The American Arbitration Association pursuant to its Construction Industry Arbitration Rules shall conduct such arbitration, and the arbitration proceeding shall occur in Orange County, Florida. All questions and issues respecting this Agreement and the arbitration shall be resolved by application of Florida law and the judgment of the arbitration panel shall be enforceable in accordance with the provisions of the Florida Arbitration Code.

**XI  
NO BONUS**

The Contractor and CFX shall not pay and the Members shall not receive any additional commission, percentage, bonus or consideration of any nature (other than the payment provided for in Section VI above) for performance and services under this Agreement.

**XII  
NO CONFLICT**

The Members of the Board agree individually they do not now and during the term of this Agreement will not have any direct or indirect ownership or financial interest in the Contractor, the

Engineer of Record for the project, the CEI or any subcontractor or supplier of the project. The Members of the Board affirm they have not for a period of ten (10) years prior to this Agreement been an employee, Contractor or consultant to the Contractor, the Engineer of Record for this project, the CEI or any subcontractor or supplier of the project, and that during the term of this Agreement they shall not become so employed. During the term of the Agreement no discussion or Agreement will be made between any Board Member and any party to this Agreement for employment after the Contract is completed.

By executing this Agreement the parties mutually agree that the Members of the Board identified herein are qualified and desirable and that the criteria and limitations detailed in subarticles 10.2.3 b and 10.2.3 c of the project General Specifications are satisfied or are hereby waived.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**CFX:**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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

**BOARD:**

**DISPUTES REVIEW BOARD**

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

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

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

**CONTRACTOR:**

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

## **APPENDIX**

### **PROCEDURE GUIDELINES**

#### **1. GENERAL MEETINGS**

General Meetings are defined as those meetings required for the Board to develop a familiarity of the work in progress and keep abreast of construction activities such as progress, status and nature of items in the earlier stages of escalation, changes to personnel, etc. General Meetings shall occur 60days after Notice to Proceed for the Project and every 120days thereafter, or as determined by the parties to be in the best interest of the project. Site visits as described in Subarticle II D above shall be considered General Meetings. Site visits may be coordinated to coincide with, or be replaced by, Board meetings to review disputes brought to the Board by CFX or Contractor.

#### **2. MONTHLY PROJECT DOCUMENT REVIEW**

In an effort to keep the Board closely and concurrently apprised of the progress of the Project, each member of the Board will be provided with copies of Project related documents. These documents may include minutes from progress meetings, schedule updates, CEI's weekly summaries, monthly progress summaries, selected correspondence, Supplemental Agreements to the Contract, Project photos, and any other information that may be requested by the Board or required to answer questions by the Board.

#### **3. REVIEW OF DISPUTES OR CLAIMS BY THE BOARD**

Disputes review meetings shall be at the time and frequency mutually agreed to by CFX and Contractor.



# CONTRACT



**AND**

**TRAFFIC CONTROL DEVICES, LLC**

**RAPID RESPONSE AGREEMENT FOR SIGN, SIGNAL,  
AND ITS TASK ORDERS UNDER \$300,000 AND  
ELECTRICAL WORK TASK ORDERS UNDER \$75,000,  
AS ADJUSTED PER FLORIDA STATUTES § 255.20(2)**

**CONTRACT NO. 001865**

**CONTRACT DATE: DECEMBER 09, 2021**

**CONTRACT AMOUNT: \$3,000,000.00**

**CONTRACT, SCOPE OF SERVICES, TASK ORDER SAMPLE, PROPOSAL,  
GENERAL SPECIFICATIONS, TECHNICAL SPECIFICATIONS, AND FORMS**

# **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**CONTRACT, SCOPE OF SERVICES, TASK ORDER SAMPLE, PROPOSAL,  
GENERAL SPECIFICATIONS, TECHNICAL SPECIFICATIONS, AND FORMS**

**FOR**

**RAPID RESPONSE AGREEMENT FOR SIGN, SIGNAL, AND ITS TASK ORDERS  
UNDER \$300,000 AND ELECTRICAL WORK TASK ORDERS UNDER \$75,000, AS  
ADJUSTED PER FLORIDA STATUTES § 255.20(2)**

**CONTRACT NO. 001865**

**DECEMBER 2021**

## TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
C	RAPID RESPONSE AGREEMENT (See Agreement Table of Contents for listing of individual sections.)	1 to 26
	EXHIBIT A – SCOPE OF SERVICES EXHIBIT B – SAMPLE TASK ORDER EXHIBIT C – PROPOSAL	
	ATTACHMENT 1 – GENERAL SPECIFICATIONS ATTACHMENT 2 – TECHNICAL SPECIFICATIONS	
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2

RAPID RESPONSE AGREEMENT 001865

Table of Contents

1. SERVICES TO BE PROVIDED..... 2

2. ISSUANCE OF RAPID RESPONSE TASK ORDER (RRTO) REQUEST FOR QUOTE (RFQ)..... 2

3. CONTRACTOR’S ELIGIBILITY TO PARTICIPATE IN RAPID RESPONSE TASK ORDER (RRTO) REQUEST FOR QUOTE (RFQ)..... 3

4. ISSUANCE OF RAPID RESPONSE TASK ORDERS (RRTOs) ..... 4

5. TERM AND NOTICE..... 4

6. AGREEMENT AMOUNT AND COMPENSATION FOR SERVICES ..... 5

7. PUBLIC RECORDS ..... 6

8. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT..... 7

9. DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISES ..... 8

10. CONTRACTOR INSURANCE AND RRTO CONSTRUCTION BOND..... 8

    10.1 Comprehensive General Liability Insurance:..... 10

    10.2 Comprehensive Automobile Liability Insurance: ..... 11

    10.3 Umbrella/Excess Liability Insurance: ..... 11

    10.4 Builder’s Risk:..... 12

    10.5 Railroad Insurance: ..... 12

    10.6 Pollution Legal/Environmental Legal Liability Insurance (CPL):..... 13

    10.7 Worker’s Compensation and Employer’s Liability Insurance:..... 14

    10.8 Unemployment Insurance: ..... 14

    10.9 RRTO Construction Bond:..... 15

11. INDEMNITY..... 16

12. PRESS RELEASES..... 17

13. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS..... 17

14. PERMITS, LICENSES, ETC. .... 19

15. NONDISCRIMINATION ..... 19

16. COMPLIANCE WITH LAWS; EQUAL EMPLOYMENT OPPORTUNITY ..... 20

17. SUBLETTING AND ASSIGNMENT ..... 20

18. DISPUTES..... 20

19. OTHER SEVERABILITY ..... 21

20. INTEGRATION ..... 21

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

22. APPLICABLE LAW; VENUE ..... 22

23. RELATIONSHIPS ..... 22

24. INTERPRETATION ..... 22

25. SURVIVAL OF EXPIRATION OR TERMINATION..... 23

26. INSPECTOR GENERAL..... 23

27. E-VERIFY ..... 23

28. APPROPRIATION OF FUNDS ..... 24

29. RECITALS INCORPORATED ..... 24

30. NOTICE TO THE PARTIES ..... 24

31. EXHIBITS AND ATTACHMENTS..... 25

**Rapid Response Agreement No. 001865**

This Agreement is made this 9th day of December 2021, 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 TRAFFIC CONTROL DEVICES, LLC, a Florida Limited Liability Company, registered and authorized to do business in the State of Florida, whose principal address is 708 Blair Mill Road, Willow Grove, PA. 19090, hereinafter “the CONTRACTOR.”

RECITALS:

**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 institute a Rapid Response Program and retain the services of a pool of Florida Department of Transportation Pre-qualified CONTRACTORS to perform Roadway Signing, Traffic Signal, Intelligent Transportation Systems, and Electrical Work through the issuance of written task orders as may be awarded to the CONTRACTOR by CFX; **and**

**WHEREAS**, on or about October 11, 2021, CFX issued an Invitation to Bid; Solicitation No. ITB001847 seeking Florida Department of Transportation Pre-qualified CONTRACTORS in Roadway Signing, Traffic Signal, Intelligent Transportation Systems, and Electrical Work to participate as part of the pool of qualified CONTRACTORS, and who will be required to submit quotes for Rapid Response Task Orders (RRTOs) or other response, and upon award, perform such tasks; **and**

**WHEREAS**, CONTRACTOR understands and acknowledges the General Specifications included as **Attachment 1**, and the Technical Specifications included as **Attachment 2**, are being provided to CONTRACTOR and shall be incorporated by reference into all RFQ’s and RRTO’s issued under solicitation ITB-001847 and this Agreement, respectfully. CONTRACTOR furthers understands and acknowledges that task specific modifications or changes may be made to the

General and Technical Specifications based on individual Rapid Response Task Orders through the issuance of an RFQ and RRTO issued under solicitation ITB-001847 and this Agreement.; **and**

**WHEREAS**, CONTRACTOR was one of three (3) qualified firms that responded to the Invitation to Bid and was one of three (3) qualified firms ultimately selected and awarded Agreement No. 001865; **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**

CFX does hereby retain CONTRACTOR to furnish continuing construction services for Roadway Signing, Traffic Signal, and Intelligent Transportation Systems a RRTO with estimated construction costs less than \$300,000 and Electrical Work under \$75,000, as further described in **Exhibit A**. Required services will be specifically enumerated, described, and depicted in RRTOs authorizing performance of the specific project, task, or study, in the form substantially similar to **Exhibit B**, is hereby adopted and made part of this Agreement as completely as if incorporated herein. This Agreement alone does not authorize the performance of any work or require CFX to place any orders for work.

**2. ISSUANCE OF RAPID RESPONSE TASK ORDER (RRTO) REQUEST FOR QUOTE (RFQ)**

- A. CFX will issue Rapid Response Task Order (RRTO) Request for Quotes (RFQs) to all qualified CONTRACTORS awarded through CFX Solicitation No. 001847 and award the RRTO RFQ to the lowest priced CONTRACTOR who can meet CFX's scheduled start and completion dates.
- B. RRTO RFQs valued at \$100,000 or less and greater than \$100,000 shall be given a minimum of a three (3) day and five (5) day response times by qualified CONTRACTORS, respectively.
- C. CONTRACTOR declares and agrees to faithfully submit responses to all RRTO RFQs issued under this Agreement either by submission of a Quote or a "No Quote" response as provided in the RRTO RFQ.

**3. CONTRACTOR'S ELIGIBILITY TO PARTICIPATE IN RAPID RESPONSE TASK ORDER (RRTO) REQUEST FOR QUOTE (RFQ)**

(a) The CONTRACTOR understands and agrees to the following to be eligible to participate in a RRTO RFQ issued under this Agreement the CONTRACTOR at the time the RRTO RFQ is issued must have:

- i. An active registration and authorization with the Florida Department of State to do business in the State of Florida.
- ii. A current Florida Department of Transportation Pre-Qualification in all required workgroups as specified in the recitals of this Agreement.
- iii. Current Certificates of Insurance and Endorsements on file with the CFX Procurement Department.

(b) CONTRACTOR further understands and agrees:

- i. CFX is not required to notify the CONTRACTOR of its ineligibility to participate in a RRTO RFQ.
- ii. Ineligibility to participate in a RRTO RFQ shall be considered a "No Response" from the CONTRACTOR.
- iii. Three (3) consecutive "No Response" responses to individual RRTO RFQs issued under this Agreement or a combination of five (5) "No Response" responses during the term of this Agreement may be grounds for immediate Termination.

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

#### **4. ISSUANCE OF RAPID RESPONSE TASK ORDERS (RRTOs)**

Authorization for performance of construction services by CONTRACTOR under this Agreement will be in the form of written RRTOs issued and executed by CFX and signed by CONTRACTOR. Each RRTO will describe the services required, state the dates for commencement and completion of work, establish the amount and method of payment, and the amount of liquidated damages, if any. CFX makes no covenant or promise as to the number of available tasks, nor that CONTRACTOR will perform any task for CFX during the term or course of this Agreement. CFX reserves the right to contract with other parties for the services contemplated by this Agreement when it is determined by CFX to be in the best interest of CFX to do so.

The Agreement 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 Agreement.

CFX does not guarantee that the services described in the Scope of Services will be assigned during the term of the Agreement. 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.

#### **5. TERM AND NOTICE**

The term of the Agreement will be three (3) years from the date of award from CFX, hereinafter "Agreement Term." Expiration of the term of this Agreement will have no effect upon RRTO's issued pursuant to this Agreement and prior to the Agreement expiration date. The obligations of both parties under such RRTO's will remain in effect until completion of the work authorized by the RRTO.

CFX shall have the right to immediately terminate or suspend the Agreement, in whole or in part, at any time upon notice for convenience for any reason or for cause for CONTRACTOR's material failure to perform the provisions of the Agreement or for Default. A Default includes: a) Failure to respond to a RRTO RFQ; b) Failure to perform a RRTO; or c) any other deficiency in performance. 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.



CFX reserves the right to immediately cancel or immediately terminate this Agreement 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 Agreement 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.

## **6. AGREEMENT AMOUNT AND COMPENSATION FOR SERVICES**

6.1 The Agreement Amount for the Agreement Term is \$3,000,000.00, not to exceed a maximum of \$1,000,000 per term year.

6.2 CFX agrees to pay CONTRACTOR for services performed in accordance with awarded RRTOs based on the unit prices provided in the CONTRACTOR's Bid to CFX Solicitation No. ITB001847 attached to this Agreement hereto as **Exhibit "C"** and incorporated by reference as though set forth fully herein.

6.3 Unit Prices offered in **Exhibit "C"** attached to this Agreement establishes the maximum allowable price to be offered in a RRTO Quote issued under this Agreement. CONTRACTOR further understands and agrees that quotes in response to RRTO RFQs that have unit prices that exceed the Maximum Allowable Price will automatically be reduced to the Maximum Allowable Price for that item and the total of the CONTRACTOR's Quote shall be corrected to reflect said changes.

6.4 Pricing for lump sum items such as but not limited to, Mobilization, Maintenance of Traffic, Clearing and Grubbing, and Removal of Existing Structures will be solicited in individual RRTO RFQs. Maximum Allowable Percentages for lump sum items of the total of the Unit Price work shall be determined by CFX on a per task basis and will be provided in individual RRTO RFQs. CONTRACTOR further understands and agrees that Quotes in response to RRTO RFQs that have lump sum prices that exceed the Maximum Allowable Percentage established by the CFX will automatically be reduced to the Maximum Allowable Percentage for that item and the total of the Quote shall be corrected to reflect said changes.

6.5 CONTRACTOR understands and agrees that Quotes in response to RRTO RFQs that have corrected prices may withdraw their Quote by written request within 24 hours of notification from CFX without penalty.

## 7. 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 AGREEMENT, 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 Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the public agency.
4. Upon completion of the Agreement, 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 Agreement, 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 Agreement, 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 Agreement (including without limitation Agreement 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 Agreement 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 Agreement and continue in full force and effect as set forth above.

**8. 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 Agreement, 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 Agreement. 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 Agreement 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 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 Section 112.313, Florida Statutes, as it relates to work performed under this Agreement, which standards will be reference be made a part of this Agreement 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.

**9. DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISES**

CFX has adopted a program to provide opportunities for Disadvantaged/Minority Business Enterprises and Women’s Business Enterprises (“D/M/WBEs”). Under CFX’s program, CONTRACTOR is encouraged to grant D/M/WBE businesses the opportunity to participate in CFX’s Agreements.

CONTRACTOR understands and agrees that RRTOs issued under this Agreement shall include a 15% D/M/WBE objective unless waived by CFX.

CONTRACTOR further understands and agrees to provide a good faith effort in achieving the 15% D/M/WBE objective as described in a RRTO.

**10. CONTRACTOR INSURANCE AND RRTO CONSTRUCTION BOND**

Anything contained herein to the contrary notwithstanding, during the term of the Agreement 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 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 Agreement, 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 Agreement 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 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.

CONTRACTOR shall carry and keep in force during the period of this Agreement, 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 Agreement execution:

All insurance coverage required of the Contractor shall be primary and noncontributory over any insurance or self-insurance program carried by CFX.

Excluding 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.

#### 10.1 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. Insurance Limits of Liability for Bodily Injury Liability and/or Property Damage Liability shall not be less than having a minimum coverage of Five Million Dollars (\$5,000,000.00) per occurrence of bodily injury or property damage and a minimum of Ten Million Dollars (\$10,000,000.00) annual aggregate for both General and Products and Completed Operations. The contractual liability insurance coverage shall include coverage for responsibilities and liabilities assumed by CONTRACTOR under this Agreement.

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 for each Rapid Response Task Order 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 Rapid Response Task Order 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.

10.2 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 for bodily injury, death and property damage shall not be less than the Five Million Dollars (\$5,000,000.00) for each accident.

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.

10.3 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 this Agreement.

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

#### 10.4 Builder's Risk:

If a RRTO 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 Rapid Response Task Order 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 Rapid Response Task Order. 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.

#### 10.5 Railroad Insurance:

For each RRTO, 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.

10.6 Pollution Legal/Environmental Legal Liability Insurance (CPL):

The Contractor agrees to maintain Contractor's Pollution Legal/Environmental Legal Liability Insurance on a per-RRTO 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.

10.7 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 statutory / \$1,000,000;

10.8 Unemployment Insurance:

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

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 and noncontributory 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. 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 shall result in suspension of partial payments on monthly estimates until the certificates are received and accepted by CFX. Procurement of insurance shall not be construed to limit CONTRACTOR's obligations or liabilities under the Agreement. 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.

#### 10.9 RRTO Construction Bond:

The CONTRACTOR shall furnish to CFX and shall maintain in effect throughout the term of an awarded Rapid Response Task Order, an acceptable surety bond in a sum equal to the amount of the Rapid Response Task Order. 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 surety agent's name, address and telephone number shall be clearly stated on the face of the Construction Bond.

In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Rapid Response Task Order) 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.

## **11. 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 Agreement.

11.1 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 Agreement 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:

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

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

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

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

11.6 CONTRACTOR's failure to include terms in its subcontracts as required by this Agreement,

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

11.8 CONTRACTOR's breach of any of the warranties or representations contained in this Agreement.

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 Agreement 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.

## **12. 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, including without limitation CFX Property and CFX Intellectual Property, without first notifying CFX and securing its consent in writing.

## **13. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS**

CFX is and shall be and remain the sole owner of all rights, title, and interest in, to, and associated with all plans, documents, software in all forms, hardware, programs, procedures, specifications, drawings, brochures pamphlets, manuals, flyers, models, photographic or design images, negatives, videos and film, tapes, work product, information, data and other items (all whether in preliminary, draft, master, final, paper, electronic, or other form), along with the media on which they reside and with which they interface for function or aesthetics, that are generated or developed with respect to and in connection with this Agreement and the performance thereof (collectively, the "CFX Property"). CFX's ownership of CFX Property includes without limitation all common law, statutory and other rights, title, and interest in, to, and associated with trademark, service mark, copyright, patent, trade secret, and publicity (collectively, the "CFX Intellectual Property").

CONTRACTOR, its employees, agents, officers, and subcontractors acknowledge that E-PASS® is CFX's registered trademark name for CFX's electronic toll collection system and comprises a portion of CFX Intellectual Property.

CONTRACTOR, its employees, agents, officers, and subcontractors may not use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Agreement, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR, its employees, agents, officers, and subcontractors' access to and/or use of CFX Property and CFX Intellectual Property is without any warranty or representation by CFX regarding same.

For all materials listed hereinabove that are not generated or developed under this Agreement or performance hereof, but rather are brought in, provided, or installed by CONTRACTOR (collectively, the "CONTRACTOR Property"), and the intellectual property rights associated therewith (collectively, the "CONTRACTOR Intellectual Property"), CONTRACTOR (its employees, officers, agents, and subcontractors, which for purposes of this section shall collectively be referred to as "CONTRACTOR") warrants and represents the following:

13.1 CONTRACTOR was and is the sole owner of all right, title and interest in and to all CONTRACTOR Property and CONTRACTOR Intellectual Property; **OR**

13.2 CONTRACTOR has obtained, and was and is the sole holder of one or more freely assignable, transferable, non-exclusive licenses in and to the CONTRACTOR Property and CONTRACTOR Intellectual Property, as necessary to provide and install the CONTRACTOR Property and/or to assign or grant corresponding to CFX all licenses necessary for the full performance of this Agreement; and that the CONTRACTOR is current and will remain current on all royalty payments due and payable under any license where CONTRACTOR is licensee; **AND**

13.3 CONTRACTOR has not conveyed, and will not convey, any assignment, security interest, exclusive license, or other right, title, or interest that would interfere in any way with the CFX's use of the CONTRACTOR Property or any license granted to CFX for use of the CONTRACTOR Intellectual Property rights; **AND**

13.4 Subject to Chapter 119, Florida Statutes (Florida Public Records Act), CONTRACTOR shall maintain CFX Property and CFX Intellectual Property in strictest confidence and may not transfer, disclose, duplicate, or otherwise use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this

Agreement, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR shall not publish, copyright, trademark, service mark, patent, or claim trade secret, publicity, or other rights of any kind in any of the Property. In ensuring the confidentiality and security of CFX Property and CFX Intellectual Property, CONTRACTOR shall utilize the same standards of protection and confidentiality that CONTRACTOR uses to protect its own property and confidential information, but in no instance less than reasonable care plus the standards set forth anywhere in this Agreement.

CONTRACTOR further warrants and represents that there are no pending, threatened, or anticipated Claims against CONTRACTOR, its employees, officers, agents, or subcontractors with respect to the CONTRACTOR Property or CONTRACTOR Intellectual Property.

The provisions of this Section shall survive the term of this Agreement for the longer of:

13.5 The statute of limitations on any action arising out of either party's conduct relating to this section, whether such action may be brought by CFX, CONTRACTOR, or a third party; **or**

13.6 CFX's continued use (notwithstanding any temporary suspension of use) of any CONTRACTOR Property or CONTRACTOR Intellectual Property; **and**

13.7 Notwithstanding sections 13.5 and 13.6, the confidentiality and security provisions contained herein shall survive the term of this Agreement for ten (10) years beyond 13.5 and 13.6.

#### **14. PERMITS, LICENSES, ETC.**

Throughout the Term of the Agreement, 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.

#### **15. 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 Agreement.

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

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. 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.

**18. DISPUTES**

All services shall be performed by the CONTRACTOR to the reasonable satisfaction of CFX's Executive Director (or her delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Agreement, 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 Agreement 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.



Disputes specific to a Rapid Response Task Order shall be in accordance with the terms and conditions attached to the Rapid Response Task Order.

**19. OTHER SEVERABILITY**

If any section of this Agreement 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 Agreement 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 Agreement.

**20. INTEGRATION**

It is understood and agreed that the entire agreement of the parties is contained in this Agreement herein and that this Agreement 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 Agreement shall be governed by and construed in accordance with the laws of Florida. Venue of any legal or administrative proceedings arising out of this Agreement 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 Agreement, 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 Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, CONTRACTOR may immediately notify CFX and request clarification of CFX's interpretation of the Agreement.

## **25. SURVIVAL OF EXPIRATION OR TERMINATION**

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

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

25.2 Obligations upon expiration or termination of the Agreement; and

25.3 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.

## **26. 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 Agreement shall also be bound contractually to this and all applicable Florida statutory requirements.

## **27. 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 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.

**28. 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.

**29. RECITALS INCORPORATED**

The Recitals set forth at the beginning of this Agreement are deemed incorporated herein, and the parties hereto represent they are true, accurate and correct.

**30. 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  
4974 ORL Tower Road  
Orlando, Florida 32807  
ATTN: Director of Construction

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

CONTRACTOR: Traffic Control Devices, LLC  
242 N. Westmonte Dr.  
Altamonte Springs, FL. 32715  
ATTN: Rob Rebert

**31. EXHIBITS AND ATTACHMENTS**

This Agreement references the exhibits listed below.

Exhibit "A" Scope of Services

Exhibit "B" Sample Rapid Response Task Order with Rapid Response Task Order General Specification and Rapid Response Task Order Technical Specification

Exhibit "C" CONTRACTOR's Bid to CFX Solicitation ITB-001847

Attachment "1" – General Specifications

Attachment "2" – Technical Specifications

[ SIGNATURES TO FOLLOW ]

IN WITNESS WHEREOF, the authorized signatures named below have executed this Agreement on behalf of the parties as of the day and year first above written. This Agreement was awarded by CFX's Board of Directors at its meeting on December 09, 2021.

ACCEPTED AND AGREED TO BY:

TRAFFIC CONTROL DEVICES, LLC

By: \_\_\_\_\_  
Name and Title

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

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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

Print Name: Aneth Williams

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

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

\_\_\_\_\_  
General Counsel for CFX  
\_\_\_\_\_  
Diego "Woody" Rodriguez  
Print Name

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

**RAPID RESPONSE AGREEMENT FOR SIGN, SIGNAL, AND ITS TASK ORDERS UNDER \$300,000 AND ELECTRICAL WORK TASK ORDERS UNDER \$75,000, AS ADJUSTED PER FLORIDA STATUTES § 255.20(2) INVITATION TO BID NO. ITB001847**

CFX is seeking multiple contractors to perform sign, signal, and ITS task orders under \$300,000, and lighting task orders under \$75,000, as amended per Florida Statutes § 255.20(2). The adjusted task-order limit amount for calendar year 2021 for sign, signal, ITS task orders and electrical work task orders is \$405,207.03 and \$101,301.76, respectively. The task order limit amount will be automatically adjusted for task commencing in subsequent years as per Florida Statutes § 255.20(2). It is CFX's intention to award no greater than six (6) Agreements plus one if the 7th low bid is a designated Small Sustainable Business Enterprise (SSBE), Disadvantaged/Minority Business Enterprise or Women's Business Enterprise (D/M/WBE) bidder under this solicitation. Quotes for individual construction tasks will be solicited to all awardees with the award going to the lowest priced contractor who can meet CFX's scheduled start and completion dates. Authorization for performance of services by Contractors under this Agreement shall be in the form of written task orders.

The amounts listed above are in accordance with F.S. 255.20(2) which states "The threshold amount of \$300,000 for construction or \$75,000 for electrical work, as specified in subsection (1), must be adjusted by the percentage change in the Engineering News-Record's Building Cost Index from January 1, 2009, to January 1 of the year in which the project is scheduled to begin.

<b>Project Amount</b>	<b>Index 1/1/2009</b>	<b>Index 1/1/2021</b>	<b>Difference</b>	<b>Project Cost with Inflation</b>
\$300,000.00	4782	6459	1.350690088	\$405,207.03
\$75,000.00	4782	6459	1.350690088	\$101,301.76

The threshold amount for projects under this Agreement that are scheduled to begin year 2022, 2023, and 2024 will by automatically be adjusted to reflect the percentage change in the Engineering News-Record's Building Cost Index from January 1 of the year in which the project is scheduled to begin.

EXHIBIT "B"  
RAPID RESPONSE TASK ORDER

Contract No.: \_\_\_\_\_,  
Contract Title: Rapid Response Agreement for Roadway Sign, Signal,  
Intelligent Transportation Systems, and Electrical Services  
Task Order No. \_\_\_\_\_

Contractor: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

ATTACHMENTS TO THIS TASK ORDER:  
 scope of services (Attachment A)  
 plans (Attachment B)  
 rate schedule from RFQ (Attachment C)  
 special provisions (Attachment D)  
 technical special provisions (Attachment D)  
 general specifications (By reference, included in  
CFX solicitation ITB001847)  
 Technical specifications (By reference, included in  
CFX solicitation ITB001847)  
 TRENCH SAFETY ACT COMPLIANCE  
STATEMENT

D/M/WBE Utilization Summary / Form (P6/P7)  
 \_\_\_\_\_  
METHOD OF COMPENSATION  
 retainage shall be withheld see Gen Spec.  
 Unit Price  
 \_\_\_\_\_

TIME FOR COMPLETION: The Work to be provided by the CONTRACTOR shall be substantially completed as described in the special provisions (Attachment D). Failure to meet the completion time shall be grounds for Termination of both the Rapid Response Task Order and the Rapid Response Agreement for Default.

TASK ORDER AMOUNT: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have made and executed this Task Order on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, for the purposes stated herein.

CONTRACTOR

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: \_\_\_\_\_  
\_\_\_\_\_  
(Title)

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

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

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

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

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



# Rapid Response Task Order General Specifications

The Rapid Response Task Order General Specifications are being provided to potential awardees of the Rapid Response Agreement at this time to be utilized as part of all future Rapid Response Task Orders that may be awarded under the Contractors' Rapid Response Agreement.

The Awardees of the Rapid Response Agreement understand and agree that the Rapid Response General Specifications may be updated or modified based on individual Rapid Response Task Orders or in the best interest of CFX. Awardees will be notified when such modifications or changes occur during the term of the Rapid Response Agreement.

By virtue of a submission of a quote in response to a Rapid Response Task Order Request for Quote, the Contractor agrees to all the terms and conditions of the Rapid Response General Specifications as they may be amended.

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	9
2.1    Intent of Contract	9
2.2    Work Not Covered by the General Specifications	9
2.3    Alteration of Plans	9
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    Omitted	
2.4    Claims by Contractor	19
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	26
2.6    Right To and Use of Materials Found at the Site of the Work	26
2.6.1    Ownership and Disposal of Existing Materials	
2.6.2    Ornamental Trees and Shrubs	
2.7    Restoration of Right of Way	26

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 3 - Control of the Work	28
3.1 Plans and Working Drawings	28
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	32
3.3 Conformity of Work with Plans	32
3.3.1 Record Drawings	
3.4 Pre-Award Meeting	33
3.5 Orders and Instructions	34
3.5.1 Observation of the Work	
3.5.2 Examination of the Work	
3.5.3 Communications	
3.6 Engineering and Layout	36
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 Payment	
3.7 Contractor's Supervision	39
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	41
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	42
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	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
3.10 Audit and Examination of Contract Records and Bid Records	44
3.11 Prevailing Party Attorney's Fees	45
Section 4 - Control of Materials	47
4.1 Acceptance Criteria	47
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)	48
4.3 Source of Supply and Quality Requirements	48
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	49
4.4.1 General	
4.4.2 Cooperation by Contractor	
4.4.3 Retest of Materials	
4.5 Storage of Materials and Samples	50
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	50
Section 5 - Legal Requirements and Responsibility to the Public	52
5.1 Laws to be Observed	52
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	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.2 Permits and Licenses	54
5.3 Patented Devices, Materials and Processes	54
5.4 Right of Way Furnished by CFX	55
5.5 Sanitary Provisions	55
5.6 Control of the Contractor's Equipment	55
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	57
5.7.1 Compliance with Jurisdictional Regulations	
5.8 Use of Explosives	57
5.9 Preservation of Property	57
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.	63
5.10.1 Contractor to Provide Defense Against Claims and Suits	
5.10.2 Guaranty of Payment for Claims	
5.11 Insurance	64
5.12 Contract Bond (Public Construction Bond) Required	64
5.12.1 General Requirements of the Bond	
5.12.2 Continued Acceptability of Surety	
5.13 Contractor's Responsibility for Work	65
5.14 Opening Section of Highway to Traffic	65
5.15 Scales for Weighing Materials	65
5.15.1 Applicable Regulations	
5.15.2 Base for Scales	
5.15.3 Protection and Maintenance	
5.16 Source of Forest Products	66

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.17 Regulations of Air Pollution	66
5.17.1 General	
5.17.2 Dust Control	
5.17.3 Asphalt Material	
5.17.4 Asphalt Plants	
5.18 Dredging and Filling	66
5.19 Erosion Control	67
5.20 Contractor's Motor Vehicle Registration	67
5.21 Internal Revenue Service Form W-9	67
5.22 Tolls and Access	67
5.23 Requests for References or Performance Evaluations	67
5.24 Unauthorized Aliens	68
5.25 Public Records	68
5.26 Inspector General	69
5.27 Convicted Vendor List	69
5.28 Discriminatory Vendor List	70
5.29 Severability	70
5.30 Companies Pursuant to Florida Statute Sections 287.135	70
5.31 E-Verify	71
 Section 6 - Prosecution and Progress of the Work	 72
6.1 Subletting or Assigning of Contract	72
6.2 Work Performed by Equipment Rental Agreement	74
6.3 Prosecution of Work	74
6.3.1 Sufficient Labor, Materials and Equipment	
6.3.2 Impacts by Adjacent Projects	
6.3.3 Submission of Working Schedule	
6.3.4 Beginning Work	
6.3.5 Provisions for Convenience of the Public	
6.3.6 Pre-Construction Conference	
6.4 Limitations of Operations	75
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 (Continued)

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	79
6.6 Temporary Suspension of Contractor's Operations	80
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	81
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	83
6.8.1 General	
6.9 Default and Termination of Contract	84
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	86
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	87
6.12 Recovery of Damages Suffered by Third Parties	87
6.13 Express Warranty	87
Section 7 - Measurement and Payment	89
7.1 Measurement of Quantities	89
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	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
7.1.6 Ladders and Instrument Stands for Bridge Construction	
7.2 Scope of Payments	90
7.2.1 Items Included in Payment	
7.2.2 Non-Duplication of Payment	
7.3 Compensation for Altered Quantities	90
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	93
7.4.1 Method of Payment	
7.4.2 Records	
7.4.3 Preliminary Order-of-Magnitude Estimate	
7.5 Deleted Work	96
7.6 Partial Payments	96
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	100
7.7.1 General	
7.7.2 Non-Commercial Materials	
7.8 Disputed Amounts Due Contractor	100
7.9 Acceptance and Final Payment	100
7.10 Offsetting Payments	102
Section 8 - Minority/Women Business Enterprise (M/WBE) Participation	103
8.1 General	103
8.2 Minority and Women Owned Businesses - Participation Objectives	104
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	109



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 9 - Binding Arbitration	110
Section 10 –Disputes Resolution	112
10.1 Disputes Resolution	112
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.
AIA	American Institute of Architects
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
AREA	American Railway Engineering Association
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWS	American Welding Society
AWPA	American Wood Preservers Association
AWWA	American Water Works Association
CRSI	Concrete Reinforcing Steel Institute
FDOT	Florida Department of Transportation
FNGA	Florida Nursery Growers Association
FSS	Federal Specifications and Standards
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society
IPCEA	Insulated Power Cable Engineers Association
MUTCD	Manual on Uniform Traffic Control Devices
NEC	National Electrical Code (as recommended by the National Fire Protection Association)
NEMA	National Electrical Manufacturers Association

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

### 1.3 Definitions

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

1.3.0 **Agreement** – Agreement refers to the main agreement with each Contractor in the specified Rapid Response (“RR”) pool, requiring responses to Requests for Quotes (“RFQ”) for Rapid Response Task Orders (“RRTOs”).

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

1.3.2 **Bid** - The offer or proposal of the Bidder submitted on the prescribed form setting forth the unit prices for the Contract, which will form the basis for the Quotes for RRTOs and RRTOs.

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

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

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

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

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

1.3.8 **Contract or RRTO** - The terms “Contract” or “RRTO” as used within the General Specifications means the RRTO issued for each project between CFX and the Contractor setting

forth the obligations of the parties thereto including but not limited to, the performance of the Work, the furnishing of labor and materials and the basis of payment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.3.31 **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.

1.3.32 **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.

1.3.33 **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.

1.3.34 **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.

1.3.35 **Rapid Response Task Order or RRTO** – Written authorization for performance of services in response to a Request for Quote (“RFQ”) .

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

1.3.37 **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.

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

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

1.3.40 **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.

1.3.41 **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.

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

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

A Specialty Engineer shall be qualified in accordance with the Rules of the Florida Department of Transportation, Chapter 14-75, Florida Administrative Code. Any corporation or partnership, which offers engineering services, must hold a current Certification of Authorization from the Florida State

Board of Professional Engineers. Prior approval by CFX is required if the Contractor wishes to use a Specialty Engineer not qualified in accordance with Chapter 14-75. Approval must be received prior to proceeding with the specialty design.

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

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

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

1.3.45 **Standard Specifications** - The FDOT Standard Specifications for Road and Bridge Construction, 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.

1.3.46 **State** - State of Florida

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

1.3.48 **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.

1.3.49 **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.

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

1. All pay item work is installed and functioning including Supplemental Agreement Work, Force Account, or Extra Work.
2. All disturbed areas have been restored and vegetative growth is emerging including landscaping.
3. All erosion control measures have been taken up, and sediments removed from traps and drainage structures.
4. All pavement areas are complete and final signing and stripping in place.

5. All Signals, Lighting, ITS, and Tolling systems are tested, commissioned, and operating.
6. All roadway appurtenances are installed, intact and functioning such as signs, guardrail, stripping, rumble strips, curbing, sidewalk, etc.
7. All structures such as bridges, walls, barriers, attenuators, overhead trusses, toll buildings, tolling gantries, etc. are in place with their final coatings applied, and devoid of blemishes or graffiti.
8. All temporary traffic control devices are removed, and traffic is using the facility as designed.
9. All testing is complete, and documentation has been received.

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

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

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

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

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

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

1.3.56 **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.

1.3.57 **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.

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

1.3.59 **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.

1.3.60 **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.

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

END OF SECTION 1

## SECTION 2 - SCOPE OF WORK

### 2.1 Intent of Contract

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

### 2.2 Work Not Covered by the General Specifications

Proposed construction and any contractual requirements not covered by these General Specifications may be covered by notes shown on the Plans or by the Technical Specifications, Special Provisions or Rapid Response Task Order.

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

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

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

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

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

Where A = Original Contract Amount

B = Original Contract Time

C = 8%

D = Average Overhead Per Day

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CFX approval of a Contractor proposed change does not relieve the Contractor of sole responsibility for all utility impacts, costs, delays or damages, whether direct or indirect, resulting from Contractor initiated changes in the design or construction activities from those in the original Contract, design plans (including traffic control plans) or other Contract Documents and which effect a change in utility work different from that shown in the utility plans, joint project agreements or utility relocation schedules.

2.3.6 Omitted.

## 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 ten (10) 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 fifteen (15) 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 ten (10) 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 fifteen (15) 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 fifteen (15) 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 five (5) days written notice to the Contractor, subcontractor, or supplier. The Contractor, subcontractor, or supplier shall make a good faith effort to cooperate with the auditors. As a condition precedent to recovery on any claim, the Contractor, subcontractor, or supplier must retain sufficient records, and provide full and reasonable access to such records to allow the CFX auditors to verify the claim. Failure to retain sufficient records of the claim or failure to provide full and reasonable access to such records shall constitute a waiver of that portion of such claim that cannot be verified and shall bar recovery thereunder. Further, and in addition to such audit access, upon the Contractor submitting a written claim, CFX shall have the right to request and receive, and the Contractor shall have the affirmative obligation to provide to CFX, copies of any and all documents in the possession of the Contractor or its subcontractors, materialmen or suppliers as may be deemed relevant by CFX in its review of the basis, validity or value of the Contractor's claim.

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

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

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

## 2.5 Unforeseeable Work

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

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

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

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

## 2.7 Restoration of Right of Way

Areas outside the Project limits within CFX right of way used as a plant site be shaped and

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

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

END OF SECTION 2

## SECTION 3 - CONTROL OF WORK

### 3.1 Plans and Working Drawings

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

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

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

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

#### 3.1.4 Shop Drawings

##### 3.1.4.1. Definitions:

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

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

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

3.1.4.2. Work Items Requiring Shop Drawings: The requirement for submittals for certain items may be waived by other provisions of these specifications; i.e. items constructed from standard drawings or those complying with alternate details for 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 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 at the preconstruction conference, 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 order of precedent of the documents shall be as follows:

1. The Rapid Response Task Order (which is referred to as the Contract herein);
2. The Memorandum of Agreement (if any),
3. The Plans,
4. The Special Provisions,
5. The Technical Specifications,
6. The General Specifications,
7. The Standard Specifications, and
8. The Design Standards.

Computed dimensions shall govern over scaled dimensions.

### 3.3 Conformity of Work with Plans

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

In the event CFX finds that the Materials or the finished product in which the Materials are used are not within reasonable close conformity with the Plans and Specifications, but that

reasonably acceptable Work has been produced, CFX will make a determination if the Work will be accepted and remain in place. In this event, CFX will document the basis of acceptance by Contract modification which will provide for an appropriate adjustment in the Contract price for such Work or Materials as CFX deems necessary to conform to CFX's determination based on engineering judgment.

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

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

3.3.1 Record Drawings: During the entire construction operation, the Contractor shall maintain records of all deviations from the plans and specifications including Request for Information (RFI), field directives, sketches, etc., and shall submit those deviations to the CEI. The submittal shall also include cross-sections, prepared by a registered surveyor, of all retention ponds in the Project limits. A minimum submittal would be full-sized prints in good condition with all changes in red, accurately plotted. The print shall be in good condition as determined by the CEI. The marked up prints shall be submitted within ten (10) days of the Project acceptance or termination of Work. Preparation of the record drawings shall be the responsibility of CFX. Retainage will not be released by CFX until the marked up prints and records have been submitted and accepted by CFX.

#### 3.4 Pre-Award Meeting

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

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

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

### 3.5 Orders and Instructions

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

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

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

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

3.5.1.1 Make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine in general if the Work is proceeding in accordance with the Plans and Specifications. CFX will not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the Work, will not be responsible for the construction means, methods, procedures, techniques and will not be responsible

for the Contractor's failure to perform the construction Work in accordance with the Plans and Specifications. CFX will not be responsible for safety precautions and procedures concerning the Work. During such visits and based on on-site observations, CFX may disapprove Work as failing to conform to the Plans and Specifications.

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

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

3.5.1.4 Prepare final record drawings.

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

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

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

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

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

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

### 3.6 Engineering and Layout

#### 3.6.1 Control Points Furnished by CFX

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

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

#### 3.6.2 Furnishing of Stake Material

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

### 3.6.3 Layout of Work

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

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

### 3.6.4 Specific Staking Requirements

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

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

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

For resurfacing and resurfacing/widening Work, the Contractor shall establish horizontal controls adequate to assure that the asphalt mix added coincides with the

existing pavement. In tangent sections, horizontal control points shall be set at 100-foot intervals by an instrument survey. In curve sections, horizontal control points shall be set at 25-foot intervals by locating and referencing the centerline of the existing pavement.

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

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

### 3.6.5 Personnel, Equipment, and Record Requirements

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

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

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

### 3.6.6 Payment

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

## 3.7 Contractor's Supervision

### 3.7.1 Prosecution of Work

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

### 3.7.2 Contractor's Superintendent

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

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

### 3.7.3 Supervision for Emergencies

The Contractor shall have a responsible person available at or reasonably near the Work site on a 24-hour basis, 7 days per week. This individual shall be designated



as the Contractor's contact in emergencies and in cases where immediate action must be taken to maintain traffic or to handle any other problem that might arise. The contact person shall have the ability to speak and understand the English language.

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

#### 3.7.4 Worksite Traffic Supervisor

The Contractor shall have a Worksite Traffic Supervisor who shall be responsible for initiating, installing and maintaining all traffic control devices required for maintenance of traffic. The Worksite Traffic Supervisor shall have at least 1 year of experience directly related to worksite traffic control in a supervisory or responsible capacity and shall be certified by the American Traffic Safety Services Association under its Worksite Traffic Supervisor Certification Program, or an FDOT-approved advanced training Provider. Approved advanced training Providers will be posted on the FDOT's web site at the following URL address: <http://www.dot.state.fl.us/rddesign/MOT/MOT.shtm>.

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

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

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

### 3.8 General Inspection Requirements

#### 3.8.1 Cooperation by Contractor

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

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

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

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

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

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

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

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

## 3.9 Final Inspection and Acceptance

### 3.9.1 Maintenance Until Final Acceptance

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

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

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

### 3.9.2 Inspection for Substantial Completion

The CEI will make a semi-final inspection within 7 days after written notice from the Contractor of completion of the Project in its entirety. If, at the semi-final inspection,

it is determined that all pay item work has been installed and other conditions as defined in Section 1.3, the project will be deemed Substantially Complete. Further, if all construction provided for and contemplated by the Contract is complete and acceptable to the CEI, such inspection shall constitute the final inspection as described below.

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

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

### 3.9.3 Final Inspection

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

### 3.9.4 Final Acceptance

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

### 3.9.5 Recovery Rights Subsequent to Final Payment

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

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

CFX reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Bid Records (as herein defined) of the Contractor or any subcontractor. By submitting a Bid, the Contractor or any first or second tier subcontractor submits to and agrees to comply with the provisions of this Article. In addition, the Contractor shall be entitled to enter into subcontracts with proper CFX approval provided that all subcontracts shall include the same or similar terms as are in this Contract with respect to subcontractors, providing CFX with equal or greater protections than herein.

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

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

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

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

truckers or material suppliers, profit contingencies and any manuals standard in the industry that may be used by the Contractor in determining its bid. These manuals shall be included in the Bid Records by reference and shall show the name and date of the publication and the publisher.

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

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

### 3.11 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.

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



#### 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.

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

- 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.

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

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.

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

- 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

Rapid Response Agreement, CFX Agreement No. 001504, Section 11, is hereby adopted and made part of this General Specification as completely as if incorporated herein.

#### 5.12 Contract Bond (Public Construction Bond) Required

5.12.1 General Requirements of the Bond: The Contractor shall furnish to CFX and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by CFX. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to CFX. The name, address and telephone number of the surety agent shall be clearly stated on the face of the Public Construction Bond.

5.12.2 Continued Acceptability of Surety: In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after CFX's initial approval of the company, then CFX may require that the Contractor immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to CFX. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the Contractor from its payment of premium on the defaulting bond, will be borne by CFX.

#### 5.13 Contractor's Responsibility for Work

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

The Contractor will not be held responsible for damage to any landscape items caused by an officially declared hurricane that occurs after the final acceptance of the entire Work but during any remaining portion of the 90-day establishment period.

#### 5.14 Opening Section of Highway to Traffic

When any bridge or section of roadway is, in the opinion of CFX, acceptable for travel, CFX may direct that the bridge or roadway be opened to traffic. Such opening shall not be considered, in any way, to be an acceptance of the bridge or roadway or any part thereof or as a waiver of any provision of the Contract. The Contractor shall make all repairs or renewals due to defective Work or Materials (or for any cause other than ordinary wear and tear) on such opened sections without additional compensation.

#### 5.15 Scales for Weighing Materials

5.15.1 Applicable Regulations: Prior to the use of any scales, the Contractor shall submit to the CEI a copy of a certificate of accuracy for the scales that is not more than 1 year old. All scales which are used for the determination of the weight of Materials upon which compensation will be made by CFX shall conform to the requirements of Chapter 531, Florida Statutes, pertaining to specifications, tolerances and regulations as administered by the Bureau of Weights and Measures of the Florida Department of Agriculture. CFX reserves the right to perform scale checks/inspections at its sole discretion.

5.15.2 Base for Scales: Such scales shall be placed on a substantial horizontal base that will assure proper support, rigidity and maintenance of level of the scales.

5.15.3 Protection and Maintenance: All scale parts shall be in proper condition as to level and vertical alignment and shall be fully protected against contamination by dust, dirt and other matter which might affect operation of the parts.

#### 5.16 Source of Forest Products

As required by Section 255.20, Florida Statutes, all timber, timber piling or other forest products which are used in the construction of the Project shall be produced and manufactured in the State of Florida, price and quality being equal and provided such Materials produced and manufactured in Florida are available.

## 5.17 Regulations of Air Pollution

5.17.1 General: All Work shall be done in accordance with all Federal, State and local laws and regulations regarding air pollution and burning.

5.17.2 Dust Control: The Contractor shall ensure that excessive dust is not transported beyond the limits of construction in populated areas. Dust control for embankment or other cleared or unsurfaced areas may be by application of water or calcium chloride, as directed by CFX. Any use of calcium chloride shall be in accordance with Section 102 of the Technical Specifications. When included in the Plans, mulch, seed, sod or temporary paving shall be installed as early as practical. Dust control for storage and handling of dusty materials may be made by wetting, covering or other means as approved by the CEI.

5.17.3 Asphalt Material: Any asphalt used shall be emulsified asphalt unless otherwise stated in the Plans and allowed by Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. Asphalt materials and components shall be stored and handled to minimize unnecessary release of hydrocarbon vapors.

5.17.4 Asphalt Plants: The operation and maintenance of asphalt plants shall be in accordance with Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. A valid permit as required under Chapter 17-2 shall be available at the plant site prior to the start of Work.

## 5.18 Dredging and Filling

If required by the Work, the Contractor shall comply with Section 370.033, Florida Statutes, regarding obtaining a certificate of registration from the Florida Department of Environmental Protection and keeping accurate records and logs of all dredge and fill activities.

## 5.19 Erosion Control

This Project will be constructed on properties that may be subject to environmental permits and regulation promulgated by city, county, state, federal, and regional authorities. Requirements for erosion control are included in the Technical Specifications.

#### 5.20 Contractor's Motor Vehicle Registration

The Contractor shall provide proof to CFX that all motor vehicles operated or caused to be operated by the Contractor are registered in compliance with Chapter 320, Florida Statutes. Such proof of registration shall be submitted in the form of a notarized affidavit to CFX. No payment will be made to the Contractor until the required proof of registration is on file with CFX.

#### 5.21 Internal Revenue Service Form W-9

The Contractor shall complete and return with the executed Contract, Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.

#### 5.22 Tolls and Access

The Contractor shall pay all tolls incurred from using CFX's Expressway System to transport personnel, equipment, or materials to and from the site of Work. Any costs incurred by the Contractor in payment of tolls shall be considered incidental and included in associated items. The term "equipment" in this context includes loaders, graders and similar self-propelled equipment, operating under their own power, passing through a toll plaza.

Contractor shall access the Project by existing expressway ramps. No access will be allowed through the right-of-way fence.

#### 5.23 Requests for References or Performance Evaluations

In the event CFX at any time receives any direct or third party inquiry or request concerning the Contractor, its employees or sub-contractors, or the performance of the Contractor, its employees or sub-contractors under this Contract, CFX, at any time and in all cases, may, but shall not be obligated to respond to any such inquiry or request, with or without notice to the Contractor, its employees, or subcontractors, as the case may be, but, in all cases, such response shall be limited to: (1) acknowledging that the Contractor has, or in the past has had, a contract with CFX; (2) the date, term and type of such contract; (3) whether a specified employee or subcontractor worked on the Contract, and if so, in what capacity; (4) whether such contract was terminated early for any reason other than the convenience of CFX; (5) whether such contract was eligible for renewal or extension; and, (6) if such contract was eligible for renewal or extension, whether in fact such contract was renewed or extended. Should the Contractor, its employees, its agents or subcontractors request that any further information be provided in response to such an inquiry or request, such additional information may be provided by CFX, in its sole discretion. Contractor for itself, its employees, its agents and sub-contractors, hereby expressly waives any and all claims of whatever kind or nature that the Contractor, its employees, its agents or sub-contractors may have, or may hereafter acquire, against CFX relating to, or arising out of CFX's response to any and all requests or inquiries concerning the Contractor, its employees or subcontractors

under this Contract, or the performance of the Contractor, its employees or subcontractors under this Contract.

#### 5.24 Unauthorized Aliens

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

#### 5.25 Public Records

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

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

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the public agency.

4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the CONTRACTOR or keep and maintain public records required by the public agency to perform the service. If the CONTRACTOR transfers all public records to the public agency upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event the CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act.

#### 5.26 Inspector General

It is the duty of every CONTRACTOR and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to section 20.055, Florida Statutes. The corporation, partnership, or person entering into an Agreement with the Central Florida Expressway Authority understands and will comply with subsection. 20.055(5), Florida Statutes.

#### 5.27 Convicted Vendor List

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

#### 5.28 Discriminatory Vendor List

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may

not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

#### 5.29 Severability

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

#### 5.30 Companies Pursuant to Florida Statute Section 287.135

Pursuant to Section 287.135(3)(a)4, if the company is found to have submitted a false certification as provided under subsection (5); been placed on the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or been engaged in business operations in Cuba or Syria, the contract may be terminated for cause at the option of CFX.

Pursuant to Section 287.135(3)(b), if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the contract may be terminated for cause at the option of CFX.

Submitting a false certification shall be deemed a material breach of contract or renewal. CFX shall provide notice, in writing, to the Contractor of CFX's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the CFX's determination of false certification was made in error then CFX shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes and as allowed by law.

#### 5.31 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.

END OF SECTION 5



## SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

### 6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without written consent of CFX. With CFX written consent, the Contractor will be permitted to sublet a portion of the Work but shall perform, with its own organization, Work amounting to not less than 50% of the total Contract amount less the total amount for those Contract items specifically designated as "Specialty Work" below or as otherwise designated as Specialty Work by CFX. CFX may, at their discretion, revise the allowable sublet percentage for select Rapid Response Task Orders. The granting or denying of consent to sublet work under this provision is at CFX's sole discretion.

The total Contract amount shall include the cost of Materials, manufactured component products and their transportation to the Project site. Off-site commercial production of Materials and manufactured component products purchased by the Contractor and their transportation to the Project will not be considered subcontracted Work.

If a part of a Contract item is sublet, only its proportional cost will be used in determining the percentage of subcontracted normal Work.

All subcontracts entered into by the Contractor shall be in writing and shall contain all pertinent provisions and applicable requirements of the Contract. All subcontracts shall require subcontractor to indemnify and hold harmless CFX on the same terms as contained in the General Specifications and the Contract. The Contractor shall furnish CFX with a copy of any subcontract requested by CFX. Subletting of Work shall not relieve the Contractor or surety of their respective liabilities.

The Contractor shall ensure that all Subcontractors are competent, careful and reliable. The Contractor shall submit the names and qualifications of all first and second tier subcontractors to CFX for approval prior to their beginning Work on the Project. All first and second tier subcontractors shall have the skills and experience necessary to properly perform the Work assigned and as required by the plans and specifications.

If, in the opinion of CFX, any Subcontractor employed by the Contractor is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such first or second tier subcontractor shall be immediately removed from the Project by the Contractor upon written direction from CFX. Such subcontractor shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such

subcontractor, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the subcontractor is removed. The Contractor shall indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Subcontractor based on the direction of CFX. All subcontracts shall expressly include an acknowledgment of CFX's right to remove any Subcontractor in accordance with this paragraph.

A Subcontractor shall be recognized only in the capacity of an employee or agent of the Contractor.

If the aggregate total of the dollar amount of Work performed by a subcontractor, including equipment rental agreements, equals or exceeds \$20,000, a formal subcontract agreement shall be entered into between the Contractor and the Subcontractor.

6.1.2 Specialty Work: The following Work is designated as Specialty Work:

- Auxiliary Power Unit
- Cleaning, Coating, Injection, Grouting, Grinding, Grooving or Sealing Concrete Surfaces
- Deep Well Installation
- Electrical Work
- Fencing
- Highway Lighting
- Installing Pipe or Pipe Liner by Jacking and Boring
- Installing Structural Plate Pipe Structure
- Landscaping
- Painting
- Plugging Water Wells
- Pressure Grouting
- Pumping Equipment
- Roadway Signing and Pavement Marking
- Riprap
- Removal of Buildings
- Rumble Strips
- Sealing Wells by Injection
- Septic Tank and Disposal System
- Signalization
- Utility Works
- Vehicular Impact Attenuator
- Water and Sewage Treatment Systems

## 6.2 Work Performed by Equipment Rental Agreement

The limitations set forth in 6.1, regarding the amount of Work that may be subcontracted, do not apply to Work performed by Equipment rental agreements. The Contractor shall notify CFX, in writing, if the Contractor intends to perform any Work through an Equipment rental agreement. The notification shall be submitted to CFX before any rental Equipment is used on the Project. The notification shall include a list of the Equipment being rented, the Work to be performed by the Equipment and whether the rental includes an Equipment operator. Notification to CFX will not be required for Equipment being rented (without operators) from an Equipment dealer or from a firm whose principle business is renting or leasing Equipment.

## 6.3 Prosecution of Work

6.3.1 Sufficient Labor, Materials and Equipment: The Contractor shall provide sufficient labor, Materials and Equipment to ensure the completion of the Work no later than the Contract completion date.

6.3.2 Impacts by Adjacent Projects: When there is a potential impact between two or more projects due to close proximity or due to logistics in moving labor, Materials, and Equipment between projects, all authorized representatives of the parties performing the projects have a responsibility to communicate and coordinate their work so that impacts to either party are eliminated or mitigated and do not endanger, delay, or create additional work or costs to either party. The Contractor shall not be compensated for any additional costs or delays so incurred by either party.

6.3.3 Submission of Working Schedule: Within five (5) 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 five (5) 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 five (5) 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 three (3) 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; 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. Contract Time will be charged during these holiday periods regardless of whether or not the Contractor's operations have been suspended. The Contractor is not entitled to any additional compensation for suspension of operations during such holiday periods.

During such suspensions, the Contractor shall remove all Equipment and Materials from the clear zone, except those required for the safety of the traveling public and retain sufficient personnel at the job site to properly meet the requirements of Sections 102 and 104 of the Technical Specifications. The Contractor is not entitled to any additional compensation for removal of Equipment from clear zones or for compliance with Section 102 and Section 104 during such holiday periods.

Any special events known to CFX that may impact Contractor operations are shown on the Plans.

## 6.7 Contract Time

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

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

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

6.7.2 Date of Beginning of Contract Time: The date on which Contract time will begin shall be the date of notice to begin Work or as specified in the Notice to Proceed.

6.7.3 Adjusting Contract Time:

6.7.3.1 Contract Time Extension: CFX has established an allowable Contract duration, in terms of calendar days, sufficient to complete the Work covered by the Contract. By execution of the Contract, the Contractor agrees that the calendar days are sufficient to perform the Work and it has priced its bid considering the Contract duration. If the Contractor's Work (which Work is actually on the critical path) is impacted by one or more of the following events, CFX may (but is not obligated to) consider approving an extension of time:

1. War or other act of public enemies.
2. Riot that would endanger the well-being of Contractor's employees.
3. Earthquake.
4. Unpredictable acts of jurisdictional governmental authorities acting outside the scope of current laws and ordinances.
5. Hurricane (or other weather event) but only if the weather event results in the declaration of an emergency by the Governor of the State of Florida within the geographical area which includes the Work area.

6. Utility relocation and adjustment Work only if all the following criteria are met:
  - a. Utility work actually affected progress toward completion of Work on the critical path.
  - b. The Contractor took all reasonable measures to minimize the effect of utility work on critical path activities including cooperative scheduling of his operations with the scheduled utility work.
7. Temperature restrictions that prohibit placement of friction course (FC-5 only) provided all other Work is completed.
8. Epidemics, quarantine restrictions, strikes (unless caused or provoked by actions of the Contractor, or its subcontractors, or its materialmen, or its suppliers or its agents), freight embargoes.
9. Impacts to the critical path caused by other contractors.

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

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

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

will be made for delays caused by delivery of materials or component equipment.

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

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

## 6.8 Failure of Contractor to Maintain Satisfactory Progress

6.8.1 General: Time is of the essence of the Contract. Unsatisfactory progress will be deemed to have occurred when:

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

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

## 6.9 Default and Termination of Contract

- 6.9.1 Determination of Default: CFX will give notice in writing to the Contractor and Contractor's surety of such delay, neglect, or default for the following:
- a. If the Contractor fails to begin the Work under the Contract within the time specified in the Notice to Proceed or;
  - b. fails to perform the Work with sufficient workmen and Equipment or with sufficient Materials to assure the prompt completion of the Contract as related to the schedule or;
  - c. performs the Work unsuitably or neglects or refuses to remove Materials or;
  - d. to perform anew such Work as may be rejected as unacceptable and unsuitable or;
  - e. discontinues the prosecution of the Work or;
  - f. fails to resume Work which has been discontinued within a reasonable time after notice to do so or;
  - g. fails to pay timely its subcontractors, suppliers or laborers or;
  - h. submits a false or fraudulent Certificate of Disbursement of Previous Payments form or;
  - i. becomes insolvent or is declared bankrupt or;
  - j. files for reorganization under the bankruptcy code or;
  - k. commits any act of bankruptcy or insolvency, either voluntarily or involuntarily or;
  - l. allows any final judgment to stand against it unsatisfied for a period of ten calendar days or;
  - m. makes an assignment for the benefit of creditors or;
  - n. for any other cause whatsoever, fails to carry on the Work in an acceptable manner or;
  - o. if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of CFX.
  - p. Failure to ensure that D/M/WBE firms have the maximum opportunity to participate in performance of the Contract shall constitute failing to prosecute the Work in an acceptable manner.

If the Contractor, within a period of 10 calendar days after the notice described above, does not proceed to correct the default, CFX may give notice of default in writing to the Contractor and the surety stating the nature of the default and providing the amount of time which will be allowed to correct the default.

If the Contractor (within the curative period described in the notice of default) does not correct the default, CFX will have full power and authority to remove the Work from the Contractor and to declare the Contract in default and terminated.

If the Contract is declared in default, CFX may require the Contractor's surety to take over and complete the Contract performance. Upon the failure or refusal of the surety to assume the Contract within the time demanded, CFX may take over the Work covered by the Contract.

CFX shall have no liability for profits related to unfinished Work on a Contract terminated for default.

- 6.9.2 Public Interest Termination of Contract: CFX may, by written notice, terminate the Contract or a portion thereof after determining that, for reasons beyond either CFX or Contractor control, the Contractor is prevented from proceeding with or completing the Work as originally contracted for, and that termination would therefore be in the public interest. Such reasons for termination may include but need not be necessarily limited to, executive orders of the President relating to prosecution of war or national defense, national emergency which creates a serious shortage of Materials, orders from duly constituted authorities relating to energy conservation and restraining order or injunctions obtained by third-party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor.

When the Contract or any portion thereof, is terminated (as aforesaid) before completion of all items of Work in the Contract, payment will be made for the actual number of units or items of Work completed, at the Contract unit price or as mutually agreed for items of Work partially completed. No claims for loss of anticipated profits will be considered.

Reimbursement for mobilization expenses (when not otherwise included in the Contract), including moving Equipment to the job, will be considered where the volume of Work completed is too small to compensate the Contractor for these expenses under the Contract unit prices; the intent being that an equitable settlement will be made with the Contractor.

Acceptable Materials procured by the Contractor for the Work, that have been inspected, tested, and approved by CFX and that are not incorporated in the Work, may be purchased from the Contractor at actual cost, as shown by receipted bills and actual cost records, at such points of delivery as may be designated by CFX.

Termination of the Contract or a portion thereof, under the provisions of this subarticle, shall not relieve the Contractor of Contractor's responsibilities for the completed portion nor shall it relieve Contractor's surety of its obligation for, and concerning any just claims arising out of, the Work performed.

CFX may also, upon seven days written notice to the Contractor, without cause and without prejudice to any other right or remedy of CFX, elect to terminate the Contract. In such case, the Contractor will be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, in accordance with existing pay items;
2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, Materials or Equipment as required by the Contract Documents in connection with uncompleted Work, plus mutually agreeable sums for overhead and profit on such expenses.

The Contractor shall not be paid because loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

6.9.3 Completion of Work by CFX: Upon declaration of default and termination of the Contract, CFX will have the right to appropriate or use any or all Materials and Equipment on the sites where Work is or was occurring which are suitable and acceptable and may enter into agreements with others for the completion of the Work under the Contract or may use other methods which in the opinion of CFX are required for Contract completion. All costs and charges incurred by CFX because of or related to the Contractor's default (including the costs of completing Contract performance) shall be charged against the Contractor. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the Contractor and the surety shall be jointly and severally liable and shall pay CFX the amount of the excess.

## 6.10 Liquidated Damages for Failure to Complete the Work

6.10.1 Liquidated Damages for Failure to Complete the Work: The Contractor shall pay to CFX liquidated damages in the amount specified in the Special Provisions per calendar day for failure of the Contractor to complete the Work within the Contract time stipulated or within such additional time as may have been granted by CFX.

6.10.2 Determination of Number of Days of Default: Default days shall be counted in calendar days.

6.10.3 Conditions Under Which Liquidated Damages are Imposed: If the Contractor (or in circumstance of the Contractor default, the surety) fails to complete the Work within the Contract time stipulated or within such extra time as may have been granted by

CFX, the Contractor (or the surety) shall pay to CFX, not as a penalty but as liquidated damages, the amount due.

6.10.4 Right of Collection: CFX reserves the right, at its sole option, to apply as payment on liquidated damages due any money which is due the Contractor by CFX.

6.10.5 Allowing the Contractor to Finish Work: Allowing the Contractor to continue and to finish the Work or any part of it, after the expiration of the Contract time allowed, including time extensions, shall in no way act as a waiver on the part of CFX of the liquidated damages due under the Contract.

6.10.6 Liability for Liquidated Damages: In the event of default of the Contract and the completion of the Work by CFX, the Contractor and the Contractor's surety shall be liable for the liquidated damages under the Contract. No liquidated damages shall be chargeable for any delay in the final completion of the Work due to any unreasonable action or delay on the part of CFX.

#### 6.11 Release of Contractor's Responsibility

The Contract will be considered completed when all Work has been finally accepted, in writing, by CFX. The Contractor will then be released from further obligation except as set forth in the Public Construction Bond and as provided in subarticle 3.9.5, Recovery Rights Subsequent to Final Payment.

#### 6.12 Recovery of Damages Suffered by Third Parties

In addition to liquidated damages, CFX may recover from the Contractor amounts paid by CFX for damages suffered by third parties unless the failure to timely complete the Work was caused by CFX acts or omissions.

#### 6.13 Express Warranty

The Contractor warrants and guarantees the Work to the full extent provided for in and required by the Contract Documents. Without limiting the foregoing or any other liability or obligation with respect to the Work, the Contractor shall, at its expense and by reason of its express warranty, make good any faulty, defective, or improper parts of the Work discovered within one (1) year from the date of final acceptance of the Project, expressed in writing, by CFX. The Contractor also warrants that all materials furnished hereunder meet the requirements of the Contract Documents and expressly warrants that they are both merchantable and fit for the purpose for which they are to be used under the Contract Documents.



Should any subcontractor or material supplier of Contractor provide an express warranty for its work or materials to the Contractor which is thereafter assigned to CFX or provide a warranty for its work or materials directly to CFX, such warranty shall not preclude CFX from the exercise of any alternative means of relief against Contractor, whether contractual, extra-contractual, statutory, legal or equitable.

END OF SECTION 6

## SECTION 7 - MEASUREMENT AND PAYMENT

### 7.1 Measurement of Quantities

7.1.1 Measurement Standards: Unless otherwise stipulated, all Work completed under the Contract shall be measured by CFX according to United States Standard Measures.

7.1.2 Method of Measurements: All measurements shall be taken horizontally or vertically unless otherwise stipulated in the Specifications.

7.1.3 Determination of Pay Areas:

7.1.3.1 Final Calculation: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is determined by calculation, the lengths and/or widths used in the calculations shall be either 1) the station to station dimensions shown on the Plans, 2) the station to station dimensions actually constructed within the limits designated by CFX or 3) the final dimensions measured along the surface of the completed Work within the neat lines shown on the Plans or designated by CFX. The method or combination of methods of measurement shall be those that reflect, with reasonable accuracy, the actual plane surface area, irrespective of surface and texture details of the finished Work as determined by CFX.

7.1.3.2 Plan Quantity: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is designated to be the plan quantity, the final pay quantity shall be the plan quantity subject to the provisions of subarticle 7.3.2. In general, the plan quantity shall be calculated using lengths based on station to station dimensions and widths based on neat lines shown on the Plans.

7.1.4 Construction Outside Authorized Limits: Except where such Work is performed upon written instruction of CFX, no payment will be made for surfaces constructed over a greater area than authorized or for material moved from outside of slope stakes and lines shown on the Plans.

7.1.5 Truck Requirements:

The Contractor shall certify that all trucks used have a manufacturer's certification or permanent decal showing the truck capacity rounded to the nearest tenth of a cubic yard placed on both sides of the truck. The capacity shall include the truck body only and any side boards added shall not be included in the certified truck body capacity.

7.1.6 Ladders and Instrument Stands for Bridge Construction: To facilitate necessary measurements, the Contractor shall provide substantial ladders to the tops of piers

and bents and shall place and move ladders as required by the CEI. For bridges crossing water or marshy areas, the Contractor shall provide fixed stands for instrument mounting and measurements.

## 7.2 Scope of Payments.

### 7.2.1 Items Included in Payment:

Accept the compensation as provided in the Contract as full payment for furnishing all materials and for performing all work contemplated and embraced under the Contract; also for all loss or damage arising out of the nature of the work or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its final acceptance; also for all other costs incurred under the provisions of the General Specifications.

For any item of work contained in the proposal, except as might be specifically provided otherwise in the basis of payment clause for the item, include in the Contract unit price (or lump sum price) for the pay item or items the cost of all labor, equipment, materials, tools, and incidentals required for the complete item of work, including all requirements of the Section specifying such item of work, except as specifically excluded from such payments.

7.2.2 Non-Duplication of Payment: In cases where the basis of payment clause in these Specifications relating to any unit price in the bid schedule requires that the unit price cover and be considered compensation for certain work or material essential to the item, CFX will not measure or pay for this same work or material under any other pay item that may appear elsewhere in these Specifications.

## 7.3 Compensation for Altered Quantities

7.3.1 General: When a change or combination of changes in the Plans results in an increase or decrease in the original Contract quantities and the Work added or deleted is of the same general character as that shown on the original Plans, the Contractor shall accept payment in full at the original Contract unit prices for the actual quantities of Work done. No allowance will be made for any loss of anticipated profits because of increase or decreases in quantities provided, however, that increased or decreased Work covered by a Supplemental Agreement will be paid for as stipulated in the Supplemental Agreement.

Compensation for alterations in Plans or quantities of Work requiring Supplemental Agreements shall be stipulated in such agreement, except when the Contractor proceeds with the Work without change of price being agreed upon. The Contractor

shall be paid for such increased or decreased quantities at the Contract unit prices bid in the Proposal for the items of Work. If no Contract unit price is provided in the Contract, the Contractor agrees to do the Work in accordance with Subarticle 2.3.2 of these General Specifications.

### 7.3.2 Payment Based on Plan Quantity:

7.3.2.1 Error in Plan Quantity: When the pay quantity for an item is designated to be the original plan quantity, such quantity will be revised only in the event that the quantity increases or decreases by more than 5% of the original plan quantity or the amount due for the item increases or decreases by more than \$5,000, whichever is smaller. In general, such revisions will be determined by final measurement or plan calculations (or both) as additions to or deductions from plan quantities. Changes resulting in pay quantity increase or decrease in excess of 25% will be in accordance with the criteria for significant changes as defined in subarticle 2.3.1 of these General Specifications.

If the Contractor determines that the plan quantity for any item is in error and additional or less compensation is due, the Contractor shall submit evidence of such error to CFX in the form of acceptable and verifiable measurements and calculations.

Similarly, if CFX determines an error or errors exist, it will make its measurements and calculations available to the Contractor. The plan quantity will not be revised solely on the basis of the Contractor's method of construction.

For earthwork items, the claimant must note any differences in the original ground surfaces from that shown in the original plan cross-sections that would result in a substantial error to the plan quantity, and must be properly documented by appropriate verifiable level notes, acceptable to both the Contractor and CFX, and provide sufficient opportunity to verify the data prior to disturbance of the original ground surface by construction operations. The claimant shall support any claim based upon a substantial error for differences in the original ground surface by documentation as provided above.

7.3.2.2 Authorized Changes in Limits of Work: When the pay quantity for an item is designated to be the original plan quantity and a plan change is authorized resulting in an increase or decrease in the quantity of an item, the plan quantity will be revised accordingly provided that such change will increase or decrease the amount due for more than \$100. In general, such revisions will be determined by final measurement or plan calculations or both, subject to the provisions of Subarticle 2.3.2 of these General Specifications.

7.3.2.3 Specified Adjustments to Pay Quantities: The limitations detailed in Subarticles 7.3.2.1 and 7.3.2.2 do not apply when 1) the Specifications provide that the pay quantity for an item to be paid for on the basis of area of finished Work is to be adjusted according to the ratio of measured thickness to nominal thickness, 2) the Specifications provide for a deduction due to test results falling outside of the allowable specification tolerance or 3) paying for extra length fence posts as detailed in the Standard Specifications Section 550, Fencing, sub article 550-6.3, Payment Rates for Extra-Length Posts.

### 7.3.3 Lump Sum Quantities:

7.3.3.1 Error in Plan Quantity: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated quantity, the lump sum compensation will be adjusted only in the event that either the Contractor submits satisfactory evidence or CFX determines and furnishes satisfactory evidence that the plan quantity shown is substantially in error as defined in 7.3.2.1.

7.3.3.2 Authorized Changes in the Work: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated plan quantity, compensation for that item will be adjusted proportionately when a plan change results in a significant increase or decrease in the quantity from the estimated plan quantity. When the Plans do not show an estimated plan quantity or the Specifications do not provide adjustments for contingencies, any authorized plan changes resulting in a significant increase or decrease in the cost of acceptably completing the item will be compensated for by establishing a new unit price through a Supplemental Agreement as provided in Subarticle 2.3.2. of these General Specifications.

7.3.4 Deviation from Plan Dimensions: If the Contractor fails to construct any item to plan or to authorized dimensions within the specified tolerances, the CEI, at his discretion will: require the Contractor to reconstruct the work to acceptable tolerances at no additional cost to CFX; accept the work and provide the Contractor no pay; or accept the work and provide the Contractor a reduced final pay quantity or reduced unit price. CFX will not make reductions to final pay quantities for those items designated to be paid on the basis of original plan quantity or a lump sum quantity under the provisions of this Article unless such reduction results in an aggregate monetary change per item of more than \$100, except that for earthwork items, the aggregate change must exceed \$5,000 or 5% of the original plan quantity, whichever is smaller. If, in the opinion of the CEI, the Contractor has made a deliberate attempt to take advantage of the construction tolerances as defined in Article 120-12.1 of the Standard Specifications to increase borrow excavation in fill sections or to decrease the required volume of roadway or lateral ditch excavation or embankment, CFX will

take appropriate measurements and will apply reductions in pay quantities. CFX will not use the construction tolerance, as defined in Article 120-12.1, as a pay tolerance. The construction tolerance is not to be construed as defining a revised authorized template.

7.4 Force Account Work: Work performed in addition to that set forth in the original Contract and which is paid for on the basis of actual cost of the Materials and labor, plus a fixed percentage of such costs, and at agreed rental rates for major Equipment used.

7.4.1 Method of Payment: All Work done on a force account basis performed by such labor, tools and Equipment as necessary to accomplish the Work, and authorized by CFX, will be paid for in the following manner:

(a) Labor:

Payment for labor and burden shall be based on actual costs of alteration, change, additional or unforeseen Work, plus a markup of 25%, agreed upon in writing before starting such Work, for every hour that the labor is actually engaged in such Work. Such amount shall be considered as full compensation for general supervision and the furnishing and repairing of small tools used on the Work. Agreed wage rates shall not be in excess of the rates paid for comparable Work on the Project.

(b) Materials and Supplies:

Payment for Materials and supplies, directly related to the alteration, change, additional or unforeseen Work, accepted by CFX and used on the Project shall be based on actual costs of such Materials incorporated into the Work, including Contractor paid transportation charges (exclusive of Equipment as hereinafter set forth), plus a markup of 17.5%. Material is defined as any item used in the Work that remains a part of the Project. The cost of supplies may be the pro-rata portion caused by the alteration, change, additional or unforeseen Work.

(c) Equipment:

The use of each piece of such machinery or Equipment and rental rates must be agreed upon in writing before the force account Work is begun.

Payment for Contractor owned machinery or Equipment (other than small tools) shall be determined as described below, plus a markup of 7.5%. Payment for rented Equipment shall be based on invoice cost plus 7.5%.

The portion of the cost for machinery or Equipment shall be based on the lesser of actual cost or “Rental Rate Blue Book for Construction Equipment” (RRBB) or “Rental Rate Blue Book for Older Construction Equipment” (RRBBOCE) as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at time of bid) using all instructions and adjustments contained therein and as modified below.

On all projects, CFX will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the RRBB and/or RRBBOCE. Allowable Machinery and Equipment Rates will be established as set out below:

- 1.) Reimbursement for the Equipment being operated shall be at a rate of 100% of the RRBB and/or 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 mark ups 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. In the event the sum of the Preliminary Order-of-Magnitude Estimate results in a Rapid Response Task Order total amount exceeding the allowable dollar limit set forth by CFX as governed by F.S. 255.20(2), CFX will be immediately notified and CFX has the right to reject the force Account Work as unauthorized.

#### 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 ten (10) 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 fifteen (15) 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 fifteen (15) days from the date of the tentative final estimate to resolve any outstanding issues. At the end of the fifteen (15) 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 fifteen (15) calendar days of the Offer of Final Payment shall constitute full acceptance of the balance due without qualification.

If the Contractor provides a qualified acceptance letter, then the Contractor agrees that a complete claim package in accordance with Article 2.4 of the General Specifications, and limited to the particulars in the qualified acceptance letter, will be provided within 120 calendar days of the Offer of Final Payment. Additionally, the Contractor agrees that any pending or future arbitration must be limited to the particulars in the qualified acceptance letter and must begin within 210 calendar days from the date of the Offer of Final Payment.

- B) The Contractor has properly maintained the Project as specified hereinbefore.
- C) The Contractor has furnished a sworn affidavit to the effect that all bills are paid and no suits are pending (other than those exceptions listed if any) in connection with the Work of the Contract and that the Contractor has not offered or made any gift or gratuity to or made any financial transaction of any nature with, any employee of CFX. Tort liability exceptions, if any, shall be accompanied by evidence of adequate insurance as required in Article 5.11 of these General Specifications.
- D) The surety on the Public Construction Bond has consented (by completion of its portion of the affidavit and surety release) to final payment to the Contractor and agrees that the making of such payment shall not relieve the surety of any of its obligations under the bond.
- E) The Contractor has submitted all mill tests and analysis reports to CFX.
- F) The Contractor has submitted insurance certificates for extended coverage as required by Article 5.11 of these General Specifications.

- G) The Contractor has previously submitted Record Drawings as required by Article 3.3.1 of these General Specifications.
- H) The Contractor has submitted the completed density log book as required by Article 120-10.4.2 of the Technical Specifications.
- I) The Contractor has submitted the final material testing certification as required by Article 105-6 of the Technical Specifications.
- J) The Contractor has submitted all warranties and operation and maintenance manuals required by various Articles and Subarticles of Specifications.

If the Contractor fails to furnish all required Contract Documents listed in B) through J) of this Article within 90 calendar days of the Offer of Final Payment, CFX may deduct from the retainage due the Contractor, \$1,000 for each calendar day beyond the 90 calendar days that the Contractor fails to provide the required Contract Documents.

#### 7.10 Offsetting Payments

If payment of any amount due CFX after settlement or arbitration is not made by the Contractor within 60 days, CFX may, at its sole discretion, offset such amount from payments due the Contractor for Work performed under any other contract with CFX, excluding amounts owed to subcontractors, suppliers and laborers. Offsetting any amount in this manner shall not be considered a breach of the Contract by CFX.

END OF SECTION 7

SECTION 8 – DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISE  
(D/M/WBE) PARTICIPATION

- 8.1 General: The Contractor is encouraged to continue to meet or demonstrate the participation objectives could not be met. At any time, CFX's Executive Director may grant a partial or complete waiver of the D/M/WBE objective for the Project due to consideration of property, public safety, and health, including financial impact to CFX.

CFX has provided an exception for the Contractor's failure to meet the participation objective established for this project. The exception requires that the Contractor provide CFX with documentation supporting the Contractor's Good Faith Effort to meet the stated objective. CFX will have the sole and final determination of whether the support documentation provided by the Contractor does, in fact, meet CFX's standard for a Good Faith Effort as detailed in this Section 8. The Contractor shall demonstrate, through documentation, that every reasonable effort has been made to achieve CFX's participation objective. The Contractor shall be responsible for securing proof of the D/M/WBE certification(s) for the proposed subcontractors/suppliers and be able to provide copies of the certification(s) to the CFX's Supplier Diversity Office.

The Contractor shall use good faith efforts to meet or exceed a D/M/WBE Goal of 15% of the sum of the approved RRTOs in accordance with the Agreement (page P-6).

As to a specific RRTO, the Contractor shall meet or exceed the amounts to be paid to D/M/WBEs stated in the Contractor's RRTO D/M/WBE Utilization Form (page P-7 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 RRTO D/M/WBE Utilization Form will require prior approval by the CFX Director of Supplier Diversity. Should the Contractor determine that a subcontractor/supplier named in the Utilization Form is unavailable or cannot perform the work, the Contractor shall request approval of a revised D/M/WBE Utilization Form. The revised Utilization Form shall be submitted, in writing, to the CFX Supplier Diversity Office at 4974 ORL Tower Road, Orlando, Florida 32807, or by facsimile to (407) 690-5011.



The Contractor will not be allowed to perform Work with its forces that has been identified on the Utilization Form to be performed by D/M/WBE firms. If a D/M/WBE subcontractor is unable to successfully perform the Work, the Contractor shall make a Good Faith Effort to replace that firm with another D/M/WBE firm. In evaluating a Contractor's Good Faith Efforts, CFX will consider:

- (1) Whether the Contractor, provided written notice to certified D/M/WBEs performing the type of Work that the Contractor intends to subcontract, advising the D/M/WBEs (a) of the specific Work the Contractor intends to subcontract; and (b) that their interest in the Contract is being solicited;
- (2) Whether the Contractor provided interested D/M/WBEs assistance in reviewing the Contract Plans and Specifications;
- (3) Whether the Contractor assisted interested D/M/WBEs in obtaining any required bonding, lines of credit, or insurance;
- (4) Whether the Contractor's efforts were merely pro forma and given all relevant circumstances, could not reasonably be expected to produce sufficient D/M/WBE participation to meet the objective.

The above list is not intended to be exclusive or exhaustive and CFX will look not only at the different kinds of efforts that the Contractor has made but also the quality, quantity and intensity of these efforts.

## 8.2 Disadvantaged, Minority and Women Owned Businesses - Participation Objective

8.2.1 General: The Contractor shall ensure that D/M/WBE as defined herein will have the maximum opportunity to participate in the performance of subcontracts. In this regard, the Contractor shall take all necessary and reasonable steps to accomplish that result.

8.2.2 Definitions: The following words and phrases shall have the respective meanings set forth below unless a different meaning is plainly required by the context:

- (1) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States or lawfully admitted permanent residents and who are women, Black Americans, Hispanic American, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Individuals in the following groups are presumed to be socially and economically disadvantaged:
  - (a) "Black Americans", which includes persons having origins in any of

the black racial groups of Africa;

- (b) “Hispanic Americans”, which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;
  - (c) “Asian-Pacific Americans”, which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific and the Northern Marianas;
  - (d) “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
  - (e) “Asian-Indian Americans”, which includes persons whose origins are from India, Pakistan, and Bangladesh; and
  - (f) “Women”.
- (2) “Joint Venture” means an association of two or more firms to carry out a single business enterprise for which purpose the firms combined their property, money, effects, skills or knowledge.
  - (3) “Certified” means a finding by Orange County, Florida, the City of Orlando, Florida, and Florida Department of Transportation that the business is a bona fide Minority, Women or Disadvantaged owned and operated business.
  - (4) “Independently Owned and Operated” means a business that is not affiliated or associated with the general contractor or prime contractor providing work or services on CFX project(s) or procurement in which the D/M/WBE seeks to participate. Affiliated status may be determined through common ownership, management, employees, facilities, inventory or any other factors, which would prevent or inhibit independent status
  - (5) “Women Business Enterprise” comprises all women. All women business owners will be classified as a Women Business Enterprise.

8.2.3 Specific Requirements: The Contractor shall, among other things, implement techniques to facilitate D/M/WBE participation in contracting activities including, but not limited to:

1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations;
2. Providing assistance to D/M/WBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance;
3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate;
4. Contacting Minority Contractor Associations, city, and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible D/M/WBE contractors to apply for certification.
5. Meeting with appropriate officials of CFX, including its Supplier Diversity Office, to assist with the Contractor's efforts to locate D/M/WBEs and assist with developing joint ventures, partnering, and mentorship.

8.2.4 Qualified Participation: CFX will count D/M/WBE participation toward meeting D/M/WBE objective as follows:

1. The total dollar value of the contract to be awarded to the certified D/M/WBE will not be counted toward the applicable D/M/WBE objective unless approved by CFX.
2. A portion of the total dollar value of a contract, with an eligible joint venture, equal to the percentage of the ownership and control of the D/M/WBE partner in the joint venture may be counted toward the D/M/WBE objective.
3. Only expenditures to D/M/WBEs that perform a commercially useful function may be counted toward the D/M/WBE objective. A D/M/WBE is considered to perform a commercially useful function when it actually performs and manages at least 51 percent of the work subcontracted to it. To determine whether a D/M/WBE is performing a commercially useful function, CFX will evaluate all relevant factors such as the amount of Work subcontracted and industry practices.
4. Consistent with normal industry practices, a D/M/WBE may enter into

subcontracts. If a D/M/WBE subcontracts 50 percent or more of the Work assigned to it, the D/M/WBE shall be presumed not to be performing a commercially useful function.

5. Expenditures for materials and supplies obtained from D/M/WBE suppliers and manufacturers may be counted toward the D/M/WBE objective, provided that the D/M/WBEs assume the actual and contractual responsibility for the provision of the materials and supplies. The percentage allowed toward the D/M/WBE objective is as follows:
  - (a) All expenditures to a D/M/WBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale) may be counted toward the D/M/WBE objective.
  - (b)
    1. A Contractor may count toward its D/M/WBE objective 60 percent of its expenditures for materials and supplies required under a contract and obtained from a D/M/WBE regular dealer, and 100 percent of such expenditures to a D/M/WBE manufacturer.
    2. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.
    3. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this Section.

(c) A Contractor may count toward the D/M/WBE objective for the following expenditures to D/M/WBE firm(s) that are not manufacturers or regular dealers:

1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials of supplies required for performance of the Contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.
2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
4. Those sums that, subsequent to the receipt of bids, CFX elects, under the provisions of the Direct Materials Purchase Option, to purchase materials originally proposed by the Contractor to CFX to have been an element of the Work of a certified D/M/WBE contractor/subcontractor/vendor.

8.2.5 Records and Reports: The Contractor shall develop a record keeping system to monitor its D/M/WBE participation and shall maintain the following records:

1. the procedures adopted to comply with these special provisions;
2. The number of subordinated contracts on CFX projects awarded to D/M/WBEs;
3. the dollar value of the contracts awarded to D/M/WBEs;

4. the percentage of the dollar value of all subordinate contracts awarded to D/M/WBEs as a percentage of the total contract amount;
5. a description of the general categories of contracts awarded to D/M/WBEs;
6. the specific efforts employed to identify and award contracts to D/M/WBEs;
7. maintenance of records of payments and monthly reports to CFX;
8. Subcontract Agreement between Contractor and D/M/WBE subcontractors; and
9. any other records required by CFX's Project Manager or Executive Director.

The records maintained by the Contractor in accordance with this Section shall be provided to CFX for review within 48 hours of the CFX request. The Contractor shall submit a properly executed D/M/WBE Payment Certification monthly during the life of the D/M/WBE subcontract whether payment is made or not.

### 8.3 Subletting of Contracts - Participation Objective

No request to sublet Work will be approved unless it is in compliance with the Contractor's approved D/M/WBE Utilization Form "Certification of Subcontract Amount to D/M/WBE Contractor", shall be completed and submitted with the Request For Authorization To Sublet Work. One copy of the certification will be attached to each copy of the Request For Authorization To Sublet Work.

END OF SECTION 8

## SECTION 9 - BINDING ARBITRATION

9.1 CFX and the Contractor shall submit any and all unsettled claims, counterclaims, and disputes to the Disputes Review Board (DRB) prior to initiating a demand for arbitration pursuant to this Section.

9.2 No demand for arbitration of any claim, dispute or other matter referred to the DRB initially for decision will be made until after final acceptance, per Article 3.9, of all Contract Work by CFX. The filing party shall pay all applicable fees associated with requested arbitration proceedings.

The failure to demand arbitration within thirty (30) days after final acceptance will result in the DRB's decision being final and binding upon CFX and Contractor.

9.3 Notice of the demand for arbitration is satisfied when it is filed in writing with the other party to the Contract and with the American Arbitration Association (including required fees). A copy will be sent to the Board for information.

9.4 The arbitration shall occur in Orlando, Florida and shall be conducted by a three (3) member panel pursuant to and under the auspices of the Construction Industry Arbitration Rules of the American Arbitration Association.

9.5 Procedure for Binding Arbitration

Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining, subject to the limitations of this Section. The agreement to arbitrate (and any other agreement or consent to arbitrate entered into in accordance herewith) will be specifically enforceable under the laws of Florida.

Arbitration shall include by consolidation, joinder or in any other manner any person or entity who is not a party to the Contract in circumstances where:

- the inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration, and
- such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings, and
- the written consent of the other person or entity sought to be included and of CFX and Contractor has been obtained for such inclusion, which consent shall make specific reference to this paragraph.

In order to assure complete resolution of any claim or controversy, the Contractor shall provide and require (in the agreements with subcontractors and material suppliers) for joinder in such arbitration proceedings. Therefore, if a claim, dispute or other matter in question between CFX and Contractor involves the work of a Subcontractor, either CFX or Contractor may join such subcontractor as a party to the arbitration. Nothing in this paragraph or in the provision of such subcontract consenting to joinder shall create any claim, right or cause of action in favor of subcontractor or supplier, and against CFX, CEI, or any of their consultants that does not otherwise exist.

In connection with the arbitration proceedings all participants shall be afforded pre-hearing discovery in accordance with the rules of the American Arbitration Association.

END OF SECTION 9



## SECTION 10- DISPUTES RESOLUTION

### 10.1 Disputes Resolution

#### 10.1.1 Disputes Review Board

A Disputes Review Board (“Board”) will be established to assist in the resolution of disputes arising out of the Work on the Project. This document describes the purpose, procedure, function and features of the Board.

The Board will provide special expertise to assist and facilitate the timely and equitable resolution of disputes and controversies between CFX and the Contractor in an effort to avoid construction delays and future claims.

It is not intended for CFX or the Contractor to avoid the normal responsibility to cooperatively and fairly settle differences by indiscriminately requesting dispute resolution by the Board. It is intended the Board encourage CFX and the Contractor to first try resolving potential disputes without resorting to the procedure set forth herein.

The Board will be used only when the claims procedure detailed in the Contract has been followed and has been unsuccessful. It is a condition of the Contract that the parties use the Board. Adherence to the Contract claims procedure is a condition precedent to the submission of a dispute to the Board, and the submission of an unresolved dispute to the Board is, in turn, a condition precedent to arbitration of such issue.

The Board will fairly and impartially consider disputes referred to it. The Board will receive testimony and other relevant evidence regarding such disputes, will analyze the facts within the parameters of the Contract, and will then provide written recommendations (to CFX and Contractor) to assist in the resolution of the disputes. The recommendations of the Board will not be binding on either CFX or the Contractor; however, the Board’s recommendations and findings shall be admissible for all purposes in any subsequent arbitration proceedings or the judicial enforcement thereof.

#### 10.1.2 Continuance of Work During Dispute

During the dispute resolution process the Contractor shall conform to the CEI’s decision or order and continue with the Work as directed by the CEI in a diligent manner and without delay. Such Work will be governed by all applicable provisions of the Contract. With respect to any protested Work, the Contractor will keep complete records of extra costs and time incurred. Except for sealed Bid Records, the Contractor will permit CEI and the Board access to any records needed for evaluating the dispute, without any claim of privilege or confidentiality.

### 10.1.3 Disputes Review Board Membership

The Board will consist of three Members, one Member selected by CFX and approved by the Contractor, and one Member selected by the Contractor and approved by CFX. The first two Members will mutually select and agree on the third Member, which third Member shall not be subject to approval by either the Contractor or CFX. Normally, the third Member will act as Chairman for all Board activities. If the third Member declines to act as Chairman, the Members shall select an alternative Chairman. Neither the Contractor nor CFX shall seek to influence the Chairman selection decision.

The Contractor and CFX shall each submit the name and credentials of their proposed Member to the other within ten (10) days of the Contract award. The two Members, upon acceptance, shall meet promptly and mutually agree on the third Member. A Notice to Proceed shall not be issued until the Board Members have been selected and have signed the Three-Party Agreement. All three Members shall attend the Pre-Construction Meeting.

All Board Members shall be experienced with major road and bridge construction and the associated construction methods involved in the Project, in the interpretation of contract documents and in contract dispute resolution. The goal in selecting the third Member is to complement the construction experience of the first two Members and to provide leadership of the Board's activities.

It is imperative that Board Members show no partiality to either the Contractor or CFX, or have any conflict of interest.

The criteria and limitations for membership will be as follows:

- a. The person selected will not have any direct or indirect ownership or financial interest in (i) the Contractor, (ii) CEI or the CFX General Engineering Consultant ("GEC"), (iii) any subcontractor or supplier of the Project, or (iv) the employer of other Board Members.
- b. Except for services as a Board Member on CFX projects, no Member shall have been an employee, contractor or consultant to the Contractor or CFX, CEI, the GEC or any subcontractor or supplier for the Project within a period of ten (10) years prior to the Contract award.
- c. No Member will have had a close personal, professional or business relationship with CFX or the Contractor (or an employee or officer of CFX or the Contractor).
- d. No Member will have had any prior involvement in the Project (other than as a dispute board member) of a nature which could be construed to compromise an ability to impartially resolve disputes.

- e. No Member will be employed by the Contractor, the CEI, the GEC or any subcontractor or supplier of the Project during the term of the Contract, except as a Board Member pursuant to the Three Party Agreement.
- f. During the term of the Contract no discussion or agreement will be made between a Board Member and CFX or Contractor regarding employment after the Contract is completed.
- g. During the term of the Contract, ex-parte communications between a Board Member and a party to the Three Party Agreement is prohibited.

Before appointments are final, the first two prospective Members will submit complete disclosure statements for the approval of both CFX and the Contractor. Each statement (in the form prepared by CFX) will include a statement of experience and a declaration describing all past, present and anticipated or planned future relationships to the Project and with the parties to the Contract. Disclosure of professional or personal relationships with parties to the Contract will be included. The third Board Member will supply a similar statement to the first two Board Members (and to CFX and the Contractor) before the third Member appointment is finalized.

CFX and the Contractor will each select a Member, execute the Three Party Agreement (described below) and assure the Members execute the Three-Party Agreement within the first three (3) weeks after Contract award. CFX and the Contractor will immediately notify the selected Members to begin selection of the third Member. The first two Members will ensure the third Member meets all of the criteria listed above. The third Member will be selected within two (2) weeks after the first two Members are notified to proceed with the selection of the third Member. If there is an impasse in the selection of the third Member, the third Member will be selected by CFX and the Contractor, with the first consideration to the nominees reviewed by the first two Members.

In the event of death, disability or resignation of a Member, such Member shall be replaced in the same manner as the Member being replaced was selected. If for whatever other reason a Member fails or is unable to serve, the Chairman (or failing the action of the Chairman, then either of the other Members) shall inform the parties and such non-serving Member shall be replaced in the same manner as the Member being replaced was selected. Any replacement made by the parties shall be completed within fifteen (15) days after the event giving rise to the vacancy on the Board, failing which the replacement shall be made by the two remaining Members of the Board. Replacement shall be considered completed when the new Member executes the Dispute Review Board Three Party Agreement.

#### 10.1.4 Board Operations

The Board will formulate procedures of operation that shall be flexible with respect to the functioning of the Board. The Board may formulate new or revised procedures respecting its operation from time to time to accommodate the needs of the Board and the circumstances.

Each Board Member shall be provided a complete set of the Contract Documents. CFX and the Contractor shall keep the Board informed of construction activity and progress by submitting written progress reports and other relevant data at least monthly. The Board will visit the Project at regular intervals and/or at times of critical construction events and meet with CEI and the Contractor. In circumstances of unresolved disputes, the Board will meet at least monthly until the unresolved disputes are concluded. The frequency of visits will be agreed upon by CFX, the Contractor and the Board, depending upon the progress of the Work.

Regular meetings will be held at the job site. Each meeting will consist of an informal discussion and a field inspection of the Work. The informal discussion will be attended by selected personnel from CFX, the CEI and the Contractor. Agenda for regular meetings of the Board will generally include the following:

- a. Meeting opened by the Chairman of the Board.
- b. Remarks by the CEI.
- c. A description by the CEI and the Contractor of Work accomplished since the last meeting, current status of the Work schedule, schedule for the future, potential problems and proposed solutions to anticipated problems.
- d. Discussion by the CEI of Work schedule, potential new disputes or claims, status of past disputes and claims and other issues.
- e. Set a date for next meeting.

The CEI will prepare minutes of all Board meetings and circulate them for comments, revisions and/or approval by all concerned.

The field inspection will cover all active segments of the Work. The Board will be accompanied by representatives of both the CEI and the Contractor. Soliciting any Board Member's advice or consultation regarding the Work or the Contract is expressly prohibited.

#### 10.1.5 Procedure for Disputes Resolution

Disputes will be considered as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation. Steps may be omitted as agreed by both parties and the time periods stated below may be shortened in order to hasten resolution.

- a. If either CFX or Contractor object to any decision of the CEI with respect to claims, change order requests, or other actions or orders of the CEI, the objecting party may file a written protest with the CEI within fifteen (15) days after the CEI's disputed decision, action or order. The written protest must clearly state in detail the basis for the objection.
- b. The CEI will consider the written protest to its decision or directive, and make a final decision on the basis of the pertinent Contract provisions, together with the facts and circumstances involved in the protest. The decision will be furnished to CFX and Contractor in writing within fifteen (15) days after receipt of the written protest.
- c. The CEI's decision with respect to the protest will be final, unless a written exception is filed by CFX or Contractor with the CEI within fifteen (15) days after receiving the protest decision. If either rejects the CEI's final decision, the disputed matter may be referred to the Board by either CFX or the Contractor.
- d. Upon receipt by the Board of a written dispute, the Board will first decide when to conduct the hearing. If the matter is not urgent, it may be heard at the next regularly scheduled Board meeting. For an urgent matter, the Board will meet at its earliest convenience.
- e. Either party furnishing written evidence or documentation to the Board will furnish copies of such information to the other party a minimum of fifteen (15) days prior to the date the Board sets to hear the dispute. If the Board requests additional documentation or evidence prior to, during or after the hearing, CFX and/or the Contractor will provide the requested information to the Board and to the other party. Because each side needs a reasonable opportunity to understand and rebut the opposing side's point of view, failure of either party to timely provide written documentation in accordance with this provision shall result in such written documentation being excluded from the hearing before the Board unless the other party consents to its admission or consents to a delay in the hearing.

- f. The Contractor and CFX will each be afforded an opportunity to be heard by the Board and to offer evidence. The Board will consider all relevant evidence presented and analyze the same solely within the parameters of the Contract. Hearsay evidence shall be admissible but shall not be the sole basis for any recommendation of the Board.
- g. The Board's recommendations for resolution of the dispute will be given in writing within fifteen (15) days of completion of the hearing(s). In cases of extreme complexity, both parties may agree to allow additional time for the Board to formulate its recommendations. Generally, the Board will initially focus its attention (in the written report) only to matters of entitlement, and allow the parties to thereafter determine the monetary relief. If both parties request, and sufficient documentation is available, the Board may also make a recommendation of monetary relief, but only after formulation of the entitlement recommendation and only after the parties have attempted to agree upon the monetary relief amount.
- h. If the Board's recommendation for resolution is not unanimous, the dissenting member shall prepare a separate written opinion.
- i. Within fifteen (15) days of receiving the Board's recommendations, both CFX and the Contractor will respond to the other and to the Board in writing, signifying either acceptance or rejection of the Board's recommendations. The failure of a party to respond within the fifteen (15) day period will be deemed an acceptance by such party of the Board's recommendations. If CFX and the Contractor are able to resolve the dispute (with or without the aid of the Board's recommendations), CFX will promptly process any required Contract changes.
- j. If the dispute remains unresolved because of a bona fide lack of clear understanding of the recommendation, either party may request the Board clarify specific portions of its recommendations. Further, if new evidence becomes available, either party may request the Board reconsider its prior recommendation. Only evidence which did not exist at the time of the hearing, or which existed but which could not be discovered with reasonable and normal diligence shall be considered new evidence.
- k. If the Board's recommendation is rejected, either party may thereafter initiate resolution of the dispute by binding arbitration conducted pursuant to the Contract.

Both CFX and the Contractor should carefully consider the Board's recommendations, as the recommendations are binding unless written notice is provided to the other party within 30 days of the recommendations stating the party's intent to bring the disputed issue to arbitration. However, if the Board's recommendations do not resolve the dispute, all records and written recommendations, including any minority reports, will be admissible for informational purposes in any subsequent dispute resolution procedures. Such informational purposes shall include but not be limited to establishing that the Board considered the dispute, the qualifications of the Board Members, and the Board's recommendation that resulted from the dispute resolution process.

#### 10.1.6 Conduct of Disputes Hearings

Each party shall file three copies of its written arguments with the Board no less than seven days prior to the scheduled hearing and shall simultaneously deliver a copy of such written arguments to the opposing party. Each party shall also submit to the Board along with its written arguments copies of its written evidence and documentation which has been previously provided to the opposing party as provided above.

Normally, the hearing will be conducted at the job site. However, any location more convenient and which provides all required facilities and access to necessary documentation is satisfactory.

While the Board will keep a record of its sessions during consideration of a dispute, the Board will not be required to keep its record in any particular form. The nature and completeness of the record will depend upon the nature and magnitude of the dispute and the desires of the parties. If possible, the hearings shall be kept informal. Formal records of the Board meetings may be taken and transcribed by a court reporter if requested by a party (at the requesting party's cost). Audio and/or video recording of the meeting is discouraged and shall only be made with the prior agreement of all parties and a majority of the Board.

CFX and the Contractor will have representatives at all dispute resolution hearings. The party requesting Board review will first discuss the dispute, followed by the other party. Each party will then be allowed successive rebuttals until all aspects are fully covered to the Board's satisfaction. The Members and the parties may ask questions, request clarification or ask for additional data. In large or complex cases, additional hearings may be necessary in order to consider and fully understand all evidence presented by both parties.

During the hearings, no Member will express any opinion concerning the merit of any facet of the dispute.

After the hearings are concluded, the Board will meet in private to formulate recommendations supported by two or more Members. All Board deliberations will be conducted in private, with individual views kept strictly confidential. No minutes shall be

prepared of the Board's private meetings. The Board's recommendations and discussions of its reasoning will be submitted as a written report to both parties. The recommendations will be based on the pertinent Contract provisions and the facts and circumstances involved in the dispute.

The Board will make every effort to reach a unanimous decision. If a unanimous decision is not possible, the dissenting Member may (but is not required to) prepare a minority report.

#### 10.1.7 Compensation

The Contractor shall pay the fees of all three Board Members for services rendered under the Three Party Agreement. An allowance pay item has been established in the Contract for the reimbursing the Contractor. Funds remaining in the pay item, if any, at the completion of the Project will belong to CFX. CFX and the Contractor shall agree on the procedures and method of processing payments made against the allowance. CFX or the CEI will mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services. If the Board desires special services, such as legal consultation, accounting, data research, etc., both parties must agree and the costs will be paid from the allowance.

#### 10.1.8 Three Party Agreement

The Contractor, CFX and the Members of the Board will execute the Dispute Review Board Three Party Agreement within four (4) weeks of the final selection of the third Member.

END OF SECTION 10



**ATTACHMENT A**

**DISPUTES REVIEW BOARD  
THREE PARTY AGREEMENT**

**THIS THREE PARTY AGREEMENT (“Agreement”)** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”)**, \_\_\_\_\_ (**“Contractor”**) and the **DISPUTES REVIEW BOARD (“Board”)**, consisting of three members: \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ (**“Members”**).

WHEREAS, CFX is now engaged in the construction of the \_\_\_\_\_, and

WHEREAS, the \_\_\_\_\_ contract (“Contract”) provides for the establishment and operation of the Board to assist in resolving disputes and claims.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein (or attached, incorporated and made a part hereof), the parties agree as set forth herein.

**I  
DESCRIPTION OF PURPOSE**

To facilitate resolution of disputes between the Contractor and CFX, CFX has provided (in the Contract) for the establishment of the Board. The function of the Board is to fairly and impartially consider Contract disputes placed before it and provide written recommendations for resolution to both CFX and the Contractor. The Members of the Board shall perform the services designated in Section II, Scope of Work.

**II  
SCOPE OF WORK**

The Scope of Work includes, but is not limited to, the following items:

A. Third Board Member Selection. The first duty of CFX and the Contractor selected Members of the Board is to select the third Member. The third Member shall not have any current financial or employment ties with either the Contractor or CFX. The selection goal is to obtain a third Board Member who will complement the first two by furnishing expertise, leadership and experience to facilitate the Board’s operations. The first two Board Members selected shall proceed with the selection of the third Board Member upon receiving their appointment. If the first two Members are unable to select a third Member within four (4) weeks, CFX and the Contractor will select the third Member.

B. Procedures. After selecting the third Board Member and prior to considering a dispute, the Board shall establish procedures to govern the conduct of its business and reporting procedures based on the Guidelines, attached as an Appendix to this Agreement. The Board recommendations (resulting from a consideration of a dispute) shall be furnished in writing to CFX and the Contractor. The recommendations shall be based solely on the pertinent Contract provisions and the facts as reasonably determined by the Board. The Board shall have no authority to disregard or unilaterally modify pertinent Contract provisions including, but not necessarily limited to, those provisions pertaining to notices and claims procedures.

C. Furnishing Documents. CFX shall, at the time of each Board Member's appointment, furnish such Member a copy of the Contract. Both CFX and the Contractor shall, no later than seven (7) days prior to the scheduled Board hearing, submit to the Board three copies of all written documents and arguments that such party wishes the Board to consider. Each party shall provide its written documentation to the other side no later than fifteen (15) days prior to the scheduled Board hearing and shall provide a copy of its written argument to the other side no later than seven (7) days before the hearing in order to afford the other side the opportunity to review such documents and prepare any necessary rebuttal for the hearing.

D. Site Visits. The Board shall visit the project site to: (i) keep abreast of construction activities, and (ii) develop a familiarity of the work in progress. The frequency, exact time and duration of visits shall be in accordance with the attached Guidelines or as mutually agreed between CFX, the Contractor and the Board.

In the circumstance of an alleged differing site condition (or specific construction problem), it will be advantageous for the Board to view any relevant conditions. If viewing by the Board would cause delay to the project, photographs and descriptions of conditions collected by either (or both) party will suffice.

E. Board Consideration of Disputes or Claims. Upon receipt by the Board of a written appeal of a dispute (from either the Contractor or CFX) the Board shall convene to review and consider the dispute. CFX, the Contractor and the Board shall determine the time and location of Board meetings. Both CFX and the Contractor shall be given the opportunity to present evidence and argument at such meetings. Absent good cause to the contrary, written evidence shall be limited to that evidence which was previously supplied to both the Board and the other party in accordance with the previous paragraph. Mere negligence in providing such written evidence shall not be considered good cause for its admission. Hearsay evidence shall be permitted but shall not be the sole basis for any recommendation by the Board. Additionally, Board Members may rely on their personal knowledge based on prior site visits, ongoing document reviews, and general project familiarity. Each party may,

but is not required to, submit its proposed recommendations for resolving the dispute to the Board for its consideration.

Board Members are to act impartially and independently in weighing the evidence and in considering the respective positions of the parties within the confines and literal interpretation of the Contract terms. The recommendations concerning any such dispute are advisory and not binding on either party. The Board shall make every effort to reach a unanimous recommendation. If a unanimous recommendation is not possible, the dissenting Member shall prepare a minority report.

The Board's recommendations, together with explanations of its reasoning, shall be submitted as a written report to both parties. The recommendation shall be based solely on the pertinent provisions of the Contract, applicable laws and regulations, and the relevant facts as determined by the Board based upon the evidence presented. It is important for the Board to express, clearly and completely, the logic and reasoning leading to the recommendation so that both parties fully understand the recommendation.

Either CFX or the Contractor may request the Board to reconsider its recommendation. However, reconsideration will only be allowed when there is new evidence to present, or a clarification is required.

F. Miscellaneous Board Responsibilities. In addition to the matters set forth above:

1. The Board Member shall become familiar with the Contract Documents, review periodic reports, and maintain a current file of the project.
2. Except for providing the services required in this Agreement, the Board and its individual Members shall refrain from giving any advice to either party concerning conduct of the work or the resolution of problems. Ex-parte communications between a party and a Board Member are prohibited.
3. The Board shall perform services not specifically listed herein to the extent necessary to achieve the purposes of this Agreement.

G. Board Member Replacement. If the need occurs to appoint a replacement Board Member, the replacement Board Member shall be appointed in the same manner as the original Board Members were appointed. The selection of a replacement Board Member

shall begin promptly upon notification of the necessity for a replacement. The Agreement will be supplemented to indicate change in Board membership.

### **III CONTRACTOR RESPONSIBILITY**

A party shall furnish to each Board Member one copy of all pertinent documents that are or may become necessary for the Board to perform its function. Pertinent documents are any drawings or sketches, calculations, procedures, schedules, estimates or other documents that are used in the performance of the work or in justifying or substantiating the party's position. A copy of such pertinent documents must also be furnished to the other party.

### **IV CFX RESPONSIBILITIES**

CFX shall furnish the following services and items:

A. Contract Related Documents. CFX shall furnish the Board copies of all Contract Documents, Supplemental Agreements, written instructions issued by the CEI or CFX to the Contractor, or other documents pertinent to the performance of the Contract and necessary for the Board to perform its function.

B. Coordination and Services. CFX (in cooperation with the Contractor) will coordinate the operations of the Board. CFX, through the CEI, will arrange or provide conference facilities at or near the site and provide secretarial and copying services.

### **V TIME FOR BEGINNING AND COMPLETION**

The Board shall be in operation throughout the term of the Contract and, if needed, for a reasonable post-construction period.

The Board Members shall not begin any work under the terms of this Agreement until authorized by CFX in writing.

### **VI PAYMENT**

The fees and expenses of all three Board Members for services rendered under this

Agreement will be an expense to the Contractor with reimbursement under the pay item allowance as provided below. Payment for services of the CFX-appointed, Contractor-appointed, and the third Board Members will be full compensation for work performed or services rendered, and for all expenses, such as food, lodging, travel, telephone, postage etc.

A. Payment.

Each Board Member will be paid One Thousand Dollars (\$1,000.00) per day for each day the Board meets. This daily rate includes fees and expenses related to membership on the Board. Subsequent changes in the rate must be authorized by a Supplemental Agreement to this Agreement.

B. Inspection of Costs Records. The Board Members shall keep available the cost records and accounts pertaining to this Agreement for inspection by representatives of CFX for a period of three (3) years after final payment. If any litigation, claim or audit arising out of, in connection with or related to this Agreement is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim or audit involving the records is completed.

## **VII ASSIGNMENT OF TASKS OF WORK**

Neither the Board nor the Board Members may assign or delegate any of the work of this Agreement.

## **VIII TERMINATION OF AGREEMENT**

With the mutual consent of CFX and the Contractor, this Agreement may be terminated at any time. However, individual Board Members may be terminated with or without cause, but only by their original appointer, i.e., CFX may terminate the CFX appointed Member, the Contractor may terminate the Contractor's appointed Member, and the first two Members must agree to terminate the third Member.

**IX  
LEGAL RELATIONS**

A. Each Board Member in the performance of duties on the Board is acting in the capacity of an independent agent and not as an employee of either CFX or the Contractor.

B. CFX and the Contractor expressly acknowledge that each Board Member is acting in a capacity intended to facilitate resolution of disputes. Accordingly, to the fullest extent permitted by law, each Board Member shall be accorded quasi-judicial immunity for any actions or decisions associated with the consideration, hearing and recommendation of resolution for disputes referred to the Board.

C. Except for the negligent acts or omissions of a Board Member, or for activities outside of the scope of this Agreement, each Board Member shall be held harmless for any personal or professional liability arising from or related to Board activities. To the fullest extent permitted by law, CFX and the Contractor shall defend and indemnify all Board Members against claims, losses, demands, costs and damages (including reasonable attorney's fees) for bodily injury, property damage or economic loss arising out of or related to Board Members carrying out Board functions. The foregoing indemnity is a joint and several obligations of the Contractor and CFX.

**X  
ARBITRATION, VENUE, APPLICABLE LAW**

Any dispute, claim or controversy between the parties hereto arising out of or related to this Agreement shall be resolved by arbitration. The American Arbitration Association pursuant to its Construction Industry Arbitration Rules shall conduct such arbitration, and the arbitration proceeding shall occur in Orange County, Florida. All questions and issues respecting this Agreement and the arbitration shall be resolved by application of Florida law and the judgment of the arbitration panel shall be enforceable in accordance with the provisions of the Florida Arbitration Code.

**XI  
NO BONUS**

The Contractor and CFX shall not pay and the Members shall not receive any additional commission, percentage, bonus or consideration of any nature (other than the payment provided for in Section VI above) for performance and services under this Agreement.

**XII  
NO CONFLICT**

The Members of the Board agree individually they do not now and during the term of this Agreement will not have any direct or indirect ownership or financial interest in the Contractor, the

Engineer of Record for the project, the CEI or any subcontractor or supplier of the project. The Members of the Board affirm they have not for a period of ten (10) years prior to this Agreement been an employee, Contractor or consultant to the Contractor, the Engineer of Record for this project, the CEI or any subcontractor or supplier of the project, and that during the term of this Agreement they shall not become so employed. During the term of the Agreement no discussion or Agreement will be made between any Board Member and any party to this Agreement for employment after the Contract is completed.

By executing this Agreement the parties mutually agree that the Members of the Board identified herein are qualified and desirable and that the criteria and limitations detailed in subarticles 10.2.3 b and 10.2.3 c of the project General Specifications are satisfied or are hereby waived.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**CFX:**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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

**BOARD:**

**DISPUTES REVIEW BOARD**

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

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

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

**CONTRACTOR:**

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



## **APPENDIX**

### **PROCEDURE GUIDELINES**

#### **1. GENERAL MEETINGS**

General Meetings are defined as those meetings required for the Board to develop a familiarity of the work in progress and keep abreast of construction activities such as progress, status and nature of items in the earlier stages of escalation, changes to personnel, etc. General Meetings shall occur 60days after Notice to Proceed for the Project and every 120days thereafter, or as determined by the parties to be in the best interest of the project. Site visits as described in Subarticle II D above shall be considered General Meetings. Site visits may be coordinated to coincide with, or be replaced by, Board meetings to review disputes brought to the Board by CFX or Contractor.

#### **2. MONTHLY PROJECT DOCUMENT REVIEW**

In an effort to keep the Board closely and concurrently apprised of the progress of the Project, each member of the Board will be provided with copies of Project related documents. These documents may include minutes from progress meetings, schedule updates, CEI's weekly summaries, monthly progress summaries, selected correspondence, Supplemental Agreements to the Contract, Project photos, and any other information that may be requested by the Board or required to answer questions by the Board.

#### **3. REVIEW OF DISPUTES OR CLAIMS BY THE BOARD**

Disputes review meetings shall be at the time and frequency mutually agreed to by CFX and Contractor.

# CONTRACT



**AND**

**THE NEW FLORIDA INDUSTRIAL ELECTRIC, INC.**

**RAPID RESPONSE AGREEMENT FOR SIGN, SIGNAL,  
AND ITS TASK ORDERS UNDER \$300,000 AND  
ELECTRICAL WORK TASK ORDERS UNDER \$75,000,  
AS ADJUSTED PER FLORIDA STATUTES § 255.20(2)**

**CONTRACT NO. 001866**

**CONTRACT DATE: DECEMBER 09, 2021**

**CONTRACT AMOUNT: \$3,000,000.00**

**CONTRACT, SCOPE OF SERVICES, TASK ORDER SAMPLE, PROPOSAL,  
GENERAL SPECIFICATIONS, TECHNICAL SPECIFICATIONS, AND FORMS**

# **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**CONTRACT, SCOPE OF SERVICES, TASK ORDER SAMPLE, PROPOSAL,  
GENERAL SPECIFICATIONS, TECHNICAL SPECIFICATIONS, AND FORMS**

**FOR**

**RAPID RESPONSE AGREEMENT FOR SIGN, SIGNAL, AND ITS TASK ORDERS  
UNDER \$300,000 AND ELECTRICAL WORK TASK ORDERS UNDER \$75,000, AS  
ADJUSTED PER FLORIDA STATUTES § 255.20(2)**

**CONTRACT NO. 001866**

**DECEMBER 2021**

## TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
C	RAPID RESPONSE AGREEMENT (See Agreement Table of Contents for listing of individual sections.)	1 to 26
	EXHIBIT A – SCOPE OF SERVICES EXHIBIT B – SAMPLE TASK ORDER EXHIBIT C – PROPOSAL	
	ATTACHMENT 1 – GENERAL SPECIFICATIONS ATTACHMENT 2 – TECHNICAL SPECIFICATIONS	
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2

RAPID RESPONSE AGREEMENT 001866

Table of Contents

1. SERVICES TO BE PROVIDED..... 2

2. ISSUANCE OF RAPID RESPONSE TASK ORDER (RRTO) REQUEST FOR QUOTE (RFQ)..... 2

3. CONTRACTOR’S ELIGIBILITY TO PARTICIPATE IN RAPID RESPONSE TASK ORDER (RRTO) REQUEST FOR QUOTE (RFQ)..... 3

4. ISSUANCE OF RAPID RESPONSE TASK ORDERS (RRTOs) ..... 4

5. TERM AND NOTICE..... 4

6. AGREEMENT AMOUNT AND COMPENSATION FOR SERVICES ..... 5

7. PUBLIC RECORDS ..... 6

8. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT..... 7

9. DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISES ..... 8

10. CONTRACTOR INSURANCE AND RRTO CONSTRUCTION BOND..... 8

    10.1 Comprehensive General Liability Insurance:..... 10

    10.2 Comprehensive Automobile Liability Insurance: ..... 11

    10.3 Umbrella/Excess Liability Insurance: ..... 11

    10.4 Builder’s Risk:..... 12

    10.5 Railroad Insurance: ..... 12

    10.6 Pollution Legal/Environmental Legal Liability Insurance (CPL):..... 13

    10.7 Worker’s Compensation and Employer’s Liability Insurance:..... 14

    10.8 Unemployment Insurance: ..... 14

    10.9 RRTO Construction Bond:..... 15

11. INDEMNITY..... 16

12. PRESS RELEASES..... 17

13. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS..... 17

14. PERMITS, LICENSES, ETC. .... 19

15. NONDISCRIMINATION ..... 19

16. COMPLIANCE WITH LAWS; EQUAL EMPLOYMENT OPPORTUNITY ..... 20

17. SUBLETTING AND ASSIGNMENT ..... 20

18. DISPUTES..... 20

19. OTHER SEVERABILITY ..... 21

20. INTEGRATION ..... 21

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

22. APPLICABLE LAW; VENUE ..... 22

23. RELATIONSHIPS ..... 22

24. INTERPRETATION ..... 22

25. SURVIVAL OF EXPIRATION OR TERMINATION..... 23

26. INSPECTOR GENERAL..... 23

27. E-VERIFY ..... 23

28. APPROPRIATION OF FUNDS ..... 24

29. RECITALS INCORPORATED ..... 24

30. NOTICE TO THE PARTIES ..... 24

31. EXHIBITS AND ATTACHMENTS..... 25

**Rapid Response Agreement No. 001866**

This Agreement is made this 9th day of December 2021, 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 THE NEW FLORIDA INDUSTRIAL ELECTRIC, INC., a Florida Profit corporation, registered and authorized to do business in the State of Florida, whose principal address is 104 Commerce Street, Lake Mary, FL. 32746, hereinafter “the CONTRACTOR.”

RECITALS:

**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 institute a Rapid Response Program and retain the services of a pool of Florida Department of Transportation Pre-qualified CONTRACTORS to perform Roadway Signing, Traffic Signal, Intelligent Transportation Systems, and Electrical Work through the issuance of written task orders as may be awarded to the CONTRACTOR by CFX; **and**

**WHEREAS**, on or about October 11, 2021, CFX issued an Invitation to Bid; Solicitation No. ITB001847 seeking Florida Department of Transportation Pre-qualified CONTRACTORS in Roadway Signing, Traffic Signal, Intelligent Transportation Systems, and Electrical Work to participate as part of the pool of qualified CONTRACTORS, and who will be required to submit quotes for Rapid Response Task Orders (RRTOs) or other response, and upon award, perform such tasks; **and**

**WHEREAS**, CONTRACTOR understands and acknowledges the General Specifications included as **Attachment 1**, and the Technical Specifications included as **Attachment 2**, are being provided to CONTRACTOR and shall be incorporated by reference into all RFQ’s and RRTO’s issued under solicitation ITB-001847 and this Agreement, respectfully. CONTRACTOR furthers understands and acknowledges that task specific modifications or changes may be made to the

General and Technical Specifications based on individual Rapid Response Task Orders through the issuance of an RFQ and RRTO issued under solicitation ITB-001847 and this Agreement.; **and**

**WHEREAS**, CONTRACTOR was one of three (3) qualified firms that responded to the Invitation to Bid and was one of three (3) qualified firms ultimately selected and awarded Agreement No. 001866; **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**

CFX does hereby retain CONTRACTOR to furnish continuing construction services for Roadway Signing, Traffic Signal, and Intelligent Transportation Systems a RRTO with estimated construction costs less than \$300,000 and Electrical Work under \$75,000, as further described in **Exhibit A**. Required services will be specifically enumerated, described, and depicted in RRTOs authorizing performance of the specific project, task, or study, in the form substantially similar to **Exhibit B**, is hereby adopted and made part of this Agreement as completely as if incorporated herein. This Agreement alone does not authorize the performance of any work or require CFX to place any orders for work.

**2. ISSUANCE OF RAPID RESPONSE TASK ORDER (RRTO) REQUEST FOR QUOTE (RFQ)**

- A. CFX will issue Rapid Response Task Order (RRTO) Request for Quotes (RFQs) to all qualified CONTRACTORS awarded through CFX Solicitation No. 001847 and award the RRTO RFQ to the lowest priced CONTRACTOR who can meet CFX's scheduled start and completion dates.
- B. RRTO RFQs valued at \$100,000 or less and greater than \$100,000 shall be given a minimum of a three (3) day and five (5) day response times by qualified CONTRACTORS, respectively.
- C. CONTRACTOR declares and agrees to faithfully submit responses to all RRTO RFQs issued under this Agreement either by submission of a Quote or a "No Quote" response as provided in the RRTO RFQ.

**3. CONTRACTOR'S ELIGIBILITY TO PARTICIPATE IN RAPID RESPONSE TASK ORDER (RRTO) REQUEST FOR QUOTE (RFQ)**

(a) The CONTRACTOR understands and agrees to the following to be eligible to participate in a RRTO RFQ issued under this Agreement the CONTRACTOR at the time the RRTO RFQ is issued must have:

- i. An active registration and authorization with the Florida Department of State to do business in the State of Florida.
- ii. A current Florida Department of Transportation Pre-Qualification in all required workgroups as specified in the recitals of this Agreement.
- iii. Current Certificates of Insurance and Endorsements on file with the CFX Procurement Department.

(b) CONTRACTOR further understands and agrees:

- i. CFX is not required to notify the CONTRACTOR of its ineligibility to participate in a RRTO RFQ.
- ii. Ineligibility to participate in a RRTO RFQ shall be considered a "No Response" from the CONTRACTOR.
- iii. Three (3) consecutive "No Response" responses to individual RRTO RFQs issued under this Agreement or a combination of five (5) "No Response" responses during the term of this Agreement may be grounds for immediate Termination.

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



**4. ISSUANCE OF RAPID RESPONSE TASK ORDERS (RRTOs)**

Authorization for performance of construction services by CONTRACTOR under this Agreement will be in the form of written RRTOs issued and executed by CFX and signed by CONTRACTOR. Each RRTO will describe the services required, state the dates for commencement and completion of work, establish the amount and method of payment, and the amount of liquidated damages, if any. CFX makes no covenant or promise as to the number of available tasks, nor that CONTRACTOR will perform any task for CFX during the term or course of this Agreement. CFX reserves the right to contract with other parties for the services contemplated by this Agreement when it is determined by CFX to be in the best interest of CFX to do so.

The Agreement 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 Agreement.

CFX does not guarantee that the services described in the Scope of Services will be assigned during the term of the Agreement. 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.

**5. TERM AND NOTICE**

The term of the Agreement will be three (3) years from the date of award from CFX, hereinafter "Agreement Term." Expiration of the term of this Agreement will have no effect upon RRTO's issued pursuant to this Agreement and prior to the Agreement expiration date. The obligations of both parties under such RRTO's will remain in effect until completion of the work authorized by the RRTO.

CFX shall have the right to immediately terminate or suspend the Agreement, in whole or in part, at any time upon notice for convenience for any reason or for cause for CONTRACTOR's material failure to perform the provisions of the Agreement or for Default. A Default includes: a) Failure to respond to a RRTO RFQ; b) Failure to perform a RRTO; or c) any other deficiency in performance. 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.

CFX reserves the right to immediately cancel or immediately terminate this Agreement 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 Agreement 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.

## **6. AGREEMENT AMOUNT AND COMPENSATION FOR SERVICES**

6.1 The Agreement Amount for the Agreement Term is \$3,000,000.00, not to exceed a maximum of \$1,000,000 per term year.

6.2 CFX agrees to pay CONTRACTOR for services performed in accordance with awarded RRTOs based on the unit prices provided in the CONTRACTOR's Bid to CFX Solicitation No. ITB001847 attached to this Agreement hereto as **Exhibit "C"** and incorporated by reference as though set forth fully herein.

6.3 Unit Prices offered in **Exhibit "C"** attached to this Agreement establishes the maximum allowable price to be offered in a RRTO Quote issued under this Agreement. CONTRACTOR further understands and agrees that quotes in response to RRTO RFQs that have unit prices that exceed the Maximum Allowable Price will automatically be reduced to the Maximum Allowable Price for that item and the total of the CONTRACTOR's Quote shall be corrected to reflect said changes.

6.4 Pricing for lump sum items such as but not limited to, Mobilization, Maintenance of Traffic, Clearing and Grubbing, and Removal of Existing Structures will be solicited in individual RRTO RFQs. Maximum Allowable Percentages for lump sum items of the total of the Unit Price work shall be determined by CFX on a per task basis and will be provided in individual RRTO RFQs. CONTRACTOR further understands and agrees that Quotes in response to RRTO RFQs that have lump sum prices that exceed the Maximum Allowable Percentage established by the CFX will automatically be reduced to the Maximum Allowable Percentage for that item and the total of the Quote shall be corrected to reflect said changes.

6.5 CONTRACTOR understands and agrees that Quotes in response to RRTO RFQs that have corrected prices may withdraw their Quote by written request within 24 hours of notification from CFX without penalty.

## 7. 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 AGREEMENT, 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 Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the public agency.
4. Upon completion of the Agreement, 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 Agreement, 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 Agreement, 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 Agreement (including without limitation Agreement 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 Agreement 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 Agreement and continue in full force and effect as set forth above.

## **8. 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 Agreement, 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 Agreement. 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 Agreement 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 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 Section 112.313, Florida Statutes, as it relates to work performed under this Agreement, which standards will be reference be made a part of this Agreement 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.

**9. DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISES**

CFX has adopted a program to provide opportunities for Disadvantaged/Minority Business Enterprises and Women’s Business Enterprises (“D/M/WBEs”). Under CFX’s program, CONTRACTOR is encouraged to grant D/M/WBE businesses the opportunity to participate in CFX’s Agreements.

CONTRACTOR understands and agrees that RRTOs issued under this Agreement shall include a 15% D/M/WBE objective unless waived by CFX.

CONTRACTOR further understands and agrees to provide a good faith effort in achieving the 15% D/M/WBE objective as described in a RRTO.

**10. CONTRACTOR INSURANCE AND RRTO CONSTRUCTION BOND**

Anything contained herein to the contrary notwithstanding, during the term of the Agreement 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 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 Agreement, 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 Agreement 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 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.

CONTRACTOR shall carry and keep in force during the period of this Agreement, 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 Agreement execution:

All insurance coverage required of the Contractor shall be primary and noncontributory over any insurance or self-insurance program carried by CFX.

Excluding 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.

#### 10.1 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. Insurance Limits of Liability for Bodily Injury Liability and/or Property Damage Liability shall not be less than having a minimum coverage of Five Million Dollars (\$5,000,000.00) per occurrence of bodily injury or property damage and a minimum of Ten Million Dollars (\$10,000,000.00) annual aggregate for both General and Products and Completed Operations. The contractual liability insurance coverage shall include coverage for responsibilities and liabilities assumed by CONTRACTOR under this Agreement.

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 for each Rapid Response Task Order 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 Rapid Response Task Order 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.

10.2 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 for bodily injury, death and property damage shall not be less than the Five Million Dollars (\$5,000,000.00) for each accident.

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.

10.3 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 this Agreement.

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



#### 10.4 Builder's Risk:

If a RRTO 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 Rapid Response Task Order 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 Rapid Response Task Order. 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.

#### 10.5 Railroad Insurance:

For each RRTO, 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.

10.6 Pollution Legal/Environmental Legal Liability Insurance (CPL):

The Contractor agrees to maintain Contractor's Pollution Legal/Environmental Legal Liability Insurance on a per-RRTO 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.

10.7 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 statutory / \$1,000,000;

10.8 Unemployment Insurance:

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

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 and noncontributory 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. 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 shall result in suspension of partial payments on monthly estimates until the certificates are received and accepted by CFX. Procurement of insurance shall not be construed to limit CONTRACTOR's obligations or liabilities under the Agreement. 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.

#### 10.9 RRTO Construction Bond:

The CONTRACTOR shall furnish to CFX and shall maintain in effect throughout the term of an awarded Rapid Response Task Order, an acceptable surety bond in a sum equal to the amount of the Rapid Response Task Order. 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 surety agent's name, address and telephone number shall be clearly stated on the face of the Construction Bond.

In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Rapid Response Task Order) 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.

## **11. 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 Agreement.

11.1 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 Agreement 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:

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

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

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

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

11.6 CONTRACTOR's failure to include terms in its subcontracts as required by this Agreement,

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

11.8 CONTRACTOR's breach of any of the warranties or representations contained in this Agreement.

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 Agreement 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.

## **12. 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, including without limitation CFX Property and CFX Intellectual Property, without first notifying CFX and securing its consent in writing.

## **13. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS**

CFX is and shall be and remain the sole owner of all rights, title, and interest in, to, and associated with all plans, documents, software in all forms, hardware, programs, procedures, specifications, drawings, brochures pamphlets, manuals, flyers, models, photographic or design images, negatives, videos and film, tapes, work product, information, data and other items (all whether in preliminary, draft, master, final, paper, electronic, or other form), along with the media on which they reside and with which they interface for function or aesthetics, that are generated or developed with respect to and in connection with this Agreement and the performance thereof (collectively, the "CFX Property"). CFX's ownership of CFX Property includes without limitation all common law, statutory and other rights, title, and interest in, to, and associated with trademark, service mark, copyright, patent, trade secret, and publicity (collectively, the "CFX Intellectual Property").

CONTRACTOR, its employees, agents, officers, and subcontractors acknowledge that E-PASS® is CFX's registered trademark name for CFX's electronic toll collection system and comprises a portion of CFX Intellectual Property.

CONTRACTOR, its employees, agents, officers, and subcontractors may not use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Agreement, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR, its employees, agents, officers, and subcontractors' access to and/or use of CFX Property and CFX Intellectual Property is without any warranty or representation by CFX regarding same.

For all materials listed hereinabove that are not generated or developed under this Agreement or performance hereof, but rather are brought in, provided, or installed by CONTRACTOR (collectively, the "CONTRACTOR Property"), and the intellectual property rights associated therewith (collectively, the "CONTRACTOR Intellectual Property"), CONTRACTOR (its employees, officers, agents, and subcontractors, which for purposes of this section shall collectively be referred to as "CONTRACTOR") warrants and represents the following:

13.1 CONTRACTOR was and is the sole owner of all right, title and interest in and to all CONTRACTOR Property and CONTRACTOR Intellectual Property; **OR**

13.2 CONTRACTOR has obtained, and was and is the sole holder of one or more freely assignable, transferable, non-exclusive licenses in and to the CONTRACTOR Property and CONTRACTOR Intellectual Property, as necessary to provide and install the CONTRACTOR Property and/or to assign or grant corresponding to CFX all licenses necessary for the full performance of this Agreement; and that the CONTRACTOR is current and will remain current on all royalty payments due and payable under any license where CONTRACTOR is licensee; **AND**

13.3 CONTRACTOR has not conveyed, and will not convey, any assignment, security interest, exclusive license, or other right, title, or interest that would interfere in any way with the CFX's use of the CONTRACTOR Property or any license granted to CFX for use of the CONTRACTOR Intellectual Property rights; **AND**

13.4 Subject to Chapter 119, Florida Statutes (Florida Public Records Act), CONTRACTOR shall maintain CFX Property and CFX Intellectual Property in strictest confidence and may not transfer, disclose, duplicate, or otherwise use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this

Agreement, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR shall not publish, copyright, trademark, service mark, patent, or claim trade secret, publicity, or other rights of any kind in any of the Property. In ensuring the confidentiality and security of CFX Property and CFX Intellectual Property, CONTRACTOR shall utilize the same standards of protection and confidentiality that CONTRACTOR uses to protect its own property and confidential information, but in no instance less than reasonable care plus the standards set forth anywhere in this Agreement.

CONTRACTOR further warrants and represents that there are no pending, threatened, or anticipated Claims against CONTRACTOR, its employees, officers, agents, or subcontractors with respect to the CONTRACTOR Property or CONTRACTOR Intellectual Property.

The provisions of this Section shall survive the term of this Agreement for the longer of:

13.5 The statute of limitations on any action arising out of either party's conduct relating to this section, whether such action may be brought by CFX, CONTRACTOR, or a third party; **or**

13.6 CFX's continued use (notwithstanding any temporary suspension of use) of any CONTRACTOR Property or CONTRACTOR Intellectual Property; **and**

13.7 Notwithstanding sections 13.5 and 13.6, the confidentiality and security provisions contained herein shall survive the term of this Agreement for ten (10) years beyond 13.5 and 13.6.

#### **14. PERMITS, LICENSES, ETC.**

Throughout the Term of the Agreement, 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.

#### **15. 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 Agreement.



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

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. 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.

**18. DISPUTES**

All services shall be performed by the CONTRACTOR to the reasonable satisfaction of CFX's Executive Director (or her delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Agreement, 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 Agreement 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.

Disputes specific to a Rapid Response Task Order shall be in accordance with the terms and conditions attached to the Rapid Response Task Order.

**19. OTHER SEVERABILITY**

If any section of this Agreement 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 Agreement 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 Agreement.

**20. INTEGRATION**

It is understood and agreed that the entire agreement of the parties is contained in this Agreement herein and that this Agreement 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 Agreement shall be governed by and construed in accordance with the laws of Florida. Venue of any legal or administrative proceedings arising out of this Agreement 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 Agreement, 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 Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, CONTRACTOR may immediately notify CFX and request clarification of CFX's interpretation of the Agreement.

## **25. SURVIVAL OF EXPIRATION OR TERMINATION**

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

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

25.2 Obligations upon expiration or termination of the Agreement; and

25.3 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.

## **26. 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 Agreement shall also be bound contractually to this and all applicable Florida statutory requirements.

## **27. 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 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.



**31. EXHIBITS AND ATTACHMENTS**

This Agreement references the exhibits listed below.

Exhibit “A” Scope of Services

Exhibit “B” Sample Rapid Response Task Order with Rapid Response Task Order General Specification and Rapid Response Task Order Technical Specification

Exhibit “C” CONTRACTOR’s Bid to CFX Solicitation ITB-001847

Attachment “1” – General Specifications

Attachment “2” – Technical Specifications

[ SIGNATURES TO FOLLOW ]

IN WITNESS WHEREOF, the authorized signatures named below have executed this Agreement on behalf of the parties as of the day and year first above written. This Agreement was awarded by CFX's Board of Directors at its meeting on December 09, 2021.

ACCEPTED AND AGREED TO BY:

THE NEW FLORIDA INDUSTRIAL ELECTRIC, LNC.

By: \_\_\_\_\_  
Name and Title

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

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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

Print Name: Aneth Williams

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

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

\_\_\_\_\_  
General Counsel for CFX  
\_\_\_\_\_  
Diego "Woody" Rodriguez  
Print Name

EXHIBIT "A"  
SCOPE OF SERVICES

RAPID RESPONSE AGREEMENT FOR SIGN, SIGNAL, AND ITS TASK ORDERS UNDER \$300,000 AND ELECTRICAL WORK TASK ORDERS UNDER \$75,000, AS ADJUSTED PER FLORIDA STATUTES § 255.20(2)  
INVITATION TO BID NO. ITB001847

CFX is seeking multiple contractors to perform sign, signal, and ITS task orders under \$300,000, and lighting task orders under \$75,000, as amended per Florida Statutes § 255.20(2). The adjusted task-order limit amount for calendar year 2021 for sign, signal, ITS task orders and electrical work task orders is \$405,207.03 and \$101,301.76, respectively. The task order limit amount will be automatically adjusted for task commencing in subsequent years as per Florida Statutes § 255.20(2). It is CFX's intention to award no greater than six (6) Agreements plus one if the 7th low bid is a designated Small Sustainable Business Enterprise (SSBE), Disadvantaged/Minority Business Enterprise or Women's Business Enterprise (D/M/WBE) bidder under this solicitation. Quotes for individual construction tasks will be solicited to all awardees with the award going to the lowest priced contractor who can meet CFX's scheduled start and completion dates. Authorization for performance of services by Contractors under this Agreement shall be in the form of written task orders.

The amounts listed above are in accordance with F.S. 255.20(2) which states "The threshold amount of \$300,000 for construction or \$75,000 for electrical work, as specified in subsection (1), must be adjusted by the percentage change in the Engineering News-Record's Building Cost Index from January 1, 2009, to January 1 of the year in which the project is scheduled to begin.

<b>Project Amount</b>	<b>Index 1/1/2009</b>	<b>Index 1/1/2021</b>	<b>Difference</b>	<b>Project Cost with Inflation</b>
\$300,000.00	4782	6459	1.350690088	\$405,207.03
\$75,000.00	4782	6459	1.350690088	\$101,301.76

The threshold amount for projects under this Agreement that are scheduled to begin year 2022, 2023, and 2024 will by automatically be adjusted to reflect the percentage change in the Engineering News-Record's Building Cost Index from January 1 of the year in which the project is scheduled to begin.



EXHIBIT "B"  
RAPID RESPONSE TASK ORDER

Contract No.: \_\_\_\_\_,  
Contract Title: Rapid Response Agreement for Roadway Sign, Signal,  
Intelligent Transportation Systems, and Electrical Services  
Task Order No. \_\_\_\_\_

Contractor: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

ATTACHMENTS TO THIS TASK ORDER:  
 scope of services (Attachment A)  
 plans (Attachment B)  
 rate schedule from RFQ (Attachment C)  
 special provisions (Attachment D)  
 technical special provisions (Attachment D)  
 general specifications (By reference, included in  
CFX solicitation ITB001847)  
 Technical specifications (By reference, included in  
CFX solicitation ITB001847)  
 TRENCH SAFETY ACT COMPLIANCE  
STATEMENT

D/M/WBE Utilization Summary / Form (P6/P7)  
 \_\_\_\_\_  
METHOD OF COMPENSATION  
 retainage shall be withheld see Gen Spec.  
 Unit Price  
 \_\_\_\_\_

TIME FOR COMPLETION: The Work to be provided by the CONTRACTOR shall be substantially completed as described in the special provisions (Attachment D). Failure to meet the completion time shall be grounds for Termination of both the Rapid Response Task Order and the Rapid Response Agreement for Default.

TASK ORDER AMOUNT: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have made and executed this Task Order on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, for the purposes stated herein.

CONTRACTOR

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: \_\_\_\_\_  
\_\_\_\_\_  
(Title)

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

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

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

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

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

# Rapid Response Task Order General Specifications

The Rapid Response Task Order General Specifications are being provided to potential awardees of the Rapid Response Agreement at this time to be utilized as part of all future Rapid Response Task Orders that may be awarded under the Contractors' Rapid Response Agreement.

The Awardees of the Rapid Response Agreement understand and agree that the Rapid Response General Specifications may be updated or modified based on individual Rapid Response Task Orders or in the best interest of CFX. Awardees will be notified when such modifications or changes occur during the term of the Rapid Response Agreement.

By virtue of a submission of a quote in response to a Rapid Response Task Order Request for Quote, the Contractor agrees to all the terms and conditions of the Rapid Response General Specifications as they may be amended.

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	9
2.1    Intent of Contract	9
2.2    Work Not Covered by the General Specifications	9
2.3    Alteration of Plans	9
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    Omitted	
2.4    Claims by Contractor	19
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	26
2.6    Right To and Use of Materials Found at the Site of the Work	26
2.6.1    Ownership and Disposal of Existing Materials	
2.6.2    Ornamental Trees and Shrubs	
2.7    Restoration of Right of Way	26

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 3 - Control of the Work	28
3.1 Plans and Working Drawings	28
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	32
3.3 Conformity of Work with Plans	32
3.3.1 Record Drawings	
3.4 Pre-Award Meeting	33
3.5 Orders and Instructions	34
3.5.1 Observation of the Work	
3.5.2 Examination of the Work	
3.5.3 Communications	
3.6 Engineering and Layout	36
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 Payment	
3.7 Contractor's Supervision	39
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	41
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	42
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	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
3.10 Audit and Examination of Contract Records and Bid Records	44
3.11 Prevailing Party Attorney's Fees	45
Section 4 - Control of Materials	47
4.1 Acceptance Criteria	47
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)	48
4.3 Source of Supply and Quality Requirements	48
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	49
4.4.1 General	
4.4.2 Cooperation by Contractor	
4.4.3 Retest of Materials	
4.5 Storage of Materials and Samples	50
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	50
Section 5 - Legal Requirements and Responsibility to the Public	52
5.1 Laws to be Observed	52
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	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.2 Permits and Licenses	54
5.3 Patented Devices, Materials and Processes	54
5.4 Right of Way Furnished by CFX	55
5.5 Sanitary Provisions	55
5.6 Control of the Contractor's Equipment	55
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	57
5.7.1 Compliance with Jurisdictional Regulations	
5.8 Use of Explosives	57
5.9 Preservation of Property	57
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.	63
5.10.1 Contractor to Provide Defense Against Claims and Suits	
5.10.2 Guaranty of Payment for Claims	
5.11 Insurance	64
5.12 Contract Bond (Public Construction Bond) Required	64
5.12.1 General Requirements of the Bond	
5.12.2 Continued Acceptability of Surety	
5.13 Contractor's Responsibility for Work	65
5.14 Opening Section of Highway to Traffic	65
5.15 Scales for Weighing Materials	65
5.15.1 Applicable Regulations	
5.15.2 Base for Scales	
5.15.3 Protection and Maintenance	
5.16 Source of Forest Products	66

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.17 Regulations of Air Pollution	66
5.17.1 General	
5.17.2 Dust Control	
5.17.3 Asphalt Material	
5.17.4 Asphalt Plants	
5.18 Dredging and Filling	66
5.19 Erosion Control	67
5.20 Contractor's Motor Vehicle Registration	67
5.21 Internal Revenue Service Form W-9	67
5.22 Tolls and Access	67
5.23 Requests for References or Performance Evaluations	67
5.24 Unauthorized Aliens	68
5.25 Public Records	68
5.26 Inspector General	69
5.27 Convicted Vendor List	69
5.28 Discriminatory Vendor List	70
5.29 Severability	70
5.30 Companies Pursuant to Florida Statute Sections 287.135	70
5.31 E-Verify	71
 Section 6 - Prosecution and Progress of the Work	 72
6.1 Subletting or Assigning of Contract	72
6.2 Work Performed by Equipment Rental Agreement	74
6.3 Prosecution of Work	74
6.3.1 Sufficient Labor, Materials and Equipment	
6.3.2 Impacts by Adjacent Projects	
6.3.3 Submission of Working Schedule	
6.3.4 Beginning Work	
6.3.5 Provisions for Convenience of the Public	
6.3.6 Pre-Construction Conference	
6.4 Limitations of Operations	75
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 (Continued)

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	79
6.6 Temporary Suspension of Contractor's Operations	80
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	81
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	83
6.8.1 General	
6.9 Default and Termination of Contract	84
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	86
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	87
6.12 Recovery of Damages Suffered by Third Parties	87
6.13 Express Warranty	87
Section 7 - Measurement and Payment	89
7.1 Measurement of Quantities	89
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	



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
7.1.6 Ladders and Instrument Stands for Bridge Construction	
7.2 Scope of Payments	90
7.2.1 Items Included in Payment	
7.2.2 Non-Duplication of Payment	
7.3 Compensation for Altered Quantities	90
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	93
7.4.1 Method of Payment	
7.4.2 Records	
7.4.3 Preliminary Order-of-Magnitude Estimate	
7.5 Deleted Work	96
7.6 Partial Payments	96
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	100
7.7.1 General	
7.7.2 Non-Commercial Materials	
7.8 Disputed Amounts Due Contractor	100
7.9 Acceptance and Final Payment	100
7.10 Offsetting Payments	102
Section 8 - Minority/Women Business Enterprise (M/WBE) Participation	103
8.1 General	103
8.2 Minority and Women Owned Businesses - Participation Objectives	104
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	109

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 9 - Binding Arbitration	110
Section 10 –Disputes Resolution	112
10.1 Disputes Resolution	112
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.
AIA	American Institute of Architects
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
AREA	American Railway Engineering Association
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWS	American Welding Society
AWPA	American Wood Preservers Association
AWWA	American Water Works Association
CRSI	Concrete Reinforcing Steel Institute
FDOT	Florida Department of Transportation
FNGA	Florida Nursery Growers Association
FSS	Federal Specifications and Standards
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society
IPCEA	Insulated Power Cable Engineers Association
MUTCD	Manual on Uniform Traffic Control Devices
NEC	National Electrical Code (as recommended by the National Fire Protection Association)
NEMA	National Electrical Manufacturers Association

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

### 1.3 Definitions

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

1.3.0 **Agreement** – Agreement refers to the main agreement with each Contractor in the specified Rapid Response (“RR”) pool, requiring responses to Requests for Quotes (“RFQ”) for Rapid Response Task Orders (“RRTOs”).

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

1.3.2 **Bid** - The offer or proposal of the Bidder submitted on the prescribed form setting forth the unit prices for the Contract, which will form the basis for the Quotes for RRTOs and RRTOs.

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

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

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

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

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

1.3.8 **Contract or RRTO** - The terms “Contract” or “RRTO” as used within the General Specifications means the RRTO issued for each project between CFX and the Contractor setting

forth the obligations of the parties thereto including but not limited to, the performance of the Work, the furnishing of labor and materials and the basis of payment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.3.31 **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.

1.3.32 **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.

1.3.33 **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.

1.3.34 **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.

1.3.35 **Rapid Response Task Order or RRTO** – Written authorization for performance of services in response to a Request for Quote (“RFQ”) .

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

1.3.37 **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.

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

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

1.3.40 **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.

1.3.41 **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.

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

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

A Specialty Engineer shall be qualified in accordance with the Rules of the Florida Department of Transportation, Chapter 14-75, Florida Administrative Code. Any corporation or partnership, which offers engineering services, must hold a current Certification of Authorization from the Florida State

Board of Professional Engineers. Prior approval by CFX is required if the Contractor wishes to use a Specialty Engineer not qualified in accordance with Chapter 14-75. Approval must be received prior to proceeding with the specialty design.

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

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

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

1.3.45 **Standard Specifications** - The FDOT Standard Specifications for Road and Bridge Construction, 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.

1.3.46 **State** - State of Florida

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

1.3.48 **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.

1.3.49 **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.

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

1. All pay item work is installed and functioning including Supplemental Agreement Work, Force Account, or Extra Work.
2. All disturbed areas have been restored and vegetative growth is emerging including landscaping.
3. All erosion control measures have been taken up, and sediments removed from traps and drainage structures.
4. All pavement areas are complete and final signing and stripping in place.



5. All Signals, Lighting, ITS, and Tolling systems are tested, commissioned, and operating.
6. All roadway appurtenances are installed, intact and functioning such as signs, guardrail, stripping, rumble strips, curbing, sidewalk, etc.
7. All structures such as bridges, walls, barriers, attenuators, overhead trusses, toll buildings, tolling gantries, etc. are in place with their final coatings applied, and devoid of blemishes or graffiti.
8. All temporary traffic control devices are removed, and traffic is using the facility as designed.
9. All testing is complete, and documentation has been received.

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

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

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

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

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

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

1.3.56 **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.

1.3.57 **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.

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

1.3.59 **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.

1.3.60 **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.

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

END OF SECTION 1

## SECTION 2 - SCOPE OF WORK

### 2.1 Intent of Contract

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

### 2.2 Work Not Covered by the General Specifications

Proposed construction and any contractual requirements not covered by these General Specifications may be covered by notes shown on the Plans or by the Technical Specifications, Special Provisions or Rapid Response Task Order.

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

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

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



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

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

Where A = Original Contract Amount

B = Original Contract Time

C = 8%

D = Average Overhead Per Day

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CFX approval of a Contractor proposed change does not relieve the Contractor of sole responsibility for all utility impacts, costs, delays or damages, whether direct or indirect, resulting from Contractor initiated changes in the design or construction activities from those in the original Contract, design plans (including traffic control plans) or other Contract Documents and which effect a change in utility work different from that shown in the utility plans, joint project agreements or utility relocation schedules.

2.3.6 Omitted.

## 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 ten (10) 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 fifteen (15) 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 ten (10) 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 fifteen (15) 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 fifteen (15) 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 five (5) days written notice to the Contractor, subcontractor, or supplier. The Contractor, subcontractor, or supplier shall make a good faith effort to cooperate with the auditors. As a condition precedent to recovery on any claim, the Contractor, subcontractor, or supplier must retain sufficient records, and provide full and reasonable access to such records to allow the CFX auditors to verify the claim. Failure to retain sufficient records of the claim or failure to provide full and reasonable access to such records shall constitute a waiver of that portion of such claim that cannot be verified and shall bar recovery thereunder. Further, and in addition to such audit access, upon the Contractor submitting a written claim, CFX shall have the right to request and receive, and the Contractor shall have the affirmative obligation to provide to CFX, copies of any and all documents in the possession of the Contractor or its subcontractors, materialmen or suppliers as may be deemed relevant by CFX in its review of the basis, validity or value of the Contractor's claim.

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

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

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

## 2.5 Unforeseeable Work

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

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

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

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

## 2.7 Restoration of Right of Way

Areas outside the Project limits within CFX right of way used as a plant site be shaped and

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

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

END OF SECTION 2

## SECTION 3 - CONTROL OF WORK

### 3.1 Plans and Working Drawings

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

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

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

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

#### 3.1.4 Shop Drawings

##### 3.1.4.1. Definitions:

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

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

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

3.1.4.2. Work Items Requiring Shop Drawings: The requirement for submittals for certain items may be waived by other provisions of these specifications; i.e. items constructed from standard drawings or those complying with alternate details for 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 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 at the preconstruction conference, 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 order of precedent of the documents shall be as follows:

1. The Rapid Response Task Order (which is referred to as the Contract herein);
2. The Memorandum of Agreement (if any),
3. The Plans,
4. The Special Provisions,
5. The Technical Specifications,
6. The General Specifications,
7. The Standard Specifications, and
8. The Design Standards.

Computed dimensions shall govern over scaled dimensions.

### 3.3 Conformity of Work with Plans

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

In the event CFX finds that the Materials or the finished product in which the Materials are used are not within reasonable close conformity with the Plans and Specifications, but that

reasonably acceptable Work has been produced, CFX will make a determination if the Work will be accepted and remain in place. In this event, CFX will document the basis of acceptance by Contract modification which will provide for an appropriate adjustment in the Contract price for such Work or Materials as CFX deems necessary to conform to CFX's determination based on engineering judgment.

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

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

3.3.1 Record Drawings: During the entire construction operation, the Contractor shall maintain records of all deviations from the plans and specifications including Request for Information (RFI), field directives, sketches, etc., and shall submit those deviations to the CEI. The submittal shall also include cross-sections, prepared by a registered surveyor, of all retention ponds in the Project limits. A minimum submittal would be full-sized prints in good condition with all changes in red, accurately plotted. The print shall be in good condition as determined by the CEI. The marked up prints shall be submitted within ten (10) days of the Project acceptance or termination of Work. Preparation of the record drawings shall be the responsibility of CFX. Retainage will not be released by CFX until the marked up prints and records have been submitted and accepted by CFX.

#### 3.4 Pre-Award Meeting

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

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

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

### 3.5 Orders and Instructions

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

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

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

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

3.5.1.1 Make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine in general if the Work is proceeding in accordance with the Plans and Specifications. CFX will not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the Work, will not be responsible for the construction means, methods, procedures, techniques and will not be responsible

for the Contractor's failure to perform the construction Work in accordance with the Plans and Specifications. CFX will not be responsible for safety precautions and procedures concerning the Work. During such visits and based on on-site observations, CFX may disapprove Work as failing to conform to the Plans and Specifications.

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

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

3.5.1.4 Prepare final record drawings.

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

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

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

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

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

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

### 3.6 Engineering and Layout

#### 3.6.1 Control Points Furnished by CFX

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

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

#### 3.6.2 Furnishing of Stake Material

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

### 3.6.3 Layout of Work

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

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

### 3.6.4 Specific Staking Requirements

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

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

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

For resurfacing and resurfacing/widening Work, the Contractor shall establish horizontal controls adequate to assure that the asphalt mix added coincides with the

existing pavement. In tangent sections, horizontal control points shall be set at 100-foot intervals by an instrument survey. In curve sections, horizontal control points shall be set at 25-foot intervals by locating and referencing the centerline of the existing pavement.

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

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

### 3.6.5 Personnel, Equipment, and Record Requirements

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

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

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



### 3.6.6 Payment

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

## 3.7 Contractor's Supervision

### 3.7.1 Prosecution of Work

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

### 3.7.2 Contractor's Superintendent

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

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

### 3.7.3 Supervision for Emergencies

The Contractor shall have a responsible person available at or reasonably near the Work site on a 24-hour basis, 7 days per week. This individual shall be designated

as the Contractor's contact in emergencies and in cases where immediate action must be taken to maintain traffic or to handle any other problem that might arise. The contact person shall have the ability to speak and understand the English language.

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

#### 3.7.4 Worksite Traffic Supervisor

The Contractor shall have a Worksite Traffic Supervisor who shall be responsible for initiating, installing and maintaining all traffic control devices required for maintenance of traffic. The Worksite Traffic Supervisor shall have at least 1 year of experience directly related to worksite traffic control in a supervisory or responsible capacity and shall be certified by the American Traffic Safety Services Association under its Worksite Traffic Supervisor Certification Program, or an FDOT-approved advanced training Provider. Approved advanced training Providers will be posted on the FDOT's web site at the following URL address: <http://www.dot.state.fl.us/rddesign/MOT/MOT.shtm>.

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

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

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

### 3.8 General Inspection Requirements

#### 3.8.1 Cooperation by Contractor

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

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

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

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

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

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

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

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

## 3.9 Final Inspection and Acceptance

### 3.9.1 Maintenance Until Final Acceptance

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

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

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

### 3.9.2 Inspection for Substantial Completion

The CEI will make a semi-final inspection within 7 days after written notice from the Contractor of completion of the Project in its entirety. If, at the semi-final inspection,

it is determined that all pay item work has been installed and other conditions as defined in Section 1.3, the project will be deemed Substantially Complete. Further, if all construction provided for and contemplated by the Contract is complete and acceptable to the CEI, such inspection shall constitute the final inspection as described below.

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

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

### 3.9.3 Final Inspection

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

### 3.9.4 Final Acceptance

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

### 3.9.5 Recovery Rights Subsequent to Final Payment

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

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

CFX reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Bid Records (as herein defined) of the Contractor or any subcontractor. By submitting a Bid, the Contractor or any first or second tier subcontractor submits to and agrees to comply with the provisions of this Article. In addition, the Contractor shall be entitled to enter into subcontracts with proper CFX approval provided that all subcontracts shall include the same or similar terms as are in this Contract with respect to subcontractors, providing CFX with equal or greater protections than herein.

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

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

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

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

truckers or material suppliers, profit contingencies and any manuals standard in the industry that may be used by the Contractor in determining its bid. These manuals shall be included in the Bid Records by reference and shall show the name and date of the publication and the publisher.

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

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

### 3.11 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.

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

#### 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.

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

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.

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

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.

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

- 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

Rapid Response Agreement, CFX Agreement No. 001504, Section 11, is hereby adopted and made part of this General Specification as completely as if incorporated herein.

#### 5.12 Contract Bond (Public Construction Bond) Required

5.12.1 General Requirements of the Bond: The Contractor shall furnish to CFX and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by CFX. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to CFX. The name, address and telephone number of the surety agent shall be clearly stated on the face of the Public Construction Bond.

5.12.2 Continued Acceptability of Surety: In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after CFX's initial approval of the company, then CFX may require that the Contractor immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to CFX. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the Contractor from its payment of premium on the defaulting bond, will be borne by CFX.

#### 5.13 Contractor's Responsibility for Work

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

The Contractor will not be held responsible for damage to any landscape items caused by an officially declared hurricane that occurs after the final acceptance of the entire Work but during any remaining portion of the 90-day establishment period.

#### 5.14 Opening Section of Highway to Traffic

When any bridge or section of roadway is, in the opinion of CFX, acceptable for travel, CFX may direct that the bridge or roadway be opened to traffic. Such opening shall not be considered, in any way, to be an acceptance of the bridge or roadway or any part thereof or as a waiver of any provision of the Contract. The Contractor shall make all repairs or renewals due to defective Work or Materials (or for any cause other than ordinary wear and tear) on such opened sections without additional compensation.

#### 5.15 Scales for Weighing Materials

5.15.1 Applicable Regulations: Prior to the use of any scales, the Contractor shall submit to the CEI a copy of a certificate of accuracy for the scales that is not more than 1 year old. All scales which are used for the determination of the weight of Materials upon which compensation will be made by CFX shall conform to the requirements of Chapter 531, Florida Statutes, pertaining to specifications, tolerances and regulations as administered by the Bureau of Weights and Measures of the Florida Department of Agriculture. CFX reserves the right to perform scale checks/inspections at its sole discretion.

5.15.2 Base for Scales: Such scales shall be placed on a substantial horizontal base that will assure proper support, rigidity and maintenance of level of the scales.

5.15.3 Protection and Maintenance: All scale parts shall be in proper condition as to level and vertical alignment and shall be fully protected against contamination by dust, dirt and other matter which might affect operation of the parts.

#### 5.16 Source of Forest Products

As required by Section 255.20, Florida Statutes, all timber, timber piling or other forest products which are used in the construction of the Project shall be produced and manufactured in the State of Florida, price and quality being equal and provided such Materials produced and manufactured in Florida are available.

## 5.17 Regulations of Air Pollution

5.17.1 General: All Work shall be done in accordance with all Federal, State and local laws and regulations regarding air pollution and burning.

5.17.2 Dust Control: The Contractor shall ensure that excessive dust is not transported beyond the limits of construction in populated areas. Dust control for embankment or other cleared or unsurfaced areas may be by application of water or calcium chloride, as directed by CFX. Any use of calcium chloride shall be in accordance with Section 102 of the Technical Specifications. When included in the Plans, mulch, seed, sod or temporary paving shall be installed as early as practical. Dust control for storage and handling of dusty materials may be made by wetting, covering or other means as approved by the CEI.

5.17.3 Asphalt Material: Any asphalt used shall be emulsified asphalt unless otherwise stated in the Plans and allowed by Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. Asphalt materials and components shall be stored and handled to minimize unnecessary release of hydrocarbon vapors.

5.17.4 Asphalt Plants: The operation and maintenance of asphalt plants shall be in accordance with Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. A valid permit as required under Chapter 17-2 shall be available at the plant site prior to the start of Work.

## 5.18 Dredging and Filling

If required by the Work, the Contractor shall comply with Section 370.033, Florida Statutes, regarding obtaining a certificate of registration from the Florida Department of Environmental Protection and keeping accurate records and logs of all dredge and fill activities.

## 5.19 Erosion Control

This Project will be constructed on properties that may be subject to environmental permits and regulation promulgated by city, county, state, federal, and regional authorities. Requirements for erosion control are included in the Technical Specifications.

#### 5.20 Contractor's Motor Vehicle Registration

The Contractor shall provide proof to CFX that all motor vehicles operated or caused to be operated by the Contractor are registered in compliance with Chapter 320, Florida Statutes. Such proof of registration shall be submitted in the form of a notarized affidavit to CFX. No payment will be made to the Contractor until the required proof of registration is on file with CFX.

#### 5.21 Internal Revenue Service Form W-9

The Contractor shall complete and return with the executed Contract, Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.

#### 5.22 Tolls and Access

The Contractor shall pay all tolls incurred from using CFX's Expressway System to transport personnel, equipment, or materials to and from the site of Work. Any costs incurred by the Contractor in payment of tolls shall be considered incidental and included in associated items. The term "equipment" in this context includes loaders, graders and similar self-propelled equipment, operating under their own power, passing through a toll plaza.

Contractor shall access the Project by existing expressway ramps. No access will be allowed through the right-of-way fence.

#### 5.23 Requests for References or Performance Evaluations

In the event CFX at any time receives any direct or third party inquiry or request concerning the Contractor, its employees or sub-contractors, or the performance of the Contractor, its employees or sub-contractors under this Contract, CFX, at any time and in all cases, may, but shall not be obligated to respond to any such inquiry or request, with or without notice to the Contractor, its employees, or subcontractors, as the case may be, but, in all cases, such response shall be limited to: (1) acknowledging that the Contractor has, or in the past has had, a contract with CFX; (2) the date, term and type of such contract; (3) whether a specified employee or subcontractor worked on the Contract, and if so, in what capacity; (4) whether such contract was terminated early for any reason other than the convenience of CFX; (5) whether such contract was eligible for renewal or extension; and, (6) if such contract was eligible for renewal or extension, whether in fact such contract was renewed or extended. Should the Contractor, its employees, its agents or subcontractors request that any further information be provided in response to such an inquiry or request, such additional information may be provided by CFX, in its sole discretion. Contractor for itself, its employees, its agents and sub-contractors, hereby expressly waives any and all claims of whatever kind or nature that the Contractor, its employees, its agents or sub-contractors may have, or may hereafter acquire, against CFX relating to, or arising out of CFX's response to any and all requests or inquiries concerning the Contractor, its employees or subcontractors

under this Contract, or the performance of the Contractor, its employees or subcontractors under this Contract.

#### 5.24 Unauthorized Aliens

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

#### 5.25 Public Records

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

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

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the public agency.

4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the CONTRACTOR or keep and maintain public records required by the public agency to perform the service. If the CONTRACTOR transfers all public records to the public agency upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event the CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act.

#### 5.26 Inspector General

It is the duty of every CONTRACTOR and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to section 20.055, Florida Statutes. The corporation, partnership, or person entering into an Agreement with the Central Florida Expressway Authority understands and will comply with subsection. 20.055(5), Florida Statutes.

#### 5.27 Convicted Vendor List

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

#### 5.28 Discriminatory Vendor List

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may

not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

#### 5.29 Severability

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

#### 5.30 Companies Pursuant to Florida Statute Section 287.135

Pursuant to Section 287.135(3)(a)4, if the company is found to have submitted a false certification as provided under subsection (5); been placed on the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or been engaged in business operations in Cuba or Syria, the contract may be terminated for cause at the option of CFX.

Pursuant to Section 287.135(3)(b), if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the contract may be terminated for cause at the option of CFX.

Submitting a false certification shall be deemed a material breach of contract or renewal. CFX shall provide notice, in writing, to the Contractor of CFX's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the CFX's determination of false certification was made in error then CFX shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes and as allowed by law.

#### 5.31 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.

END OF SECTION 5

## SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

### 6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without written consent of CFX. With CFX written consent, the Contractor will be permitted to sublet a portion of the Work but shall perform, with its own organization, Work amounting to not less than 50% of the total Contract amount less the total amount for those Contract items specifically designated as "Specialty Work" below or as otherwise designated as Specialty Work by CFX. CFX may, at their discretion, revise the allowable sublet percentage for select Rapid Response Task Orders. The granting or denying of consent to sublet work under this provision is at CFX's sole discretion.

The total Contract amount shall include the cost of Materials, manufactured component products and their transportation to the Project site. Off-site commercial production of Materials and manufactured component products purchased by the Contractor and their transportation to the Project will not be considered subcontracted Work.

If a part of a Contract item is sublet, only its proportional cost will be used in determining the percentage of subcontracted normal Work.

All subcontracts entered into by the Contractor shall be in writing and shall contain all pertinent provisions and applicable requirements of the Contract. All subcontracts shall require subcontractor to indemnify and hold harmless CFX on the same terms as contained in the General Specifications and the Contract. The Contractor shall furnish CFX with a copy of any subcontract requested by CFX. Subletting of Work shall not relieve the Contractor or surety of their respective liabilities.

The Contractor shall ensure that all Subcontractors are competent, careful and reliable. The Contractor shall submit the names and qualifications of all first and second tier subcontractors to CFX for approval prior to their beginning Work on the Project. All first and second tier subcontractors shall have the skills and experience necessary to properly perform the Work assigned and as required by the plans and specifications.

If, in the opinion of CFX, any Subcontractor employed by the Contractor is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such first or second tier subcontractor shall be immediately removed from the Project by the Contractor upon written direction from CFX. Such subcontractor shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such

subcontractor, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the subcontractor is removed. The Contractor shall indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Subcontractor based on the direction of CFX. All subcontracts shall expressly include an acknowledgment of CFX's right to remove any Subcontractor in accordance with this paragraph.

A Subcontractor shall be recognized only in the capacity of an employee or agent of the Contractor.

If the aggregate total of the dollar amount of Work performed by a subcontractor, including equipment rental agreements, equals or exceeds \$20,000, a formal subcontract agreement shall be entered into between the Contractor and the Subcontractor.

6.1.2 Specialty Work: The following Work is designated as Specialty Work:

- Auxiliary Power Unit
- Cleaning, Coating, Injection, Grouting, Grinding, Grooving or Sealing Concrete Surfaces
- Deep Well Installation
- Electrical Work
- Fencing
- Highway Lighting
- Installing Pipe or Pipe Liner by Jacking and Boring
- Installing Structural Plate Pipe Structure
- Landscaping
- Painting
- Plugging Water Wells
- Pressure Grouting
- Pumping Equipment
- Roadway Signing and Pavement Marking
- Riprap
- Removal of Buildings
- Rumble Strips
- Sealing Wells by Injection
- Septic Tank and Disposal System
- Signalization
- Utility Works
- Vehicular Impact Attenuator
- Water and Sewage Treatment Systems

## 6.2 Work Performed by Equipment Rental Agreement

The limitations set forth in 6.1, regarding the amount of Work that may be subcontracted, do not apply to Work performed by Equipment rental agreements. The Contractor shall notify CFX, in writing, if the Contractor intends to perform any Work through an Equipment rental agreement. The notification shall be submitted to CFX before any rental Equipment is used on the Project. The notification shall include a list of the Equipment being rented, the Work to be performed by the Equipment and whether the rental includes an Equipment operator. Notification to CFX will not be required for Equipment being rented (without operators) from an Equipment dealer or from a firm whose principle business is renting or leasing Equipment.

## 6.3 Prosecution of Work

6.3.1 Sufficient Labor, Materials and Equipment: The Contractor shall provide sufficient labor, Materials and Equipment to ensure the completion of the Work no later than the Contract completion date.

6.3.2 Impacts by Adjacent Projects: When there is a potential impact between two or more projects due to close proximity or due to logistics in moving labor, Materials, and Equipment between projects, all authorized representatives of the parties performing the projects have a responsibility to communicate and coordinate their work so that impacts to either party are eliminated or mitigated and do not endanger, delay, or create additional work or costs to either party. The Contractor shall not be compensated for any additional costs or delays so incurred by either party.

6.3.3 Submission of Working Schedule: Within five (5) 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 five (5) 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 five (5) 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 three (3) 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; 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. Contract Time will be charged during these holiday periods regardless of whether or not the Contractor's operations have been suspended. The Contractor is not entitled to any additional compensation for suspension of operations during such holiday periods.

During such suspensions, the Contractor shall remove all Equipment and Materials from the clear zone, except those required for the safety of the traveling public and retain sufficient personnel at the job site to properly meet the requirements of Sections 102 and 104 of the Technical Specifications. The Contractor is not entitled to any additional compensation for removal of Equipment from clear zones or for compliance with Section 102 and Section 104 during such holiday periods.

Any special events known to CFX that may impact Contractor operations are shown on the Plans.

## 6.7 Contract Time

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

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

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

6.7.2 Date of Beginning of Contract Time: The date on which Contract time will begin shall be the date of notice to begin Work or as specified in the Notice to Proceed.

6.7.3 Adjusting Contract Time:

6.7.3.1 Contract Time Extension: CFX has established an allowable Contract duration, in terms of calendar days, sufficient to complete the Work covered by the Contract. By execution of the Contract, the Contractor agrees that the calendar days are sufficient to perform the Work and it has priced its bid considering the Contract duration. If the Contractor's Work (which Work is actually on the critical path) is impacted by one or more of the following events, CFX may (but is not obligated to) consider approving an extension of time:

1. War or other act of public enemies.
2. Riot that would endanger the well-being of Contractor's employees.
3. Earthquake.
4. Unpredictable acts of jurisdictional governmental authorities acting outside the scope of current laws and ordinances.
5. Hurricane (or other weather event) but only if the weather event results in the declaration of an emergency by the Governor of the State of Florida within the geographical area which includes the Work area.

6. Utility relocation and adjustment Work only if all the following criteria are met:
  - a. Utility work actually affected progress toward completion of Work on the critical path.
  - b. The Contractor took all reasonable measures to minimize the effect of utility work on critical path activities including cooperative scheduling of his operations with the scheduled utility work.
7. Temperature restrictions that prohibit placement of friction course (FC-5 only) provided all other Work is completed.
8. Epidemics, quarantine restrictions, strikes (unless caused or provoked by actions of the Contractor, or its subcontractors, or its materialmen, or its suppliers or its agents), freight embargoes.
9. Impacts to the critical path caused by other contractors.

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

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

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

will be made for delays caused by delivery of materials or component equipment.

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

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

## 6.8 Failure of Contractor to Maintain Satisfactory Progress

6.8.1 General: Time is of the essence of the Contract. Unsatisfactory progress will be deemed to have occurred when:

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

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

## 6.9 Default and Termination of Contract

- 6.9.1 Determination of Default: CFX will give notice in writing to the Contractor and Contractor's surety of such delay, neglect, or default for the following:
- a. If the Contractor fails to begin the Work under the Contract within the time specified in the Notice to Proceed or;
  - b. fails to perform the Work with sufficient workmen and Equipment or with sufficient Materials to assure the prompt completion of the Contract as related to the schedule or;
  - c. performs the Work unsuitably or neglects or refuses to remove Materials or;
  - d. to perform anew such Work as may be rejected as unacceptable and unsuitable or;
  - e. discontinues the prosecution of the Work or;
  - f. fails to resume Work which has been discontinued within a reasonable time after notice to do so or;
  - g. fails to pay timely its subcontractors, suppliers or laborers or;
  - h. submits a false or fraudulent Certificate of Disbursement of Previous Payments form or;
  - i. becomes insolvent or is declared bankrupt or;
  - j. files for reorganization under the bankruptcy code or;
  - k. commits any act of bankruptcy or insolvency, either voluntarily or involuntarily or;
  - l. allows any final judgment to stand against it unsatisfied for a period of ten calendar days or;
  - m. makes an assignment for the benefit of creditors or;
  - n. for any other cause whatsoever, fails to carry on the Work in an acceptable manner or;
  - o. if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of CFX.
  - p. Failure to ensure that D/M/WBE firms have the maximum opportunity to participate in performance of the Contract shall constitute failing to prosecute the Work in an acceptable manner.

If the Contractor, within a period of 10 calendar days after the notice described above, does not proceed to correct the default, CFX may give notice of default in writing to the Contractor and the surety stating the nature of the default and providing the amount of time which will be allowed to correct the default.

If the Contractor (within the curative period described in the notice of default) does not correct the default, CFX will have full power and authority to remove the Work from the Contractor and to declare the Contract in default and terminated.

If the Contract is declared in default, CFX may require the Contractor's surety to take over and complete the Contract performance. Upon the failure or refusal of the surety to assume the Contract within the time demanded, CFX may take over the Work covered by the Contract.

CFX shall have no liability for profits related to unfinished Work on a Contract terminated for default.

- 6.9.2 Public Interest Termination of Contract: CFX may, by written notice, terminate the Contract or a portion thereof after determining that, for reasons beyond either CFX or Contractor control, the Contractor is prevented from proceeding with or completing the Work as originally contracted for, and that termination would therefore be in the public interest. Such reasons for termination may include but need not be necessarily limited to, executive orders of the President relating to prosecution of war or national defense, national emergency which creates a serious shortage of Materials, orders from duly constituted authorities relating to energy conservation and restraining order or injunctions obtained by third-party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor.

When the Contract or any portion thereof, is terminated (as aforesaid) before completion of all items of Work in the Contract, payment will be made for the actual number of units or items of Work completed, at the Contract unit price or as mutually agreed for items of Work partially completed. No claims for loss of anticipated profits will be considered.

Reimbursement for mobilization expenses (when not otherwise included in the Contract), including moving Equipment to the job, will be considered where the volume of Work completed is too small to compensate the Contractor for these expenses under the Contract unit prices; the intent being that an equitable settlement will be made with the Contractor.

Acceptable Materials procured by the Contractor for the Work, that have been inspected, tested, and approved by CFX and that are not incorporated in the Work, may be purchased from the Contractor at actual cost, as shown by receipted bills and actual cost records, at such points of delivery as may be designated by CFX.

Termination of the Contract or a portion thereof, under the provisions of this subarticle, shall not relieve the Contractor of Contractor's responsibilities for the completed portion nor shall it relieve Contractor's surety of its obligation for, and concerning any just claims arising out of, the Work performed.

CFX may also, upon seven days written notice to the Contractor, without cause and without prejudice to any other right or remedy of CFX, elect to terminate the Contract. In such case, the Contractor will be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, in accordance with existing pay items;
2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, Materials or Equipment as required by the Contract Documents in connection with uncompleted Work, plus mutually agreeable sums for overhead and profit on such expenses.

The Contractor shall not be paid because loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

6.9.3 Completion of Work by CFX: Upon declaration of default and termination of the Contract, CFX will have the right to appropriate or use any or all Materials and Equipment on the sites where Work is or was occurring which are suitable and acceptable and may enter into agreements with others for the completion of the Work under the Contract or may use other methods which in the opinion of CFX are required for Contract completion. All costs and charges incurred by CFX because of or related to the Contractor's default (including the costs of completing Contract performance) shall be charged against the Contractor. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the Contractor and the surety shall be jointly and severally liable and shall pay CFX the amount of the excess.

## 6.10 Liquidated Damages for Failure to Complete the Work

6.10.1 Liquidated Damages for Failure to Complete the Work: The Contractor shall pay to CFX liquidated damages in the amount specified in the Special Provisions per calendar day for failure of the Contractor to complete the Work within the Contract time stipulated or within such additional time as may have been granted by CFX.

6.10.2 Determination of Number of Days of Default: Default days shall be counted in calendar days.

6.10.3 Conditions Under Which Liquidated Damages are Imposed: If the Contractor (or in circumstance of the Contractor default, the surety) fails to complete the Work within the Contract time stipulated or within such extra time as may have been granted by



CFX, the Contractor (or the surety) shall pay to CFX, not as a penalty but as liquidated damages, the amount due.

6.10.4 Right of Collection: CFX reserves the right, at its sole option, to apply as payment on liquidated damages due any money which is due the Contractor by CFX.

6.10.5 Allowing the Contractor to Finish Work: Allowing the Contractor to continue and to finish the Work or any part of it, after the expiration of the Contract time allowed, including time extensions, shall in no way act as a waiver on the part of CFX of the liquidated damages due under the Contract.

6.10.6 Liability for Liquidated Damages: In the event of default of the Contract and the completion of the Work by CFX, the Contractor and the Contractor's surety shall be liable for the liquidated damages under the Contract. No liquidated damages shall be chargeable for any delay in the final completion of the Work due to any unreasonable action or delay on the part of CFX.

#### 6.11 Release of Contractor's Responsibility

The Contract will be considered completed when all Work has been finally accepted, in writing, by CFX. The Contractor will then be released from further obligation except as set forth in the Public Construction Bond and as provided in subarticle 3.9.5, Recovery Rights Subsequent to Final Payment.

#### 6.12 Recovery of Damages Suffered by Third Parties

In addition to liquidated damages, CFX may recover from the Contractor amounts paid by CFX for damages suffered by third parties unless the failure to timely complete the Work was caused by CFX acts or omissions.

#### 6.13 Express Warranty

The Contractor warrants and guarantees the Work to the full extent provided for in and required by the Contract Documents. Without limiting the foregoing or any other liability or obligation with respect to the Work, the Contractor shall, at its expense and by reason of its express warranty, make good any faulty, defective, or improper parts of the Work discovered within one (1) year from the date of final acceptance of the Project, expressed in writing, by CFX. The Contractor also warrants that all materials furnished hereunder meet the requirements of the Contract Documents and expressly warrants that they are both merchantable and fit for the purpose for which they are to be used under the Contract Documents.

Should any subcontractor or material supplier of Contractor provide an express warranty for its work or materials to the Contractor which is thereafter assigned to CFX or provide a warranty for its work or materials directly to CFX, such warranty shall not preclude CFX from the exercise of any alternative means of relief against Contractor, whether contractual, extra-contractual, statutory, legal or equitable.

END OF SECTION 6

## SECTION 7 - MEASUREMENT AND PAYMENT

### 7.1 Measurement of Quantities

7.1.1 Measurement Standards: Unless otherwise stipulated, all Work completed under the Contract shall be measured by CFX according to United States Standard Measures.

7.1.2 Method of Measurements: All measurements shall be taken horizontally or vertically unless otherwise stipulated in the Specifications.

7.1.3 Determination of Pay Areas:

7.1.3.1 Final Calculation: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is determined by calculation, the lengths and/or widths used in the calculations shall be either 1) the station to station dimensions shown on the Plans, 2) the station to station dimensions actually constructed within the limits designated by CFX or 3) the final dimensions measured along the surface of the completed Work within the neat lines shown on the Plans or designated by CFX. The method or combination of methods of measurement shall be those that reflect, with reasonable accuracy, the actual plane surface area, irrespective of surface and texture details of the finished Work as determined by CFX.

7.1.3.2 Plan Quantity: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is designated to be the plan quantity, the final pay quantity shall be the plan quantity subject to the provisions of subarticle 7.3.2. In general, the plan quantity shall be calculated using lengths based on station to station dimensions and widths based on neat lines shown on the Plans.

7.1.4 Construction Outside Authorized Limits: Except where such Work is performed upon written instruction of CFX, no payment will be made for surfaces constructed over a greater area than authorized or for material moved from outside of slope stakes and lines shown on the Plans.

7.1.5 Truck Requirements:

The Contractor shall certify that all trucks used have a manufacturer's certification or permanent decal showing the truck capacity rounded to the nearest tenth of a cubic yard placed on both sides of the truck. The capacity shall include the truck body only and any side boards added shall not be included in the certified truck body capacity.

7.1.6 Ladders and Instrument Stands for Bridge Construction: To facilitate necessary measurements, the Contractor shall provide substantial ladders to the tops of piers

and bents and shall place and move ladders as required by the CEI. For bridges crossing water or marshy areas, the Contractor shall provide fixed stands for instrument mounting and measurements.

## 7.2 Scope of Payments.

### 7.2.1 Items Included in Payment:

Accept the compensation as provided in the Contract as full payment for furnishing all materials and for performing all work contemplated and embraced under the Contract; also for all loss or damage arising out of the nature of the work or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its final acceptance; also for all other costs incurred under the provisions of the General Specifications.

For any item of work contained in the proposal, except as might be specifically provided otherwise in the basis of payment clause for the item, include in the Contract unit price (or lump sum price) for the pay item or items the cost of all labor, equipment, materials, tools, and incidentals required for the complete item of work, including all requirements of the Section specifying such item of work, except as specifically excluded from such payments.

7.2.2 Non-Duplication of Payment: In cases where the basis of payment clause in these Specifications relating to any unit price in the bid schedule requires that the unit price cover and be considered compensation for certain work or material essential to the item, CFX will not measure or pay for this same work or material under any other pay item that may appear elsewhere in these Specifications.

## 7.3 Compensation for Altered Quantities

7.3.1 General: When a change or combination of changes in the Plans results in an increase or decrease in the original Contract quantities and the Work added or deleted is of the same general character as that shown on the original Plans, the Contractor shall accept payment in full at the original Contract unit prices for the actual quantities of Work done. No allowance will be made for any loss of anticipated profits because of increase or decreases in quantities provided, however, that increased or decreased Work covered by a Supplemental Agreement will be paid for as stipulated in the Supplemental Agreement.

Compensation for alterations in Plans or quantities of Work requiring Supplemental Agreements shall be stipulated in such agreement, except when the Contractor proceeds with the Work without change of price being agreed upon. The Contractor

shall be paid for such increased or decreased quantities at the Contract unit prices bid in the Proposal for the items of Work. If no Contract unit price is provided in the Contract, the Contractor agrees to do the Work in accordance with Subarticle 2.3.2 of these General Specifications.

### 7.3.2 Payment Based on Plan Quantity:

7.3.2.1 Error in Plan Quantity: When the pay quantity for an item is designated to be the original plan quantity, such quantity will be revised only in the event that the quantity increases or decreases by more than 5% of the original plan quantity or the amount due for the item increases or decreases by more than \$5,000, whichever is smaller. In general, such revisions will be determined by final measurement or plan calculations (or both) as additions to or deductions from plan quantities. Changes resulting in pay quantity increase or decrease in excess of 25% will be in accordance with the criteria for significant changes as defined in subarticle 2.3.1 of these General Specifications.

If the Contractor determines that the plan quantity for any item is in error and additional or less compensation is due, the Contractor shall submit evidence of such error to CFX in the form of acceptable and verifiable measurements and calculations.

Similarly, if CFX determines an error or errors exist, it will make its measurements and calculations available to the Contractor. The plan quantity will not be revised solely on the basis of the Contractor's method of construction.

For earthwork items, the claimant must note any differences in the original ground surfaces from that shown in the original plan cross-sections that would result in a substantial error to the plan quantity, and must be properly documented by appropriate verifiable level notes, acceptable to both the Contractor and CFX, and provide sufficient opportunity to verify the data prior to disturbance of the original ground surface by construction operations. The claimant shall support any claim based upon a substantial error for differences in the original ground surface by documentation as provided above.

7.3.2.2 Authorized Changes in Limits of Work: When the pay quantity for an item is designated to be the original plan quantity and a plan change is authorized resulting in an increase or decrease in the quantity of an item, the plan quantity will be revised accordingly provided that such change will increase or decrease the amount due for more than \$100. In general, such revisions will be determined by final measurement or plan calculations or both, subject to the provisions of Subarticle 2.3.2 of these General Specifications.

7.3.2.3 Specified Adjustments to Pay Quantities: The limitations detailed in Subarticles 7.3.2.1 and 7.3.2.2 do not apply when 1) the Specifications provide that the pay quantity for an item to be paid for on the basis of area of finished Work is to be adjusted according to the ratio of measured thickness to nominal thickness, 2) the Specifications provide for a deduction due to test results falling outside of the allowable specification tolerance or 3) paying for extra length fence posts as detailed in the Standard Specifications Section 550, Fencing, sub article 550-6.3, Payment Rates for Extra-Length Posts.

### 7.3.3 Lump Sum Quantities:

7.3.3.1 Error in Plan Quantity: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated quantity, the lump sum compensation will be adjusted only in the event that either the Contractor submits satisfactory evidence or CFX determines and furnishes satisfactory evidence that the plan quantity shown is substantially in error as defined in 7.3.2.1.

7.3.3.2 Authorized Changes in the Work: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated plan quantity, compensation for that item will be adjusted proportionately when a plan change results in a significant increase or decrease in the quantity from the estimated plan quantity. When the Plans do not show an estimated plan quantity or the Specifications do not provide adjustments for contingencies, any authorized plan changes resulting in a significant increase or decrease in the cost of acceptably completing the item will be compensated for by establishing a new unit price through a Supplemental Agreement as provided in Subarticle 2.3.2. of these General Specifications.

7.3.4 Deviation from Plan Dimensions: If the Contractor fails to construct any item to plan or to authorized dimensions within the specified tolerances, the CEI, at his discretion will: require the Contractor to reconstruct the work to acceptable tolerances at no additional cost to CFX; accept the work and provide the Contractor no pay; or accept the work and provide the Contractor a reduced final pay quantity or reduced unit price. CFX will not make reductions to final pay quantities for those items designated to be paid on the basis of original plan quantity or a lump sum quantity under the provisions of this Article unless such reduction results in an aggregate monetary change per item of more than \$100, except that for earthwork items, the aggregate change must exceed \$5,000 or 5% of the original plan quantity, whichever is smaller. If, in the opinion of the CEI, the Contractor has made a deliberate attempt to take advantage of the construction tolerances as defined in Article 120-12.1 of the Standard Specifications to increase borrow excavation in fill sections or to decrease the required volume of roadway or lateral ditch excavation or embankment, CFX will

take appropriate measurements and will apply reductions in pay quantities. CFX will not use the construction tolerance, as defined in Article 120-12.1, as a pay tolerance. The construction tolerance is not to be construed as defining a revised authorized template.

7.4 Force Account Work: Work performed in addition to that set forth in the original Contract and which is paid for on the basis of actual cost of the Materials and labor, plus a fixed percentage of such costs, and at agreed rental rates for major Equipment used.

7.4.1 Method of Payment: All Work done on a force account basis performed by such labor, tools and Equipment as necessary to accomplish the Work, and authorized by CFX, will be paid for in the following manner:

(a) Labor:

Payment for labor and burden shall be based on actual costs of alteration, change, additional or unforeseen Work, plus a markup of 25%, agreed upon in writing before starting such Work, for every hour that the labor is actually engaged in such Work. Such amount shall be considered as full compensation for general supervision and the furnishing and repairing of small tools used on the Work. Agreed wage rates shall not be in excess of the rates paid for comparable Work on the Project.

(b) Materials and Supplies:

Payment for Materials and supplies, directly related to the alteration, change, additional or unforeseen Work, accepted by CFX and used on the Project shall be based on actual costs of such Materials incorporated into the Work, including Contractor paid transportation charges (exclusive of Equipment as hereinafter set forth), plus a markup of 17.5%. Material is defined as any item used in the Work that remains a part of the Project. The cost of supplies may be the pro-rata portion caused by the alteration, change, additional or unforeseen Work.

(c) Equipment:

The use of each piece of such machinery or Equipment and rental rates must be agreed upon in writing before the force account Work is begun.

Payment for Contractor owned machinery or Equipment (other than small tools) shall be determined as described below, plus a markup of 7.5%. Payment for rented Equipment shall be based on invoice cost plus 7.5%.

The portion of the cost for machinery or Equipment shall be based on the lesser of actual cost or “Rental Rate Blue Book for Construction Equipment” (RRBB) or “Rental Rate Blue Book for Older Construction Equipment” (RRBBOCE) as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at time of bid) using all instructions and adjustments contained therein and as modified below.

On all projects, CFX will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the RRBB and/or RRBBOCE. Allowable Machinery and Equipment Rates will be established as set out below:

- 1.) Reimbursement for the Equipment being operated shall be at a rate of 100% of the RRBB and/or 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 mark ups 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. In the event the sum of the Preliminary Order-of-Magnitude Estimate results in a Rapid Response Task Order total amount exceeding the allowable dollar limit set forth by CFX as governed by F.S. 255.20(2), CFX will be immediately notified and CFX has the right to reject the force Account Work as unauthorized.

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 ten (10) 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 fifteen (15) 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 fifteen (15) days from the date of the tentative final estimate to resolve any outstanding issues. At the end of the fifteen (15) 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 fifteen (15) calendar days of the Offer of Final Payment shall constitute full acceptance of the balance due without qualification.

If the Contractor provides a qualified acceptance letter, then the Contractor agrees that a complete claim package in accordance with Article 2.4 of the General Specifications, and limited to the particulars in the qualified acceptance letter, will be provided within 120 calendar days of the Offer of Final Payment. Additionally, the Contractor agrees that any pending or future arbitration must be limited to the particulars in the qualified acceptance letter and must begin within 210 calendar days from the date of the Offer of Final Payment.

- B) The Contractor has properly maintained the Project as specified hereinbefore.
- C) The Contractor has furnished a sworn affidavit to the effect that all bills are paid and no suits are pending (other than those exceptions listed if any) in connection with the Work of the Contract and that the Contractor has not offered or made any gift or gratuity to or made any financial transaction of any nature with, any employee of CFX. Tort liability exceptions, if any, shall be accompanied by evidence of adequate insurance as required in Article 5.11 of these General Specifications.
- D) The surety on the Public Construction Bond has consented (by completion of its portion of the affidavit and surety release) to final payment to the Contractor and agrees that the making of such payment shall not relieve the surety of any of its obligations under the bond.
- E) The Contractor has submitted all mill tests and analysis reports to CFX.
- F) The Contractor has submitted insurance certificates for extended coverage as required by Article 5.11 of these General Specifications.

- G) The Contractor has previously submitted Record Drawings as required by Article 3.3.1 of these General Specifications.
- H) The Contractor has submitted the completed density log book as required by Article 120-10.4.2 of the Technical Specifications.
- I) The Contractor has submitted the final material testing certification as required by Article 105-6 of the Technical Specifications.
- J) The Contractor has submitted all warranties and operation and maintenance manuals required by various Articles and Subarticles of Specifications.

If the Contractor fails to furnish all required Contract Documents listed in B) through J) of this Article within 90 calendar days of the Offer of Final Payment, CFX may deduct from the retainage due the Contractor, \$1,000 for each calendar day beyond the 90 calendar days that the Contractor fails to provide the required Contract Documents.

#### 7.10 Offsetting Payments

If payment of any amount due CFX after settlement or arbitration is not made by the Contractor within 60 days, CFX may, at its sole discretion, offset such amount from payments due the Contractor for Work performed under any other contract with CFX, excluding amounts owed to subcontractors, suppliers and laborers. Offsetting any amount in this manner shall not be considered a breach of the Contract by CFX.

END OF SECTION 7



SECTION 8 – DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISE  
(D/M/WBE) PARTICIPATION

- 8.1 General: The Contractor is encouraged to continue to meet or demonstrate the participation objectives could not be met. At any time, CFX's Executive Director may grant a partial or complete waiver of the D/M/WBE objective for the Project due to consideration of property, public safety, and health, including financial impact to CFX.

CFX has provided an exception for the Contractor's failure to meet the participation objective established for this project. The exception requires that the Contractor provide CFX with documentation supporting the Contractor's Good Faith Effort to meet the stated objective. CFX will have the sole and final determination of whether the support documentation provided by the Contractor does, in fact, meet CFX's standard for a Good Faith Effort as detailed in this Section 8. The Contractor shall demonstrate, through documentation, that every reasonable effort has been made to achieve CFX's participation objective. The Contractor shall be responsible for securing proof of the D/M/WBE certification(s) for the proposed subcontractors/suppliers and be able to provide copies of the certification(s) to the CFX's Supplier Diversity Office.

The Contractor shall use good faith efforts to meet or exceed a D/M/WBE Goal of 15% of the sum of the approved RRTOs in accordance with the Agreement (page P-6).

As to a specific RRTO, the Contractor shall meet or exceed the amounts to be paid to D/M/WBEs stated in the Contractor's RRTO D/M/WBE Utilization Form (page P-7 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 RRTO D/M/WBE Utilization Form will require prior approval by the CFX Director of Supplier Diversity. Should the Contractor determine that a subcontractor/supplier named in the Utilization Form is unavailable or cannot perform the work, the Contractor shall request approval of a revised D/M/WBE Utilization Form. The revised Utilization Form shall be submitted, in writing, to the CFX Supplier Diversity Office at 4974 ORL Tower Road, Orlando, Florida 32807, or by facsimile to (407) 690-5011.

The Contractor will not be allowed to perform Work with its forces that has been identified on the Utilization Form to be performed by D/M/WBE firms. If a D/M/WBE subcontractor is unable to successfully perform the Work, the Contractor shall make a Good Faith Effort to replace that firm with another D/M/WBE firm. In evaluating a Contractor's Good Faith Efforts, CFX will consider:

- (1) Whether the Contractor, provided written notice to certified D/M/WBEs performing the type of Work that the Contractor intends to subcontract, advising the D/M/WBEs (a) of the specific Work the Contractor intends to subcontract; and (b) that their interest in the Contract is being solicited;
- (2) Whether the Contractor provided interested D/M/WBEs assistance in reviewing the Contract Plans and Specifications;
- (3) Whether the Contractor assisted interested D/M/WBEs in obtaining any required bonding, lines of credit, or insurance;
- (4) Whether the Contractor's efforts were merely pro forma and given all relevant circumstances, could not reasonably be expected to produce sufficient D/M/WBE participation to meet the objective.

The above list is not intended to be exclusive or exhaustive and CFX will look not only at the different kinds of efforts that the Contractor has made but also the quality, quantity and intensity of these efforts.

## 8.2 Disadvantaged, Minority and Women Owned Businesses - Participation Objective

8.2.1 General: The Contractor shall ensure that D/M/WBE as defined herein will have the maximum opportunity to participate in the performance of subcontracts. In this regard, the Contractor shall take all necessary and reasonable steps to accomplish that result.

8.2.2 Definitions: The following words and phrases shall have the respective meanings set forth below unless a different meaning is plainly required by the context:

- (1) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States or lawfully admitted permanent residents and who are women, Black Americans, Hispanic American, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Individuals in the following groups are presumed to be socially and economically disadvantaged:
  - (a) "Black Americans", which includes persons having origins in any of

the black racial groups of Africa;

- (b) “Hispanic Americans”, which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;
  - (c) “Asian-Pacific Americans”, which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific and the Northern Marianas;
  - (d) “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
  - (e) “Asian-Indian Americans”, which includes persons whose origins are from India, Pakistan, and Bangladesh; and
  - (f) “Women”.
- (2) “Joint Venture” means an association of two or more firms to carry out a single business enterprise for which purpose the firms combined their property, money, effects, skills or knowledge.
  - (3) “Certified” means a finding by Orange County, Florida, the City of Orlando, Florida, and Florida Department of Transportation that the business is a bona fide Minority, Women or Disadvantaged owned and operated business.
  - (4) “Independently Owned and Operated” means a business that is not affiliated or associated with the general contractor or prime contractor providing work or services on CFX project(s) or procurement in which the D/M/WBE seeks to participate. Affiliated status may be determined through common ownership, management, employees, facilities, inventory or any other factors, which would prevent or inhibit independent status
  - (5) “Women Business Enterprise” comprises all women. All women business owners will be classified as a Women Business Enterprise.

8.2.3 Specific Requirements: The Contractor shall, among other things, implement techniques to facilitate D/M/WBE participation in contracting activities including, but not limited to:

1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations;
2. Providing assistance to D/M/WBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance;
3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate;
4. Contacting Minority Contractor Associations, city, and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible D/M/WBE contractors to apply for certification.
5. Meeting with appropriate officials of CFX, including its Supplier Diversity Office, to assist with the Contractor's efforts to locate D/M/WBEs and assist with developing joint ventures, partnering, and mentorship.

8.2.4 Qualified Participation: CFX will count D/M/WBE participation toward meeting D/M/WBE objective as follows:

1. The total dollar value of the contract to be awarded to the certified D/M/WBE will not be counted toward the applicable D/M/WBE objective unless approved by CFX.
2. A portion of the total dollar value of a contract, with an eligible joint venture, equal to the percentage of the ownership and control of the D/M/WBE partner in the joint venture may be counted toward the D/M/WBE objective.
3. Only expenditures to D/M/WBEs that perform a commercially useful function may be counted toward the D/M/WBE objective. A D/M/WBE is considered to perform a commercially useful function when it actually performs and manages at least 51 percent of the work subcontracted to it. To determine whether a D/M/WBE is performing a commercially useful function, CFX will evaluate all relevant factors such as the amount of Work subcontracted and industry practices.
4. Consistent with normal industry practices, a D/M/WBE may enter into

subcontracts. If a D/M/WBE subcontracts 50 percent or more of the Work assigned to it, the D/M/WBE shall be presumed not to be performing a commercially useful function.

5. Expenditures for materials and supplies obtained from D/M/WBE suppliers and manufacturers may be counted toward the D/M/WBE objective, provided that the D/M/WBEs assume the actual and contractual responsibility for the provision of the materials and supplies. The percentage allowed toward the D/M/WBE objective is as follows:
  - (a) All expenditures to a D/M/WBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale) may be counted toward the D/M/WBE objective.
  - (b)
    1. A Contractor may count toward its D/M/WBE objective 60 percent of its expenditures for materials and supplies required under a contract and obtained from a D/M/WBE regular dealer, and 100 percent of such expenditures to a D/M/WBE manufacturer.
    2. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.
    3. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this Section.

(c) A Contractor may count toward the D/M/WBE objective for the following expenditures to D/M/WBE firm(s) that are not manufacturers or regular dealers:

1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials of supplies required for performance of the Contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.
2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
4. Those sums that, subsequent to the receipt of bids, CFX elects, under the provisions of the Direct Materials Purchase Option, to purchase materials originally proposed by the Contractor to CFX to have been an element of the Work of a certified D/M/WBE contractor/subcontractor/vendor.

8.2.5 Records and Reports: The Contractor shall develop a record keeping system to monitor its D/M/WBE participation and shall maintain the following records:

1. the procedures adopted to comply with these special provisions;
2. The number of subordinated contracts on CFX projects awarded to D/M/WBEs;
3. the dollar value of the contracts awarded to D/M/WBEs;

4. the percentage of the dollar value of all subordinate contracts awarded to D/M/WBEs as a percentage of the total contract amount;
5. a description of the general categories of contracts awarded to D/M/WBEs;
6. the specific efforts employed to identify and award contracts to D/M/WBEs;
7. maintenance of records of payments and monthly reports to CFX;
8. Subcontract Agreement between Contractor and D/M/WBE subcontractors; and
9. any other records required by CFX's Project Manager or Executive Director.

The records maintained by the Contractor in accordance with this Section shall be provided to CFX for review within 48 hours of the CFX request. The Contractor shall submit a properly executed D/M/WBE Payment Certification monthly during the life of the D/M/WBE subcontract whether payment is made or not.

### 8.3 Subletting of Contracts - Participation Objective

No request to sublet Work will be approved unless it is in compliance with the Contractor's approved D/M/WBE Utilization Form "Certification of Subcontract Amount to D/M/WBE Contractor", shall be completed and submitted with the Request For Authorization To Sublet Work. One copy of the certification will be attached to each copy of the Request For Authorization To Sublet Work.

END OF SECTION 8

## SECTION 9 - BINDING ARBITRATION

9.1 CFX and the Contractor shall submit any and all unsettled claims, counterclaims, and disputes to the Disputes Review Board (DRB) prior to initiating a demand for arbitration pursuant to this Section.

9.2 No demand for arbitration of any claim, dispute or other matter referred to the DRB initially for decision will be made until after final acceptance, per Article 3.9, of all Contract Work by CFX. The filing party shall pay all applicable fees associated with requested arbitration proceedings.

The failure to demand arbitration within thirty (30) days after final acceptance will result in the DRB's decision being final and binding upon CFX and Contractor.

9.3 Notice of the demand for arbitration is satisfied when it is filed in writing with the other party to the Contract and with the American Arbitration Association (including required fees). A copy will be sent to the Board for information.

9.4 The arbitration shall occur in Orlando, Florida and shall be conducted by a three (3) member panel pursuant to and under the auspices of the Construction Industry Arbitration Rules of the American Arbitration Association.

9.5 Procedure for Binding Arbitration

Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining, subject to the limitations of this Section. The agreement to arbitrate (and any other agreement or consent to arbitrate entered into in accordance herewith) will be specifically enforceable under the laws of Florida.

Arbitration shall include by consolidation, joinder or in any other manner any person or entity who is not a party to the Contract in circumstances where:

- the inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration, and
- such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings, and
- the written consent of the other person or entity sought to be included and of CFX and Contractor has been obtained for such inclusion, which consent shall make specific reference to this paragraph.



In order to assure complete resolution of any claim or controversy, the Contractor shall provide and require (in the agreements with subcontractors and material suppliers) for joinder in such arbitration proceedings. Therefore, if a claim, dispute or other matter in question between CFX and Contractor involves the work of a Subcontractor, either CFX or Contractor may join such subcontractor as a party to the arbitration. Nothing in this paragraph or in the provision of such subcontract consenting to joinder shall create any claim, right or cause of action in favor of subcontractor or supplier, and against CFX, CEI, or any of their consultants that does not otherwise exist.

In connection with the arbitration proceedings all participants shall be afforded pre-hearing discovery in accordance with the rules of the American Arbitration Association.

END OF SECTION 9

## SECTION 10- DISPUTES RESOLUTION

### 10.1 Disputes Resolution

#### 10.1.1 Disputes Review Board

A Disputes Review Board (“Board”) will be established to assist in the resolution of disputes arising out of the Work on the Project. This document describes the purpose, procedure, function and features of the Board.

The Board will provide special expertise to assist and facilitate the timely and equitable resolution of disputes and controversies between CFX and the Contractor in an effort to avoid construction delays and future claims.

It is not intended for CFX or the Contractor to avoid the normal responsibility to cooperatively and fairly settle differences by indiscriminately requesting dispute resolution by the Board. It is intended the Board encourage CFX and the Contractor to first try resolving potential disputes without resorting to the procedure set forth herein.

The Board will be used only when the claims procedure detailed in the Contract has been followed and has been unsuccessful. It is a condition of the Contract that the parties use the Board. Adherence to the Contract claims procedure is a condition precedent to the submission of a dispute to the Board, and the submission of an unresolved dispute to the Board is, in turn, a condition precedent to arbitration of such issue.

The Board will fairly and impartially consider disputes referred to it. The Board will receive testimony and other relevant evidence regarding such disputes, will analyze the facts within the parameters of the Contract, and will then provide written recommendations (to CFX and Contractor) to assist in the resolution of the disputes. The recommendations of the Board will not be binding on either CFX or the Contractor; however, the Board’s recommendations and findings shall be admissible for all purposes in any subsequent arbitration proceedings or the judicial enforcement thereof.

#### 10.1.2 Continuance of Work During Dispute

During the dispute resolution process the Contractor shall conform to the CEI’s decision or order and continue with the Work as directed by the CEI in a diligent manner and without delay. Such Work will be governed by all applicable provisions of the Contract. With respect to any protested Work, the Contractor will keep complete records of extra costs and time incurred. Except for sealed Bid Records, the Contractor will permit CEI and the Board access to any records needed for evaluating the dispute, without any claim of privilege or confidentiality.

### 10.1.3 Disputes Review Board Membership

The Board will consist of three Members, one Member selected by CFX and approved by the Contractor, and one Member selected by the Contractor and approved by CFX. The first two Members will mutually select and agree on the third Member, which third Member shall not be subject to approval by either the Contractor or CFX. Normally, the third Member will act as Chairman for all Board activities. If the third Member declines to act as Chairman, the Members shall select an alternative Chairman. Neither the Contractor nor CFX shall seek to influence the Chairman selection decision.

The Contractor and CFX shall each submit the name and credentials of their proposed Member to the other within ten (10) days of the Contract award. The two Members, upon acceptance, shall meet promptly and mutually agree on the third Member. A Notice to Proceed shall not be issued until the Board Members have been selected and have signed the Three-Party Agreement. All three Members shall attend the Pre-Construction Meeting.

All Board Members shall be experienced with major road and bridge construction and the associated construction methods involved in the Project, in the interpretation of contract documents and in contract dispute resolution. The goal in selecting the third Member is to complement the construction experience of the first two Members and to provide leadership of the Board's activities.

It is imperative that Board Members show no partiality to either the Contractor or CFX, or have any conflict of interest.

The criteria and limitations for membership will be as follows:

- a. The person selected will not have any direct or indirect ownership or financial interest in (i) the Contractor, (ii) CEI or the CFX General Engineering Consultant ("GEC"), (iii) any subcontractor or supplier of the Project, or (iv) the employer of other Board Members.
- b. Except for services as a Board Member on CFX projects, no Member shall have been an employee, contractor or consultant to the Contractor or CFX, CEI, the GEC or any subcontractor or supplier for the Project within a period of ten (10) years prior to the Contract award.
- c. No Member will have had a close personal, professional or business relationship with CFX or the Contractor (or an employee or officer of CFX or the Contractor).
- d. No Member will have had any prior involvement in the Project (other than as a dispute board member) of a nature which could be construed to compromise an ability to impartially resolve disputes.

- e. No Member will be employed by the Contractor, the CEI, the GEC or any subcontractor or supplier of the Project during the term of the Contract, except as a Board Member pursuant to the Three Party Agreement.
- f. During the term of the Contract no discussion or agreement will be made between a Board Member and CFX or Contractor regarding employment after the Contract is completed.
- g. During the term of the Contract, ex-parte communications between a Board Member and a party to the Three Party Agreement is prohibited.

Before appointments are final, the first two prospective Members will submit complete disclosure statements for the approval of both CFX and the Contractor. Each statement (in the form prepared by CFX) will include a statement of experience and a declaration describing all past, present and anticipated or planned future relationships to the Project and with the parties to the Contract. Disclosure of professional or personal relationships with parties to the Contract will be included. The third Board Member will supply a similar statement to the first two Board Members (and to CFX and the Contractor) before the third Member appointment is finalized.

CFX and the Contractor will each select a Member, execute the Three Party Agreement (described below) and assure the Members execute the Three-Party Agreement within the first three (3) weeks after Contract award. CFX and the Contractor will immediately notify the selected Members to begin selection of the third Member. The first two Members will ensure the third Member meets all of the criteria listed above. The third Member will be selected within two (2) weeks after the first two Members are notified to proceed with the selection of the third Member. If there is an impasse in the selection of the third Member, the third Member will be selected by CFX and the Contractor, with the first consideration to the nominees reviewed by the first two Members.

In the event of death, disability or resignation of a Member, such Member shall be replaced in the same manner as the Member being replaced was selected. If for whatever other reason a Member fails or is unable to serve, the Chairman (or failing the action of the Chairman, then either of the other Members) shall inform the parties and such non-serving Member shall be replaced in the same manner as the Member being replaced was selected. Any replacement made by the parties shall be completed within fifteen (15) days after the event giving rise to the vacancy on the Board, failing which the replacement shall be made by the two remaining Members of the Board. Replacement shall be considered completed when the new Member executes the Dispute Review Board Three Party Agreement.

#### 10.1.4 Board Operations

The Board will formulate procedures of operation that shall be flexible with respect to the functioning of the Board. The Board may formulate new or revised procedures respecting its operation from time to time to accommodate the needs of the Board and the circumstances.

Each Board Member shall be provided a complete set of the Contract Documents. CFX and the Contractor shall keep the Board informed of construction activity and progress by submitting written progress reports and other relevant data at least monthly. The Board will visit the Project at regular intervals and/or at times of critical construction events and meet with CEI and the Contractor. In circumstances of unresolved disputes, the Board will meet at least monthly until the unresolved disputes are concluded. The frequency of visits will be agreed upon by CFX, the Contractor and the Board, depending upon the progress of the Work.

Regular meetings will be held at the job site. Each meeting will consist of an informal discussion and a field inspection of the Work. The informal discussion will be attended by selected personnel from CFX, the CEI and the Contractor. Agenda for regular meetings of the Board will generally include the following:

- a. Meeting opened by the Chairman of the Board.
- b. Remarks by the CEI.
- c. A description by the CEI and the Contractor of Work accomplished since the last meeting, current status of the Work schedule, schedule for the future, potential problems and proposed solutions to anticipated problems.
- d. Discussion by the CEI of Work schedule, potential new disputes or claims, status of past disputes and claims and other issues.
- e. Set a date for next meeting.

The CEI will prepare minutes of all Board meetings and circulate them for comments, revisions and/or approval by all concerned.

The field inspection will cover all active segments of the Work. The Board will be accompanied by representatives of both the CEI and the Contractor. Soliciting any Board Member's advice or consultation regarding the Work or the Contract is expressly prohibited.

#### 10.1.5 Procedure for Disputes Resolution

Disputes will be considered as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation. Steps may be omitted as agreed by both parties and the time periods stated below may be shortened in order to hasten resolution.

- a. If either CFX or Contractor object to any decision of the CEI with respect to claims, change order requests, or other actions or orders of the CEI, the objecting party may file a written protest with the CEI within fifteen (15) days after the CEI's disputed decision, action or order. The written protest must clearly state in detail the basis for the objection.
- b. The CEI will consider the written protest to its decision or directive, and make a final decision on the basis of the pertinent Contract provisions, together with the facts and circumstances involved in the protest. The decision will be furnished to CFX and Contractor in writing within fifteen (15) days after receipt of the written protest.
- c. The CEI's decision with respect to the protest will be final, unless a written exception is filed by CFX or Contractor with the CEI within fifteen (15) days after receiving the protest decision. If either rejects the CEI's final decision, the disputed matter may be referred to the Board by either CFX or the Contractor.
- d. Upon receipt by the Board of a written dispute, the Board will first decide when to conduct the hearing. If the matter is not urgent, it may be heard at the next regularly scheduled Board meeting. For an urgent matter, the Board will meet at its earliest convenience.
- e. Either party furnishing written evidence or documentation to the Board will furnish copies of such information to the other party a minimum of fifteen (15) days prior to the date the Board sets to hear the dispute. If the Board requests additional documentation or evidence prior to, during or after the hearing, CFX and/or the Contractor will provide the requested information to the Board and to the other party. Because each side needs a reasonable opportunity to understand and rebut the opposing side's point of view, failure of either party to timely provide written documentation in accordance with this provision shall result in such written documentation being excluded from the hearing before the Board unless the other party consents to its admission or consents to a delay in the hearing.

- f. The Contractor and CFX will each be afforded an opportunity to be heard by the Board and to offer evidence. The Board will consider all relevant evidence presented and analyze the same solely within the parameters of the Contract. Hearsay evidence shall be admissible but shall not be the sole basis for any recommendation of the Board.
- g. The Board's recommendations for resolution of the dispute will be given in writing within fifteen (15) days of completion of the hearing(s). In cases of extreme complexity, both parties may agree to allow additional time for the Board to formulate its recommendations. Generally, the Board will initially focus its attention (in the written report) only to matters of entitlement, and allow the parties to thereafter determine the monetary relief. If both parties request, and sufficient documentation is available, the Board may also make a recommendation of monetary relief, but only after formulation of the entitlement recommendation and only after the parties have attempted to agree upon the monetary relief amount.
- h. If the Board's recommendation for resolution is not unanimous, the dissenting member shall prepare a separate written opinion.
- i. Within fifteen (15) days of receiving the Board's recommendations, both CFX and the Contractor will respond to the other and to the Board in writing, signifying either acceptance or rejection of the Board's recommendations. The failure of a party to respond within the fifteen (15) day period will be deemed an acceptance by such party of the Board's recommendations. If CFX and the Contractor are able to resolve the dispute (with or without the aid of the Board's recommendations), CFX will promptly process any required Contract changes.
- j. If the dispute remains unresolved because of a bona fide lack of clear understanding of the recommendation, either party may request the Board clarify specific portions of its recommendations. Further, if new evidence becomes available, either party may request the Board reconsider its prior recommendation. Only evidence which did not exist at the time of the hearing, or which existed but which could not be discovered with reasonable and normal diligence shall be considered new evidence.
- k. If the Board's recommendation is rejected, either party may thereafter initiate resolution of the dispute by binding arbitration conducted pursuant to the Contract.

Both CFX and the Contractor should carefully consider the Board's recommendations, as the recommendations are binding unless written notice is provided to the other party within 30 days of the recommendations stating the party's intent to bring the disputed issue to arbitration. However, if the Board's recommendations do not resolve the dispute, all records and written recommendations, including any minority reports, will be admissible for informational purposes in any subsequent dispute resolution procedures. Such informational purposes shall include but not be limited to establishing that the Board considered the dispute, the qualifications of the Board Members, and the Board's recommendation that resulted from the dispute resolution process.

#### 10.1.6 Conduct of Disputes Hearings

Each party shall file three copies of its written arguments with the Board no less than seven days prior to the scheduled hearing and shall simultaneously deliver a copy of such written arguments to the opposing party. Each party shall also submit to the Board along with its written arguments copies of its written evidence and documentation which has been previously provided to the opposing party as provided above.

Normally, the hearing will be conducted at the job site. However, any location more convenient and which provides all required facilities and access to necessary documentation is satisfactory.

While the Board will keep a record of its sessions during consideration of a dispute, the Board will not be required to keep its record in any particular form. The nature and completeness of the record will depend upon the nature and magnitude of the dispute and the desires of the parties. If possible, the hearings shall be kept informal. Formal records of the Board meetings may be taken and transcribed by a court reporter if requested by a party (at the requesting party's cost). Audio and/or video recording of the meeting is discouraged and shall only be made with the prior agreement of all parties and a majority of the Board.

CFX and the Contractor will have representatives at all dispute resolution hearings. The party requesting Board review will first discuss the dispute, followed by the other party. Each party will then be allowed successive rebuttals until all aspects are fully covered to the Board's satisfaction. The Members and the parties may ask questions, request clarification or ask for additional data. In large or complex cases, additional hearings may be necessary in order to consider and fully understand all evidence presented by both parties.

During the hearings, no Member will express any opinion concerning the merit of any facet of the dispute.

After the hearings are concluded, the Board will meet in private to formulate recommendations supported by two or more Members. All Board deliberations will be conducted in private, with individual views kept strictly confidential. No minutes shall be



prepared of the Board's private meetings. The Board's recommendations and discussions of its reasoning will be submitted as a written report to both parties. The recommendations will be based on the pertinent Contract provisions and the facts and circumstances involved in the dispute.

The Board will make every effort to reach a unanimous decision. If a unanimous decision is not possible, the dissenting Member may (but is not required to) prepare a minority report.

#### 10.1.7 Compensation

The Contractor shall pay the fees of all three Board Members for services rendered under the Three Party Agreement. An allowance pay item has been established in the Contract for the reimbursing the Contractor. Funds remaining in the pay item, if any, at the completion of the Project will belong to CFX. CFX and the Contractor shall agree on the procedures and method of processing payments made against the allowance. CFX or the CEI will mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services. If the Board desires special services, such as legal consultation, accounting, data research, etc., both parties must agree and the costs will be paid from the allowance.

#### 10.1.8 Three Party Agreement

The Contractor, CFX and the Members of the Board will execute the Dispute Review Board Three Party Agreement within four (4) weeks of the final selection of the third Member.

END OF SECTION 10

**ATTACHMENT A**

**DISPUTES REVIEW BOARD  
THREE PARTY AGREEMENT**

**THIS THREE PARTY AGREEMENT (“Agreement”)** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”)**, \_\_\_\_\_ (**“Contractor”**) and the **DISPUTES REVIEW BOARD (“Board”)**, consisting of three members: \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ (**“Members”**).

WHEREAS, CFX is now engaged in the construction of the \_\_\_\_\_, and

WHEREAS, the \_\_\_\_\_ contract (**“Contract”**) provides for the establishment and operation of the Board to assist in resolving disputes and claims.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein (or attached, incorporated and made a part hereof), the parties agree as set forth herein.

**I  
DESCRIPTION OF PURPOSE**

To facilitate resolution of disputes between the Contractor and CFX, CFX has provided (in the Contract) for the establishment of the Board. The function of the Board is to fairly and impartially consider Contract disputes placed before it and provide written recommendations for resolution to both CFX and the Contractor. The Members of the Board shall perform the services designated in Section II, Scope of Work.

**II  
SCOPE OF WORK**

The Scope of Work includes, but is not limited to, the following items:

A. Third Board Member Selection. The first duty of CFX and the Contractor selected Members of the Board is to select the third Member. The third Member shall not have any current financial or employment ties with either the Contractor or CFX. The selection goal is to obtain a third Board Member who will complement the first two by furnishing expertise, leadership and experience to facilitate the Board’s operations. The first two Board Members selected shall proceed with the selection of the third Board Member upon receiving their appointment. If the first two Members are unable to select a third Member within four (4) weeks, CFX and the Contractor will select the third Member.

B. Procedures. After selecting the third Board Member and prior to considering a dispute, the Board shall establish procedures to govern the conduct of its business and reporting procedures based on the Guidelines, attached as an Appendix to this Agreement. The Board recommendations (resulting from a consideration of a dispute) shall be furnished in writing to CFX and the Contractor. The recommendations shall be based solely on the pertinent Contract provisions and the facts as reasonably determined by the Board. The Board shall have no authority to disregard or unilaterally modify pertinent Contract provisions including, but not necessarily limited to, those provisions pertaining to notices and claims procedures.

C. Furnishing Documents. CFX shall, at the time of each Board Member's appointment, furnish such Member a copy of the Contract. Both CFX and the Contractor shall, no later than seven (7) days prior to the scheduled Board hearing, submit to the Board three copies of all written documents and arguments that such party wishes the Board to consider. Each party shall provide its written documentation to the other side no later than fifteen (15) days prior to the scheduled Board hearing and shall provide a copy of its written argument to the other side no later than seven (7) days before the hearing in order to afford the other side the opportunity to review such documents and prepare any necessary rebuttal for the hearing.

D. Site Visits. The Board shall visit the project site to: (i) keep abreast of construction activities, and (ii) develop a familiarity of the work in progress. The frequency, exact time and duration of visits shall be in accordance with the attached Guidelines or as mutually agreed between CFX, the Contractor and the Board.

In the circumstance of an alleged differing site condition (or specific construction problem), it will be advantageous for the Board to view any relevant conditions. If viewing by the Board would cause delay to the project, photographs and descriptions of conditions collected by either (or both) party will suffice.

E. Board Consideration of Disputes or Claims. Upon receipt by the Board of a written appeal of a dispute (from either the Contractor or CFX) the Board shall convene to review and consider the dispute. CFX, the Contractor and the Board shall determine the time and location of Board meetings. Both CFX and the Contractor shall be given the opportunity to present evidence and argument at such meetings. Absent good cause to the contrary, written evidence shall be limited to that evidence which was previously supplied to both the Board and the other party in accordance with the previous paragraph. Mere negligence in providing such written evidence shall not be considered good cause for its admission. Hearsay evidence shall be permitted but shall not be the sole basis for any recommendation by the Board. Additionally, Board Members may rely on their personal knowledge based on prior site visits, ongoing document reviews, and general project familiarity. Each party may,

but is not required to, submit its proposed recommendations for resolving the dispute to the Board for its consideration.

Board Members are to act impartially and independently in weighing the evidence and in considering the respective positions of the parties within the confines and literal interpretation of the Contract terms. The recommendations concerning any such dispute are advisory and not binding on either party. The Board shall make every effort to reach a unanimous recommendation. If a unanimous recommendation is not possible, the dissenting Member shall prepare a minority report.

The Board's recommendations, together with explanations of its reasoning, shall be submitted as a written report to both parties. The recommendation shall be based solely on the pertinent provisions of the Contract, applicable laws and regulations, and the relevant facts as determined by the Board based upon the evidence presented. It is important for the Board to express, clearly and completely, the logic and reasoning leading to the recommendation so that both parties fully understand the recommendation.

Either CFX or the Contractor may request the Board to reconsider its recommendation. However, reconsideration will only be allowed when there is new evidence to present, or a clarification is required.

F. Miscellaneous Board Responsibilities. In addition to the matters set forth above:

1. The Board Member shall become familiar with the Contract Documents, review periodic reports, and maintain a current file of the project.
2. Except for providing the services required in this Agreement, the Board and its individual Members shall refrain from giving any advice to either party concerning conduct of the work or the resolution of problems. Ex-parte communications between a party and a Board Member are prohibited.
3. The Board shall perform services not specifically listed herein to the extent necessary to achieve the purposes of this Agreement.

G. Board Member Replacement. If the need occurs to appoint a replacement Board Member, the replacement Board Member shall be appointed in the same manner as the original Board Members were appointed. The selection of a replacement Board Member

shall begin promptly upon notification of the necessity for a replacement. The Agreement will be supplemented to indicate change in Board membership.

### **III CONTRACTOR RESPONSIBILITY**

A party shall furnish to each Board Member one copy of all pertinent documents that are or may become necessary for the Board to perform its function. Pertinent documents are any drawings or sketches, calculations, procedures, schedules, estimates or other documents that are used in the performance of the work or in justifying or substantiating the party's position. A copy of such pertinent documents must also be furnished to the other party.

### **IV CFX RESPONSIBILITIES**

CFX shall furnish the following services and items:

A. Contract Related Documents. CFX shall furnish the Board copies of all Contract Documents, Supplemental Agreements, written instructions issued by the CEI or CFX to the Contractor, or other documents pertinent to the performance of the Contract and necessary for the Board to perform its function.

B. Coordination and Services. CFX (in cooperation with the Contractor) will coordinate the operations of the Board. CFX, through the CEI, will arrange or provide conference facilities at or near the site and provide secretarial and copying services.

### **V TIME FOR BEGINNING AND COMPLETION**

The Board shall be in operation throughout the term of the Contract and, if needed, for a reasonable post-construction period.

The Board Members shall not begin any work under the terms of this Agreement until authorized by CFX in writing.

### **VI PAYMENT**

The fees and expenses of all three Board Members for services rendered under this

Agreement will be an expense to the Contractor with reimbursement under the pay item allowance as provided below. Payment for services of the CFX-appointed, Contractor-appointed, and the third Board Members will be full compensation for work performed or services rendered, and for all expenses, such as food, lodging, travel, telephone, postage etc.

A. Payment.

Each Board Member will be paid One Thousand Dollars (\$1,000.00) per day for each day the Board meets. This daily rate includes fees and expenses related to membership on the Board. Subsequent changes in the rate must be authorized by a Supplemental Agreement to this Agreement.

B. Inspection of Costs Records. The Board Members shall keep available the cost records and accounts pertaining to this Agreement for inspection by representatives of CFX for a period of three (3) years after final payment. If any litigation, claim or audit arising out of, in connection with or related to this Agreement is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim or audit involving the records is completed.

## **VII ASSIGNMENT OF TASKS OF WORK**

Neither the Board nor the Board Members may assign or delegate any of the work of this Agreement.

## **VIII TERMINATION OF AGREEMENT**

With the mutual consent of CFX and the Contractor, this Agreement may be terminated at any time. However, individual Board Members may be terminated with or without cause, but only by their original appointer, i.e., CFX may terminate the CFX appointed Member, the Contractor may terminate the Contractor's appointed Member, and the first two Members must agree to terminate the third Member.

**IX  
LEGAL RELATIONS**

A. Each Board Member in the performance of duties on the Board is acting in the capacity of an independent agent and not as an employee of either CFX or the Contractor.

B. CFX and the Contractor expressly acknowledge that each Board Member is acting in a capacity intended to facilitate resolution of disputes. Accordingly, to the fullest extent permitted by law, each Board Member shall be accorded quasi-judicial immunity for any actions or decisions associated with the consideration, hearing and recommendation of resolution for disputes referred to the Board.

C. Except for the negligent acts or omissions of a Board Member, or for activities outside of the scope of this Agreement, each Board Member shall be held harmless for any personal or professional liability arising from or related to Board activities. To the fullest extent permitted by law, CFX and the Contractor shall defend and indemnify all Board Members against claims, losses, demands, costs and damages (including reasonable attorney's fees) for bodily injury, property damage or economic loss arising out of or related to Board Members carrying out Board functions. The foregoing indemnity is a joint and several obligations of the Contractor and CFX.

**X  
ARBITRATION, VENUE, APPLICABLE LAW**

Any dispute, claim or controversy between the parties hereto arising out of or related to this Agreement shall be resolved by arbitration. The American Arbitration Association pursuant to its Construction Industry Arbitration Rules shall conduct such arbitration, and the arbitration proceeding shall occur in Orange County, Florida. All questions and issues respecting this Agreement and the arbitration shall be resolved by application of Florida law and the judgment of the arbitration panel shall be enforceable in accordance with the provisions of the Florida Arbitration Code.

**XI  
NO BONUS**

The Contractor and CFX shall not pay and the Members shall not receive any additional commission, percentage, bonus or consideration of any nature (other than the payment provided for in Section VI above) for performance and services under this Agreement.

**XII  
NO CONFLICT**

The Members of the Board agree individually they do not now and during the term of this Agreement will not have any direct or indirect ownership or financial interest in the Contractor, the

Engineer of Record for the project, the CEI or any subcontractor or supplier of the project. The Members of the Board affirm they have not for a period of ten (10) years prior to this Agreement been an employee, Contractor or consultant to the Contractor, the Engineer of Record for this project, the CEI or any subcontractor or supplier of the project, and that during the term of this Agreement they shall not become so employed. During the term of the Agreement no discussion or Agreement will be made between any Board Member and any party to this Agreement for employment after the Contract is completed.

By executing this Agreement the parties mutually agree that the Members of the Board identified herein are qualified and desirable and that the criteria and limitations detailed in subarticles 10.2.3 b and 10.2.3 c of the project General Specifications are satisfied or are hereby waived.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**CFX:**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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

**BOARD:**

**DISPUTES REVIEW BOARD**

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

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

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

**CONTRACTOR:**

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

## **APPENDIX**

### **PROCEDURE GUIDELINES**

#### **1. GENERAL MEETINGS**

General Meetings are defined as those meetings required for the Board to develop a familiarity of the work in progress and keep abreast of construction activities such as progress, status and nature of items in the earlier stages of escalation, changes to personnel, etc. General Meetings shall occur 60days after Notice to Proceed for the Project and every 120days thereafter, or as determined by the parties to be in the best interest of the project. Site visits as described in Subarticle II D above shall be considered General Meetings. Site visits may be coordinated to coincide with, or be replaced by, Board meetings to review disputes brought to the Board by CFX or Contractor.

#### **2. MONTHLY PROJECT DOCUMENT REVIEW**

In an effort to keep the Board closely and concurrently apprised of the progress of the Project, each member of the Board will be provided with copies of Project related documents. These documents may include minutes from progress meetings, schedule updates, CEI's weekly summaries, monthly progress summaries, selected correspondence, Supplemental Agreements to the Contract, Project photos, and any other information that may be requested by the Board or required to answer questions by the Board.

#### **3. REVIEW OF DISPUTES OR CLAIMS BY THE BOARD**


Disputes review meetings shall be at the time and frequency mutually agreed to by CFX and Contractor.

**CONSENT AGENDA ITEM  
#5**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: November 15, 2021

SUBJECT: Approval of Contract Award to United Signs & Signals, Inc. for  
SR 414 Guide Sign Replacements  
Project No. 414-640, Contract No. 001846

---

An Invitation to Bid for the above referenced project was advertised on October 3, 2021. Five (5) responses were received by the November 9, 2021 deadline.

Bid results were as follows:


<u>Bidder</u>	<u>Bid Amount</u>
1. United Signs & Signals, Inc.	\$5,374,600.41
2. Chinchor Electric, Inc.	\$5,407,007.51
3. Traffic Control Devices, LLC	\$5,949,949.00
4. Sice, Inc.	\$6,336,849.79
5. The New Florida Industrial Electric, Inc.	\$6,913,261.13


The engineer's estimate for this project is \$6,750,980.14. Included in the Five-Year Work Plan is \$4,300,000.00.

The work to be performed includes providing all labor, materials, equipment, and incidentals necessary to replace existing guide signs and lighting along SR 414, and ITS improvements.

Board award of the contract to United Signs & Signals, Inc. in the amount of \$5,374,600.41 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

**UNITED SIGNS & SIGNALS, INC.**

**SR 414 GUIDE SIGN REPLACEMENTS**

**PROJECT NO. 414-640, CONTRACT NO. 001846**

**CONTRACT DATE: DECEMBER 09, 2021**

**CONTRACT AMOUNT: \$5,374,600.41**

**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 414 GUIDE SIGN REPLACEMENTS**

**PROJECT NO. 414-640, CONTRACT NO. 001846**

**DECEMBER 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-11
	(See Technical Specifications Table of Contents for listing of individual specifications sections.)	
SP	SPECIAL PROVISIONS	SP-1 to SP-28
	(See Special Provisions Table of Contents for listing of each special provision.)	
	Addendum No. 1	Addendum No. 2
	Addendum No. 3	
P	PROPOSAL	P-1 to P-15
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2
PCB	PUBLIC CONSTRUCTION BOND	PCB-1 to PCB-4
Plans		

## CONTRACT

This Contract No. 001846 (the "Contract"), made this 9<sup>th</sup> day of December 2021, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and UNITED SIGNS & SIGNALS, INC., of 28248 CR 561, Tavares, FL. 32778, 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. 414-640, SR 414 Guide Sign Replacements, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 270 calendar days. The Contract Amount is \$5,374,600.41. This Contract was awarded by the Governing Board of CFX at its meeting on December 9, 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  
Aneth Williams  
\_\_\_\_\_  
Print Name

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

UNITED SIGNS & SIGNALS, INC.

By: \_\_\_\_\_  
Signature  
\_\_\_\_\_  
Print Name  
\_\_\_\_\_  
Title

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

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

Approved as to form and execution, only.

\_\_\_\_\_  
General Counsel for CFX  
\_\_\_\_\_  
Diego "Woody" Rodriguez  
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:

<b>Contract Amount</b>	<b>Workers' Comp/ Employer's Liability</b>	<b>General Liability (per occurrence/ aggregate)</b>	<b>Automobile Liability</b>
Up to \$3 million	Statutory / \$500,000	\$1,000,000 / \$2,000,000	\$1,000,000
\$3 million and Up	Statutory / \$1,000,000	\$5,000,000 / \$10,000,000	\$5,000,000

5.11.2 Worker's Compensation and Employer's Liability Insurance: The Contractor shall maintain coverage for its employees in accordance with the laws of the State of Florida. The amount of coverage shall not be less than the limits of insurance as required in subarticle 5.11.1.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the Contractor, its employees, agents and subcontractors.

5.11.3 Comprehensive General Liability Insurance: Coverage shall be maintained by the Contractor providing Comprehensive General Liability Insurance as provided on Insurance Services Office form GC 00 01 or an equivalent thereof. Limits of Liability for Bodily Injury Liability and/or Property Damage Liability shall not be less than the limits of insurance as required in Section 5.11.1.

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



Products and Completed Operations coverage, evidenced by a Certificate of Insurance, shall be maintained for a period of not less than two (2) years following completion of the Work to which the Contract applies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 5.11.7 Railroad Insurance: When the Contractor performs Work on, adjacent to, over or under a railroad, railroad property or railroad right-of-way, the Contractor shall furnish CFX (for transmittal to the railroad company) an insurance certificate with the railroad named as the insured which (with respect to the operations the

Contractor or any of its subcontractors perform) will provide for Railroad Protective Liability insurance providing coverage for bodily injury, death and property damage of a combined single limit of Five Million Dollars (\$5,000,000.00) per occurrence, with an aggregate limit of Ten Million Dollars (\$10,000,000.00) for the term of the policy. The policy shall be written on the ISO/RIMA (CG 00 3S 11 85) with Pollution Exclusions Amendment (CG 28 31 11 85) endorsement deleting Common Policy Conditions (CG 99 01) if Common Policy Conditions are included in the policy and Broad Form Nuclear Exclusion (IC 00 21). CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

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

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

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

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

3) Cost of Cleanup/Remediation.

Limits

Each Occurrence - \$ 2,000,000

General Aggregate - \$ 4,000,000

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

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

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

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

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.

<b>Contract Amount</b>	<b>Minimum Limit</b>	<b>Maximum Deductible</b>
Up to \$1 million	50% of project cost, minimum of \$100,000 per occurrence	10% of project cost or \$25,000, whichever is smaller
\$1 million and Up	\$1,000,000	\$100,000

## 5.12 Contract Bond (Public Construction Bond) Required

5.12.1 General Requirements of the Bond: The Contractor shall furnish to CFX and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by CFX. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to CFX. The name, address and telephone number of the surety agent shall be clearly stated on the face of the Public Construction Bond.

5.12.2 Continued Acceptability of Surety: In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after CFX's initial approval of the company, then CFX may require that the Contractor immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to CFX. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the Contractor from its payment of premium on the defaulting bond, will be borne by CFX.

## 5.13 Contractor's Responsibility for Work

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

The Contractor 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](mailto:publicrecords@CFXWay.com), and 4974 ORL Tower Road, Orlando, FL. 32807).**

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

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

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event the CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act.

#### 5.26 Inspector General

It is the duty of every CONTRACTOR and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to section 20.055, Florida Statutes. The corporation, partnership, or person entering into an Agreement with the Central Florida Expressway Authority understands and will comply with subsection. 20.055(5), Florida Statutes.

#### 5.27 Convicted Vendor List

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

#### 5.28 Discriminatory Vendor List

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

#### 5.29 Severability

If any section of the Contract Documents that are incorporated into this Contract be judged void, unenforceable or illegal, then the illegal provision will be, if at all possible, interpreted or re-drafted into a valid, enforceable, legal provision as close to the parties' original

intention, and the remaining portions of the Contract will remain in full force and effect and will be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

#### 5.30 Companies Pursuant to Florida Statute Section 287.135

Pursuant to Section 287.135(3)(a)4, if the company is found to have submitted a false certification as provided under subsection (5); been placed on the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or been engaged in business operations in Cuba or Syria, the contract may be terminated for cause at the option of CFX.

Pursuant to Section 287.135(3)(b), if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the contract may be terminated for cause at the option of CFX.

Submitting a false certification shall be deemed a material breach of contract or renewal. CFX shall provide notice, in writing, to the Contractor of CFX's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the CFX's determination of false certification was made in error then CFX shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes and as allowed by law.

END OF SECTION 5

## SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

### 6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without 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:  
GS-108

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; 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. 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 15<sup>th</sup> of any month, the bid index will be the index for the month prior to the bid. Should a project bid after the 14<sup>th</sup> of the month, the bid index will be the index for the month of the bid.

Price adjustments will be based on the monthly bulk average price for gas and diesel as derived by the FDOT. These average indexes shall be determined by averaging bulk fuel prices on the first day of each month as quoted by major oil companies that are reasonably expected to furnish fuel for projects in the State of Florida. Average price indices for gasoline and diesel will be available on the FDOT Construction Office website before the 15<sup>th</sup> of each month, at the following URL: <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 15<sup>th</sup> of any month, the bid index will be the index for the month prior to the bid. Should a project bid after the 14<sup>th</sup> of the month, the bid index will be the index for the month of the bid.

CFX will determine the API for each month by checking the FDOT Contracts Office web site which averages quotations in effect on the first day of the month at all terminals that could reasonably be expected to furnish bituminous material to projects in the State of Florida.

Payment on progress estimates will be adjusted to reflect adjustments in the prices for bituminous materials in accordance with the following:

$$\text{\$ Adjustment} = (\text{ID})(\text{Gallons})$$

Where ID = Index Difference = [CAPI - 0.95(BAPI)] when the API has decreased between the month of bid, as defined above, and month of this progress estimate.

Where ID = Index Difference = [CAPI - 1.05(BAPI)] when the API has increased between the month of bid, as defined above, and month of this progress estimate.

Payment will be made on the current progress estimate to reflect the index difference at the time work was performed.



For asphalt concrete items payable by the ton, and not containing Reclaimed Asphalt Pavement (RAP), the number of gallons will be determined assuming a mix design with 6.25% liquid asphalt weighing 8.58 lb/gal. For asphalt concrete items payable by the ton, that do contain Reclaimed Asphalt Pavement (RAP), the number of gallons will be determined assuming a mix design with 5% liquid asphalt weighing 8.58 lb/gal.

Asphalt concrete items payable by the square yard will be converted to equivalent tons assuming a weight of 100 lb/yd<sup>2</sup> per inch.

7.2.1.2 For FC-5 with granite, the number of gallons will be determined assuming a mix design with 5.5% liquid asphalt weighing 8.58 lb/gal.

7.2.2 Non-Duplication of Payment: In cases where the basis of payment clause in these Specifications relating to any unit price in the bid schedule requires that the unit price cover and be considered compensation for certain work or material essential to the item, CFX will not measure or pay for this same work or material under any other pay item that may appear elsewhere in these Specifications.

### 7.3 Compensation for Altered Quantities

7.3.1 General: When a change or combination of changes in the Plans results in an increase or decrease in the original Contract quantities and the Work added or deleted is of the same general character as that shown on the original Plans, the Contractor shall accept payment in full at the original Contract unit prices for the actual quantities of Work done. No allowance will be made for any loss of anticipated profits because of increase or decreases in quantities provided, however, that increased or decreased Work covered by a Supplemental Agreement will be paid for as stipulated in the Supplemental Agreement.

Compensation for alterations in Plans or quantities of Work requiring Supplemental Agreements shall be stipulated in such agreement, except when the Contractor proceeds with the Work without change of price being agreed upon. The Contractor shall be paid for such increased or decreased quantities at the Contract unit prices bid in the Proposal for the items of Work. If no Contract unit price is provided in the Contract, the Contractor agrees to do the Work in accordance with Subarticle 2.3.2 of these General Specifications.

7.3.2 Payment Based on Plan Quantity:

7.3.2.1 Error in Plan Quantity: When the pay quantity for an item is designated to be the original plan quantity, such quantity will be revised only in the event that the quantity increases or decreases by more than 5% of the original plan quantity or the

amount due for the item increases or decreases by more than \$5,000, whichever is smaller. In general, such revisions will be determined by final measurement or plan calculations (or both) as additions to or deductions from plan quantities. Changes resulting in pay quantity increase or decrease in excess of 25% will be in accordance with the criteria for significant changes as defined in subarticle 2.3.1 of these General Specifications.

If the Contractor determines that the plan quantity for any item is in error and additional or less compensation is due, the Contractor shall submit evidence of such error to CFX in the form of acceptable and verifiable measurements and calculations. Similarly, if CFX determines an error or errors exist, it will make its measurements and calculations available to the Contractor. The plan quantity will not be revised solely on the basis of the Contractor's method of construction.

For earthwork items, the claimant must note any differences in the original ground surfaces from that shown in the original plan cross-sections that would result in a substantial error to the plan quantity, and must be properly documented by appropriate verifiable level notes, acceptable to both the Contractor and CFX, and provide sufficient opportunity to verify the data prior to disturbance of the original ground surface by construction operations. The claimant shall support any claim based upon a substantial error for differences in the original ground surface by documentation as provided above.

7.3.2.2 Authorized Changes in Limits of Work: When the pay quantity for an item is designated to be the original plan quantity and a plan change is authorized resulting in an increase or decrease in the quantity of an item, the plan quantity will be revised accordingly provided that such change will increase or decrease the amount due for more than \$100. In general, such revisions will be determined by final measurement or plan calculations or both, subject to the provisions of Subarticle 2.3.2 of these General Specifications.

7.3.2.3 Specified Adjustments to Pay Quantities: The limitations detailed in Subarticles 7.3.2.1 and 7.3.2.2 do not apply when 1) the Specifications provide that the pay quantity for an item to be paid for on the basis of area of finished Work is to be adjusted according to the ratio of measured thickness to nominal thickness, 2) the Specifications provide for a deduction due to test results falling outside of the allowable specification tolerance or 3) paying for extra length fence posts as detailed in the Standard Specifications Section 550, Fencing, sub article 550-6.3, Payment Rates for Extra-Length Posts.

### 7.3.3 Lump Sum Quantities:

7.3.3.1 Error in Plan Quantity: When the pay quantity for an item is designated to be

a lump sum and the Plans show an estimated quantity, the lump sum compensation will be adjusted only in the event that either the Contractor submits satisfactory evidence or CFX determines and furnishes satisfactory evidence that the plan quantity shown is substantially in error as defined in 7.3.2.1.

7.3.3.2 Authorized Changes in the Work: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated plan quantity, compensation for that item will be adjusted proportionately when a plan change results in a significant increase or decrease in the quantity from the estimated plan quantity. When the Plans do not show an estimated plan quantity or the Specifications do not provide adjustments for contingencies, any authorized plan changes resulting in a significant increase or decrease in the cost of acceptably completing the item will be compensated for by establishing a new unit price through a Supplemental Agreement as provided in Subarticle 2.3.2. of these General Specifications.

7.3.4 Deviation from Plan Dimensions: If the Contractor fails to construct any item to plan or to authorized dimensions within the specified tolerances, the CEI, at his discretion will: require the Contractor to reconstruct the work to acceptable tolerances at no additional cost to CFX; accept the work and provide the Contractor no pay; or accept the work and provide the Contractor a reduced final pay quantity or reduced unit price. CFX will not make reductions to final pay quantities for those items designated to be paid on the basis of original plan quantity or a lump sum quantity under the provisions of this Article unless such reduction results in an aggregate monetary change per item of more than \$100, except that for earthwork items, the aggregate change must exceed \$5,000 or 5% of the original plan quantity, whichever is smaller. If, in the opinion of the CEI, the Contractor has made a deliberate attempt to take advantage of the construction tolerances as defined in Article 120-12.1 of the Standard Specifications to increase borrow excavation in fill sections or to decrease the required volume of roadway or lateral ditch excavation or embankment, CFX will take appropriate measurements and will apply reductions in pay quantities. CFX will not use the construction tolerance, as defined in Article 120-12.1, as a pay tolerance. The construction tolerance is not to be construed as defining a revised authorized template.

7.4 Force Account Work: Work performed in addition to that set forth in the original Contract and which is paid for on the basis of actual cost of the Materials and labor, plus a fixed percentage of such costs, and at agreed rental rates for major Equipment used.

7.4.1 Method of Payment: All Work done on a force account basis performed by such labor, tools and Equipment as necessary to accomplish the Work, and authorized by CFX, will be paid for in the following manner:

(a) Labor:

Payment for labor and burden shall be based on actual costs of alteration, change, additional or unforeseen Work, plus a markup of 25%, agreed upon in writing before starting such Work, for every hour that the labor is actually engaged in such Work. Such amount shall be considered as full compensation for general supervision and the furnishing and repairing of small tools used on the Work. Agreed wage rates shall not be in excess of the rates paid for comparable Work on the Project.

(b) Materials and Supplies:

Payment for Materials and supplies, directly related to the alteration, change, additional or unforeseen Work, accepted by CFX and used on the Project shall be based on actual costs of such Materials incorporated into the Work, including Contractor paid transportation charges (exclusive of Equipment as hereinafter set forth), plus a markup of 17.5%. Material is defined as any item used in the Work that remains a part of the Project. The cost of supplies may be the pro-rata portion caused by the alteration, change, additional or unforeseen Work.

(c) Equipment:

The use of each piece of such machinery or Equipment and rental rates must be agreed upon in writing before the force account Work is begun.

Payment for Contractor owned machinery or Equipment (other than small tools) shall be determined as described below, plus a markup of 7.5%. Payment for rented Equipment shall be based on invoice cost plus 7.5%.

The portion of the cost for machinery or Equipment shall be based on the lesser of actual cost or "Rental Rate Blue Book for Construction Equipment" (RRBB) or "Rental Rate Blue Book for Older Construction Equipment" (RRBBOCE) as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at time of bid) using all instructions and adjustments contained therein and as modified below.

On all projects, CFX will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the RRBB and/or RRBBOCE. Allowable Machinery and Equipment Rates will be established as set out below:

- 1.) Reimbursement for the Equipment being operated shall be at a rate of 100% of the RRBB and/or 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: November 23, 2021

SUBJECT: Approval of Supplemental Agreement No. 5 with TLP Engineering Consultants, Inc. for Design Consultant Services for SR 417 Widening from International Drive to John Young Parkway – Post Design Services  
Project No. 417-141, Contract No. 001312

---

Board approval of Supplemental Agreement No. 5 with TLP Engineering Consultants, Inc for a not-to-exceed amount of \$62,446.11 is requested. The original contract was for five years with five one-year renewals.

The work to be performed includes post design services associated with revised construction plans.

Original Contract	\$6,050,000.00
Supplemental Agreement No. 1	\$ 0.00
Supplemental Agreement No. 2	\$ 0.00
Supplemental Agreement No. 3	\$ 0.00
Supplemental Agreement No. 4	\$ 667,145.60
Supplemental Agreement No. 5	<u>\$ 62,446.11</u>
Total	\$6,779,591.71

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. 5**  
**TO**  
**AGREEMENT FOR PROFESSIONAL SERVICES**  
**POST DESIGN SERVICES (FOR 417-141)**

**SR 417 Widening from International Drive to John Young Parkway**

THIS SUPPLEMENTAL AGREEMENT NO. 5 TO AGREEMENT FOR PROFESSIONAL SERVICES POST DESIGN SERVICES (“Supplemental Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, an agency of the State of Florida, hereinafter called “CFX” and the consulting firm of TLP ENGINEERING CONSULTANTS, INC., a Florida corporation, hereinafter called the “CONSULTANT.”

WHEREAS, CFX and CONSULTANT entered into that certain Agreement for Professional Services dated April 12, 2018, as amended and supplemented by that certain Supplemental Agreement No. 1 between CFX and CONSULTANT dated March 17, 2020, that certain Supplemental Agreement No. 2 between CFX and CONSULTANT dated July 14, 2020, that certain Supplemental Agreement No. 3 between CFX and CONSULTANT dated September 21, 2020, and that certain Supplemental Agreement No. 4 between CFX and CONSULTANT dated October 8, 2020 (collectively, the “Agreement”); and

WHEREAS, Section 4.24 of the Scope of Services, as defined in the Agreement, and attached to the Agreement as Exhibit “A” provides that after completion of the services outlined

therein for Project Number 417-141, CFX may negotiate with the CONSULTANT to enter into a supplemental agreement to provide post design services; and

WHEREAS, CFX and CONSULTANT entered into Supplemental Agreement No. 4 dated October 8, 2020 (“SA 4”) to provide the post design services more specifically outlined in SA 4 (“Post Design Services”) after completion of the services outlined in the Agreement for Project 417-141; and

WHEREAS, Articles 2.00 and 12.00 of the Agreement provide that in the event that CFX elects to add, delete or change the services outlined in the Scope of Services, the compensation to be paid to the CONSULTANT shall be subject to adjustment as shall be mutually agreed upon by CFX and CONSULTANT pursuant to this Supplemental Agreement; and

WHEREAS, CFX and CONSULTANT desire to amend and supplement the Post Design Services in accordance with the terms and conditions set forth herein.

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

1. CFX hereby authorizes the CONSULTANT to proceed with the additional post design services required as outlined in the correspondence to CFX dated November 22, 2021, which is attached hereto as Exhibit “A” and incorporated herein by reference (“Additional Post Design Services”). Section 4.24 of Exhibit “A” of the Agreement and the Scope of Services shall be amended and supplemented to include the Additional Post Design Services.

2. All invoices from the CONSULTANT for the Additional Post Design Services shall be submitted to CFX with complete documentation. Invoices for Additional Post Design Services

shall not be a continuation of the original CONSULTANT'S contract amount for final design services and shall only be for those Additional Post Design Services as outlined in this Supplemental Agreement. Compensation for Additional Post Design Services shall be invoiced to CFX at an hourly rate, inclusive of overhead, profit and expenses (exclusive of travel). The hourly rate shall be calculated using the employee's actual direct salary and the negotiated Additional Post Design Services multiplier, as outlined in the correspondence attached hereto as Exhibit "A" and incorporated herein by reference. Direct expenses will be reimbursed for local travel only (per mile). The maximum fee for Post Design Services shall be increased by \$62,446.11 to a total of \$729,591.71.

3. All provisions of said Agreement, or any amendments or supplements thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and the Agreement, or any amendments or supplements thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

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

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

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

Aneth Williams, Director of Procurement

TLP ENGINEERING CONSULTANTS, INC.

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

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

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

Approved as to form and execution for Central Florida  
Expressway Authority's exclusive use and reliance.

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

Diego "Woody" Rodriguez

General Counsel for CFX



**Scope of Services  
Supplemental Agreement No. 5**

**MEMORANDUM**

Additional Post-Design Scope of Services (Section 4.24)

**Date:** November 22, 2021  
**To:** Will Hawthorne, PE CFX Director of Engineering  
**From:** Scott Kamien *SAK*, PE  
**Subject:** Design Consultant Services - Contract 001312  
CFX Project No. 417-141  
SR 417 Widening from International Drive to John Young Parkway  
Supplemental Agreement #4A Post Design Services SA - Brightline

---

**Comments:**

I have reviewed the Post Design fee sheet and scope of services submitted by TLP Engineering Consultant, Inc. dated November 22, 2021 for the SR 417 Widening from International Drive to John Way Parkway. SA #4A is for Post Design Professional Services associated with the construction plans revisions for this widening project changed as a result of the Brightline alignment within this section. The revisions included noise wall and MSE wall changes and associated drainage and SPM conflicts.

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

\$ 62,446.11	TLP as Prime
\$ 62,446.11	Total Requested Contract Amount

The total staff hours for each task are reasonable and acceptable, and the man hour rates are consistent with their contract; therefore, I recommend approval of this Supplemental Agreement in the amount of \$62,446.11.

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

**CC:**

Keith Jackson, PE Dewberry  
File



**ENGINEERING CONSULTANTS, INC.**

**Scope of Services  
Supplemental Agreement No. 5**  
Additional Post-Design Scope of Services (Section 4.24)

November 22, 2021

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

Reference: **SR 417 Widening from International Drive to John Young Parkway  
Project No. 417-141 (Contract No. 001312)  
Request for Supplemental No. 4A**

Dear Will:

Please find enclosed our Request for Supplemental No. 4A for the above referenced project. This request addresses the effort associated with changes to accommodate the Brightline alignment through this corridor.

Should you have any questions regarding this request, please advise.

Sincerely,

**TLP Engineering Consultants, Inc.**

A handwritten signature in blue ink, appearing to read 'Yassi M. Myers', with a large, stylized flourish at the end.

Yassi M. Myers, P.E.  
President

Attachments

**OFFICE:** 450 S. Orange Avenue, Suite 450  
Orlando, FL 32801

**PHONE:** 407.901.5060

**FAX:** 407.512.6560

**WEB:** [www.tlpeng.com](http://www.tlpeng.com)

**Scope of Services**  
**Supplemental Agreement No. 5**  
Additional Post-Design Scope of Services (Section 4.24)

**SR 417 Widening from International Drive to John Young Parkway**  
**CFX Project No. 417-141, Contract No. 001312**

**Purpose**

The purpose of this Supplemental Agreement is to address the effort associated with the following additional post design services related to the changes due to Brightline:

- Plan Revision #4 – Brightline Conflict- Roadway and Structures
- Plan Revision #5 – Brightline Conflict- S&PM and ITS

**Scope of Work**

The following addresses the effort associated with the additional scope items listed above and its impact to the pertinent scope items:

**4.24 Post Design Services**

**A. Plan Revisions**

1. Plan Revision #4 – Brightline Conflict- Roadway and Structures, 6/02/2021
  - a. This revision includes Roadway, Drainage and Structures Plan changes to address the removal of noise walls and MSE walls at Hunters Vista and Town Loop bridge crossings to eliminate conflicts with the Brightline train alignment.
  - b. Performed an initial review of the Brightline alignment to identify potential conflict areas. Provided comments to Dewberry.
  - c. Performed a second review of the “Final” Brightline alignment and developed plan markups of conflict locations.
  - d. Evaluated the drainage design in the conflict areas to identify any required changes.
  - e. Required updated roadway, drainage, and structures quantities.
2. Plan Revision #5 – Brightline Conflict- S&PM and ITS, 7/1/2021
  - a. This revision includes S&PM, ITS, and Lighting Plan changes to address the removal of noise walls and MSE walls at Hunters Vista and Town Loop bridge crossings to eliminate conflicts with the Brightline train alignment.
  - b. Evaluated 3 alternative configurations for Twin-Span Overhead Sign OT-8 requiring structures analysis for each. Held meeting with CFX to discuss alternatives.
  - c. Structures redesign of three (3) multi-post signs on existing sloped surface instead of flat proposed surface. Also evaluated multiple roadway grading options around the multi-post signs to flatten the existing slopes and optimize the structural design.
  - d. Evaluated three (3) alternatives (sign to remain, relocation of cantilever and bridge mount sign) for sign OC-9. Coordinated with CFX and Dewberry and two (2) meetings to determine the preferred alternative.
  - e. Required updated S&PM, ITS and Lighting quantities.



**SUPPLEMENTAL AGREEMENT NO. 4**  
**TO**  
**AGREEMENT FOR PROFESSIONAL SERVICES**  
**POST DESIGN SERVICES (FOR 417-141)**

**SR 417 Widening from International Drive to John Young Parkway**

THIS SUPPLEMENTAL AGREEMENT NO. 4 TO AGREEMENT FOR PROFESSIONAL SERVICES POST DESIGN SERVICES (“Supplemental Agreement”) is made and entered into this 8<sup>th</sup> day of October, 2020, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, an agency of the State of Florida, hereinafter called “CFX” and the consulting firm of TLP ENGINEERING CONSULTANTS, INC., a Florida corporation, hereinafter called the “CONSULTANT.”

WHEREAS, CFX and CONSULTANT entered into that certain Agreement for Professional Services dated April 12, 2018, as amended and supplemented by that certain Supplemental Agreement No. 1 between CFX and CONSULTANT dated March 17, 2020, that certain Supplemental Agreement No. 2 between CFX and CONSULTANT dated July 14, 2020, and that certain Supplemental Agreement No. 3 between CFX and CONSULTANT dated September 21, 2020 (collectively, the “Agreement”); and

WHEREAS, Section 4.24 of the Scope of Services, as defined in the Agreement, and attached to the Agreement as Exhibit “A” provides that after completion of the services outlined therein for Project Number 417-141, CFX may negotiate with the CONSULTANT to enter into a

supplemental agreement to provide post design services; and

WHEREAS, Articles 2.00 and 12.00 of the Agreement provide that in the event that CFX elects to add, delete or change the services outlined in the Scope of Services, the compensation to be paid to the CONSULTANT shall be subject to adjustment as shall be mutually agreed upon by CFX and CONSULTANT pursuant to this Supplemental Agreement.

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

1. CFX hereby authorizes the CONSULTANT to proceed with the post design services required as outlined in the correspondence to CFX dated August 10, 2020 and updated on September 21, 2020, which is attached hereto as Exhibit "A" and incorporated herein by reference ("Post Design Services"). Section 4.24 of Exhibit "A" of the Agreement and the Scope of Services shall be amended and supplemented to include the Post Design Services.

2. All invoices from the CONSULTANT for Post Design Services shall be submitted to CFX with complete documentation. Invoices for Post Design Services shall not be a continuation of the original CONSULTANT'S contract amount for final design services and shall only be for those Post Design Services as outlined in this Supplemental Agreement. Compensation for Post Design Services shall be invoiced to CFX at an hourly rate, inclusive of overhead, profit and expenses (exclusive of travel). The hourly rate shall be calculated using the employee's actual direct salary and the negotiated Post Design Services multiplier, as outlined in the correspondence attached hereto as Exhibit "A" and incorporated herein by reference. Direct expenses will be reimbursed for local travel only (per mile). The maximum fee for Post Design Services shall be \$667,145.60.

3. All provisions of said Agreement, or any amendments or supplements thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and the Agreement, or any amendments or supplements thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

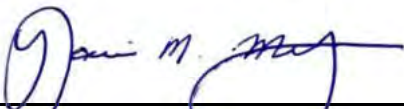
IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to be executed the day and year first above written.

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams  
Date: 2020.11.12 06:17:32 -05'00'

Aneth Williams, Director of Procurement

TLP ENGINEERING CONSULTANTS, INC.

By: 

Print Name: Yassi M. Myers, PE

Title: President

Approved as to form and execution for Central Florida  
Expressway Authority's exclusive use and reliance.

By: Laura Kelly, Associate General Counsel Digitally signed by Laura Kelly,  
Associate General Counsel  
Date: 2020.10.27 10:33:30 -04'00'

Diego "Woody" Rodriguez

General Counsel for CFX

# Exhibit "A"



## MEMORANDUM

**Date:** September 21, 2020  
**To:** Will Hawthorne, PE CFX Director of Engineering  
**From:** Scott Kamien *SKK*, PE  
**Subject:** Design Consultant Services - Contract 001312  
CFX Project No. 417-141  
SR 417 Widening from International Drive to John Young Parkway  
Supplemental Agreement #4 Post Design Services

---

### Comments:

I have reviewed the Post Design fee sheet and scope of services submitted by TLP Engineering Consultant, Inc., provided via email initially on August 10, 2020 and updated on September 21, 2020 for the SR 417 Widening from International Drive to John Way Parkway. SA #4 is for Post Design Professional Services associated with the construction plans and bid documents for this widening project..

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

\$ 452,209.92	TLP as Prime
<u>\$ 214,935.68</u>	<u>Total Subconsultant Fees</u>
\$ 667,145.60	Total Requested Contract Amount

The total staff hours for each task are reasonable and acceptable, and the man hour rates are consistent with their contract; therefore, I recommend approval of this Supplemental Agreement in the amount of \$667,145.60.

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

### CC:

Keith Jackson, PE Dewberry  
File

# Exhibit "A"



**ENGINEERING CONSULTANTS, INC.**

August 10, 2020

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

Reference: **SR 417 Widening from International Drive to John Young Parkway  
Project No. 417-141 (Contract No. 001312)  
Request for Supplemental No. 4 (PDS)**

Dear Will:

Please find enclosed our Request for Supplemental No. 4 for the above referenced project. This request addresses the effort associated with the Post Design Services for this project.

Should you have any questions regarding this request, please advise.

Sincerely,

**TLP Engineering Consultants, Inc.**

A handwritten signature in blue ink, appearing to read 'Yassi M. Myers', is written over a large, stylized blue circular graphic element.

Yassi M. Myers, P.E.  
President

Attachments

**OFFICE:** 450 S. Orange Avenue, Suite 450  
Orlando, FL 32801

**PHONE:** 407.901.5060

**FAX:** 407.512.6560

**WEB:** [www.tlpeng.com](http://www.tlpeng.com)

# Exhibit "A"

## Exhibit "A"

### Project 417-141

#### S.R. 417 Widening from International Drive to John Young Parkway Post-Design Scope of Services (Section 4.24)

#### 4.24 Post Design Services

##### A. Compensation

The Consultant's compensation for post-design services is being added by this 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 or clarifications.

##### B. General Support

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

- a) Answer questions relative to the plans, typical sections, quantities and special provisions.
- b) Make any necessary corrections to the plans, typical sections, quantities, notes, etc. as may be required.
- c) Attend pre-award meeting with Contractor, CFX, and CFX's CEI.

##### C. Pre-bid Conference

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. Addenda

The Consultant shall prepare any addenda required to clarify the work included in the contract documents. Addenda may be required based on the project inspection with the CEI, or questions developed in the pre-bid conference, or conditions discovered by bidders during the bid period. Addenda will not be issued for Contractor Initiated design changes or value engineering proposed work.

##### E. Field Visits

The Consultant shall be available to respond to questions in the field that may arise relative to the plans, details or special provisions during construction. The Consultant will periodically visit the project site to observe the progress of construction. This visit will not replace the formal construction inspection by CFX's CEI. Rather, it is intended to provide the opportunity for members of the design team to observe whether work by the Contractor is being performed in general conformance with the project plans. Written memos of all such field visits shall be submitted to CFX within five business days of the trip.

# Exhibit "A"

## **F. Shop Drawing Reviews**

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

## **G. Post-Design Contact**

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

## **H. Timeliness**

The Consultant shall make every reasonable effort to process any material presented for review in a prompt manner recognizing a construction contract is underway.

## **I. Meetings**

The Consultant shall attend a maximum of three (3) partnering meetings as requested by CFX. The Consultant will also attend progress / coordination meetings as requested by CFX including, but not limited to, the Notice to Proceed meeting.

## **J. Bridge Load Ratings**

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. Geotechnical Engineering**

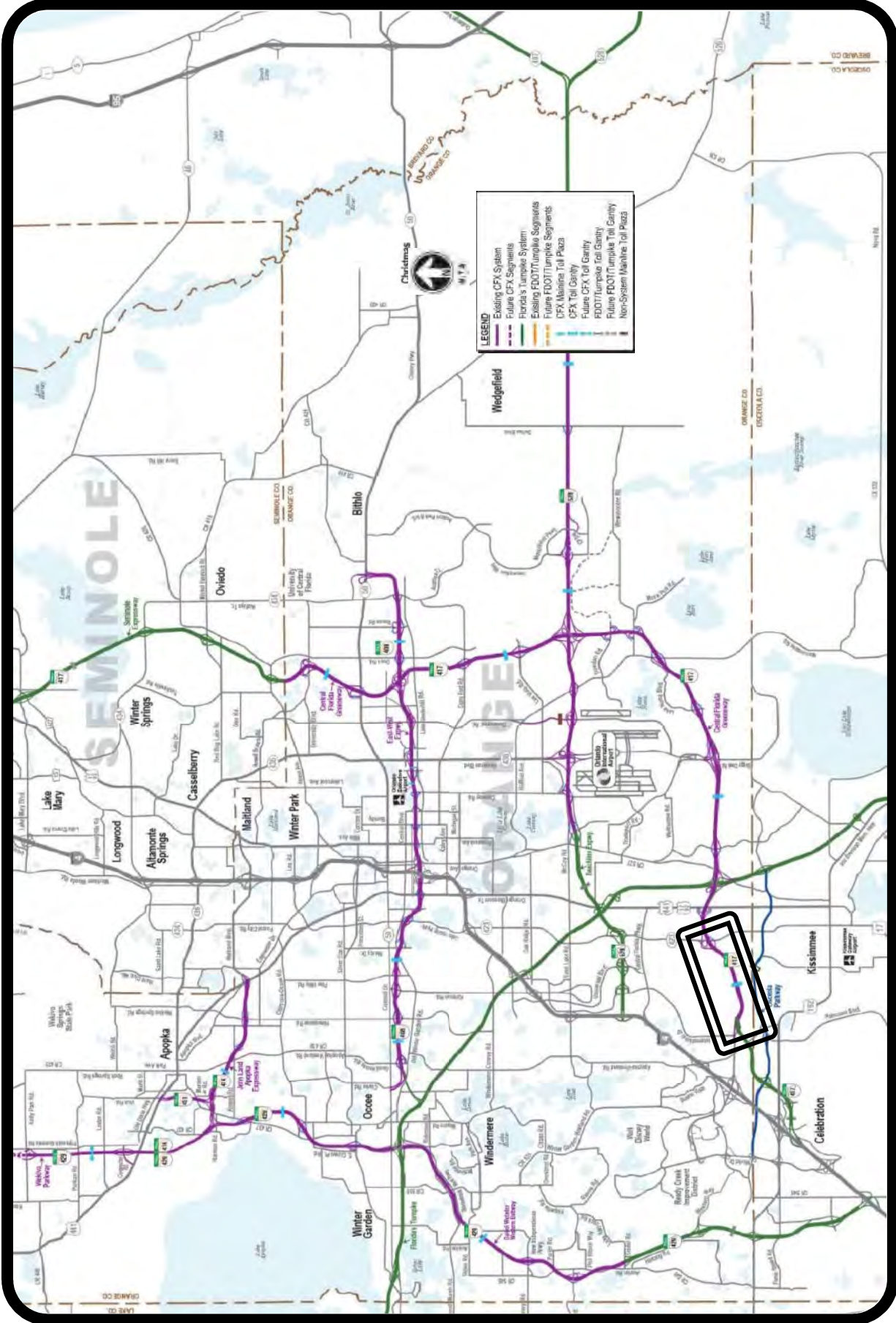
The Consultant shall provide geotechnical engineering services as needed by CFX, relative to pile driving, earthwork, embankment and MSE wall construction.

## **L. Utilities**

The Consultant shall provide utility consulting services as needed by CFX, relative to proposed utility adjustments within the project limits.

## **M. Record Drawings**

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. This scope assumes surveys will be undertaken by a registered surveyor by the Contractor.



Project Location Map for  
S.R. 417 Widening from International Drive to John Young Parkway (417-141)



**SUPPLEMENTAL AGREEMENT NO. 3**  
**TO**  
**AGREEMENT FOR PROFESSIONAL SERVICES**  
**FINAL DESIGN**

**SR 417 Widening from International Drive to John Young Parkway**

THIS SUPPLEMENTAL AGREEMENT NO. 3 TO AGREEMENT FOR PROFESSIONAL SERVICES FINAL DESIGN (“Supplemental Agreement”) is made and entered into this 21st day of September, 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 TLP ENGINEERING CONSULTANTS, INC., a Florida corporation, hereinafter called the “CONSULTANT”.

WHEREAS, CFX and CONSULTANT entered into that certain Agreement for Professional Services between CFX and the CONSULTANT, dated April 12, 2018, as amended or supplemental by that certain Supplemental Agreement No. 1 between CFX and CONSULTANT dated March 17, 2020, and as amended or supplemental by that certain Supplemental Agreement No. 2 between CFX and CONSULTANT dated July 14, 2020, (collectively, “Agreement”);

WHEREAS, Articles 2.0 and 11.0 of the Agreement provide that in the event that CFX elects to add, delete or change the services outlined in the Scope of Services, as defined in the Agreement, and attached to the Agreement as Exhibit “A”, the compensation to be paid to the

CONSULTANT shall be subject to adjustment as shall be mutually agreed upon by CFX and the CONSULTANT in this Supplemental Agreement.

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

1. CFX hereby authorizes the CONSULTANT to proceed with additional services as outlined in the Consultant's September 1, 2020 letter to CFX, which is attached hereto as Exhibit "A" and incorporated herein by reference ("Additional Services"). Exhibit "A" of the Agreement and the Scope of Services, as defined in the Agreement, shall be amended to include the Additional Services.
2. Exhibit "B" Method of Compensation of the Agreement is hereby amended as follows:
  - a. The Salary Related Costs are adjusted upward by \$242,675.55 to \$3,602,469.77.
  - b. The Direct Expenses - Lump Sum (Prime) remains unchanged at \$9,447.50.
  - c. The Subcontract Items are adjusted downward by \$147,206.87 to \$2,438,082.73 as follows:

•TEDS	\$83,130.63
•GEC	(\$170,000.00)
•Geodata	(\$60,337.50)
  - d. The Allowance is adjusted downward by \$95,468.68 to \$0.00.
  - e. The Total Maximum Limiting Amount remains unchanged at \$6,050,000.00.
3. All provisions of said Agreement, or any amendments or supplements thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this

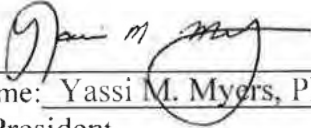
Supplemental Agreement and the Agreement, or any existing supplements or amendments thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

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

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams  
Date: 2020.09.20 13:00:34 -0400'  
Aneth Williams, Director of Procurement

TLP ENGINEERING CONSULTANTS, INC.

By:   
Print Name: Yassi M. Myers, PE  
Title: President

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

By: Laura N. Kelly Digitally signed by Laura N.  
Kelly  
Date: 2020.09.18 13:50:47  
-04'00'  
Diego "Woody" Rodriguez  
General Counsel

**SUPPLEMENTAL AGREEMENT NO. 2**  
**TO**  
**AGREEMENT FOR PROFESSIONAL SERVICES**  
**FINAL DESIGN**

**SR 417 Widening from International Drive to John Young Parkway**

THIS SUPPLEMENTAL AGREEMENT NO. 2 TO AGREEMENT FOR PROFESSIONAL SERVICES FINAL DESIGN (“Supplemental Agreement”) is made and entered into this 14 day of July, 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 TLP ENGINEERING CONSULTANTS, INC., a Florida corporation, hereinafter called the “CONSULTANT”.

WHEREAS, CFX and CONSULTANT entered into that certain Agreement for Professional Services between CFX and the CONSULTANT, dated April 12, 2018, as amended or supplemental by that certain Supplemental Agreement No. 1 between CFX and CONSULTANT dated March 17, 2020 (collectively, “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 the services outlined in the Scope of Services, as defined in the Agreement, and attached to the Agreement as Exhibit “A”, the compensation to be paid to the

CONSULTANT shall be subject to adjustment as shall be mutually agreed upon by CFX and the CONSULTANT in this Supplemental Agreement.

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

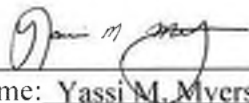
1. CFX hereby authorizes the CONSULTANT to proceed with additional services as outlined in the Consultant's June 2, 2020 letter to CFX, which is attached hereto as Exhibit "A" and incorporated herein by reference ("Additional Services"). Exhibit "A" of the Agreement and the Scope of Services, as defined in the Agreement, shall be amended to include the Additional Services.
2. Exhibit "B" Method of Compensation of the Agreement is hereby amended as follows:
  - a. The Salary Related Costs are adjusted upwards by \$269,719.78 to \$3,359,794.22.
  - b. The Direct Expenses - Lump Sum (Prime) remains unchanged at \$9,447.50.
  - c. The Subcontract Items remain unchanged at \$2,585,289.60.
  - d. The Allowance is adjustment downward by \$269,719.78 to \$95,468.68.
  - e. The Total Maximum Limiting Amount remains unchanged at \$6,050,000.00.
3. All provisions of said Agreement, or any amendments or supplements thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and the Agreement, or any existing supplements or amendments thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

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

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams  
Date: 2020.07.14 13:49:20 -0400  
Aneth Williams, Director of Procurement

TLP ENGINEERING CONSULTANTS, INC.

By:   
Print Name: Yassi M. Myers, PE  
Title: President

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

By: Laura N. Kelly Digitally signed by  
Laura N. Kelly  
Date: 2020.07.14  
11:00:28 -04'00' Associate General Counsel for  
Diego "Woody" Rodriguez  
General Counsel

<https://cfxgov.sharepoint.com/operations/engineering/Shared Documents/General/417-141 SR 417 Widening I-Drive - JYP/2 Contract/2.A Supplemental Agreements/SA 2/Final/417-141 SA 2.docx>

**SUPPLEMENTAL AGREEMENT NO. 1**  
**TO**  
**AGREEMENT FOR PROFESSIONAL SERVICES**  
**FINAL DESIGN**

**SR 417 Widening from International Drive to John Young Parkway**

THIS SUPPLEMENTAL AGREEMENT is made and entered into this 17<sup>th</sup> day of MARCH, 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 TLP ENGINEERING CONSULTANTS, INC. of Orlando, Florida, hereinafter called the "CONSULTANT".

WHEREAS, Articles 2.0 and 11.0 of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 12<sup>th</sup> day of April 2018, provides that in the event that CFX shall change the amount of work in Exhibit "A" of the said Agreement for Professional Services, the fees to be paid to the CONSULTANT shall be subject to adjustment as shall be mutually agreed upon:

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. CFX hereby authorizes the CONSULTANT to proceed with additional services as outlined in the Consultant's January 6<sup>th</sup>, 2020 letter to CFX, which is attached hereto and made a part of this Supplemental Agreement.
2. Exhibit "B", Article 2.00 of the Agreement for Professional Services is amended as follows:
  - a. The Salary Related Costs remain unchanged at \$3,090,074.44.
  - b. The Direct Expenses - Lump Sum (Prime) remains unchanged at \$9,447.50
  - c. The Subcontract Items are adjusted upward by \$212,158.18 to \$2,585,289.60.

• TEDS	\$157,116.16
• AWK	\$55,042.02
  - d. The Allowance is adjustment downward by \$212,158.18 to \$365,188.46.

The Total Maximum Limiting Amount remains unchanged at \$6,050,000.00.

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

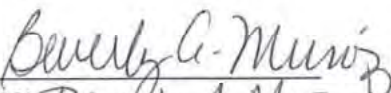


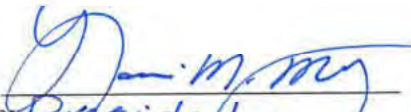
IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, in quadruplicate, the day and year first above written.

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY


By:   
Director of Procurement

TLP ENGINEERING CONSULTANTS, INC.

Witness:   
Print Name: Beverly A. Muñoz

By:   
Title: President

Approved as to form and execution, only.

  
General Counsel for CFX

\\dfsprd1.ocea.internal\Store\Departments\Engineering\General\417-141 SR 417 Widening I-Drive - JYP\2  
Contract\2.A Supplemental Agreements\SA 1\TLP-417-141 -SA1.docx

# **AGREEMENT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
TLP ENGINEERING CONSULTANTS, INC.**

**S.R. 417 WIDENING FROM INTERNATIONAL DRIVE TO  
JOHN YOUNG PARKWAY**

**CONTRACT NO. 001312, PROJECT NO. 417-141**

**CONTRACT DATE: APRIL 12, 2018  
CONTRACT AMOUNT: \$6,050,000.00**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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

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

**FOR**

**S.R. 417 WIDENING FROM INTERNATIONAL DRIVE TO JOHN YOUNG PARKWAY**

**CONTRACT NO. 001312  
PROJECT NO. 417-141**

**APRIL 2018**

**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	

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

THIS AGREEMENT, made and entered into this 12<sup>th</sup> day of April, 2018, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter "CFX," and TLP Engineering Consultants, 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 450 South Orange Ave., Suite 450, 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. SCOPE OF SERVICES.

CFX does hereby retain the CONSULTANT to furnish certain professional services in connection with the design of S.R. 417 Widening from I-Drive to John Young Parkway identified as Project No. 417-141 and Contract No. 001312.

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

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

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

### 3.0 TERM OF AGREEMENT AND RENEWALS

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

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

### 4.0 PROJECT SCHEDULE

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

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

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

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

## 5.0 PROFESSIONAL STAFF

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

- 24138 - AWK Consulting Engineers, Inc. (Class II) ✓
- 12288 - Geodata Consultants, Inc. (Class I) ✓
- 12287 - Geodata Consultants, Inc. (survey) (Class II) ✓
- 12287 - Geotechnical and Environmental Consultants, Inc. (Class II) ✓
- 00359 - RS&H, Inc. (Class I) ✓
- 03145 - Southeastern Surveying and Mapping Corporation (Class I) ✓
- 12862 - Southeastern Surveying and Mapping Corporation (survey) (Class II) ✓
- 12862 - Traffic Engineering Data Solutions, Inc. (Class I) ✓

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

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

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

## 6.0 SERVICES TO BE PROVIDED

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

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

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

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

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

## 7.0 COMPENSATION

CFX agrees to pay the CONSULTANT compensation as detailed in **Exhibit "B,"** Method of Compensation, attached hereto and made a part hereof, in the not-to-exceed amount of \$6,050,000.00 for the initial five-year term of this Agreement. Bills for fees or other compensation for services or expenses shall be submitted to CFX in detail sufficient for a proper pre-audit and post audit thereof.



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

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

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

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

#### 8.0 DOCUMENT OWNERSHIP AND RECORDS

All plans, documents, reports, studies, and/or other data prepared or obtained under this Agreement shall be considered instruments made for services and shall become the property of CFX without restriction or limitation on their use on this project; and shall be made available, upon request, to CFX at any time. CFX will have the right to visit the site for inspection of the work and the drawings of the CONSULTANT at any time. Unless changed by written agreement of the parties, said site shall be 450 South Orange Ave., Suite 450, Orlando, FL. 32801.

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

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

**CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT Phone: 407-690-5000, e-mail: publicrecords@cfxway.com, and address: Central Florida Expressway Authority, 4974 ORL Tower Road, Orlando, FL. 32807.**

An excerpt of Section 119.0701, Florida Statutes is below.

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

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

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

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

The CONSULTANT shall allow public access to all documents, papers, letters, or other material as approved and authorized by CFX and subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONSULTANT in conjunction with this Agreement. Failure by the CONSULTANT to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by CFX.

#### 9.0 COMPLIANCE WITH LAWS

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

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

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

The CONSULTANT hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached **Exhibit "C"**, Details of Costs and Fees, supporting the compensation provided in Section 7.0 are accurate, complete and current as of the date of this Agreement. It is further agreed that said price provided in Section 7.0 hereof shall be adjusted to exclude any significant sums where CFX shall determine the price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments shall be made within one year following the date of final billing or acceptance of the work by CFX, whichever is later.

#### 11.0 TERMINATION

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

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

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

If CFX abandons the work or subtracts from the work, suspends, or terminates the Agreement as presently outlined, the CONSULTANT shall be compensated in accordance with **Exhibit "B"** for work properly performed by the CONSULTANT prior to abandonment or termination of the Agreement. The ownership of all engineering documents completed or partially completed at the time of such termination or abandonment, shall be transferred to and retained by CFX.

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

## 12.0 ADJUSTMENTS

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

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

### 13.0 CONTRACT LANGUAGE AND INTERPRETATION

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

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

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

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

### 14.0 HOLD HARMLESS AND INDEMNIFICATION

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

When CFX receives a notice of claim for damages that may have been caused by the CONSULTANT in the performance of services required by the CONSULTANT under this Agreement, CFX will immediately forward the notice of claim to the CONSULTANT. The CONSULTANT and the AUTHORITY will evaluate the notice of claim and report their findings to each other within fourteen (14) calendar days.

In the event a lawsuit is filed against CFX alleging negligence or wrongdoing by the CONSULTANT, CFX and the CONSULTANT will jointly discuss options in defending the lawsuit. After reviewing the lawsuit, CFX will determine whether to request the participation of the

CONSULTANT in the defense of the lawsuit or to request that the CONSULTANT defend CFX in such lawsuit as described in this section. CFX's failure to notify the CONSULTANT of a notice of claim will not release the CONSULTANT from any of the requirements of this section upon subsequent notification by CFX to the CONSULTANT of the notice of claim or filing of a lawsuit. CFX and the CONSULTANT will pay their own cost for the evaluation, settlement negotiations and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all of its costs, but if the verdict determines that there is joint responsibility, the costs of defense and liability for damages will be shared in the same percentage as that judicially established, provided that CFX's liability does not exceed the limits and limitations arising from Section 768.28, Florida Statutes, the doctrine of sovereign immunity, and law.

CFX is an agency of the State of Florida whose limits of liability are set forth in Section 768.28, Florida Statutes, and nothing herein shall be construed to extend the limits of liability of CFX beyond that provided in Section 768.28, Florida Statutes. Nothing herein is intended as a waiver of CFX's sovereign immunity under Section 768.28, Florida Statutes, or law. Nothing hereby shall inure to the benefit of any third party for any purpose, which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of CFX's obligations are limited to the payment of no more than the amount limitation per person and in the aggregate contained in Section 768.28, Florida Statutes, except for payments for work properly performed, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.

The CONSULTANT shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. The CONSULTANT shall, at its expense, hold harmless and defend CFX against any claim, suit or proceeding brought against CFX which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under this Agreement, constitute an infringement of any patent or copyright of the United States. The CONSULTANT shall pay all damages and costs awarded against CFX.

The obligations in Section 14.0, Hold Harmless and Indemnification, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 15.0 THIRD PARTY BENEFICIARY

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement, and that the CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For the breach or violation of this paragraph, CFX shall have the right to terminate this

Agreement without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

## 16.0 INSURANCE

The CONSULTANT, at its own expense, shall keep in force and at all times maintain during the term of this Agreement all insurance of the types and to the limits specified herein.

The CONSULTANT shall require and ensure that each of its subconsultants providing services hereunder procures and maintains, until the completion of the services, insurance of the requirements, types and to the limits specified herein. Upon request from CFX, the CONSULTANT shall furnish copies of certificates of insurance and endorsements evidencing coverage of each subconsultant.

The CONSULTANT shall require all insurance policies in any way related to the work and secured and maintained by the CONSULTANT to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against CFX. The CONSULTANT shall require of subconsultants, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section. When required by the insurer, or should a policy condition not permit an endorsement, the CONSULTANT agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the CONSULTANT enter into such an agreement on a pre-loss basis. At the CONSULTANT's expense, all limits must be maintained.

16.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to CFX) or the general aggregate limit shall be twice the required occurrence limit. CFX shall be listed as an additional insured. The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

16.2 Business Automobile Liability coverage shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its

equivalent. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Each of the above insurance policies shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured; (2) The stated limits of liability coverage for Commercial/Comprehensive General Liability, and Business Automobile Liability, assumes that the standard "supplementary payments" clause will pay in addition to the applicable limits of liability and that these supplementary payments are not included as part of the insurance policies limits of liability.

16.3 Workers' Compensation and Employer's Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer's Liability insurance shall be provided in amounts not less than \$100,000 per accident for bodily injury by accident, \$100,000 per employee for bodily injury by disease, and \$500,000 policy limit by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the CONSULTANT, its employees, agents and subconsultants.

16.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

The CONSULTANT shall provide CFX with Certificate(s) of Insurance with required endorsements on all the policies of insurance and renewals thereof in a form(s) acceptable to CFX. CFX shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

All insurance policies shall be issued by responsible companies who are acceptable to CFX and licensed to do business under the laws of the State of Florida. Each Insurance company shall minimally have an A.M. Best rating of A-VII. If requested by CFX, CFX shall have the right to examine copies and relevant provisions of the insurance policies required by this Agreement, subject to the appropriate confidentiality provisions to safeguard the proprietary nature of CONSULTANT manuscript policies.

Any deductible or self-insured retention must be declared to and approved by CFX. At the option of CFX, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as requests CFX, or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.



All such insurance required by the CONSULTANT shall be primary to, and not contribute with, any insurance or self-insurance maintained by CFX.

Compliance with these insurance requirements shall not relieve or limit the CONSULTANT's liabilities and obligations under this Agreement. Failure of CFX to demand such certificate or evidence of full compliance with these insurance requirements or failure of CFX to identify a deficiency from evidence provided will not be construed as a waiver of the CONSULTANT's obligation to maintain such insurance.

The acceptance of delivery by CFX of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by CFX that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

#### 17.0 COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS

The CONSULTANT agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying CFX and securing its consent in writing, except as required by law. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data, documents, reports, or other written or electronic materials furnished in compliance with this Agreement, it being understood that, under Section 8.0 hereof, such data or information is the property of CFX.

Regarding the use of logos, printed documents and presentations produced for CFX shall not contain the name or logo of the CONSULTANT unless approved by CFX's Public Affairs Officer or his/her designee. Prior approval by CFX's Public Affairs Officer or his/her designee is required if a copy of the CFX logo or any CFX mark, including trademarks, service marks, or any other mark, collectively referred as "Marks," is to be used in a document or presentation. The Marks shall not be altered in any way. The width and height of the Marks shall be of equal proportions. If a black and white Mark is utilized, the Mark shall be properly screened to insure all layers of the Mark are visible. The proper presentation of CFX Marks is of utmost importance to CFX. Any questions regarding the use of CFX Marks shall be directed to the CFX Public Affairs Officer or his/her designee.

#### 18.0 STANDARD OF CONDUCT

The CONSULTANT covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes 112.313 and the CFX Code of Ethics as it relates to work performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The CONSULTANT agrees to complete the Potential Conflict Disclosure Form with contract execution, annually by July 1, and in the event of changed circumstances.

The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

The CONSULTANT acknowledges that it has read CFX's Code of Ethics and the referenced statutes and to the extent applicable to the CONSULTANT, agrees to abide with such policy.

#### 19.0 DOCUMENTED ALIENS

The CONSULTANT warrants that all persons performing work for CFX under this Agreement, regardless of the nature or duration of such work, shall be United States citizens or properly authorized and documented aliens. The CONSULTANT shall comply with all federal, state and local laws and regulations pertaining to the employment of unauthorized or undocumented aliens at all times during the performance of this Agreement and shall indemnify and hold CFX harmless for any violations of the same. Furthermore, if CFX determines that CONSULTANT has knowingly employed any unauthorized alien in the performance of this Agreement, CFX may immediately and unilaterally terminate this Agreement for cause.

#### 20.0 E-VERIFY CLAUSE

CONSULTANT shall utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the CONSULTANT during the term of the contract. CONSULTANT shall require all of its subconsultants to verify the employment eligibility of all new employees hired by the subconsultants during the term of the Agreement.

#### 21.0 CONFLICT OF INTEREST

The CONSULTANT shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Executive Director for resolution.

During the term of this Agreement:

The CONSULTANT is NOT eligible to pursue any advertised construction engineering and inspection projects of CFX as either a prime or subconsultant where the CONSULTANT participated in the oversight of the projects or for any project which the CONSULTANT prepared plans and/or specifications. Subconsultants are also ineligible to pursue construction engineering and inspection projects where they participated in the oversight of the projects or for any project which the subconsultant was involved in the preparation of plans and/or specifications.

## 22.0 INSPECTOR GENERAL

CONSULTANT agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. CONSULTANT agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.

## 23.0 PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT

Pursuant to Section 287.133(2)(a), Florida Statutes, “a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.”

Pursuant to Section 287.134(2)(a), Florida Statutes, “an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”

## 24.0 INTEGRATION

This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no other agreements between the parties in connection with the subject matter hereof. No waiver, amendment, or modification of these terms hereof will be valid unless in writing, signed by all parties and only to the extent therein set forth.

## 25.0 ASSIGNMENT

This Agreement may not be assigned without the written consent of CFX.

## 26.0 AVAILABILITY OF FUNDS

CFX's performance and obligation to pay under this Agreement are contingent upon an annual budget appropriation by its Board. The parties agree that in the event funds are not appropriated, this Agreement may be terminated, which shall be effective upon CFX giving notice to the CONSULTANT to that effect.

## 27.0 SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

## 28.0 AUDIT AND EXAMINATION OF RECORDS

### 28.1 Definition of Records:

(i) "Contract Records" shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data in whatever form, related to the Contract or the CONSULTANT's performance of the Contract determined necessary or desirable by CFX for any purpose. Proposal Records shall include, but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer printouts, charts or other data compilations that contain or reflect information, data or calculations used by CONSULTANT in determining labor, unit price, or any other component of a bid submitted to CFX.

(ii) "Proposal Records" shall include, but not be limited to, any material relating to the determination or application of equipment rates, home and field overhead rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from subcontractors, or material suppliers, profit contingencies and any manuals standard in the industry that may be used by CONSULTANT in determining a price.

28.2 CFX reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Proposal Records (as hereinafter defined) of the CONSULTANT or any subcontractor. By submitting a response to the Request for Proposal, CONSULTANT or any subcontractor submits to and agree to comply with the provisions of this section.

28.3 If CFX requests access to or review of any Contract Documents or Proposal Records and CONSULTANT refuses such access or review, or delays such access or review for over ten (10) calendar days, CONSULTANT shall be in default under its Contract with CFX, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of CONSULTANT. These provisions shall not be limited in any manner by the existence of any CONSULTANT claims or pending litigation relating to the Contract. Disqualification or suspension of the CONSULTANT for failure to comply with this section shall also preclude the CONSULTANT from acting in the future as a subcontractor of another contractor doing work for CFX during the period of disqualification or suspension. Disqualification shall mean the CONSULTANT is not eligible for and shall be precluded from doing future work for CFX until reinstated by CFX.

28.4 Final Audit for Project Closeout: The CONSULTANT shall permit CFX, at CFX's option, to perform or have performed, an audit of the records of the CONSULTANT and any or all subconsultants to support the compensation paid the CONSULTANT. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the CONSULTANT under the Contract are subsequently determined to have been inadvertently paid by CFX because of accounting errors or charges not in conformity with the Contract, the CONSULTANT agrees that such amounts are due to CFX upon demand. Final payment to the CONSULTANT shall be adjusted for audit results.

28.5 CONSULTANT shall preserve all Proposal Records and Contract Records for the entire term of the Contract and for a period of five (5) years after the later of: (i) final acceptance of the project by CFX, (ii) until all claims (if any) regarding the Contract are resolved, or (iii) expiration of the Proposal Records and Contract Records' status as public records, as and if applicable, under Chapter 119, Florida Statutes.

28.6 The obligations in Section 28.0, Audit and Examination of Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

\*\*\*\*\* INTENTIONALLY LEFT BLANK \*\*\*\*\*

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: TLP Engineering Consultants, Inc.  
450 South Orange Ave., Suite 450  
Orlando, FL. 32801  
Attn: Yassi Meyers, P.E.

TLP Engineering Consultants, Inc.  
450 South Orange Ave., Suite 450  
Orlando, FL. 32801  
Attn: Steve Dickison, P.E.

30.0 GOVERNING LAW AND VENUE

This Agreement shall be governed by and constructed in accordance with the laws of the State of Florida. The parties consent to the exclusive jurisdiction of the courts located in Orange County, Florida. The obligations in Section 30.0, Governing Law and Venue, shall survive the expiration or termination of this Agreement and continue in full force and effect.

31.00 ATTACHMENTS

Exhibit "A", Scope of Services  
Exhibit "B", Method of Compensation  
Exhibit "C", Details of Cost and Fees  
Exhibit "D", Project Organization Chart  
Exhibit "E", Project Location Map  
Exhibit "F", Project Schedule

[ SIGNATURES TO FOLLOW ]

IN WITNESS WHEREOF, the CONSULTANT and CFX have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written. This Contract was awarded by CFX's Board of Directors at its meeting on April 12, 2018.

**TLP ENGINEERING CONSULTANTS, INC.**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

BY: [Signature]  
Authorized Signature

BY: [Signature]  
Director of Procurement

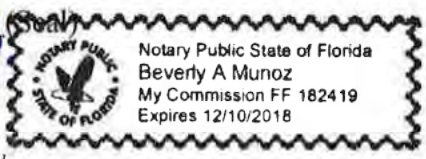
Print Name: Tabbi M. Myers, P.E.

Print Name: Aneth Williams

Title: President

Effective Date: \_\_\_\_\_

ATTEST: [Signature]  
Secretary or Notary



*Approved as to form and execution, only.*

[Signature]  
General Counsel for CFX

2018 MAY 7 PM 4:55

**Exhibit A**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**SCOPE OF SERVICES**

**FOR**

**S.R. 417 WIDENING FROM INTERNATIONAL  
DRIVE TO JOHN YOUNG PARKWAY**

**PROJECT NO. 417-141**

**IN ORANGE COUNTY, FLORIDA**

**March 8, 2018**



Exhibit A  
SCOPE OF SERVICES

TABLE OF CONTENTS

<u>Description</u>	<u>Page No. A-</u>
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.....	10
4.0 WORK PERFORMED BY CONSULTANT.....	11
4.01 Design Features.....	11
4.02 Governmental Agencies.....	11
4.03 Preliminary Design Report - Review .....	11
4.04 Surveys and Mapping.....	12
4.05 Geotechnical Investigation.....	14
4.06 Contamination Impact Analysis.....	15
4.07 Pavement Design.....	15
4.08 Borrow Pits .....	16
4.09 Governmental Agency and Public Meetings .....	16
4.10 Environmental Permits.....	16
4.11 Utilities.....	17
4.12 Roadway Design .....	18
4.13 Structures Design .....	20
4.14 Drainage Design.....	20
4.15 Roadway Lighting.....	22
4.16 Traffic Engineering .....	22
4.17 Signing and Pavement Marking Plans .....	23

4.18	Signalization Plans.....	23
4.19	Right-of-Way Surveys .....	24
4.20	Cost Estimates.....	24
4.21	Special Provisions and Specifications.....	24
4.22	Fiber Optic Network (FON).....	24
4.23	Toll Plazas.....	28
4.24	Post-Design Services.....	28
5.0	MATERIALS FURNISHED BY CFX OR ITS DESIGNEE.....	29
5.01	Record Documents.....	30
5.02	Traffic Data .....	30
5.03	Other.....	30
6.0	WORK PERFORMED BY CFX OR ITS DESIGNEE.....	31
6.01	Right-of-Way Acquisition.....	31
6.02	Utility Agreements.....	31
6.03	Public Involvement .....	31
6.04	Contracts and Specifications Services .....	31
6.05	Post-Design Services.....	31
6.06	Environmental Permits.....	31
6.07	Conceptual Specialty Design .....	32
7.0	ADMINISTRATION.....	33
7.01	Central Florida Expressway Authority .....	33
7.02	CFX's Project Manager .....	33
7.03	Consultant .....	33
7.04	Project Control .....	34
7.05	Work Progress.....	34
7.06	Schedule.....	35
7.07	Project Related Correspondence .....	35
7.08	Quality Control .....	35
7.09	Consultant Personnel.....	35
7.10	Site Visit.....	35
7.11	Acceptability of the Work.....	36
7.12	Design Documentation.....	36
7.13	Reviews and Submittals.....	37
7.14	30% Roadway Plan Submittal.....	39
7.15	30% Bridge and Structural Plan Submittal .....	41

7.16	60% Roadway Plan Submittal.....	41
7.17	90 % Bridge and Structure Plan Submittal .....	43
7.18	90% Roadway Plan Submittal.....	43
7.19	100% Roadway, Bridge, Structural and Right-of-Way Plans.....	45
7.20	Pre-Bid Plans.....	45
7.21	Bid Set.....	45

## 1.0 GENERAL

### 1.01 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. 417 outside/inside widening from International Drive to John Young Parkway. Specifically, the project consists of widening to the outside for the additional general use lane and widening to the median to accommodate appropriate inside shoulder width. All mainline bridges within the project limits, Hunter's Vista Boulevard, Shingle Creek, Town Loop Boulevard, and John Young Parkway will also be widen to accommodate the appropriate shoulder widths and additional general use lane. Additional elements include surveying, drainage evaluation and design, permitting, lighting, signing and pavement markings, signalization, ITS (fiber optic network), toll plaza, maintenance of traffic, utility design and coordination, geotechnical analysis, scheduling and project control, progress reporting and other tasks and associated activities.

### 1.03 Purpose

- A. The purpose of this Exhibit is to describe the scope of work and responsibilities required in connection with Final Engineering and Final Construction Drawings and Documents for the proposed S.R. 417 outside widening from International Drive to John Young Parkway.
- B. The Consultant shall perform those engineering services as required for final roadway/drainage plans, final bridge plans, final lighting plans, final traffic control plans, final utility plans, final ITS (fiber optic network) plans, final toll plaza plans, final signalization 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 fifteen (15) months from notice to proceed, including all reviews. Any fast track of services will be at the direction of CFX's Project Manager.

B. The Consultant may continue the design efforts while design submittals are being reviewed. Doing so, however, in no way relieves the Consultant of the responsibility to incorporate review comments into the design, nor does it entitle the Consultant to any additional design fees as a result of making changes due to review comments.

1. Project Milestones:

The Consultant will prepare a tabulation of major project milestones.

2. Project Schedule:

The Consultant shall include a schedule of major design tasks.

## 2.0 STANDARDS

- A. The applicable design and construction standards and policies of the Florida Department of Transportation, Federal Highway Administration (FHWA), American Association of State Highway and Transportation Officials (AASHTO), Transportation Research Board (TRB), Standard Building Code, CFX's Design Practices and Standard Notes and CFX's Guidelines for Preparation of Signing and Pavement Marking Plans shall be followed throughout the design and construction of the project unless specifically stated otherwise. The editions of the applicable standards and policies in effect at the time of Contract execution shall be used except as follows:
1. Division II, Construction Details, and Division III, Materials, of the FDOT Standard Specifications for Road and Bridge Construction, 2018 edition, and updates thereafter, shall be used for this project.
  2. The FDOT Standard Plans, latest edition and subsequent interim indexes and updates, shall be used for this project.
  3. The FDOT Design Manual, latest edition, shall be used for this project.
  4. The FDOT Basis of Estimates Handbook, latest edition, shall be used for this project.
  5. The AASHTO Policy on Geometric Design of Highway and Streets (Green Book), 2004 edition, shall be used for this project.
  6. The FHWA Manual on Uniform Traffic Control Devices (MUTCD), 2009 edition, as amended, shall be used for this project.

### 3.0 DESIGN CRITERIA

#### 3.01 General

Design of this project will be guided by the basic design criteria listed below.

- A. The design criteria listed in this section and Project Design Directives, provided by CFX during the course of the project, may supplement the Project Design Guidelines.
- B. Design year – 2045
- C. Design vehicle – WB-62FL
- D. Along with the 30% design submittal, the Consultant shall provide a tabulation of all applicable drainage and stormwater management criteria from Federal, State and local agencies and indicated which will be used for all segments and portions of the project. Unless otherwise directed by CFX, the Consultant shall use the most restrictive or conservative criteria applicable.

#### 3.02 Geometry

The following criteria are to be incorporated into the design:

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 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
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 paved)
			* min. 5' paved FDOT
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-Lane 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		



DESIGN ELEMENT	EXPRESSWAY		CROSSROADS/ COLLECTORS
	MAINLINE	RAMPS	
Left Shoulder	break)		
Right Shoulder	Match Mainline	5%	5%
d. Median Width (4-lane), ft. (E.O.P./E.O.P.)	Match Mainline	6%	6%
		N/A	22' or 40'
	64' (typical) 26' (with barrier)		
Horizontal Clearance	PPM 1-2.11	PPM 1-2.11	PPM 1-2.11
Vertical Clearance, ft.			
Over Roadway*	16.5	16.5	16.5
Overhead Signs	17.5	17.5	17.5
Over Railroad	23.5	23.5	N/A

### Ramp Operations

- a. Two thousand (2,000) ft. between entrance and exit terminals – full freeways
- b. Six hundred (600) ft. between exit and entrance terminals
- c. Single Lane Entrance Ramp Parallel
- d. Exit Ramp Taper of 550 ft. (3° – divergence)

### Right of Way

- a. Ten (10) ft. from back of walls or limit of construction.
- b. Two (2) ft. from back of sidewalk on frontage roads.
- c. Drainage and construction easements as required
- d. Limited access right-of-way limits per Index 450
- e. Right of way limits for ramps is based upon limit of construction plus 10 feet.

### 3.03 Bridge and Other Structures

- A. All plans and designs shall be prepared in accordance with the latest standard specifications adopted by AASHTO, FDOT Structures Manual, FDOT Design Manual, FDOT Standard Plans, etc., except as otherwise directed by CFX.

## 4.0 WORK PERFORMED BY CONSULTANT

The Consultant shall be responsible for the work outlined in this Section. The work shall conform to the standards, criteria, and requirements of this Scope of Services.

### 4.01 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 S.R. 417 outside/inside widening from International Drive (Just east of bridge – Station 398+00) to east of John Young Parkway (Station 612+00). Specifically, the project consists of widening to the outside for the additional general use lane and widening to the median to accommodate appropriate inside shoulder width. All mainline bridges within the project limits, Hunter's Vista Boulevard, Shingle Creek, Town Loop Boulevard, and John Young Parkway will also be widen to accommodate the appropriate shoulder widths and additional general use lane. Additional elements include surveying, drainage evaluation and design, permitting, lighting, signing and pavement markings, Signalization, FON, toll plaza, 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, GOAA, FDEP 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.

#### 4.04 Surveys and Mapping

- A. All Surveying and Mapping shall be performed under the direction of a Surveyor and Mapper properly licensed with the Florida Board of Professional Surveyors and Mappers, under Chapter 472, Florida Statutes. The Consultant shall review data provided by CFX and provide complete field surveys suitable for contract document preparation.

Survey activities shall be coordinated with the Consultant's design team including roadway, drainage, structures, geotechnical, and other disciplines as required.

Field surveys shall be performed with minimal disruption of the normal traffic flow for the project. Field personnel shall use safety devices such as warning signs, traffic cones, warning lights, and safety vests at all times, according to the Florida Department of Transportation requirements. Advanced warning signs required when survey crews are working on CFX's system shall be made with 3M Scotchlite Diamond Grade Fluorescent orange roll up sign sheeting.

B. Alignment

1. Establish Survey Centerline by establishing the tangent lines of existing Right of Way maps if such maps exist, or in the center of dedicated Right of Way as per subdivision plats, or in the center of the pavement when no Right of Way map or dedication exists. Set alignment points Begin, End, PC's, PT's, PI's and at maximum 1400-foot intervals along alignment.
2. Establish and set alignment in the same manner on cross roads and major adjacent alignments.
3. Station all alignments at 100' intervals.
4. Meet with CFX's Project Manager to discuss methods for determining alignments prior to staking.

C. Reference Points

1. Set at all alignment points, left and right at 90-degrees to alignment where possible, outside the proposed construction limits.
2. Show obstructions where alternate references are set.

D. Bench Levels

1. The Consultant shall establish new benchmarks at 1000' intervals, along all alignments, using stable points.

E. Topography

1. Planimetric mapping and a digital terrain model (DTM), suitable for 1"=50' display scale shall be conducted by the Consultant.
2. The Consultant will obtain existing pavement elevations and cross-slopes along the inside travel lane and outside travel lane every 100'.
3. Additional topographic and DTM surveys, as needed for the project design, are the responsibility of the Consultant. These may include existing water bodies and pavement elevations.

F. Drainage Survey

Perform a drainage survey including pipe type, location, size and flow line elevations as needed for design.

G. Underground Utilities

Locate all underground utilities, horizontally and vertically as flagged by respective utility companies or a qualified utility marking consultant. Provide soft excavation verifications as needed to verify location and at utility conflict areas.

H. Side Street Surveys

Perform topographic and utility surveys of side streets as may be needed for engineering design.

I. Bridge Survey

Provide bridge survey data as needed for engineering design.

J. Jurisdictional Line Surveys

Perform Jurisdictional Line Surveys as needed for engineering design and permitting.

K. Geotechnical Surveys

Locate and/or stake boring locations as needed for geotechnical investigations.

L. Right-of-Way Ties

Locate right-of-way limits for construction purposes. No new right-of-way is anticipated.

M. Prior to construction, the Consultant shall re-flag and reset alignment control points, references and benchmarks and meet with the construction contractor to review these points.

N. CFX ITS/FON

CFX will locate the FON one time at the beginning of design during the survey phase. Once the FON/ITS lines are flagged, the Consultant shall survey the located FON/ITS locations in the field. The survey data collected will be included in the 30% plans submittal package.

The CFX GSC will review the plan submittals to ensure that the FON is shown correctly as actually located in the field. The CFX GSC will also determine if there are any overlapping projects that need to be represented in the design plans as a part of the ITS Component review of the 30% plans.

SUE will be done as required based on the Design Project Manager's recommendations and provided to CFX for their information.

#### 4.05 Geotechnical Investigation

A. The Consultant shall perform a geotechnical investigation of the project in accordance with the requirements of CFX.

B. Investigations shall be performed with minimal disruption of the normal traffic flow for the project. Field personnel shall use safety devices such as warning signs, traffic cones, warning lights, and safety vests at all times, according to CFX requirements. The Consultant shall adhere to all traffic control requirements when taking samples on existing roadways. A traffic control plan and permit may be required. Any advanced warning signs required when crews are working on CFX system shall be made with 3M Scotchlite Diamond Grade Fluorescent orange roll up sign sheeting.

C. The work includes, but is not limited to, identifying roadway structural section requirements, LBR testing, design methods for the selected foundation, external stability evaluation at proprietary retaining walls, groundwater and estimated seasonal high groundwater level, estimate of the maximum rate of pumping that will be required at sites that dewatering is anticipated, certification of all under drain and pond draw down times, pH and resistivity conditions requiring design considerations, soil shrinkage/swell characteristics, slope stability and benching in embankment/excavation locations, recommendation for methods of rock excavation, potential imported borrow sites and availability of structural section materials, location and depths of unsuitable material (muck), and design alternatives based on geotechnical findings; design values for active, at rest, and passive soil pressures; allowable design loads or pressures for

each foundation type, corrosion testing for structures and design of foundations for sign structures. The work will also include verification of existing median bridge foundation capacities previously constructed for future widening.

- D. The results of the geotechnical investigation shall be contained in a Geotechnical Report which shall be submitted to CFX's Project Manager for approval. The geotechnical investigation shall include all necessary laboratory testing of materials.
- E. Upon approval of the Geotechnical Report, the Consultant shall proceed with preparation of the pavement and foundation designs.
- F. Boring profiles shall be included on cross-section sheets in the contract plans and include the boring number, station, offset, soil legend, observed water table, design high water elevation and geotechnical consultant's address. A boring number and target symbol shall be shown at the appropriate location on the roadway and bridge plans.
- G. Roadway core samples shall be taken to determine the existing pavement section. The Consultant shall submit a plan to CFX for location approval.

#### 4.06 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, Chapter 22, the Florida Department of Environmental Protection (FDEP), and all other pertinent State or Federal agencies having jurisdiction, and the requirements of CFX.
- B. At a minimum, the Consultant shall conduct a windshield survey along the project corridor to identify any new sources of environmental contamination not reported in the referenced document(s).
- C. The testing of any sites including the use of ground penetrating radar, if required to complete the design and/or construction of the project, will be added to the Scope of Services by Supplemental Agreement.

#### 4.07 Pavement Design

- A. The Consultant shall prepare the pavement design as appropriate in accordance with the requirements of the FDOT for SR 528 mainline, International Drive and John Young Parkway interchange ramps, and Toll Plaza ramps impacted.
- B. The proposed pavement design recommendation, resulting from the

Consultant's analysis of the various alternatives, shall be contained in a Pavement Design Summary.

#### 4.08 Borrow Pits

- A. The Consultant's geotechnical investigation may include the investigation of current borrow pits. The location and testing of any new borrow pits if required to complete the construction of the project shall be added to the Scope of Services by Supplemental Agreement. The analysis and test results shall be contained in a separate report submitted not later than the preliminary submittal.

#### 4.09 Governmental Agency and Public Meetings

- A. Except as may be provided elsewhere in this Scope of Services, the Consultant shall have appropriate representatives present at such meetings, conferences or hearings as CFX may direct to secure necessary approvals and/or support of the project by county, municipal, or other governmental agencies. If so directed, the Consultant shall also have appropriate representatives present at meetings or conferences of CFX, its Chairman or staff.
- B. The Consultant shall assist CFX in presentations to various parties. The Consultant shall prepare exhibits pertaining to basic roadway and noise wall elements. CFX will prepare exhibits pertaining to aesthetic treatments and other design issues if applicable. This scope assumes presentations at one meeting with adjacent property owners.

#### 4.10 Environmental Permits

- A. CFX's Project Manager will review, coordinate and submit the applications for all environmental permits, including EPA's NPDES General Permits for Stormwater Discharges from Construction Sites. The Consultant shall provide all information, permit applications and data relating to Stormwater Management and Floodplain Impacts required for the permits to CFX. **(CFX will be responsible for preparing all of the Wetlands and Protected Species analysis and documentation required for the permits.)** The Consultant shall:
  - 1. Attend the pre-application meetings and site visits with CFX and regulatory agencies.
  - 2. Provide additional information requested at the pre-application by regulatory agencies for permits.
  - 3. Provide aerial maps at a 1"=400' scale which include SCS soils data,

100-year floodplain limits and proposed project.

4. Provide all plans, calculations, sketches and reports required for permits except as described above.
5. Provide copies of all drainage calculation, including pond routing nodal diagrams, for the project.
6. Assist CFX in responding to any requests for additional information made by regulatory agencies after the permit application is submitted.
7. Incorporate any changes required by changes in regulatory agency requirements during the course of the project. If this requires additional work by the Consultant a Supplemental Agreement will be prepared.
8. Prepare a list of adjacent landowners along with address and nine-digit zip code at all wetland encroachment sites.
9. Provide all permit application material in .pdf format and 7 hard copies.
10. The Consultant will provide dredge and fill sketched as required by the permitting agencies if applicable. Mitigation plans, if required, may be added as a supplemental service.
11. Determine extent of floodplain impacts, if any, and provide compensatory flood stages as required.

#### 4.11 Utilities

##### A. Location

The Consultant shall obtain available utility mapping and information and identify all utilities within the general project limits to determine potential conflicts and relocations. Where a potential conflict exists, the Consultant may need to arrange to probe or expose ("pothole") the utility and survey the horizontal and vertical location of the utility line. The Consultant shall coordinate this effort with involved utility companies. All existing utilities shall be shown on appropriate preliminary construction plans. The Consultant's notes shall include the name and telephone number of contact persons for the construction contractor's use.

##### B. Utility Coordination



1. The Consultant shall prepare reproducible utility adjustments plans based on information provided by respective utility companies.
2. Private utilities will prepare design plans for the relocation of their facilities. If a utility cannot or will not prepare these design plans, the work shall be added to the scope by Supplemental Agreement and the Consultant shall prepare design plans for utility relocation for approval of the utility and review by CFX.
3. Where utility conflicts occur which require utility relocation agreements between the affected utility and CFX, the Consultant shall prepare the necessary data/plans required for the agreements. The Consultant shall advise CFX seven days in advance of meetings with utility companies/agencies scheduled to discuss utility relocations.
4. The preparation and negotiation of the agreement will be performed by CFX's Project Manager. After approval of the agreement by the utility and CFX, the Consultant shall prepare reproducible utility adjustment sheets identifying proposed relocations with respect to the construction plans.
5. The Consultant shall prepare a utility conflict matrix to assist in identifying and resolving conflicts between utilities and proposed construction prior to completion of the plans.
6. The Consultant shall obtain utility work schedules from the utility companies.
7. The Consultant shall prepare the Utility Certification Letter certifying that all utility negotiations (full execution of each agreement, approved utility work schedule, technical special provisions written, etc.) have been completed with arrangements made for utility work to be undertaken and completed as required.

#### 4.12 Roadway Design

- A. A Typical Section Package will not be prepared for this project. Rather, typical sections for SR 528 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. Plans and profiles (plans at 1"=50' scale)
8. Interchange plans, profiles, alignment and plan index sheets
9. Interchange layout plans
10. Intersection plans and profiles or spot elevations
11. Interchange curve and coordinate data sheets
12. Ramp Terminal Details
13. Crossroad plans and profiles (1"= 50' scale)
14. Cross-sections (with pattern plan) (1" = 20' horiz.) (1" = 5' vert.)
15. Earthwork quantities
16. Traffic Control Sheets including Erosion Control/Temp. Drainage
17. Utility Adjustment Sheets as deemed necessary
18. Details
19. Special provisions
20. Special specifications

#### 4.13 Structures Design

- A. Prior to commencement of final design, the consultant shall prepare a Bridge Concept Memorandum which documents a limited range of structural alternatives and identifies preferred alternatives. Specifically, the alternatives to be examined include beam type, wall type / configuration and foundation pile type.
  
- B. The Consultant shall prepare designs and contract documents for structural design including, but not necessarily limited to the following items.
  - 1. Complete Bridge designs will be provided for all bridges.
  - 2. Retaining walls, including Critical Temporary walls
  - 3. Box Culverts
  - 4. Slope protection
  - 5. Approach slabs
  - 6. Details
  - 7. Summary quantity tables
  - 8. Special provisions and specifications
  - 9. Stage construction-sequencing details (if applicable).
  - 10. Sign\Signal structures.
  - 11. Sound walls.
  - 12. The Consultant shall perform Load Rating Analysis per FDOT criteria for bridges at the 90% design phase. The Load Rating Analysis packages shall be submitted to FDOT for their review and approval.
  
- C. The Consultant shall perform an evaluation of the existing median bridge foundations, previously constructed for future widening, to determine acceptability for HL93 loading and the potential for additional future transit loading.

#### 4.14 Drainage Design

- A. As part of the drainage design requirements, the Consultant shall:

1. Perform all drainage design in accordance with the approved criteria from Section 3.01C. Due to the “impaired” designation of Shingle Creek, a pollutant loading analysis will be performed for the project.
2. Finalize the pond design at the 30% submittal. Due to the increase of impervious area width from 116’ to 120’, treatment and attenuation calculations will be prepared for five (5) existing Ponds 13-17.
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 one (1) Bridge Hydraulics Reports that includes Shingle Creek and the 15-12’x4’ CBC crossings. The BHR will be reviewed and approved by CFX, Orange County, and FEMA. No CLOMR is anticipated.
8. Perform floodplain analysis for one (1) location including proposed impacts and compensation calculations.
9. Perform cross drain analysis for eight (8) crossings due to extensions. Two crossing will be CBC’s and the remainder are pipes.
10. Prepare a technical memorandum identifying existing drainage concerns along the corridor and potential fixes or modifications. Known existing drainage concerns include:
  - A. Pond 14 staging up to roadway shoulder
  - B. Standing water in 14’x14’ CBC
  - C. Erosion at outfalls and along pond side banks
  - D. Evaluate widening of Shingle Creek bridge to eliminate the bridge drainage system.
11. Critical duration analysis is not included in this effort and, if required, shall be added to the scope by Supplemental Agreement.

A pond siting report is not required.

- B. The Consultant shall prepare designs and contract documents for drainage features including, but not necessarily limited to:
  - 1. Connector pipes
  - 2. Drainage structure details
  - 3. Storm drain and culvert profiles and/or drainage cross-sections
  - 4. Lateral ditches/channels
  - 5. Outfall ditches/channels
  - 6. Retention/detention ponds/exfiltration system

#### 4.15 Roadway Lighting

- A. The Consultant shall provide a complete set of final roadway lighting documents in accordance with FDOT and CFX design criteria. These plans shall include replacement of all CFX lighting on the corridor to LED, including roadway and ramp fixtures, overhead sign lighting and underdeck lighting. The work shall include coordination with the local utility to provide electrical service. Plan sheet scale shall be at 1"=50' scale.
- B. If required, CFX will provide a cut sheet for the type of lighting fixtures to be used for this project.
- C. The Consultant will prepare designs and contract documents for lighting design including, but not necessarily limited to the following items.
  - 1. Cover sheet (key sheet)
  - 2. Tabulation of Quantities
  - 3. General notes
  - 4. Pole data and Legend sheet
  - 5. Project Layout sheet
  - 6. Plans sheets (plans at 1"=50' scale)
  - 7. Service point detail
  - 8. Special Details

#### 4.16 Traffic Engineering

- A. Traffic Data will be furnished by CFX.
- B. Maintenance of Traffic Plans

1. The Consultant shall prepare maintenance of traffic plans at scale of 1"=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 piling 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. For the purposes of this proposal, eleven (8) existing overhead trusses and three (3) existing overhead cantilevers along the project will be affected by the improvements. Propose to relocate and reuse existing structures if they meet current wind load criteria.

#### 4.18 Signalization Plans

- A. For the SR 417 ramp terminals at John Young Parkway, the Consultant shall prepare designs and contract documents for final signalization plans including layouts showing the locations of mast arms and pedestrian

features, special signal details, lighting, and any structural or foundation requirements in accordance with applicable design standards. Any requirements for electric service shall be coordinated with the local electric utility.

B. Plan sheets will be developed at a scale of 1"=50' (11"x17" format).

#### 4.19 Right-of-Way Surveys

A. No additional right-of-way is anticipated for this project.

#### 4.20 Cost Estimates

A. The Consultant shall prepare and submit to CFX construction cost estimates at the 60%, 90%, 100%, Pre-Bid and Bid Set submittals outlined herein. The estimate shall be based on the current unit prices as applied to the latest concept of the proposed construction.

#### 4.21 Special Provisions and Specifications

A. The Consultant shall prepare and submit at the 90% level special provisions, special specifications, and technical special provisions for items, details and procedures not adequately covered by CFX's Technical Specifications.

#### 4.22 Fiber Optic Network (FON)

##### A. Fiber Optic Infrastructure Plans

1. The site construction plans shall be developed at a scale of 1" equals 50 feet. These plans shall include the relocation of all existing fiber optic ductbanks, cables, manholes, and pull boxes in areas where the existing locations conflict with construction and as necessary to relocate the FON into the new paved shoulder. The Consultant shall identify existing physical features and utilities that will impact the construction and installation of the equipment. The Consultant shall review and modify standard FON details as necessary.
2. Fiber optic network (FON) plans shall include the following:
  - a. Roadway geometry
  - b. Rights-of-Way
  - c. Existing utilities within the right-of-way including CFX's FON
  - d. Physical features affecting construction/installation (sign structures, light poles, fences, etc.)

- e. Manhole/Pull box locations and stub-out details (standard details provided)
- f. Device layout
- g. Device installation details
- h. Conduit installation details (standard details provided)
- i. Fiber optic cable route marker detail (standard details provided)
- j. Fiber count per conduit
- k. Communications interconnect
- l. Connectivity with the FON backbone conduits
- m. Fiber cable design to include link loss budget calculations, per Corning standard recommended procedure for new or relocated fiber optic cabling.
- n. Fiber cable routing summaries, fiber cable allocation charts, and splice details and tables for new or relocated fiber optic cabling.
- o. Controller cabinet, structure, and foundation details for proposed CFX device sites.
- p. Power interconnect, calculations to support conductor size, and details. Power conductors to each device location shall be sized to the capacity of the main breaker in the cabinet. Determination on conductor sizing and voltage drop limits are only required for proposed sites and existing sites where the total site load is being significantly modified.
- q. Grounding
- r. Table of quantities
- s. Special notes
- t. Maintenance of fiber operations (protection of existing FON through all phases of construction and cutover phasing to ensure continuous operation of existing ITS devices)
- u. All existing and proposed FON to be included and shown with roadway cross sections and drainage cross sections
- v. Relocation of the existing FON to inside of the new paved shoulder, including attachment of the FON to SR 417 bridges over intersecting arterials and installation of fiber optic manholes in the paved shoulder.
- w. Relocation of existing CCTV sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing CCTV is not compatible with proposed construction.
- x. Relocation of existing data collection sensor (DCS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details



- provided), in the event existing DCS would not survive project construction.
- y. Relocation of existing traffic monitoring sites (TMS) and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing TMS would not survive project construction.
  - z. Relocation of existing one-line and three-line dynamic message sign (DMS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing DMS would not survive project construction
  - aa. 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.
  - bb. Install new WWDS at the following off-ramps:
    - o SR 417 off-ramp from International Dr. S. / World Center Dr.
    - o SR 417 northbound off-ramp from SR 423 (S. John Young Pkwy.).
    - o SR 417 southbound off-ramp from SR 423 (S. John Young Pkwy.).
  - cc. Conduits and pull boxes to facilitate future installation of hard shoulder running ITS devices, based on conceptual device layouts provided by CFX, or their representative, to the Consultant.
3. The Consultant shall take the following information into consideration when developing the site construction plans:
- a. Minimize utility conflicts and adjustments.
  - b. Minimize traffic impact.
  - c. Accessibility and ease of equipment maintenance.
  - d. Safety of equipment maintenance personnel and the traveling public.
  - e. Maintain the existing FON system through all phases of construction.
  - f. Environmental conditions.
  - g. Concurrent/future CFX projects.
  - h. Compatibility with existing and proposed ITS infrastructure (e.g. CFX enhanced grounding standards for ITS devices, CFX transient voltage surge suppression (TVSS) standards for ITS devices, etc.)

- i. Leased conduits in CFX FON duct bank that are occupied by the fiber optic cable of other agencies or entities.
- j. Location of proposed sound walls

#### B. Splice and Cable Routing Details

1. The Consultant shall provide splicing detail diagrams to document proposed fiber optic splices within and between manholes, ITS devices, tollbooths, and other junction points.
2. Proposed splicing tables shall include ITS device connectivity, fiber use, drop cable fiber identification, drop cable identification, backbone cable identification, translateral cable identification, backbone into mainline cable identification, and toll plaza patch panel jack.
3. The Consultant shall provide cable routing diagrams and fiber allocation charts in CFX's standard format to document the functional connectivity between proposed fiber optic conduit and splices.

#### C. Maintenance Of Fiber Operations

1. The Consultant shall provide a plan of action to ensure existing fiber optic network is not disrupted during construction operations.
2. The Consultant shall determine the sequence of fiber optic cable splices to minimize disruption to communications.

#### D. Inside Plant Plans

1. The Consultant shall be responsible for any data collection necessary to complete its design.
2. All equipment shown on the inside-plant construction plans shall be clearly delineated as existing, proposed, or by-others. The Consultant shall be responsible for identifying and detailing on the inside-plant construction plans with notes and drawings any make-ready work required. The Consultant shall also provide a table of quantities for all materials and equipment specified in the inside-plant construction plans.
3. The Consultant shall sign and seal final inside-plant construction plans by a licensed professional Electrical Engineer registered in the state of Florida. The inside-plant construction plans shall be subject to the review and approval of CFX.

- E. Standard CFX specifications will be provided to the Consultant. The Consultant shall review the specifications and modify them as necessary.

#### 4.23 Toll Plazas

- A. This proposal includes modifications to the S.R. 417 John Young Mainline plaza. The **open road tolling portion of the plaza will be altered** to facilitate the **conversion from 2 to 3 lanes** in each direction. This includes, but is not limited to the removal of a portion of the toll plaza canopy to allow for the design and placement of the new **outside shoulders**, and replacement of the two existing toll gantries with a **new single gantry** to span the **increased main lane section**.

#### 4.24 Post-Design Services

- A. Services shall begin after authorization by CFX. The Consultant compensation for post-design services may be added by Supplemental Agreement and shall be at an hourly rate, inclusive of overhead, profit and expenses, and exclusive of travel. No compensation will be made for correction of errors and omissions.
- B. The Consultant shall support the post design process as follows:
  - a. Answer questions relative to the plans, typical sections, quantities and special provisions.
  - b. Make any necessary corrections to the plans, typical sections, quantities, notes, etc., as may be required.
  - c. Attend pre-award meeting with construction contractor, CFX, and CFX's CEI.
- C. The Consultant shall, prior to the pre-bid conference, be prepared to walk the project with CFX's CEI to **discuss the plans and details**. The Consultant shall be prepared to attend the **pre-bid conference and respond to questions** related to the plans, details, and special provisions.
- D. The Consultant shall prepare any addenda required to clarify the work included in the construction contract documents. Addenda may be required based on the project inspection with the CEI, or questions developed in the pre-bid conference, or conditions discovered by bidders during the bid period. Addenda will not be issued for Contractor initiated design changes or value engineering proposed work.
- E. The Consultant shall be available to respond to questions in the field that may arise relative to the plans, details or special provisions during construction. The Consultant shall periodically (monthly) visit the project site to observe **the progress of construction on the project**. This visit will not **replace the formal construction inspection by CFX**. It is intended to **provide the opportunity of the design team to observe whether the work is being performed in general conformance with the project plans**. **Written memos of all such field trips shall be submitted to CFX within five working days of the**

trip.

- F. The Consultant shall review and approve shop drawings for structural, lighting, signing, traffic signal elements, and toll plaza shop drawings. This work will include the erection procedure plans, review proposals for substitutions, develop supplemental agreements, and provide other **engineering services required to facilitate construction of the project. Reviews will be conducted and returned within two weeks** from receipt of information.
- G. The Consultant shall appoint a responsible member of the firm to be the contact person for all post-design services. The person should be continually available during the course of construction for review of design plans.
- H. The Consultant shall make every reasonable effort to process any material presented for review in a prompt manner recognizing a construction contract is underway.
- I. The Consultant's key staff shall attend a maximum of three (3) partnering meetings as requested by CFX's Project Manager. The Consultant shall also attend progress/coordination meetings as requested by CFX's Project Manager including, but not limited to, the Notice to Proceed meeting.
- J. Approved design bridge load ratings were obtained by the Consultant under the final design phase of this contract. The Contractor shall be responsible for revising and resubmitting the load ratings if changes to the bridge design occur during construction. Otherwise, the Consultant shall provide written correspondence to FDOT when construction is complete that the bridges were constructed in accordance with the plans and the design load ratings still apply.
- K. The Consultant shall provide geotechnical engineering services as needed by CFX, relative to pile driving, earthwork, embankment and MSE wall construction.
- L. The Consultant shall provide utility consulting services as needed by CFX, relative to proposed utility adjustments within the project limits.
- M. The Consultant shall prepare Record Drawings in electronic format following completion of the construction phase. CFX shall provide all As-Built drawings from the Contractor / CEI to the Consultant for their use in preparation of the Record Drawings.

## **5.0 MATERIALS FURNISHED BY CFX OR ITS DESIGNEE**

5.01 Record Documents

- A. CFX will provide the Consultant, within ten working days of a written request, the following items:
1. Available record drawings of existing conditions
  2. Available right-of-way plans of existing conditions
  3. Current list available to CFX of owners of all affected properties within the section.
  4. Sample plans to be used as guidelines for format, organization and content.
  5. Title searches of all affected properties for use by the Consultant in the preparation of the right-of-way maps.
  6. Contract unit prices from latest CFX construction projects.

5.02 Traffic Data

- A. CFX will provide the following design traffic data:
1. Current and design year ADT
  2. Current and design year peak hour volumes
  3. Turning movements at each intersection/interchange
  4. K, D and T factors
  5. Design speed - See Section 3.02, Geometry.
  6. AVI Percentages

5.03 Other

1. Utility designates for the FON and roadway lighting within CFX right-of-way.

## **6.0 WORK PERFORMED BY CFX OR ITS DESIGNEE**

### 6.01 Right-of-Way Acquisition

- A. If necessary, CFX, or its designee, will review all right-of-way plans, parcel sketches and legal descriptions prepared by the Consultant. CFX will handle all appraisals, negotiations, relocations, condemnation, and property settlements.

### 6.02 Utility Agreements

- A. CFX will support, as necessary, the Consultant's acquisition of information required for utility agreements.

### 6.03 Public Involvement

- A. CFX will provide a moderator for all required public meetings and provide guidelines for the Public Involvement aspects of the project. The need for public meetings or public hearings will be determined by CFX. CFX will be responsible for mailings and advertisements for the public meetings.

### 6.04 Contracts and Specifications Services

- A. CFX will prepare the necessary bid documents for the construction contract using plans, technical special provisions, and special specifications prepared by the Consultant.

### 6.05 Post-Design Services

- A. CFX will be the principal initial contact for post-design questions and answer questions on a limited scope.
- B. CFX's CEI representative will be responsible for collection and documentation of all As-Built information for the constructed improvements.

### 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 to provide proposed sound wall locations.
- C. CFX will provide conceptual aesthetics design and treatments for structures.

## 7.0 ADMINISTRATION

### 7.01 Central Florida Expressway Authority

- A. CFX's Project Manager will administer the Consultant services detailed in this scope.
- B. All contractual payments and changes shall be reviewed and approved by CFX's Project Manager.

### 7.02 CFX's Project Manager

CFX's Project Manager will:

- A. Conduct ongoing reviews of the Consultant's progress in performing the work and furnish technical comments in a timely manner.
- B. Review the Consultant's billings.
- C. Review and evaluate the Consultant's requests for extension of time and supplemental agreements and recommend appropriate action.
- D. Review all correspondence with public agencies prior to the Consultant's mailing of any correspondence except for requests for information.
- E. Coordinate the distribution of public information.
- F. Coordinate the data (including documentation of prior rights, cost estimates and plans) necessary for CFX to prepare and execute all utility and railroad agreements.
- G. Conduct an introductory meeting to deliver relevant information and explain the administration process.
- H. Review the Consultant's Quality Control program and the Consultant's conformance to the Quality Control Program.
- I. Provide a focal point contact for all questions, requests, and submittals.
- J. Provide a system to monitor the Consultant's schedule, progress and key milestone submittal dates.

### 7.03 Consultant

- A. The Consultant has total responsibility for the accuracy and completeness of the construction contract documents and related design prepared under this project and shall check all such material accordingly. The plans will be



reviewed by CFX for conformity with CFX procedures and the terms of the Contract, as well as coordination with adjacent design contracts. Review by CFX does not include detailed review or checking of design of major components and related details or the accuracy with which such designs are depicted on the plans. The responsibility for accuracy and completeness of such items remains solely that of the Consultant. The Consultant shall:

1. Establish, furnish and maintain suitable office facilities to serve as the project office for the duration of the project at a location acceptable to CFX.
2. Maintain an adequate staff of qualified support personnel to perform the work necessary to complete the project.
3. Establish internal accounting methods and procedures for documenting and monitoring project costs.
4. Establish and maintain contract administration procedures, which will include supplemental agreements, time extensions and subcontracts.

#### 7.04 Project Control

- A. The Consultant shall provide data for CFX's Management Information System to monitor costs and manpower, and report progress. This project control system may include features to:
  1. Determine and highlight critical path work from initial plans as work progresses.
  2. Identify progress against schedule for each identified work item.
  3. Forecast completion dates from current progress.
  4. Highlight rescheduled work in any area which is out of required sequence.
  5. Highlight rescheduling that has overloaded any physical area that requires more resources than originally allocated.
  6. Forecast future conflicts in any area.

#### 7.05 Work Progress

- A. The Consultant shall meet with CFX's Project Manager on a bi-weekly basis (or more often if necessary) and provide written progress reports which describe the work performed on each task. The dates and times of

these meetings will be established by CFX. Two working days prior to each progress meeting, the Consultant shall provide CFX's Project Manager with a draft copy of the Progress Report and a typewritten agenda for the meeting. The Consultant shall prepare typewritten meeting minutes and submit them to CFX's Project Manager within five working days after the meeting. The minutes shall indicate issues discussed and the resolution or action required to resolve any issues.

7.06 Schedule

- A. Within twenty (20) calendar days after receipt of the Notice to Proceed, the Consultant shall provide a schedule of calendar deadlines in a format prescribed by CFX.

7.07 Project Related Correspondence

- A. The Consultant shall furnish copies of all written correspondence between the Consultant and any party pertaining specifically to this project to CFX for its records within one (1) week of the receipt or mailing of said correspondence. The Consultant shall record and distribute the minutes of all meetings pertaining to this project.

7.08 Quality Control

- A. The Consultant has total responsibility for the accuracy and completeness of the plans and related designs prepared under this project and shall check all such material accordingly. Consultant shall have a quality control plan in effect during the entire time work is being performed under the Contract. The plan shall establish a process whereby calculations are independently checked, plans checked, corrected and back checked. All plans, calculations, and documents submitted for review shall be clearly marked as being fully checked by a qualified individual other than the originator. The FDOT plan review checklist shall be attached and appropriate items checked.
- B. The Consultant's quality control plan shall be submitted to CFX within fifteen (15) working days of receipt of written notice to proceed.

7.09 Consultant Personnel

- A. The Consultant's work shall be performed and/or directed by the key personnel identified in Exhibit "D". Any changes in the indicated key personnel or the Consultant's office in charge of the work shall be subject to review and approval by CFX.

7.10 Site Visit

- A. The Consultant shall arrange a site visit within ten (10) calendar days of receipt of written Notice to Proceed. Consultant personnel assigned to perform the work on the project shall attend. CFX representatives will be present. Within seven calendar days of the site visit, the Consultant shall issue to CFX a brief written report including observations, discussions, and any questions pertaining to the scope or level of effort of the project. The purpose of this visit is to acquaint key personnel with the details and features of the project to facilitate the design process.

#### 7.11 Acceptability of the Work

- A. The plans, design, calculations, reports and other documents furnished under this Scope of Services shall conform to the "standards-of-the industry" quality as acceptable to CFX. The criteria for acceptance shall be a product of neat appearance, well organized, accurate and complete, technically and grammatically correct, checked in accordance with the approved Quality Control program, and have the maker and checker identified. The minimum standard of appearance, organization and content of drawings shall be similar to the type produced by the Florida Department of Transportation and CFX.

#### 7.12 Design Documentation

- A. The Consultant shall submit any design notes, sketches, worksheets, and computations to document the design conclusions reached during the development of the construction contract documents to CFX for review.
- B. The design notes and computations shall be recorded on 8-1/2" x 11" computation sheets, appropriately titled, numbered, dated, indexed and signed by the designer and checker. Computer output forms and other oversized sheets shall be folded or legibly reduced to 8-1/2" x 11" size. The data shall be bound in a hard-back folder for submittal to CFX.
- C. A CD/DVD with electronic (PDF Format) copies of the design notes and computations shall be submitted to CFX with each review submittal. When the plans are submitted for 90% review, the design notes and computations corrected for any CFX comments shall be resubmitted. At the project completion (bid set), one (1) hard copy of the final set of the design notes and computations, sealed by a Professional Engineer, registered in the State of Florida, shall be submitted with the record set of plans and tracings.
- D. Design notes and calculations shall include, but are not necessarily limited to, the following data:
  - 1. Field survey notes and computations.
  - 2. Design criteria used for the project.

3. Geometric design calculations for horizontal alignment.
4. Vertical geometry calculations.
5. Right-of-way calculations.
6. Drainage computations.
7. Structural design calculations.
8. Geotechnical report.
9. Hydraulics Report for each bridged stream crossing.
10. Earthwork calculations not included in the quantity computation booklet.
11. Calculations showing cost comparisons of various alternatives considered.
12. Calculations of quantities.
13. Documentation of decisions reached resulting from meetings, telephone conversations or site visits.
14. Lighting and voltage drop calculations.
15. Lighting service letter from the power company stating the following: service voltage, type of service (overhead or underground), location of power company service point, and any other power company requirements.

#### 7.13 Reviews and Submittals

- A. Review and coordination of the Consultant's work by CFX shall continue through the project development process
- B. Formal submittals for review shall be made to CFX when the plans have been developed to the following levels of completion:
  1. Preliminary Engineering (Memorandum) (1 CD/DVD with all files, 3 sets and 1 .PDF required)
  2. 30% Roadway Plans (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)

3. 30% Bridge and Structural Plans (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  4. 60% Roadway and specifications, Geotechnical Report (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  5. 60% Bridge Plans required only on Category 2 bridges.
  6. 90% Bridge and Structural Plans (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  7. 90% Roadway and specifications (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  8. 100% Roadway, Bridge and specifications, Geotechnical Report (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  9. Pre-Bid Plans (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  10. Bid Set (1 set signed and sealed plans, 1 set "clean" plans, 1 set signed and sealed reports and one (1) CD/DVD with .PDF of all plans and reports)
- C. Formal review submittals shall include copies as listed above. 8-1/2" x 11" and 11" x 17" documents do not require reproducible copies.
- D. Preparation and distribution of roadway and ROW plans to other than CFX or CFX GEC will not be made until approved by CFX.
- E. The format of review submittal plans shall conform to the FDOT Plans Preparation Manual, except as amended by CFX.
- F. Due to the compact schedule of the design, review and construction process, any modification to the agreed submittal dates will require a letter from the Consultant to CFX giving:
1. The reason for the delay.

2. The design components impacted.
  3. Proposed methods to maintain submittal dates.
- G. The Consultant shall submit all CADD files, including GEOPAK files, use in the preparation of the plans and right of way mapping on compact disk with the final submittal.

#### 7.14 30% Roadway Plan Submittal

- A. At the completion of this phase, design and plan development should be approximately 30 percent complete except stormwater pond designs. The designs of the stormwater ponds shall be at 90% complete. The following material shall be developed and submitted for review:
1. Key Map Prepared
    - a) Location map shown complete with destinations, ranges and townships.
    - b) Beginning and ending stations shown.
    - c) Any equations on project shown.
    - d) Project numbers and title shown.
    - e) Index shown.
  2. Drainage Map Prepared
    - a) Existing culvert sizes and elevations.
    - b) Horizontal alignment shown.
    - c) Drainage areas and flow arrows shown.
    - d) High water information shown.
    - e) Beginning and end stations shown along with any equations on project.
    - f) Interchange supplemental maps prepared.
  3. Typical Section Sheets
    - a) Ramp typical sections developed.

- b) Pavement structure shown.
  - c) Special details developed.
  - d) General notes shown.
4. Plan and Profile Sheets
- a) Centerline plotted.
  - b) Reference points and bench marks shown.
  - c) Existing topography.
  - d) Base line of surveys, curve data, bearings, etc. shown.
  - e) Beginning and end stations (project and construction).
  - f) Geometric dimensions.
  - g) Proposed and existing limited access right-of-way lines.
  - h) Existing ground line.
  - i) Proposed profile grade.
  - j) Type, size and horizontal location of existing utilities.
  - k) Drainage structures and numbers are shown
  - l) Drainage ponds are shown.
5. Cross Sections
- a) Existing ground line.
  - b) Preliminary templates at critical locations (not to exceed 500 feet).
  - c) Existing utilities shown.
6. Interchange Layout and Ramp Profiles
- a) Geometric dimensions.
  - b) Proposed profile grades.
7. Right-of-Way Control Survey

8. Signing and Pavement Markings

- a) Striping layout.
- b) Sign structure locations.

7.15 30% Bridge and Structural Plan Submittal

- A. At completion of this phase, design and plan development should be approximately 30 percent complete. The Consultant shall refer to FDOT Structural Design Guidelines for plan contents and submittal requirements. Preliminary geotechnical results and recommendations should also be included with this submittal.

7.16 60% Roadway Plan Submittal

- A. At completion of this phase, design and plan development should be approximately 60 percent complete except stormwater pond designs. The designs of the stormwater ponds shall be at 100% complete. The following material shall be developed and submitted for review:

1. Key Map

- a) Project description and number shown.
- b) Equations, exceptions and bridge stations shown.
- c) North arrow and scale included.
- d) Consultant and CFX sign-off included.
- e) Contract set index complete.
- f) Index of sheets updated.

2. Drainage Maps

- a) Flood data shown.
- b) Cross drains and storm sewer shown.
- c) Bridges shown with beginning and ending stations.
- d) Interchange supplemental sheets updated.

3. Typical Section Sheets



- a) All required typical sections are included.
- b) Limited access right-of-way lines are shown.
- c) Design speed and traffic are shown.
- d) Special details have been completed.
- e) Station limits of each typical section are shown.

4. Plan and Profile Sheets

- a) Match lines shown.
- b) Limited access right-of-way lines shown.
- c) Stations and offset shown for all fence corners and angles.
- d) All work shown should be within right-of-way or proposed easement.
- e) Drainage structures and numbers are shown.
- f) Drainage ponds shown.
- g) Curve data and superelevation included.
- h) Pavement edges, shoulders and dimensions shown.
- i) Project and construction limits shown.
- j) Bridges shown with beginning and ending stations.
- k) General Notes.

5. Drainage Structures

- a) Drainage structures plotted and numbered.
- b) Station location and offsets identified.

6. Cross Sections

- a) Templates are shown at all stations.
- b) Limited access right-of-way lines are shown.

- c) Cross section pattern sheet included.
  - d) Miscellaneous notes included.
  - e) Boring profiles.
7. Interchange Layouts, Ramp Profiles and Intersection Details
- a) Geometric data shown.
  - b) Profiles finalized.
  - c) Coordinate data shown.
  - d) Limited access right-of-way lines shown.
  - e) Curve data shown.
  - f) Bearings and bridges shown.
  - g) Cross roads, frontage roads, and access roads shown.
  - h) Intersection details shown.
8. Traffic Control Plans
9. Utility Adjustments
10. Signing and Pavement Marking Plans
11. Signalization Plans
12. Intelligent Transportation System (ITS) Plans
13. Highway Lighting Plans
14. Selective Clearing and Grubbing (if required)
- 7.17 90 % Bridge and Structure Plan Submittal
- A. At completion of this phase, design and plan development should be approximately 90 percent complete. The Consultant shall refer to FDOT Structural Design Guidelines for plan contents and submittal requirements.
- 7.18 90% Roadway Plan Submittal
- A. At completion of this phase, design and plan development should be

approximately 90 percent complete. The following material shall be developed and submitted for review:

1. Key Map
  - a) Length of Project with exceptions shown.
  - b) Index of sheets updated.
2. Drainage Maps
  - a) Drainage divides, areas and flow arrows shown.
  - b) Elevation datum and design high water information shown.
  - c) Disclaimer and other appropriate notes added.
3. Typical Section Sheets
4. Plan and Profile Sheets
  - a) Curve Control Points (P.C., P.I., P.T.) flagged and labeled.
  - b) Limits of side road construction.
  - c) Angle and stationing for intersections.
  - d) Treatment for non-standard superelevation transitions diagramed.
  - e) General notes shown.
  - f) Special ditches profiled.
5. Drainage Structures
  - a) Existing structures requiring modifications are shown.
  - b) Existing and proposed utilities are shown.
6. Soil Borings
  - a) Soils data and estimated high seasonal groundwater table shown.
7. Cross Section Sheets

- a) Scale and special ditch grades shown.
  - b) Utilities plotted.
  - c) Sub-excavation shown.
  - d) Volumes computed and shown.
- 8. Utility Relocation Plans
    - a) Utility relocation plans prepared.
  - 9. Traffic Control Plans
  - 10. Signing and Pavement Marking Plans
  - 11. Signalization Plans
  - 12. Intelligent Transportation System (ITS) Plans
  - 13. Highway Lighting Plans
  - 14. Selective Clearing and Grubbing (if required)
- 7.19 100% Roadway, Bridge, Structural and Right-of-Way Plans
- A. At the completion of this phase, the design plans and special provisions shall be 100 percent complete.
- 7.20 Pre-Bid Plans
- 7.21 Bid Set

**CONSENT AGENDA ITEM  
#7**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: November 16, 2021

SUBJECT: Approval of Final Ranking and Authorization of Contract Awards to Avant Engineering Group, LLC and Protean Design Group, Inc. for Miscellaneous Design Services – Small Sustainable Business Enterprise  
Contract Nos. 001835 & 001836

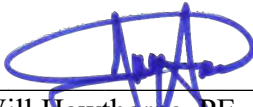
Letters of Interest for the above referenced project was advertised on September 19, 2021. Seven (7) responses were received by the November 2, 2021 deadline. Those firms were Avant Engineering Group, LLC, Brindley Pieters & Associates, Inc., Comprehensive Engineering Services, Inc., OM Engineering Services, Inc., Pegasus Engineering, LLC, Protean Design Group, Inc. and WBQ Design & Engineering Services, Inc.

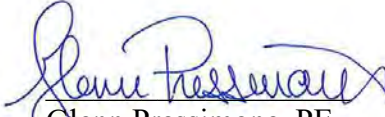
The Evaluation Committee, after reviewing the Letters of Interest prepared it's final ranking on November 10, 2021. The result is shown below:

<u>Ranking</u>	<u>Firms</u>
1	Avant Engineering Group, LLC
2	Protean Design Group, Inc.
3	Pegasus Engineering, LLC
4	WBQ Design & Engineering, Inc.
5	Comprehensive Engineering Services, Inc.
6	OM Engineering Services, Inc.
7	Brindley Pieters & Associates, Inc.

Board approval of the final ranking and award of separate contracts to Avant Engineering Group, LLC and Protean Design Group Inc. is requested. The contracts will be for three years with two one-year renewal options in the amount of \$3,000,000.00 each.

These contracts are a component of projects included in the Five-Year Work Plan.

Reviewed by:   
Will Hawthorne, PE  
Director of Engineering

  
Glenn Pressimone, PE

**LOI-001835 & 001836 Committee Meeting November 10, 2021 Minutes**

Evaluation Committee for **Miscellaneous Design Services; LOI-001835 and 001836 (SSBE)**, held a duly **noticed meeting** on Wednesday, November 10, 2021, commencing at 9:00 a.m. in the Pelican Conference Room at CFX's Administrative Bldg., Orlando, Florida.

**Evaluation Committee Members Present:**

Will Hawthorne, Director of Engineering  
Dana Chester, Manager of Engineering  
Raymond Williams, Orange County Representative (Standing Member per Procurement Procedures Manual)  
Iranetta Dennis, Director of Supplier Diversity  
Jamison Edwards, Engineering Project Manager

**Other Attendees:**

Aneth Williams, Director of Procurement  
Brad Osterhaus, Sr. Procurement/Quality Control Administrator

**Discussion and Motions:**

Aneth explained that today's meeting was to evaluate and rank the firms and recommend award to the top two (2) firms. Aneth commenced the meeting collecting the Evaluation Committee Members disclosure forms.

General discussion ensued about the LOI submittals. Committee members then tallied up their individual evaluation sheets and passed them in for incorporation into to the LOI final summary sheet. Evaluation Criteria forms were collected and the ranking scores from all committee members were tallied with the following results:

<b><u>Firms</u></b>	<b><u>Score</u></b>	<b><u>Ranking</u></b>
Avant Engineering Group, LLC	11	1
Protean Design Group, Inc.	12	2
Pegasus Engineering, LLC	13	3
WBQ Design & Engineering, Inc.	14	4
Comprehensive Engineering Services, Inc.	22	5
OM Engineering Services, Inc.	29	6
Brindley Pieters & Associates, Inc.	32	7


Committee recommends CFX Board approve ranking and award of contracts to Avant Engineering Group, LLC and Protean Design Group, Inc. in a not-to-exceed amount. Dana Chester reviewed and approved the minutes on behalf of the committee.

There being no further business to come before the Committee, the meeting was adjourned at 9:30 a.m. These minutes are considered to be the official minutes of the Evaluation Committee meeting held Wednesday, November 10, 2021, and no other notes, tapes, etc., taken by anyone takes precedence.

Submitted by:

  
Aneth Williams, Director of Procurement

On behalf of the Evaluation Committee these minutes have been review and approved by:

  
Dana Chester, Manager of Engineering

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

EVALUATION COMMITTEE MEMBER FINAL SUMMARY RANKING

MISCELLANEOUS DESIGN CONSULTANT SERVICES (SSBE)

CONTRACT NO. 001835 (001836)

CONSULTANT	DANA CHESTER SCORE	WILL HAWTHORNE SCORE	IRANETTA DENNIS SCORE	JAMISON EDWARDS SCORE	RAYMOND WILLIAMS SCORE	SCORE	RANKING
Avant Engineering Group, LLC.	1	2	2	5	1	11	1
Brindley Pieters & Associates, Inc.	7	6	5	7	7	32	7
Comprehensive Engineering Services, Inc.	5	2	5	4	6	22	5
OM Engineering Services, Inc.	6	6	7	5	5	29	6
Pegasus Engineering, LLC	4	1	3	2	3	13	3
Protean Design Group, Inc.	3	4	1	1	3	12	2
WBQ Design & Engineering, Inc.	2	5	3	2	2	14	4

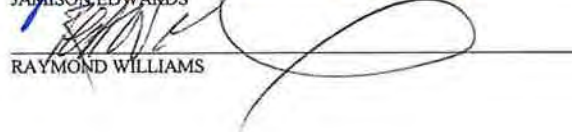
EVALUATION COMMITTEE MEMBERS

  
\_\_\_\_\_  
DANA CHESTER

  
\_\_\_\_\_  
WILL HAWTHORNE

  
\_\_\_\_\_  
IRANETTA DENNIS

  
\_\_\_\_\_  
JAMISON EDWARDS

  
\_\_\_\_\_  
RAYMOND WILLIAMS

DATE: Wednesday, November 10, 2021

DATE: Wednesday, November 10, 2021

DATE: Wednesday, November 10, 2021

DATE: Wednesday, November 10, 2021

DATE: Wednesday, November 10, 2021



# **AGREEMENT**



**CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY**

**AND**

**AVANT ENGINEERING GROUP, LLC**

**MISCELLANEOUS DESIGN CONSULTANT SERVICES  
(SSBE)**

**CONTRACT NO. 001835**

**CONTRACT DATE: DECEMBER 09, 2021**

**CONTRACT AMOUNT: \$3,000,000.00**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION,  
DETAILS OF COSTS AND FEES, PROJECT ORGANIZATIONAL CHART,  
AND POTENTIAL CONFLICT OF INTEREST FORM**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, DETAILS OF  
COSTS AND FEES, PROJECT ORGANIZATIONAL CHART, AND POTENTIAL  
CONFLICT OF INTEREST FORM**

**FOR**

**MISCELLANEOUS DESIGN CONSULTANT SERVICES  
(SSBE)**

**CONTRACT NO. 001835**

**DECEMBER 2021**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

## TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
AG	Agreement	1 to 19
	Exhibit "A", Scope of Services	
	Exhibit "B", Method of Compensation	
	Exhibit "C", Details of Cost and Fees	
	Exhibit "D", Project Organization Chart	
	Exhibit "E", Potential Conflict of Interest Form	

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT, made and entered into this 9<sup>th</sup> day of December 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 AVANT ENGINEERING 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 1300 Minnesota Avenue, Suite 201, Winter Park, FL 32789.

WITNESSETH:

WHEREAS, CONSULTANT represents that it is fully qualified and authorized to render the professional services contracted herein.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, CFX and CONSULTANT agree as follows:

1.0. DEFINITIONS.

Reference herein to the Project Manager shall mean CFX’s Director of Engineering or his authorized designee. The Project Manager shall provide the management and technical direction for this Agreement on behalf of CFX. All technical and administrative provisions of this Agreement shall be managed by the Project Manager and the CONSULTANT shall comply with all of the directives of the Project Manager that are within the purview of this Agreement. Decisions concerning Agreement amendments and adjustments, such as time extensions and supplemental agreements shall be made by the Project Manager.

2.0. SERVICES TO BE PROVIDED

CFX does hereby retain the CONSULTANT to furnish certain miscellaneous design consultant services as identified in this Contract, Contract No. 001835.

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 includes the professional services related to planning and engineering as described in **Exhibit “A.”**

All construction plans, documents, reports, studies and other data prepared by the CONSULTANT shall bear the endorsement of a person in the full employ of the CONSULTANT and duly registered by the State of Florida in the appropriate professional category.

After CFX's acceptance of construction plans and documents for the project, the original set of CONSULTANT's drawings, tracings, plans, maps and CADD files shall be provided to CFX, along with one record set of the final plans. The CONSULTANT shall signify, by affixing an endorsement (seal/signature, as appropriate) on every sheet of the record set, that the work shown on the endorsed sheets was produced by the CONSULTANT. With the tracings and the record set of prints, the CONSULTANT shall submit a final set of design computations. The computations shall be bound in an 8-1/2 x 11" format and shall be endorsed (seal/signature, as appropriate) by the CONSULTANT. Refer to **Exhibit "A"** for the computation data required for this Agreement.

The CONSULTANT shall submit a final set of reports and studies which shall be endorsed (seal/signature) by the CONSULTANT.

The CONSULTANT shall not be liable for use by CFX of said plans, documents, reports, studies or other data for any purpose other than intended by the terms of this Agreement.

This Agreement is considered a non-exclusive Agreement between the parties.

### 3.0 TERM OF AGREEMENT AND RENEWALS

Unless otherwise provided herein or by Supplemental Agreement, the provisions of this Agreement will remain in full force and effect for a three (3) year term from the date of the Notice to Proceed for the required project services as detailed in **Exhibit "A,"** with two one-year renewals at CFX's option. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONSULTANT are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide CONSULTANT with written notice of its intent at least thirty (30) days prior to the expiration of the original term and subsequent renewal, if any.

The CONSULTANT agrees to commence the scheduled project services to be rendered within ten (10) calendar days from the date specified in the written Notice to Proceed from the Project Manager, which Notice to Proceed will become part of this Agreement. The CONSULTANT shall complete scheduled project services within the timeframe(s) specified in **Exhibit "A"**, or as may be modified by subsequent Supplemental Agreement.

### 4.0 PROJECT SCHEDULE

The CONSULTANT agrees to provide Project Schedule progress reports for each project in a format acceptable to CFX and at intervals established by CFX. CFX will be entitled at all times to be advised, at its request, as to the status of work being done by the CONSULTANT and of the details thereof. Coordination shall be maintained by the CONSULTANT with representatives of CFX, or of other agencies interested in the project on behalf of CFX. Either party to the Agreement may request and be granted a conference.

In the event there are delays on the part of CFX as to the approval of any of the materials submitted by the CONSULTANT or if there are delays occasioned by circumstances beyond the control

of the CONSULTANT, which delay the scheduled project completion date, CFX may grant to the CONSULTANT by "Letter of Time Extension" an extension of the scheduled project completion date equal to the aforementioned delays. The letter will be for time only and will not include any additional compensation.

It shall be the responsibility of the CONSULTANT to ensure at all times that sufficient time remains within the project schedule within which to complete the services on the project. In the event there have been delays which would affect the scheduled project completion date, the CONSULTANT shall submit a written request to CFX which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one another. CFX will review the request and make a determination as to granting all or part of the requested extension.

In the event the scheduled project completion date is reached and the CONSULTANT has not requested, or if CFX has denied, an extension of the completion date, partial progress payments will be stopped when the scheduled project completion date is met. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by CFX.

## 5.0 PROFESSIONAL STAFF

The CONSULTANT shall maintain an adequate and competent professional staff to enable the CONSULTANT to timely perform under this Agreement. The CONSULTANT shall continue to be authorized to do business within the State of Florida. In the performance of these professional services, the CONSULTANT shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The CONSULTANT shall use due care in performing in a design capacity and shall have due regard for acceptable standards of design principles. The CONSULTANT may associate with it such specialists, for the purpose of its services hereunder, without additional cost to CFX, other than those costs negotiated within the limits and terms of this Agreement. Should the CONSULTANT desire to utilize specialists, the CONSULTANT shall be fully responsible for satisfactory completion of all subcontracted work. The CONSULTANT, however, shall not sublet, assign or transfer any work under this Agreement to other than the associate consultants listed below without the written consent of CFX. It is understood and agreed that CFX will not, except for such services so designated herein, permit or authorize the CONSULTANT to perform less than the total contract work with other than its own organization.

Prior to retaining a subconsultant, or assigning any work to a subconsultant, the CONSULTANT shall verify that the subconsultant does not have any conflicts and acknowledges its duty to comply with CFX's Code of Ethics. The CONSULTANT shall ensure that each subconsultant adheres to, and cause all subconsultants to be bound by, all requirements, conditions, and standards set forth herein. The CONSULTANT shall collect and maintain the necessary subconsultant compliance and acknowledgement documentation and remove any subconsultant immediately, if the necessary said documentation is unavailable or the subconsultant is not adhering to the requirements and standards herein. The CONSULTANT shall provide subconsultant compliance and acknowledgement documentation to CFX upon request.

The approved subconsultants are:

Avant Engineering Group, LLC (Class I)	DRMP, Inc. (Class I, II)
TLP Engineering Consultants, Inc. (Class I)	Brindley Peters & Associates, Inc. (Class I)
Bentley Architects and Engineers, Inc. (Class I)	Faller, Davis & Associates, Inc. (Class I)
The Lunz Group, Inc. (Class I)	C.T. HSU & Associates, P.A. (Class I)
SGM Engineering, Inc. (Class I)	Dix.Hite + Partners, Inc. (Class I)
Florida Bridge & Transportation, Inc. (Class I)	Geotechnical and Environmental Consultants, 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 \$3,000,000.00 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.

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 1300 Minnesota Avenue, Suite 201, Winter Park, FL 32789.

Notwithstanding Section 15, 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 the Agreement or (b) notifying the CONSULTANT of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time.

If CFX requires termination of the Agreement for reasons other than unsatisfactory performance of the CONSULTANT, CFX shall notify the CONSULTANT in writing of such termination, not less

than seven (7) calendar days as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

If CFX abandons the work or subtracts from the work, suspends, or terminates the Agreement as presently outlined, the CONSULTANT shall be compensated in accordance with **Exhibit "B"** for work properly performed by the CONSULTANT prior to abandonment or termination of the Agreement. The ownership of all engineering documents completed or partially completed at the time of such termination or abandonment, shall be transferred to and retained by CFX.

CFX reserves the right to cancel and terminate this Agreement in the event the CONSULTANT or any employee, servant, or agent of the CONSULTANT is indicted or has a direct information issued against him for any crime arising out of or in conjunction with any work being performed by the CONSULTANT for or on behalf of CFX, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans, specifications, maps, and data prepared or obtained under this Agreement shall immediately be turned over to CFX. The CONSULTANT shall be compensated for work properly performed rendered up to the time of any such termination in accordance with Section 7.0 hereof. CFX also reserves the right to terminate or cancel this Agreement in the event the CONSULTANT shall be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors. CFX further reserves the right to suspend the qualifications of the CONSULTANT to do business with CFX upon any such indictment or direct information. In the event that any such person against whom any such indictment or direct information is brought shall have such indictment or direct information dismissed or be found not guilty, such suspension on account thereof may be lifted by CFX.

## 11.0 ADJUSTMENTS

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the Project Manager who shall decide all questions, difficulties and dispute of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof. Adjustments of compensation and term of the Agreement, because of any major changes in the work that may become necessary or desirable as the work progresses, shall be left to the absolute discretion of the Executive Director and Supplemental Agreement(s) of such a nature as required may be entered into by the parties in accordance herewith. Disputes between the Project Manager and the CONSULTANT that cannot be resolved shall be referred to the Executive Director whose decision shall be final.

In the event that the CONSULTANT and CFX are not able to reach an agreement as to the amount of compensation to be paid to the CONSULTANT for supplemental work desired by CFX, the CONSULTANT shall be obligated to proceed with the supplemental work in a timely manner for the amount determined by CFX to be reasonable. In such event, the CONSULTANT will have the right to file a claim with CFX for such additional amounts as the CONSULTANT deems reasonable for consideration by the Executive Director; however, in no event will the filing of the claim or the resolution or litigation thereof, through administrative procedures or the courts, relieve the CONSULTANT from the obligation to timely perform the supplemental work.

## 12.0 HOLD HARMLESS AND INDEMNIFICATION

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 obligations in Section 12.0, Hold Harmless and Indemnification, shall survive the expiration or termination of this Agreement and continue in full force and effect.

### 13.0 INFRINGEMENT OF PATENTS AND COPYRIGHTS

The CONSULTANT shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. The CONSULTANT shall, at its expense, hold harmless and defend CFX against any claim, suit or proceeding brought against CFX which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under this Agreement, constitute an infringement of any patent or copyright of the United States. The CONSULTANT shall pay all damages and costs awarded against CFX.

The obligations in Section 13.0, Infringement of Patents and Copyrights, shall survive the expiration or termination of this Agreement and continue in full force and effect.

### 14.0 INSURANCE

The CONSULTANT, at its own expense, shall keep in force and at all times maintain during the term of this Agreement all insurance of the types and to the limits specified herein.

The CONSULTANT shall require and ensure that each of its subconsultants providing services hereunder procures and maintains, until the completion of the services, insurance of the requirements, types and to the limits specified herein. Upon request from CFX, the CONSULTANT shall furnish copies of certificates of insurance and endorsements evidencing coverage of each subconsultant.

The CONSULTANT shall require all insurance policies in any way related to the work and secured and maintained by the CONSULTANT to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against CFX. The CONSULTANT shall require of subconsultants, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section. When required by the insurer, or should a policy condition not permit an endorsement, the CONSULTANT agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement.

This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the CONSULTANT enter into such an agreement on a pre-loss basis. At the CONSULTANT's expense, all limits must be maintained.

14.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to CFX) or the general aggregate limit shall be twice the required occurrence limit. CFX shall be listed as an additional insured.

The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any

policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

14.2 Business Automobile Liability coverage shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Each of the above insurance policies shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured; (2) The stated limits of liability coverage for Commercial/Comprehensive General Liability, and Business Automobile Liability, assumes that the standard "supplementary payments" clause will pay in addition to the applicable limits of liability and that these supplementary payments are not included as part of the insurance policies limits of liability.

14.3 Workers' Compensation and Employer's Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer's Liability insurance shall be provided in amounts not less than \$100,000 per accident for bodily injury by accident, \$100,000 per employee for bodily injury by disease, and \$500,000 policy limit by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the CONSULTANT, its employees, agents and subconsultants.

14.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

The CONSULTANT shall provide CFX with Certificate(s) of Insurance with required endorsements on all the policies of insurance and renewals thereof in a form(s) acceptable to CFX. CFX shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

All insurance policies shall be issued by responsible companies who are acceptable to CFX and licensed to do business under the laws of the State of Florida. Each Insurance company shall minimally have an A.M. Best rating of A-:VII. If requested by CFX, CFX shall have the right to examine copies and relevant provisions of the insurance policies required by this Agreement, subject to the appropriate confidentiality provisions to safeguard the proprietary nature of CONSULTANT manuscript policies.

Any deductible or self-insured retention must be declared to and approved by CFX. At the option of CFX, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as requests CFX, or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All such insurance required by the CONSULTANT shall be primary to, and not contribute with, any insurance or self-insurance maintained by CFX.

Compliance with these insurance requirements shall not relieve or limit the CONSULTANT's liabilities and obligations under this Agreement. Failure of CFX to demand such certificate or evidence

of full compliance with these insurance requirements or failure of CFX to identify a deficiency from evidence provided will not be construed as a waiver of the CONSULTANT's obligation to maintain such insurance.

The acceptance of delivery by CFX of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by CFX that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

#### 15.0 COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS

The CONSULTANT agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying CFX and securing its consent in writing, except as required by law. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data, documents, reports, or other written or electronic materials furnished in compliance with this Agreement, it being understood that, under Section 7.0 hereof, such data or information is the property of CFX.

Regarding the use of logos, printed documents and presentations produced for CFX shall not contain the name or logo of the CONSULTANT unless approved by CFX's Public Affairs Officer or his/her designee. Prior approval by CFX's Public Affairs Officer or his/her designee is required if a copy of the CFX logo or any CFX mark, including trademarks, service marks, or any other mark, collectively referred as "Marks," is to be used in a document or presentation. The Marks shall not be altered in any way. The width and height of the Marks shall be of equal proportions. If a black and white Mark is utilized, the Mark shall be properly screened to insure all layers of the Mark are visible. The proper presentation of CFX Marks is of utmost importance to CFX. Any questions regarding the use of CFX Marks shall be directed to the CFX Public Affairs Officer or his/her designee.

#### 16.0 CONFLICT OF INTEREST AND STANDARD OF CONDUCT

No Contingent Fees. CONSULTANT warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Contract, and that CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For breach of this provision, CFX shall have the right to terminate this Contract without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

CONSULTANT acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Code of Ethics. CONSULTANT acknowledges that it has read the CFX's Code of Ethics and, to the extent applicable, CONSULTANT will comply with the aforesaid CFX's Code of Ethics in connection with performance of the Contract.

As required by Section 348.753, Florida Statutes, and CFX's Code of Ethics, CONSULTANT agrees to complete CFX's Potential Conflict Disclosure Form prior to the execution of the Contract, upon the occurrence of an event that requires disclosure, and annually, not later than July 1st.

CONSULTANT covenants and agrees that it and its employees, officers, agents, and subconsultants shall be bound by the standards of conduct provided in Section 112.313, Florida Statutes, as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

CONSULTANT hereby certifies that no officer, agent or employee of CFX has any "material interest" (as defined in Section 112.312(15), Florida Statutes) either directly or indirectly, in the business of CONSULTANT, and that no such person shall have any such interest at any time during the term of this Agreement.

The CONSULTANT 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.

The CONSULTANT shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Executive Director for resolution.

During the term of this Agreement the CONSULTANT is NOT eligible to pursue any advertised construction engineering and inspection projects of CFX as either a prime or subconsultant where the CONSULTANT participated in the oversight of the projects or for any project which the CONSULTANT prepared plans and/or specifications. Subconsultants are also ineligible to pursue construction engineering and inspection projects where they participated in the oversight of the projects or for any project which the subconsultant was involved in the preparation of plans and/or specifications.

## 17.0 DOCUMENTED ALIENS

The CONSULTANT warrants that all persons performing work for CFX under this Agreement, regardless of the nature or duration of such work, shall be United States citizens or properly authorized and documented aliens. The CONSULTANT shall comply with all federal, state and local laws and regulations pertaining to the employment of unauthorized or undocumented aliens at all times during the performance of this Agreement and shall indemnify and hold CFX harmless for any violations of the same. Furthermore, if CFX determines that CONSULTANT has knowingly employed any unauthorized alien in the performance of this Agreement, CFX may immediately and unilaterally terminate this Agreement for cause.

The obligations in Section 17.0, Documented Aliens, shall survive the expiration or termination of this Agreement and continue in full force and effect.



## 18.0 E-VERIFY CLAUSE

CONSULTANT shall utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the CONSULTANT during the term of the contract. CONSULTANT shall require all of its subconsultants to verify the employment eligibility of all new employees hired by the subconsultants during the term of the Agreement.

## 19.0 INSPECTOR GENERAL

CONSULTANT agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. CONSULTANT agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.

## 20.0 PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT

Pursuant to Section 287.133(2)(a), Florida Statutes, “a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.”

Pursuant to Section 287.134(2)(a), Florida Statutes, “an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”

## 21.0 COMPANIES PURSUANT TO SECTION 287.135 AND 215.473

CFX may terminate this Agreement for breach of contract if the Consultant:

- 21.1. submitted a false certification as provided under Florida Statute 287.135(5); or
- 21.2. been placed on the Scrutinized Companies with Activities in Sudan List; or

- 21.3. been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- 21.4. been engaged in business operations in Cuba or Syria; or
- 21.5. found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

## 22.0 AVAILABILITY OF FUNDS

CFX's performance and obligation to pay under this Agreement are contingent upon an annual budget appropriation by its Board. The parties agree that in the event funds are not appropriated, this Agreement may be terminated, which shall be effective upon CFX giving notice to the CONSULTANT to that effect.

## 23.0 AUDIT AND EXAMINATION OF RECORDS

### 23.1 Definition of Records:

(i) "Contract Records" shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data in whatever form, related to the Contract or the CONSULTANT's performance of the Contract determined necessary or desirable by CFX for any purpose. Proposal Records shall include, but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer printouts, charts or other data compilations that contain or reflect information, data or calculations used by CONSULTANT in determining labor, unit price, or any other component of a bid submitted to CFX.

(ii) "Proposal Records" shall include, but not be limited to, any material relating to the determination or application of equipment rates, home and field overhead rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from subcontractors, or material suppliers, profit contingencies and any manuals standard in the industry that may be used by CONSULTANT in determining a price.

23.2 CFX reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Proposal Records (as hereinafter defined) of the CONSULTANT or any subcontractor. By submitting a response to the Request for Proposal, CONSULTANT or any subcontractor submits to and agree to comply with the provisions of this section.

23.3 If CFX requests access to or review of any Contract Documents or Proposal Records and CONSULTANT refuses such access or review, or delays such access or review for over ten (10) calendar days, CONSULTANT shall be in default under its Contract with CFX, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of CONSULTANT. These provisions shall not be limited in any manner by the existence of any CONSULTANT claims or pending litigation relating to the Contract. Disqualification or suspension of the CONSULTANT for failure to comply with this section shall

also preclude the CONSULTANT from acting in the future as a subcontractor of another contractor doing work for CFX during the period of disqualification or suspension. Disqualification shall mean the CONSULTANT is not eligible for and shall be precluded from doing future work for CFX until reinstated by CFX.

23.4 Final Audit for Project Closeout: The CONSULTANT shall permit CFX, at CFX's option, to perform or have performed, an audit of the records of the CONSULTANT and any or all subconsultants to support the compensation paid the CONSULTANT. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the CONSULTANT under the Contract are subsequently determined to have been inadvertently paid by CFX because of accounting errors or charges not in conformity with the Contract, the CONSULTANT agrees that such amounts are due to CFX upon demand. Final payment to the CONSULTANT shall be adjusted for audit results.

23.5 CONSULTANT shall preserve all Proposal Records and Contract Records for the entire term of the Contract and for a period of five (5) years after the later of: (i) final acceptance of the project by CFX, (ii) until all claims (if any) regarding the Contract are resolved, or (iii) expiration of the Proposal Records and Contract Records' status as public records, as and if applicable, under Chapter 119, Florida Statutes.

23.6 The obligations in Section 23.0, Audit and Examination of Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 24.0 GOVERNING LAW AND VENUE

This Agreement shall be governed by and constructed in accordance with the laws of the State of Florida. The parties consent to the exclusive jurisdiction of the courts located in Orange County, Florida. The obligations in Section 24.0, Governing Law and Venue, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 25.0 NOTICE

All notices required pursuant to the terms hereof shall be sent by First Class United States Mail. Unless prior written notification of an alternate address for notices is sent, all notices shall be sent to the following addresses:

To CFX: Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807  
Attn: Chief of Infrastructure

Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807  
Attn: General Counsel

To CONSULTANT: Avant Engineering Group, LLC  
1300 Minnesota Avenue, Suite 201  
Winter Park, FL 32789  
Attn: Erez Dayan, P.E.

Avant Engineering Group, LLC  
1300 Minnesota Avenue, Suite 201  
Winter Park, FL 32789  
Attn: Lizette Martinez, P.E.

## 26.0. HEADINGS

Headings are given to the sections of the Agreement solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Agreement.

## 27.0 CONTRACT LANGUAGE AND INTERPRETATION

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective functions and capacities.

If the CONSULTANT discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the CONSULTANT shall immediately notify CFX and request clarification of CFX's interpretation of this Agreement.

The Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

## 28.0 ASSIGNMENT

This Agreement may not be assigned without the written consent of CFX.

## 29.0 SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

### 30.0 INTEGRATION

This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no other agreements between the parties in connection with the subject matter hereof. No waiver, amendment, or modification of these terms hereof will be valid unless in writing, signed by all parties and only to the extent therein set forth.

### 31.00 ATTACHMENTS

- Exhibit "A", Scope of Services
- Exhibit "B", Method of Compensation
- Exhibit "C", Details of Cost and Fees
- Exhibit "D", Project Organization Chart
- Exhibit "E", 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 December 9, 2021.

**AVANT ENGINEERING GROUP, LLC**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

BY: \_\_\_\_\_  
Authorized Signature

BY: \_\_\_\_\_  
Director of Procurement

Print Name: \_\_\_\_\_

Print Name: Aneth Williams

Title: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_(Seal)  
Secretary or Notary

*Approved as to form and execution, only.*

\_\_\_\_\_  
*General Counsel for CFX*

Print Name: Diego "Woody" Rodriguez

**Exhibit A**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**SCOPE OF SERVICES**

**FOR**

**MISCELLANEOUS DESIGN CONSULTANT SERVICES**

**CONTRACT 001835 (SSBE)**

**IN ORANGE, SEMINOLE, LAKE, OSCEOLA, AND BREVARD  
COUNTIES, FLORIDA**

**December 2021**

Exhibit A

SCOPE OF SERVICES

TABLE OF CONTENTS

<u>Description</u>	<u>Page No.</u>
1.0 GENERAL	
1.01 Location	A-5
1.02 Description	A-5
1.03 Purpose	A-5
1.04 Organization	A-6
1.05 Term of Agreement for Design Services	A-6
2.0 STANDARDS	A-7
3.0 DESIGN CRITERIA	
3.01 General	A-8
3.02 Geometry	A-8
3.03 Bridge and Other Structures	A-8
4.0 WORK PERFORMED BY CONSULTANT	
4.01 Design Features	A-9
4.02 Governmental Agencies	A-9
4.03 Surveys and Mapping	A-9
4.04 Geotechnical Investigation	A-12
4.05 Contamination Impact Analysis	A-13
4.06 Pavement Design	A-13
4.07 Governmental Agency and Public Meetings	A-13
4.08 Environmental Permits	A-13
4.09 Utilities	A-14
4.10 Roadway Design	A-16
4.11 Structures Design	A-17
4.12 Drainage Design	A-18
4.13 Roadway Lighting	A-19
4.14 Traffic Engineering	A-19
4.15 Signing Plans	A-20



TABLE OF CONTENTS (cont.)

<u>Description</u>	<u>Page No.</u>
4.16 Pavement Marking Plans	A-20
4.17 Right-of-Way Surveys	A-20
4.18 Cost Estimates	A-20
4.19 Special Provisions and Specifications	A-20
4.20 Fiber Optic Network (FON)	A-20
4.21 Toll Plazas	A-23
4.22 Post-Design Services	A-24
5.0 MATERIALS FURNISHED BY CFX OR ITS DESIGNEE	
5.01 Record Documents	A-26
5.02 Traffic Data	A-26
5.03 Other	A-26
6.0 WORK PERFORMED BY CFX OR ITS DESIGNEE	
6.01 Right-of-Way Acquisition	A-27
6.02 Utility Agreements	A-27
6.03 Public Involvement	A-27
6.04 Contracts and Specifications Services	A-27
6.05 Post-Design Services	A-27
6.06 Environmental Permits	A-27
6.07 Conceptual Specialty Design	A-27
7.0 ADMINISTRATION	
7.01 Central Florida Expressway Authority	A-28
7.02 CFX's Project Manager	A-28
7.03 Consultant	A-29
7.04 Project Control	A-29
7.05 Work Progress	A-30
7.06 Schedule	A-30
7.07 Project Related Correspondence	A-30
7.08 Quality Control	A-30
7.09 Consultant Personnel	A-30
7.10 Site Visit	A-31
7.11 Acceptability of Work	A-31

TABLE OF CONTENTS (cont.)

<u>Description</u>	<u>Page No.</u>
7.12 Design Documentation	A-31
7.13 Reviews and Submittals	A-32
7.14 30% Roadway Plan Submittal	A-33
7.15 30% Bridge and Structural Plan Submittal	A-33
7.16 60% Roadway Plan Submittal	A-34
7.19 100% Roadway, Bridge, Structural, and Right-of-Way Plans	A-34
7.20 Schematic Toll Plaza Plans	A-34
7.21 60% Toll Plaza Plans	A-34
7.22 90% and 100% Toll Plaza Plans	A-35
7.23 Pre-Bid Plans	A-36
7.24 Bid Set	A-36
7.25 Record Drawings	A-37

## 1.0 GENERAL

### 1.01 Location

Projects (and project locations) to be identified on an individual basis per each Work Authorizations

### 1.02 Description

The work to be performed under this contract includes the final design and preparation of construction drawings and specifications for miscellaneous design projects on CFX's system. Potential scope elements may include, but are not limited to the following: minor highway design, major highway design, miscellaneous structures, minor bridge design, traffic engineering studies, traffic signal timing, intelligent transportation systems analysis and design, signing, pavement marking and channelization, lighting, signalization, control surveying, soil exploration, geotechnical classification lab testing, standard foundation studies, architecture, and landscape architecture. All work on this contract will be requested and approved by means of individual Work Authorizations

### 1.03 Purpose

- A. The purpose of this Exhibit is to describe the scope of work and responsibilities required in connection with final engineering and final construction drawings and documents for the miscellaneous design services contract. It should be noted that this Exhibit covers a full range of possible scope elements that may arise as part of this contract. This Exhibit is provided as a guide to be used by the CONSULTANT in preparation of individual Work Authorizations as requested by CFX. It is further understood that elements of this Exhibit may not be applicable to all Work Authorizations Work Authorizations approved under this contract
- B. As necessary, the Consultant shall perform those engineering services required for final roadway plans, final bridge plans, and the preparation of a complete environmental resource application including 100% storm water management, final lighting plans, final traffic control plans, final utility, final fiber optic network relocation plans and final signing and pavement marking plans.

In addition, the Consultant shall perform those architectural services required for final building plans and mechanical, electrical, and plumbing final plans.

- C. CFX's Project Manager will provide contract administration, management services and technical reviews of all work associated with the preliminary and final designs
- D. It is understood that references throughout this document to items of work and services to be performed are the responsibility of the Consultant unless otherwise expressly stated as the responsibility of others

#### 1.04 Organization

- A. CFX's Project Manager will administer the Consultant services detailed in this scope. The following sections define the duties and obligations of CFX and the Consultant

#### 1.05 Term of Agreement for Miscellaneous Design Services

- A. The term of the Agreement shall be for three (3) years from the notice to proceed. The Agreement is further eligible for two (2), one (1) year renewals following the initial three (3) year period
- B. The Consultant may continue the design efforts while design submittals are being reviewed. Doing so, however, in no way relieves the Consultant of the responsibility to incorporate review comments into the design, nor does it entitle the Consultant to any additional design fees as a result of making changes due to review comments

## 2.0 STANDARDS

- A. The applicable design and construction standards and policies of the Florida Department of Transportation, Federal Highway Administration (FHWA), American Association of State Highway and Transportation Officials (AASHTO), Transportation Research Board (TRB), Standard Building Code, CFX's Design Guidelines, CFX's Lighting Details, CFX's Signing & Pavement Marking Details, and CFX's ITS Design Standards shall be followed throughout the design and construction of the project unless specifically stated otherwise. The editions of the applicable standards and policies in effect at the time of Contract execution shall be used except as follows:
1. Division II, Construction Details, and Division III, Materials, of the FDOT Standard Specifications for Road and Bridge Construction, 2010 edition, and updates, shall be used for this project
  2. The FDOT Florida Design Manual, latest edition and subsequent updates, shall be used for this project
  3. The FDOT Basis of Estimates Handbook, latest edition, shall be used for this project
  4. The AASHTO Policy on Geometric Design of Highway and Streets (Green Book), 2018 edition, shall be used for this project
  5. The FHWA Manual on Uniform Traffic Control Devices (MUTCD), 2009 edition, as amended, shall be used for this project

### 3.0 DESIGN CRITERIA

#### 3.01 General

Design of the projects will be guided by the basic design criteria listed below.

- A. The design criteria listed in this section and Project Design Directives, provided by CFX during the project, may supplement the Project Design Guidelines
- B. As necessary, along with the 30% design review 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. All plans and designs shall be prepared in accordance with the latest standard specifications adopted by AASHTO, FDOT Structures Design Guidelines (Manual), FDOT Structures Detailing Manual, FDOT Florida Design Manual, CFX Design Guidelines, etc., except as otherwise directed by CFX.

#### 3.03 Bridge and Other Structures

- A. All plans and designs shall be prepared in accordance with the latest standard specifications adopted by AASHTO, FDOT Structures Design Guidelines (Manual), FDOT Structures Detailing Manual, FDOT Florida Design Manual, CFX Design Guidelines, etc., except as otherwise directed by CFX.

#### 4.0 WORK PERFORMED BY CONSULTANT

The Consultant shall be responsible for the work outlined in this Section. The work shall conform to the standards, criteria, and requirements of this Scope of Services. As this is a miscellaneous design services contract, it is understood that not all of the work outlined in this Section is applicable to every project task authorization.

##### 4.01 Design Features

- A. The work required for this project includes preparation of final construction drawings and specifications as well as the preparation of a complete environmental resource application (as necessary)
- B. Major elements of the work include the following:

The work to be performed under this contract includes the final design and preparation of construction drawings and specifications for miscellaneous design projects on CFX's system. Potential scope elements may include, but are not limited to the following: minor highway design, major highway design, miscellaneous structures, minor bridge design, traffic engineering studies, traffic signal timing, intelligent transportation systems analysis and design, signing, pavement marking and channelization, lighting, signalization, control surveying, soil exploration, geotechnical classification lab testing, standard foundation studies, architecture and landscape architecture. All work on this contract will be requested and approved by means of individual Work Authorizations

##### 4.02 Governmental Agencies

- A. The Consultant shall coordinate with and assist in securing the approval of all interested agencies involved. These agencies include, but are not necessarily limited to City of Orlando, Orange County, FDOT, Florida's Turnpike Enterprise, City of Apopka etc.

##### 4.03 Surveys and Mapping

- A. All Surveying and Mapping shall be performed under the direction of a Surveyor and Mapper properly licensed with the Florida Board of Professional Surveyors and Mappers, under Chapter 472, Florida Statutes. The Consultant shall review data provided by CFX and provide complete field surveys suitable for contract document preparation

Survey activities shall be coordinated with the Consultant's design team including roadway, drainage, structures, geotechnical, and other disciplines as required

Field surveys shall be performed with minimal disruption of the normal traffic flow for the project. Field personnel shall use safety devices such as warning signs, traffic cones, warning lights, and safety vests at all times, according to the Florida Department of Transportation requirements. Advanced warning signs required when survey crews are working on CFX's system shall be made with 3M Scotchlite Diamond Grade Fluorescent orange roll up sign sheeting

B. Alignment

1. Establish Survey Centerline by establishing the tangent lines of existing Right of Way maps if such maps exist, or in the center of dedicated Right of Way as per subdivision plats, or in the center of the pavement when no Right of Way map or dedication exists. Set alignment points Begin, End, PC's, PT's, PI's and at maximum 1400-foot intervals along alignment
2. Establish and set alignment in the same manner on cross roads and major adjacent alignments
3. Station all alignments at 100' intervals
4. Meet with CFX's Project Manager to discuss methods for determining alignments prior to staking

C. Reference Points

1. Set at all alignment points, left and right at 90-degrees to alignment where possible, outside the proposed construction limits
2. Show obstructions where alternate references are set

D. Bench Levels

1. The Consultant shall establish new benchmarks at 1000' intervals, along all alignments, using stable points

E. Topography

1. Planimetric mapping and a digital terrain model (DTM), suitable for 1"=50' display scale shall be conducted by the Consultant



2. The Consultant will obtain existing pavement elevations and cross-slopes along the inside travel lane and outside travel lane every 100'
3. Additional topographic and DTM surveys, as needed for the project design, are the responsibility of the Consultant. These may include existing water bodies and pavement elevations

F. Drainage Survey

Perform a drainage survey including pipe type, location, size and flow line elevations as needed for design

G. Underground Utilities

Locate all underground utilities, horizontally and vertically as flagged by respective utility companies or a qualified utility marking consultant. Provide soft excavation verifications as needed to verify location and at utility conflict areas

H. Side Street Surveys

Perform topographic and utility surveys of side streets as needed for engineering design

I. Bridge Survey

Provide bridge survey data as needed for engineering design

J. Jurisdictional Line Surveys

Perform Jurisdictional Line Surveys as needed for engineering design and permitting

K. Geotechnical Surveys

Locate and/or stake boring locations as needed for geotechnical investigations

L. Right-of-Way Ties

Locate right-of-way limits for construction purposes. No new right-of-way is anticipated

M. Prior to construction, the Consultant shall re-flag and reset alignment control points, references and benchmarks and meet with the construction

contractor to review these points

#### 4.04 Geotechnical Investigation

- A. The Consultant shall perform a geotechnical investigation of the project in accordance with the requirements of CFX
- B. Investigations shall be performed with minimal disruption of the normal traffic flow for the project. Field personnel shall use safety devices such as warning signs, traffic cones, warning lights, and safety vests at all times, according to Authority requirements. The Consultant shall adhere to all traffic control requirements when taking samples on existing roadways. A traffic control plan and permit may be required. Any advanced warning signs required when crews are working on CFX system shall be made with 3M Scotchlite Diamond Grade Fluorescent orange roll up sign sheeting
- C. The work includes, but is not limited to, identifying roadway structural section requirements, LBR testing, design methods for the selected foundation, external stability evaluation at proprietary retaining walls, groundwater and estimated seasonal high groundwater level, estimate of the maximum rate of pumping that will be required at sites that dewatering is anticipated, certification of all under drain and pond draw down times, pH and resistivity conditions requiring design considerations, soil shrinkage/swell characteristics, slope stability and benching in embankment/excavation locations, recommendation for methods of rock excavation, potential imported borrow sites and availability of structural section materials, location and depths of unsuitable material (muck), and design alternatives based on geotechnical findings; design values for active, at rest, and passive soil pressures; allowable design loads or pressures for each foundation type, corrosion testing for structures and design of foundations for sign structures
- 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

#### 4.05 Contamination Impact Analysis

- A. The Consultant shall perform a contamination impact analysis of the project in accordance with the applicable rules and regulations of the FDOT Project Development and Environment Guidelines, Chapter 22, the Florida Department of Environmental Protection (FDEP), and all other pertinent State or Federal agencies having jurisdiction, and the requirements of CFX
- B. At a minimum, the Consultant shall conduct a windshield survey along the project corridor to identify any new sources of environmental contamination not reported in the referenced document(s)
- C. The testing of any sites including the use of ground penetrating radar, if required to complete the design and/or construction of the project, will be added to the Scope of Services by Supplemental Agreement

#### 4.06 Pavement Design

- A. The Consultant shall prepare the pavement design as appropriate in accordance with the requirements of the FDOT for mainline and ramps
- B. The proposed pavement design recommendation, resulting from the Consultant's analysis of the various alternatives, shall be contained in a Pavement Design Summary

#### 4.07 Governmental Agency and Public Meetings

- A. Except as may be provided elsewhere in this Scope of Services, the Consultant shall have appropriate representatives present at such meetings, conferences or hearings as CFX may direct to secure necessary approvals and/or support of the project by county, municipal, or other governmental agencies. If so directed, the Consultant shall also have appropriate representatives present at meetings or conferences of CFX, its Chairman or staff
- B. The Consultant shall assist CFX in presentations to various parties. The Consultant shall prepare exhibits pertaining to basic roadway and noise wall elements. CFX will prepare exhibits pertaining to aesthetic treatments and other design issues if applicable

#### 4.08 Environmental Permits

- A. CFX's Project Manager will review, coordinate and submit the applications for all environmental permits, including EPA's NPDES General Permits for Stormwater Discharges from Construction Sites. The Consultant shall provide all information, permit applications and data relating to Stormwater Management and Floodplain Impacts required for the permits to CFX. (CFX will be responsible for preparing all of the Wetlands and Protected Species analysis and documentation required for the permits). The Consultant shall:
1. Attend the pre-application meetings and site visits with CFX and regulatory agencies
  2. Provide additional information requested at the pre-application by regulatory agencies for permits
  3. Provide aerial maps at a 1"=400' scale which include SCS soils data, 100-year floodplain limits and proposed project
  4. Provide all plans, calculations, sketches and reports required for permits except as described above
  5. Provide copies of all drainage calculation, including pond routing nodal diagrams, for the project
  6. Assist CFX in responding to any requests for additional information made by regulatory agencies after the permit application is submitted
  7. Incorporate any changes required by changes in regulatory agency requirements during the course of the project. If this requires additional work by the Consultant a Supplemental Agreement will be prepared
  8. Prepare a list of adjacent landowners along with address and nine-digit zip code at all wetland encroachment sites
  9. Provide all permit application material in .PDF format and 7 hard copies
  10. The Consultant will provide dredge and fill sketched as required by the permitting agencies if applicable. Mitigation plans, if required, may be added as a supplemental service
  11. Determine extent of floodplain impacts, if any, and provide

compensatory flood stages as required

#### 4.09 Utilities

##### A. Location

The Consultant shall obtain available utility mapping and information and identify all utilities within the general project limits to determine potential conflicts and relocations. Where a potential conflict exists, the Consultant may need to arrange to probe or expose ("pothole") the utility and survey the horizontal and vertical location of the utility line. The Consultant shall coordinate this effort with involved utility companies. All existing utilities shall be shown on appropriate preliminary construction plans. The Consultant's notes shall include the name and telephone number of contact persons for the construction contractor's use

##### B. Utility Coordination

1. The Consultant shall prepare reproducible utility adjustments plans based on information provided by respective utility companies
2. Private utilities will prepare design plans for the relocation of their facilities. If a utility cannot or will not prepare these design plans, the work shall be added to the scope by Supplemental Agreement and the Consultant shall prepare design plans for utility relocation for approval of the utility and review by CFX
3. Where utility conflicts occur which require utility relocation agreements between the affected utility and CFX, the Consultant shall prepare the necessary data/plans required for the agreements. The Consultant shall advise CFX seven days in advance of meetings with utility companies/agencies scheduled to discuss utility relocations
4. The preparation and negotiation of the agreement will be performed by CFX's Project Manager. After approval of the agreement by the utility and CFX, the Consultant shall prepare reproducible utility adjustment sheets identifying proposed relocations with respect to the construction plans
5. The Consultant shall prepare a utility conflict matrix to assist in identifying and resolving conflicts between utilities and proposed construction prior to completion of the plans
6. The Consultant shall obtain utility work schedules from the utility

companies

7. The Consultant shall prepare the Utility Certification Letter certifying that all utility negotiations (full execution of each agreement, approved utility work schedule, technical special provisions written, etc.) have been completed with arrangements made for utility work to be undertaken and completed as required

#### 4.10 Roadway Design

- A. Generally, a Typical Section Package will not be prepared. Rather, typical sections will be prepared as part of the 30% submittal and submitted to CFX for review and approval
- B. The Consultant shall design the geometrics for this project using the design standards included in the scope. The design elements shall include, but not be limited to, the horizontal and vertical alignments, cross section template development, lane width, shoulder widths, cross slopes, borders, sight distance, side slopes, lane transitions, superelevations, features of intersections, ramp terminal details, interchanges, and limited access points
- C. As necessary, the Consultant shall prepare designs and contract documents for the roadway improvements, including, but not necessarily limited to:
  1. Cover sheet (key sheet)
  2. Summary of Pay Items
  3. General notes
  4. Summary Quantities sheets
  5. Project Layout
  6. Typical roadway sections
  7. Plans and profiles (plans at 1"=50' scale)
  8. Interchange plans, profiles, alignment and plan index sheets
  9. Interchange layout plans
  10. Intersection plans and profiles or spot elevations
  11. Interchange curve and coordinate data sheets

12. Ramp Terminal Details
13. Crossroad plans and profiles (1"= 50' scale)
14. Cross-sections (with pattern plan) (1" = 20' horiz.) (1" = 5' vert.)
15. Earthwork quantities
16. Traffic Control Sheets
17. Utility Adjustment Sheets
18. Details
19. Special provisions
20. Special specifications

#### 4.11 Structures Design

- A. Prior to commencement of final design, the consultant shall prepare a Bridge Concept Memorandum which documents a limited range of structural alternatives and identifies preferred alternatives. Specifically, the alternatives to be examined include Type III vs Type IV beams, slope walls vs vertical retaining walls, and concrete vs steel H-piles
- B. The Consultant shall prepare designs and contract documents for structural design including, but not necessarily limited to the following items
  1. Complete Bridge designs will be provided for all bridges
  2. Retaining walls
  3. Box Culverts
  4. Slope protection
  5. Approach slabs
  6. Details
  7. Summary quantity tables
  8. Special provisions and specifications

9. Stage construction-sequencing details (if applicable)
10. Sign\Signal structures
11. Sound walls
12. The Consultant shall perform Load Rating Analysis per FDOT criteria for any box culverts and bridges at the 90% design phase. The Load Rating Analysis packages shall be submitted to FDOT for their review and approval

#### 4.12 Drainage Design

A. As part of the drainage design requirements, the Consultant shall:

1. Perform all drainage design in accordance with the approved criteria from Section 3.01C
2. Finalize the pond design at the 30% submittal
3. Have its chief drainage engineer available at the scheduled (bi-weekly/monthly) team meetings to review progress and discuss problems
4. Notify CFX's Project Manager immediately if any deviation from approved design criteria is anticipated
5. Provide drainage/contour maps used in the development of the drainage design to CFX for use in scheduled reviews. These maps will be returned to the Consultant along with review comments at the end of the review process
6. Provide copies of its internal quality control comments and calculations at the scheduled reviews

Critical duration analysis is not included in this effort and, if required, shall be added to the scope by Supplemental Agreement. A pond siting report is not required

B. The Consultant shall prepare designs and contract documents for drainage features including, but not necessarily limited to:

1. Connector pipes



2. Drainage structure details
3. Storm drain and culvert profiles and/or drainage cross-sections
4. Lateral ditches/channels
5. Outfall ditches/channels
6. Retention/detention ponds/exfiltration system

#### 4.13 Roadway Lighting

- A. The Consultant shall provide a complete set of final roadway lighting documents in accordance with FDOT and CFX design criteria. The work shall include coordination with the local utility to provide electrical service. Plan sheet scale shall be at 1"=50' scale
- B. CFX will provide a cut sheet for the type of lighting fixtures to be used for this project

#### 4.14 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 determined by CFX and other governmental agencies.

This includes meeting with the governmental agencies which may be impacted by the maintenance of traffic plans

#### 4.15 Signing Plans

- A. The Consultant shall prepare designs and contract documents for final signing plans including layouts showing the locations of ground mounted and overhead signs, special sign details, lighting, and any structural or foundation requirements in accordance with applicable design standards. Any requirements for electric service shall be coordinated with the local electric utility
- B. CFX will provide conceptual signing plans for the project
- C. CFX will provide preliminary aesthetic input for the architectural modification of standard FDOT details for sign structures
- D. Plan sheets will be developed at a scale of 1"=50' (11"x17" format)

#### 4.16 Pavement Marking Plans

- A. The Consultant shall prepare designs and contract documents for final pavement marking plans, including striping, crosswalks, intersection details, reflective pavement markers and traffic delineators
- B. The pavement marking design will be shown on the same plan sheets as the signing design

#### 4.17 Right-of-Way Surveys

- A. No additional right-of-way is anticipated as part of this contract. Should right-of-way surveys become necessary, a Supplemental Agreement will be made to address the scope required for the services

#### 4.18 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 ductbanks, cables, manholes, and pull boxes in areas where the existing locations conflict with construction. The Consultant shall identify existing physical features and utilities that will impact the construction and installation of the equipment. The Consultant shall review and modify standard FON details as necessary
2. Fiber optic network (FON) plans shall include the following:
  - a. Roadway geometry
  - b. Rights-of-Way
  - c. Existing utilities within the right-of-way including CFX's FON
  - d. Physical features affecting construction/installation (sign structures, light poles, fences, etc.)
  - e. Manhole/Pull box locations and stub-out details (standard details provided)
  - f. Device layout
  - g. Device installation details
  - h. Conduit installation details (standard details provided)
  - i. Fiber optic cable route marker detail (standard details provided)
  - j. Fiber count per conduit
  - k. Communications interconnect
    - l. Connectivity with the FON backbone conduits
  - m. Fiber cable design to include link loss budget calculations, per Corning standard recommended procedure
  - n. Fiber cable routing summaries, fiber cable allocation charts, and splice details and tables
  - o. Controller cabinet, CCTV pole, and foundation details
  - p. Power interconnect, calculations to support conductor size, and details. Power conductors to each device location shall be sized to the capacity of the main breaker in the cabinet
  - 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. No relocation of existing CCTV sites are anticipated under this contract nor or any new CCTV sites anticipated as part of the proposed improvements
  - w. Relocation of existing data collection sensor (DCS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing DCS would not survive project construction
  - x. No relocation of existing DMS sites are anticipated under this contract nor or any new DMS sites anticipated as part of the proposed improvements
  - 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
3. The Consultant shall take the following information into consideration when developing the site construction plans:
- a. Minimize utility conflicts and adjustments
  - b. Minimize traffic impact
  - c. Accessibility and ease of equipment maintenance
  - d. Safety of equipment maintenance personnel and the traveling public
  - e. Maintain the existing FON system through all phases of construction
  - f. Environmental conditions
  - g. Concurrent/future CFX projects
  - h. Compatibility with existing and proposed ITS infrastructure (e.g. CFX enhanced grounding standards for ITS devices, CFX transient voltage surge suppression (TVSS) standards for ITS devices, etc.)
  - i. Leased conduits in CFX FON duct bank that are occupied by the fiber optic cable of other agencies or entities

#### B. Splice and Cable Routing Details

1. The Consultant shall provide splicing detail diagrams to document fiber optic splices within and between manholes, ITS devices, tollbooths, and other junction points
2. Splicing tables shall include ITS device connectivity, fiber use, drop cable fiber identification, drop cable identification, backbone cable identification, translateral cable identification, backbone into mainline cable identification, and toll plaza patch panel jack
3. The Consultant shall provide cable routing diagrams and fiber allocation charts in CFX's standard format to document the functional connectivity between fiber optic conduit and all 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

#### Quantities and General Notes

Standard notes shall be included to provide direction to the contractor and provide pay item descriptions as necessary

- 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 contract may include modifications and/or improvements to any of the existing toll plazas, including any associated equipment and gantry systems

#### 4.22 Post-Design Services (as necessary)

- A. Services shall begin after authorization by CFX. The Consultant compensation for post-design services may be added by Supplemental Agreement and shall be at an hourly rate, inclusive of overhead, profit and expenses, and exclusive of travel. No compensation will be made for correction of errors and omissions
- B. The Consultant shall support the post design process as follows:
  - a. Answer questions relative to the plans, typical sections, quantities and special provisions
  - b. Make any necessary corrections to the plans, typical sections, quantities, notes, etc., as may be required
  - c. Attend pre-award meeting with construction contractor, CFX, and CFX's CEI
- C. The Consultant shall, prior to the pre-bid conference, be prepared to walk the project with CFX's CEI to discuss the plans and details. The Consultant shall be prepared to attend the pre-bid conference and respond to questions related to the plans, details, and special provisions
- D. The Consultant shall prepare any addenda required to clarify the work included in the construction contract documents. Addenda may be required based on the project inspection with the CEI, or questions developed in the pre-bid conference, or conditions discovered by bidders during the bid period
- E. The Consultant shall be available to respond to questions in the field that may arise relative to the plans, details or special provisions during construction. The Consultant shall periodically visit the project site to observe the progress of construction on the project. This visit will not replace the formal construction inspection by CFX. It is intended to provide the opportunity of the design team to observe whether the work is being performed in general conformance with the project plans. Written memos of all such field trips shall be submitted to CFX within five working days of the trip
- F. The Consultant shall review and approve shop drawings for structural, lighting, signing, traffic signal elements, and toll plaza shop drawings. This work will include the erection procedure plans, review proposals for

substitutions, develop supplemental agreements, and provide other engineering services required to facilitate construction of the project. Reviews will be conducted and returned within two weeks from receipt of information

- G. The Consultant shall appoint a responsible member of the firm to be the contact person for all post-design services. The person should be continually available during the course of construction for review of design plans
- H. The Consultant shall make every reasonable effort to process any material presented for review in a prompt manner recognizing a construction contract is underway
- I. The Consultant shall attend partnering meetings as requested by CFX's Project Manager. The Consultant shall also attend progress/coordination meetings as requested by CFX's Project Manager including, but not limited to, the Notice to Proceed meeting
- J. 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 help coordinate and support 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 as necessary.

B. CFX will provide conceptual aesthetics design and treatments for structures.

## 7.0 ADMINISTRATION

As this is a miscellaneous design services contract, it is understood that not all the work outlined in this Section is applicable to every project task authorization.

### 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.
- B. The current schedule for each open task work order shall be included with the agenda and minutes for each bi-weekly meeting.

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.

7.09 Consultant Personnel

- A. The Consultant's work shall be performed and/or directed by the key personnel identified in Exhibit "D". Any changes in the indicated key personnel or the Consultant's office in charge of the work shall be subject to review and approval by CFX.

#### 7.10 Site Visit

- A. The Consultant shall arrange a site visit within ten (10) calendar days of receipt of written Notice to Proceed. Consultant personnel assigned to perform the work on the project shall attend. CFX representatives may 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.

#### 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. Electronic 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), a 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)
  2. 30% Roadway Plans

3. 30% Bridge and Structural Plans
  4. 60% Roadway and specifications, Geotechnical Report
  5. 60% Bridge Plans required only on Category 2 bridges
  6. 100% Roadway, Bridge and specifications, Geotechnical Report
  7. Pre-Bid Plans
  8. Bid Set
- C. Formal review submittals shall include copies as listed above. All submittals shall be made electronically.
- D. Preparation and distribution of roadway and ROW plans to other than CFX will not be made until approved by CFX.
- E. The format of review submittal plans shall conform to the CFX Design Guidelines, 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 electronically 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 as per the CFX Design Guidelines.

#### 7.15 30% Bridge and Structural Plan Submittal



- A. At completion of this phase, design and plan development should be approximately 30 percent complete. The Consultant shall refer to FDOT Structural Design Guidelines for plan contents and submittal requirements. Preliminary geotechnical results and recommendations should also be included with this submittal.

#### 7.16 60% Roadway Plan Submittal

- A. At completion of this phase, design and plan development should be approximately 60 percent complete except stormwater pond designs. The designs of the stormwater ponds shall be at 100% complete. The following material shall be developed and submitted for review as per the CFX Design Guidelines.

#### 7.19 100% Roadway, Bridge, Structural and Right-of-Way Plans

- A. At the completion of this phase, the design, plans and special provisions shall be 100 percent complete.

#### 7.20 Schematic Toll Plaza Plans

- A. At the completion of this phase, the toll plaza layout should be complete with lane and island configurations shown. The following material shall be developed and submitted for review:
  - 1. Plan view of toll plaza with dimensions showing lane and island widths with column configuration and express lane layout.
  - 2. East and west elevation views of the canopy including concept for overhead structure for express lane ETC equipment.
  - 3. Construction phasing plan.
  - 4. Description of improvements required for the administration building to accommodate installation of toll equipment.

#### 7.21 60% Toll Plaza Plans

- A. At the completion of this phase, the toll plaza plans should be developed to 60% completion. The following material, as a minimum, shall be developed and submitted for review:
  - 1. Key sheet with sheet index

2. Architectural, structural, mechanical, plumbing and electrical general notes, abbreviations and symbols
3. Plan view
4. Exterior elevations
5. Canopy sections and details
6. Canopy reflected ceiling plan
7. Roof plan and details
8. Canopy framing and foundation plan
9. Concrete pavement plan
10. Express lane overhead structure plan and details
11. Tunnel sections and details
12. Structural sections and details
13. Plumbing plan and diagrams
14. Lighting plan
15. Power plan and diagram
16. Lightning protection plan and details
17. Demolition and construction phasing plan
18. Plans and details for improvements to the administration building (as needed by discipline) to accommodate installation of toll equipment
19. All calculations and design data to support the design for each discipline
20. Technical specifications

#### 7.22 90% and 100% Toll plaza plans

- A. At the completion of this phase, the toll plaza plans should be developed to 90% and 100% completion respectively. The material listed with the 60% submittal shall be developed along with additional details required for construction and submitted for review.
- B. The 90% and 100% submittals shall also include the technical specifications and special provisions required for construction
- C. A detailed estimate of construction costs shall be included with the 100% submittal.

7.23 Pre-Bid Plans

7.24 Bid Set

7.25 Record Drawings

- A. After construction is complete, the records drawings will be submitted to the EOR for use in preparing the Record Drawings. The EOR shall prepare record drawings in compliance with the *CFX Design Guidelines*.

# **AGREEMENT**



**CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY**

**AND**

**PROTEAN DESIGN GROUP, INC.**

**MISCELLANEOUS DESIGN CONSULTANT SERVICES  
(SSBE)**

**CONTRACT NO. 001836**

**CONTRACT DATE: DECEMBER 09, 2021**

**CONTRACT AMOUNT: \$3,000,000.00**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION,  
DETAILS OF COSTS AND FEES, PROJECT ORGANIZATIONAL CHART,  
AND POTENTIAL CONFLICT OF INTEREST FORM**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, DETAILS OF  
COSTS AND FEES, PROJECT ORGANIZATIONAL CHART, AND POTENTIAL  
CONFLICT OF INTEREST FORM**

**FOR**

**MISCELLANEOUS DESIGN CONSULTANT SERVICES  
(SSBE)**

**CONTRACT NO. 001836**

**DECEMBER 2021**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

## TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
AG	Agreement	1 to 19
	Exhibit "A", Scope of Services	
	Exhibit "B", Method of Compensation	
	Exhibit "C", Details of Cost and Fees	
	Exhibit "D", Project Organization Chart	
	Exhibit "E", Potential Conflict of Interest Form	

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT, made and entered into this 9<sup>th</sup> day of December 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 PROTEAN DESIGN GROUP, INC., hereinafter called “CONSULTANT,” registered and authorized to conduct business in the State of Florida, carrying on professional practice in engineering, with offices located at 100 East Pine Street, Ste 600, 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 miscellaneous design consultant services as identified in this Contract, Contract No. 001836.

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 includes the professional services related to planning and engineering as described in **Exhibit “A.”**

All construction plans, documents, reports, studies and other data prepared by the CONSULTANT shall bear the endorsement of a person in the full employ of the CONSULTANT and duly registered by the State of Florida in the appropriate professional category.

After CFX's acceptance of construction plans and documents for the project, the original set of CONSULTANT's drawings, tracings, plans, maps and CADD files shall be provided to CFX, along with one record set of the final plans. The CONSULTANT shall signify, by affixing an endorsement (seal/signature, as appropriate) on every sheet of the record set, that the work shown on the endorsed sheets was produced by the CONSULTANT. With the tracings and the record set of prints, the CONSULTANT shall submit a final set of design computations. The computations shall be bound in an 8-1/2 x 11" format and shall be endorsed (seal/signature, as appropriate) by the CONSULTANT. Refer to **Exhibit "A"** for the computation data required for this Agreement.

The CONSULTANT shall submit a final set of reports and studies which shall be endorsed (seal/signature) by the CONSULTANT.

The CONSULTANT shall not be liable for use by CFX of said plans, documents, reports, studies or other data for any purpose other than intended by the terms of this Agreement.

This Agreement is considered a non-exclusive Agreement between the parties.

### 3.0 TERM OF AGREEMENT AND RENEWALS

Unless otherwise provided herein or by Supplemental Agreement, the provisions of this Agreement will remain in full force and effect for a three (3) year term from the date of the Notice to Proceed for the required project services as detailed in **Exhibit "A,"** with two one-year renewals at CFX's option. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONSULTANT are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide CONSULTANT with written notice of its intent at least thirty (30) days prior to the expiration of the original term and subsequent renewal, if any.

The CONSULTANT agrees to commence the scheduled project services to be rendered within ten (10) calendar days from the date specified in the written Notice to Proceed from the Project Manager, which Notice to Proceed will become part of this Agreement. The CONSULTANT shall complete scheduled project services within the timeframe(s) specified in **Exhibit "A"**, or as may be modified by subsequent Supplemental Agreement.

### 4.0 PROJECT SCHEDULE

The CONSULTANT agrees to provide Project Schedule progress reports for each project in a format acceptable to CFX and at intervals established by CFX. CFX will be entitled at all times to be advised, at its request, as to the status of work being done by the CONSULTANT and of the details thereof. Coordination shall be maintained by the CONSULTANT with representatives of CFX, or of other agencies interested in the project on behalf of CFX. Either party to the Agreement may request and be granted a conference.

In the event there are delays on the part of CFX as to the approval of any of the materials submitted by the CONSULTANT or if there are delays occasioned by circumstances beyond the control



of the CONSULTANT, which delay the scheduled project completion date, CFX may grant to the CONSULTANT by "Letter of Time Extension" an extension of the scheduled project completion date equal to the aforementioned delays. The letter will be for time only and will not include any additional compensation.

It shall be the responsibility of the CONSULTANT to ensure at all times that sufficient time remains within the project schedule within which to complete the services on the project. In the event there have been delays which would affect the scheduled project completion date, the CONSULTANT shall submit a written request to CFX which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one another. CFX will review the request and make a determination as to granting all or part of the requested extension.

In the event the scheduled project completion date is reached and the CONSULTANT has not requested, or if CFX has denied, an extension of the completion date, partial progress payments will be stopped when the scheduled project completion date is met. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by CFX.

## 5.0 PROFESSIONAL STAFF

The CONSULTANT shall maintain an adequate and competent professional staff to enable the CONSULTANT to timely perform under this Agreement. The CONSULTANT shall continue to be authorized to do business within the State of Florida. In the performance of these professional services, the CONSULTANT shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The CONSULTANT shall use due care in performing in a design capacity and shall have due regard for acceptable standards of design principles. The CONSULTANT may associate with it such specialists, for the purpose of its services hereunder, without additional cost to CFX, other than those costs negotiated within the limits and terms of this Agreement. Should the CONSULTANT desire to utilize specialists, the CONSULTANT shall be fully responsible for satisfactory completion of all subcontracted work. The CONSULTANT, however, shall not sublet, assign or transfer any work under this Agreement to other than the associate consultants listed below without the written consent of CFX. It is understood and agreed that CFX will not, except for such services so designated herein, permit or authorize the CONSULTANT to perform less than the total contract work with other than its own organization.

Prior to retaining a subconsultant, or assigning any work to a subconsultant, the CONSULTANT shall verify that the subconsultant does not have any conflicts and acknowledges its duty to comply with CFX's Code of Ethics. The CONSULTANT shall ensure that each subconsultant adheres to, and cause all subconsultants to be bound by, all requirements, conditions, and standards set forth herein. The CONSULTANT shall collect and maintain the necessary subconsultant compliance and acknowledgement documentation and remove any subconsultant immediately, if the necessary said documentation is unavailable or the subconsultant is not adhering to the requirements and standards herein. The CONSULTANT shall provide subconsultant compliance and acknowledgement documentation to CFX upon request.

The approved subconsultants are:

Protean Design Group, Inc. (Class I)  
Vanasse Hangen Brustlin, Inc. (Class I)  
GeoData Consultants, Inc. (Class II)  
Salas O'Brien Florida, Inc. (Class I)

Patel, Greene, & Associates, LLC (Class I)  
ECHO UES, Inc. (Class II)  
Bentley Architects and Engineers, Inc. (Class I)  
Geotechnical and Environmental Consultants,  
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 \$3,000,000.00 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.

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 100 East Pine Street, Ste 600, Orlando, FL 32801.

Notwithstanding Section 15, 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 the Agreement or (b) notifying the CONSULTANT of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time.

If CFX requires termination of the Agreement for reasons other than unsatisfactory performance of the CONSULTANT, CFX shall notify the CONSULTANT in writing of such termination, not less

than seven (7) calendar days as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

If CFX abandons the work or subtracts from the work, suspends, or terminates the Agreement as presently outlined, the CONSULTANT shall be compensated in accordance with **Exhibit "B"** for work properly performed by the CONSULTANT prior to abandonment or termination of the Agreement. The ownership of all engineering documents completed or partially completed at the time of such termination or abandonment, shall be transferred to and retained by CFX.

CFX reserves the right to cancel and terminate this Agreement in the event the CONSULTANT or any employee, servant, or agent of the CONSULTANT is indicted or has a direct information issued against him for any crime arising out of or in conjunction with any work being performed by the CONSULTANT for or on behalf of CFX, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans, specifications, maps, and data prepared or obtained under this Agreement shall immediately be turned over to CFX. The CONSULTANT shall be compensated for work properly performed rendered up to the time of any such termination in accordance with Section 7.0 hereof. CFX also reserves the right to terminate or cancel this Agreement in the event the CONSULTANT shall be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors. CFX further reserves the right to suspend the qualifications of the CONSULTANT to do business with CFX upon any such indictment or direct information. In the event that any such person against whom any such indictment or direct information is brought shall have such indictment or direct information dismissed or be found not guilty, such suspension on account thereof may be lifted by CFX.

## 11.0 ADJUSTMENTS

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the Project Manager who shall decide all questions, difficulties and dispute of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof. Adjustments of compensation and term of the Agreement, because of any major changes in the work that may become necessary or desirable as the work progresses, shall be left to the absolute discretion of the Executive Director and Supplemental Agreement(s) of such a nature as required may be entered into by the parties in accordance herewith. Disputes between the Project Manager and the CONSULTANT that cannot be resolved shall be referred to the Executive Director whose decision shall be final.

In the event that the CONSULTANT and CFX are not able to reach an agreement as to the amount of compensation to be paid to the CONSULTANT for supplemental work desired by CFX, the CONSULTANT shall be obligated to proceed with the supplemental work in a timely manner for the amount determined by CFX to be reasonable. In such event, the CONSULTANT will have the right to file a claim with CFX for such additional amounts as the CONSULTANT deems reasonable for consideration by the Executive Director; however, in no event will the filing of the claim or the resolution or litigation thereof, through administrative procedures or the courts, relieve the CONSULTANT from the obligation to timely perform the supplemental work.

## 12.0 HOLD HARMLESS AND INDEMNIFICATION

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 obligations in Section 12.0, Hold Harmless and Indemnification, shall survive the expiration or termination of this Agreement and continue in full force and effect.

### 13.0 INFRINGEMENT OF PATENTS AND COPYRIGHTS

The CONSULTANT shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. The CONSULTANT shall, at its expense, hold harmless and defend CFX against any claim, suit or proceeding brought against CFX which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under this Agreement, constitute an infringement of any patent or copyright of the United States. The CONSULTANT shall pay all damages and costs awarded against CFX.

The obligations in Section 13.0, Infringement of Patents and Copyrights, shall survive the expiration or termination of this Agreement and continue in full force and effect.

### 14.0 INSURANCE

The CONSULTANT, at its own expense, shall keep in force and at all times maintain during the term of this Agreement all insurance of the types and to the limits specified herein.

The CONSULTANT shall require and ensure that each of its subconsultants providing services hereunder procures and maintains, until the completion of the services, insurance of the requirements, types and to the limits specified herein. Upon request from CFX, the CONSULTANT shall furnish copies of certificates of insurance and endorsements evidencing coverage of each subconsultant.

The CONSULTANT shall require all insurance policies in any way related to the work and secured and maintained by the CONSULTANT to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against CFX. The CONSULTANT shall require of subconsultants, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section. When required by the insurer, or should a policy condition not permit an endorsement, the CONSULTANT agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement.

This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the CONSULTANT enter into such an agreement on a pre-loss basis. At the CONSULTANT's expense, all limits must be maintained.

14.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to CFX) or the general aggregate limit shall be twice the required occurrence limit. CFX shall be listed as an additional insured.

The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any



policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

14.2 Business Automobile Liability coverage shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Each of the above insurance policies shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured; (2) The stated limits of liability coverage for Commercial/Comprehensive General Liability, and Business Automobile Liability, assumes that the standard "supplementary payments" clause will pay in addition to the applicable limits of liability and that these supplementary payments are not included as part of the insurance policies limits of liability.

14.3 Workers' Compensation and Employer's Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer's Liability insurance shall be provided in amounts not less than \$100,000 per accident for bodily injury by accident, \$100,000 per employee for bodily injury by disease, and \$500,000 policy limit by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the CONSULTANT, its employees, agents and subconsultants.

14.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

The CONSULTANT shall provide CFX with Certificate(s) of Insurance with required endorsements on all the policies of insurance and renewals thereof in a form(s) acceptable to CFX. CFX shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

All insurance policies shall be issued by responsible companies who are acceptable to CFX and licensed to do business under the laws of the State of Florida. Each Insurance company shall minimally have an A.M. Best rating of A-:VII. If requested by CFX, CFX shall have the right to examine copies and relevant provisions of the insurance policies required by this Agreement, subject to the appropriate confidentiality provisions to safeguard the proprietary nature of CONSULTANT manuscript policies.

Any deductible or self-insured retention must be declared to and approved by CFX. At the option of CFX, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as requests CFX, or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All such insurance required by the CONSULTANT shall be primary to, and not contribute with, any insurance or self-insurance maintained by CFX.

Compliance with these insurance requirements shall not relieve or limit the CONSULTANT's liabilities and obligations under this Agreement. Failure of CFX to demand such certificate or evidence

of full compliance with these insurance requirements or failure of CFX to identify a deficiency from evidence provided will not be construed as a waiver of the CONSULTANT's obligation to maintain such insurance.

The acceptance of delivery by CFX of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by CFX that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

## 15.0 COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS

The CONSULTANT agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying CFX and securing its consent in writing, except as required by law. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data, documents, reports, or other written or electronic materials furnished in compliance with this Agreement, it being understood that, under Section 7.0 hereof, such data or information is the property of CFX.

Regarding the use of logos, printed documents and presentations produced for CFX shall not contain the name or logo of the CONSULTANT unless approved by CFX's Public Affairs Officer or his/her designee. Prior approval by CFX's Public Affairs Officer or his/her designee is required if a copy of the CFX logo or any CFX mark, including trademarks, service marks, or any other mark, collectively referred as "Marks," is to be used in a document or presentation. The Marks shall not be altered in any way. The width and height of the Marks shall be of equal proportions. If a black and white Mark is utilized, the Mark shall be properly screened to insure all layers of the Mark are visible. The proper presentation of CFX Marks is of utmost importance to CFX. Any questions regarding the use of CFX Marks shall be directed to the CFX Public Affairs Officer or his/her designee.

## 16.0 CONFLICT OF INTEREST AND STANDARD OF CONDUCT

No Contingent Fees. CONSULTANT warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Contract, and that CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For breach of this provision, CFX shall have the right to terminate this Contract without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

CONSULTANT acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Code of Ethics. CONSULTANT acknowledges that it has read the CFX's Code of Ethics and, to the extent applicable, CONSULTANT will comply with the aforesaid CFX's Code of Ethics in connection with performance of the Contract.

As required by Section 348.753, Florida Statutes, and CFX's Code of Ethics, CONSULTANT agrees to complete CFX's Potential Conflict Disclosure Form prior to the execution of the Contract, upon the occurrence of an event that requires disclosure, and annually, not later than July 1st.

CONSULTANT covenants and agrees that it and its employees, officers, agents, and subconsultants shall be bound by the standards of conduct provided in Section 112.313, Florida Statutes, as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

CONSULTANT hereby certifies that no officer, agent or employee of CFX has any "material interest" (as defined in Section 112.312(15), Florida Statutes) either directly or indirectly, in the business of CONSULTANT, and that no such person shall have any such interest at any time during the term of this Agreement.

The CONSULTANT 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.

The CONSULTANT shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Executive Director for resolution.

During the term of this Agreement the CONSULTANT is NOT eligible to pursue any advertised construction engineering and inspection projects of CFX as either a prime or subconsultant where the CONSULTANT participated in the oversight of the projects or for any project which the CONSULTANT prepared plans and/or specifications. Subconsultants are also ineligible to pursue construction engineering and inspection projects where they participated in the oversight of the projects or for any project which the subconsultant was involved in the preparation of plans and/or specifications.

## 17.0 DOCUMENTED ALIENS

The CONSULTANT warrants that all persons performing work for CFX under this Agreement, regardless of the nature or duration of such work, shall be United States citizens or properly authorized and documented aliens. The CONSULTANT shall comply with all federal, state and local laws and regulations pertaining to the employment of unauthorized or undocumented aliens at all times during the performance of this Agreement and shall indemnify and hold CFX harmless for any violations of the same. Furthermore, if CFX determines that CONSULTANT has knowingly employed any unauthorized alien in the performance of this Agreement, CFX may immediately and unilaterally terminate this Agreement for cause.

The obligations in Section 17.0, Documented Aliens, shall survive the expiration or termination of this Agreement and continue in full force and effect.

## 18.0 E-VERIFY CLAUSE

CONSULTANT shall utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the CONSULTANT during the term of the contract. CONSULTANT shall require all of its subconsultants to verify the employment eligibility of all new employees hired by the subconsultants during the term of the Agreement.

## 19.0 INSPECTOR GENERAL

CONSULTANT agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. CONSULTANT agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.

## 20.0 PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT

Pursuant to Section 287.133(2)(a), Florida Statutes, “a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.”

Pursuant to Section 287.134(2)(a), Florida Statutes, “an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”

## 21.0 COMPANIES PURSUANT TO SECTION 287.135 AND 215.473

CFX may terminate this Agreement for breach of contract if the Consultant:

- 21.1. submitted a false certification as provided under Florida Statute 287.135(5); or
- 21.2. been placed on the Scrutinized Companies with Activities in Sudan List; or

- 21.3. been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- 21.4. been engaged in business operations in Cuba or Syria; or
- 21.5. found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

## 22.0 AVAILABILITY OF FUNDS

CFX's performance and obligation to pay under this Agreement are contingent upon an annual budget appropriation by its Board. The parties agree that in the event funds are not appropriated, this Agreement may be terminated, which shall be effective upon CFX giving notice to the CONSULTANT to that effect.

## 23.0 AUDIT AND EXAMINATION OF RECORDS

### 23.1 Definition of Records:

(i) "Contract Records" shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data in whatever form, related to the Contract or the CONSULTANT's performance of the Contract determined necessary or desirable by CFX for any purpose. Proposal Records shall include, but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer printouts, charts or other data compilations that contain or reflect information, data or calculations used by CONSULTANT in determining labor, unit price, or any other component of a bid submitted to CFX.

(ii) "Proposal Records" shall include, but not be limited to, any material relating to the determination or application of equipment rates, home and field overhead rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from subcontractors, or material suppliers, profit contingencies and any manuals standard in the industry that may be used by CONSULTANT in determining a price.

23.2 CFX reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Proposal Records (as hereinafter defined) of the CONSULTANT or any subcontractor. By submitting a response to the Request for Proposal, CONSULTANT or any subcontractor submits to and agree to comply with the provisions of this section.

23.3 If CFX requests access to or review of any Contract Documents or Proposal Records and CONSULTANT refuses such access or review, or delays such access or review for over ten (10) calendar days, CONSULTANT shall be in default under its Contract with CFX, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of CONSULTANT. These provisions shall not be limited in any manner by the existence of any CONSULTANT claims or pending litigation relating to the Contract. Disqualification or suspension of the CONSULTANT for failure to comply with this section shall



To CONSULTANT: Protean Design Group, Inc.  
100 East Pine Street, Ste 600  
Orlando, FL 32801  
Attn: David R. Reed, P.E.

Protean Design Group, Inc.  
100 East Pine Street, Ste 600  
Orlando, FL 32801  
Attn: Kimberly Horlander,, P.E.

## 26.0. HEADINGS

Headings are given to the sections of the Agreement solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Agreement.

## 27.0 CONTRACT LANGUAGE AND INTERPRETATION

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective functions and capacities.

If the CONSULTANT discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the CONSULTANT shall immediately notify CFX and request clarification of CFX's interpretation of this Agreement.

The Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

## 28.0 ASSIGNMENT

This Agreement may not be assigned without the written consent of CFX.

## 29.0 SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

### 30.0 INTEGRATION

This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no other agreements between the parties in connection with the subject matter hereof. No waiver, amendment, or modification of these terms hereof will be valid unless in writing, signed by all parties and only to the extent therein set forth.

### 31.00 ATTACHMENTS

- Exhibit "A", Scope of Services
- Exhibit "B", Method of Compensation
- Exhibit "C", Details of Cost and Fees
- Exhibit "D", Project Organization Chart
- Exhibit "E", 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 December 9, 2021.

**PROTEAN DESIGN GROUP, INC.**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

BY: \_\_\_\_\_  
Authorized Signature

BY: \_\_\_\_\_  
Director of Procurement

Print Name: \_\_\_\_\_

Print Name: Aneth Williams

Title: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_(Seal)  
Secretary or Notary

*Approved as to form and execution, only.*

\_\_\_\_\_  
*General Counsel for CFX*

Print Name: Diego "Woody" Rodriguez

**Exhibit A**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**SCOPE OF SERVICES**

**FOR**

**MISCELLANEOUS DESIGN CONSULTANT SERVICES**

**CONTRACT 001836 (SSBE)**

**IN ORANGE, SEMINOLE, LAKE, OSCEOLA, AND BREVARD  
COUNTIES, FLORIDA**

**December 2021**

Exhibit A

SCOPE OF SERVICES

TABLE OF CONTENTS

<u>Description</u>	<u>Page No.</u>
1.0 GENERAL	
1.01 Location	A-5
1.02 Description	A-5
1.03 Purpose	A-5
1.04 Organization	A-6
1.05 Term of Agreement for Design Services	A-6
2.0 STANDARDS	A-7
3.0 DESIGN CRITERIA	
3.01 General	A-8
3.02 Geometry	A-8
3.03 Bridge and Other Structures	A-8
4.0 WORK PERFORMED BY CONSULTANT	
4.01 Design Features	A-9
4.02 Governmental Agencies	A-9
4.03 Surveys and Mapping	A-9
4.04 Geotechnical Investigation	A-12
4.05 Contamination Impact Analysis	A-13
4.06 Pavement Design	A-13
4.07 Governmental Agency and Public Meetings	A-13
4.08 Environmental Permits	A-13
4.09 Utilities	A-14
4.10 Roadway Design	A-16
4.11 Structures Design	A-17
4.12 Drainage Design	A-18
4.13 Roadway Lighting	A-19
4.14 Traffic Engineering	A-19
4.15 Signing Plans	A-20

TABLE OF CONTENTS (cont.)

<u>Description</u>	<u>Page No.</u>
4.16 Pavement Marking Plans	A-20
4.17 Right-of-Way Surveys	A-20
4.18 Cost Estimates	A-20
4.19 Special Provisions and Specifications	A-20
4.20 Fiber Optic Network (FON)	A-20
4.21 Toll Plazas	A-23
4.22 Post-Design Services	A-24
5.0 MATERIALS FURNISHED BY CFX OR ITS DESIGNEE	
5.01 Record Documents	A-26
5.02 Traffic Data	A-26
5.03 Other	A-26
6.0 WORK PERFORMED BY CFX OR ITS DESIGNEE	
6.01 Right-of-Way Acquisition	A-27
6.02 Utility Agreements	A-27
6.03 Public Involvement	A-27
6.04 Contracts and Specifications Services	A-27
6.05 Post-Design Services	A-27
6.06 Environmental Permits	A-27
6.07 Conceptual Specialty Design	A-27
7.0 ADMINISTRATION	
7.01 Central Florida Expressway Authority	A-28
7.02 CFX's Project Manager	A-28
7.03 Consultant	A-29
7.04 Project Control	A-29
7.05 Work Progress	A-30
7.06 Schedule	A-30
7.07 Project Related Correspondence	A-30
7.08 Quality Control	A-30
7.09 Consultant Personnel	A-30
7.10 Site Visit	A-31
7.11 Acceptability of Work	A-31

TABLE OF CONTENTS (cont.)

<u>Description</u>	<u>Page No.</u>
7.12 Design Documentation	A-31
7.13 Reviews and Submittals	A-32
7.14 30% Roadway Plan Submittal	A-33
7.15 30% Bridge and Structural Plan Submittal	A-33
7.16 60% Roadway Plan Submittal	A-34
7.19 100% Roadway, Bridge, Structural, and Right-of-Way Plans	A-34
7.20 Schematic Toll Plaza Plans	A-34
7.21 60% Toll Plaza Plans	A-34
7.22 90% and 100% Toll Plaza Plans	A-35
7.23 Pre-Bid Plans	A-36
7.24 Bid Set	A-36
7.25 Record Drawings	A-37

## 1.0 GENERAL

### 1.01 Location

Projects (and project locations) to be identified on an individual basis per each Work Authorizations

### 1.02 Description

The work to be performed under this contract includes the final design and preparation of construction drawings and specifications for miscellaneous design projects on CFX's system. Potential scope elements may include, but are not limited to the following: minor highway design, major highway design, miscellaneous structures, minor bridge design, traffic engineering studies, traffic signal timing, intelligent transportation systems analysis and design, signing, pavement marking and channelization, lighting, signalization, control surveying, soil exploration, geotechnical classification lab testing, standard foundation studies, architecture, and landscape architecture. All work on this contract will be requested and approved by means of individual Work Authorizations

### 1.03 Purpose

- A. The purpose of this Exhibit is to describe the scope of work and responsibilities required in connection with final engineering and final construction drawings and documents for the miscellaneous design services contract. It should be noted that this Exhibit covers a full range of possible scope elements that may arise as part of this contract. This Exhibit is provided as a guide to be used by the CONSULTANT in preparation of individual Work Authorizations as requested by CFX. It is further understood that elements of this Exhibit may not be applicable to all Work Authorizations Work Authorizations approved under this contract
- B. As necessary, the Consultant shall perform those engineering services required for final roadway plans, final bridge plans, and the preparation of a complete environmental resource application including 100% storm water management, final lighting plans, final traffic control plans, final utility, final fiber optic network relocation plans and final signing and pavement marking plans.

In addition, the Consultant shall perform those architectural services required for final building plans and mechanical, electrical, and plumbing final plans.

- C. CFX's Project Manager will provide contract administration, management services and technical reviews of all work associated with the preliminary and final designs
- D. It is understood that references throughout this document to items of work and services to be performed are the responsibility of the Consultant unless otherwise expressly stated as the responsibility of others

#### 1.04 Organization

- A. CFX's Project Manager will administer the Consultant services detailed in this scope. The following sections define the duties and obligations of CFX and the Consultant

#### 1.05 Term of Agreement for Miscellaneous Design Services

- A. The term of the Agreement shall be for three (3) years from the notice to proceed. The Agreement is further eligible for two (2), one (1) year renewals following the initial three (3) year period
- B. The Consultant may continue the design efforts while design submittals are being reviewed. Doing so, however, in no way relieves the Consultant of the responsibility to incorporate review comments into the design, nor does it entitle the Consultant to any additional design fees as a result of making changes due to review comments

## 2.0 STANDARDS

- A. The applicable design and construction standards and policies of the Florida Department of Transportation, Federal Highway Administration (FHWA), American Association of State Highway and Transportation Officials (AASHTO), Transportation Research Board (TRB), Standard Building Code, CFX's Design Guidelines, CFX's Lighting Details, CFX's Signing & Pavement Marking Details, and CFX's ITS Design Standards shall be followed throughout the design and construction of the project unless specifically stated otherwise. The editions of the applicable standards and policies in effect at the time of Contract execution shall be used except as follows:
1. Division II, Construction Details, and Division III, Materials, of the FDOT Standard Specifications for Road and Bridge Construction, 2010 edition, and updates, shall be used for this project
  2. The FDOT Florida Design Manual, latest edition and subsequent updates, shall be used for this project
  3. The FDOT Basis of Estimates Handbook, latest edition, shall be used for this project
  4. The AASHTO Policy on Geometric Design of Highway and Streets (Green Book), 2018 edition, shall be used for this project
  5. The FHWA Manual on Uniform Traffic Control Devices (MUTCD), 2009 edition, as amended, shall be used for this project



### 3.0 DESIGN CRITERIA

#### 3.01 General

Design of the projects will be guided by the basic design criteria listed below.

- A. The design criteria listed in this section and Project Design Directives, provided by CFX during the project, may supplement the Project Design Guidelines
- B. As necessary, along with the 30% design review 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. All plans and designs shall be prepared in accordance with the latest standard specifications adopted by AASHTO, FDOT Structures Design Guidelines (Manual), FDOT Structures Detailing Manual, FDOT Florida Design Manual, CFX Design Guidelines, etc., except as otherwise directed by CFX.

#### 3.03 Bridge and Other Structures

- A. All plans and designs shall be prepared in accordance with the latest standard specifications adopted by AASHTO, FDOT Structures Design Guidelines (Manual), FDOT Structures Detailing Manual, FDOT Florida Design Manual, CFX Design Guidelines, etc., except as otherwise directed by CFX.

#### 4.0 WORK PERFORMED BY CONSULTANT

The Consultant shall be responsible for the work outlined in this Section. The work shall conform to the standards, criteria, and requirements of this Scope of Services. As this is a miscellaneous design services contract, it is understood that not all of the work outlined in this Section is applicable to every project task authorization.

##### 4.01 Design Features

- A. The work required for this project includes preparation of final construction drawings and specifications as well as the preparation of a complete environmental resource application (as necessary)
- B. Major elements of the work include the following:

The work to be performed under this contract includes the final design and preparation of construction drawings and specifications for miscellaneous design projects on CFX's system. Potential scope elements may include, but are not limited to the following: minor highway design, major highway design, miscellaneous structures, minor bridge design, traffic engineering studies, traffic signal timing, intelligent transportation systems analysis and design, signing, pavement marking and channelization, lighting, signalization, control surveying, soil exploration, geotechnical classification lab testing, standard foundation studies, architecture and landscape architecture. All work on this contract will be requested and approved by means of individual Work Authorizations

##### 4.02 Governmental Agencies

- A. The Consultant shall coordinate with and assist in securing the approval of all interested agencies involved. These agencies include, but are not necessarily limited to City of Orlando, Orange County, FDOT, Florida's Turnpike Enterprise, City of Apopka etc.

##### 4.03 Surveys and Mapping

- A. All Surveying and Mapping shall be performed under the direction of a Surveyor and Mapper properly licensed with the Florida Board of Professional Surveyors and Mappers, under Chapter 472, Florida Statutes. The Consultant shall review data provided by CFX and provide complete field surveys suitable for contract document preparation

Survey activities shall be coordinated with the Consultant's design team including roadway, drainage, structures, geotechnical, and other disciplines as required

Field surveys shall be performed with minimal disruption of the normal traffic flow for the project. Field personnel shall use safety devices such as warning signs, traffic cones, warning lights, and safety vests at all times, according to the Florida Department of Transportation requirements. Advanced warning signs required when survey crews are working on CFX's system shall be made with 3M Scotchlite Diamond Grade Fluorescent orange roll up sign sheeting

B. Alignment

1. Establish Survey Centerline by establishing the tangent lines of existing Right of Way maps if such maps exist, or in the center of dedicated Right of Way as per subdivision plats, or in the center of the pavement when no Right of Way map or dedication exists. Set alignment points Begin, End, PC's, PT's, PI's and at maximum 1400-foot intervals along alignment
2. Establish and set alignment in the same manner on cross roads and major adjacent alignments
3. Station all alignments at 100' intervals
4. Meet with CFX's Project Manager to discuss methods for determining alignments prior to staking

C. Reference Points

1. Set at all alignment points, left and right at 90-degrees to alignment where possible, outside the proposed construction limits
2. Show obstructions where alternate references are set

D. Bench Levels

1. The Consultant shall establish new benchmarks at 1000' intervals, along all alignments, using stable points

E. Topography

1. Planimetric mapping and a digital terrain model (DTM), suitable for 1"=50' display scale shall be conducted by the Consultant

2. The Consultant will obtain existing pavement elevations and cross-slopes along the inside travel lane and outside travel lane every 100'
3. Additional topographic and DTM surveys, as needed for the project design, are the responsibility of the Consultant. These may include existing water bodies and pavement elevations

F. Drainage Survey

Perform a drainage survey including pipe type, location, size and flow line elevations as needed for design

G. Underground Utilities

Locate all underground utilities, horizontally and vertically as flagged by respective utility companies or a qualified utility marking consultant. Provide soft excavation verifications as needed to verify location and at utility conflict areas

H. Side Street Surveys

Perform topographic and utility surveys of side streets as needed for engineering design

I. Bridge Survey

Provide bridge survey data as needed for engineering design

J. Jurisdictional Line Surveys

Perform Jurisdictional Line Surveys as needed for engineering design and permitting

K. Geotechnical Surveys

Locate and/or stake boring locations as needed for geotechnical investigations

L. Right-of-Way Ties

Locate right-of-way limits for construction purposes. No new right-of-way is anticipated

M. Prior to construction, the Consultant shall re-flag and reset alignment control points, references and benchmarks and meet with the construction

contractor to review these points

#### 4.04 Geotechnical Investigation

- A. The Consultant shall perform a geotechnical investigation of the project in accordance with the requirements of CFX
- B. Investigations shall be performed with minimal disruption of the normal traffic flow for the project. Field personnel shall use safety devices such as warning signs, traffic cones, warning lights, and safety vests at all times, according to Authority requirements. The Consultant shall adhere to all traffic control requirements when taking samples on existing roadways. A traffic control plan and permit may be required. Any advanced warning signs required when crews are working on CFX system shall be made with 3M Scotchlite Diamond Grade Fluorescent orange roll up sign sheeting
- C. The work includes, but is not limited to, identifying roadway structural section requirements, LBR testing, design methods for the selected foundation, external stability evaluation at proprietary retaining walls, groundwater and estimated seasonal high groundwater level, estimate of the maximum rate of pumping that will be required at sites that dewatering is anticipated, certification of all under drain and pond draw down times, pH and resistivity conditions requiring design considerations, soil shrinkage/swell characteristics, slope stability and benching in embankment/excavation locations, recommendation for methods of rock excavation, potential imported borrow sites and availability of structural section materials, location and depths of unsuitable material (muck), and design alternatives based on geotechnical findings; design values for active, at rest, and passive soil pressures; allowable design loads or pressures for each foundation type, corrosion testing for structures and design of foundations for sign structures
- 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

#### 4.05 Contamination Impact Analysis

- A. The Consultant shall perform a contamination impact analysis of the project in accordance with the applicable rules and regulations of the FDOT Project Development and Environment Guidelines, Chapter 22, the Florida Department of Environmental Protection (FDEP), and all other pertinent State or Federal agencies having jurisdiction, and the requirements of CFX
- B. At a minimum, the Consultant shall conduct a windshield survey along the project corridor to identify any new sources of environmental contamination not reported in the referenced document(s)
- C. The testing of any sites including the use of ground penetrating radar, if required to complete the design and/or construction of the project, will be added to the Scope of Services by Supplemental Agreement

#### 4.06 Pavement Design

- A. The Consultant shall prepare the pavement design as appropriate in accordance with the requirements of the FDOT for mainline and ramps
- B. The proposed pavement design recommendation, resulting from the Consultant's analysis of the various alternatives, shall be contained in a Pavement Design Summary

#### 4.07 Governmental Agency and Public Meetings

- A. Except as may be provided elsewhere in this Scope of Services, the Consultant shall have appropriate representatives present at such meetings, conferences or hearings as CFX may direct to secure necessary approvals and/or support of the project by county, municipal, or other governmental agencies. If so directed, the Consultant shall also have appropriate representatives present at meetings or conferences of CFX, its Chairman or staff
- B. The Consultant shall assist CFX in presentations to various parties. The Consultant shall prepare exhibits pertaining to basic roadway and noise wall elements. CFX will prepare exhibits pertaining to aesthetic treatments and other design issues if applicable

#### 4.08 Environmental Permits

- A. CFX's Project Manager will review, coordinate and submit the applications for all environmental permits, including EPA's NPDES General Permits for Stormwater Discharges from Construction Sites. The Consultant shall provide all information, permit applications and data relating to Stormwater Management and Floodplain Impacts required for the permits to CFX. (CFX will be responsible for preparing all of the Wetlands and Protected Species analysis and documentation required for the permits). The Consultant shall:
1. Attend the pre-application meetings and site visits with CFX and regulatory agencies
  2. Provide additional information requested at the pre-application by regulatory agencies for permits
  3. Provide aerial maps at a 1"=400' scale which include SCS soils data, 100-year floodplain limits and proposed project
  4. Provide all plans, calculations, sketches and reports required for permits except as described above
  5. Provide copies of all drainage calculation, including pond routing nodal diagrams, for the project
  6. Assist CFX in responding to any requests for additional information made by regulatory agencies after the permit application is submitted
  7. Incorporate any changes required by changes in regulatory agency requirements during the course of the project. If this requires additional work by the Consultant a Supplemental Agreement will be prepared
  8. Prepare a list of adjacent landowners along with address and nine-digit zip code at all wetland encroachment sites
  9. Provide all permit application material in .PDF format and 7 hard copies
  10. The Consultant will provide dredge and fill sketched as required by the permitting agencies if applicable. Mitigation plans, if required, may be added as a supplemental service
  11. Determine extent of floodplain impacts, if any, and provide

compensatory flood stages as required

#### 4.09 Utilities

##### A. Location

The Consultant shall obtain available utility mapping and information and identify all utilities within the general project limits to determine potential conflicts and relocations. Where a potential conflict exists, the Consultant may need to arrange to probe or expose ("pothole") the utility and survey the horizontal and vertical location of the utility line. The Consultant shall coordinate this effort with involved utility companies. All existing utilities shall be shown on appropriate preliminary construction plans. The Consultant's notes shall include the name and telephone number of contact persons for the construction contractor's use

##### B. Utility Coordination

1. The Consultant shall prepare reproducible utility adjustments plans based on information provided by respective utility companies
2. Private utilities will prepare design plans for the relocation of their facilities. If a utility cannot or will not prepare these design plans, the work shall be added to the scope by Supplemental Agreement and the Consultant shall prepare design plans for utility relocation for approval of the utility and review by CFX
3. Where utility conflicts occur which require utility relocation agreements between the affected utility and CFX, the Consultant shall prepare the necessary data/plans required for the agreements. The Consultant shall advise CFX seven days in advance of meetings with utility companies/agencies scheduled to discuss utility relocations
4. The preparation and negotiation of the agreement will be performed by CFX's Project Manager. After approval of the agreement by the utility and CFX, the Consultant shall prepare reproducible utility adjustment sheets identifying proposed relocations with respect to the construction plans
5. The Consultant shall prepare a utility conflict matrix to assist in identifying and resolving conflicts between utilities and proposed construction prior to completion of the plans
6. The Consultant shall obtain utility work schedules from the utility



companies

7. The Consultant shall prepare the Utility Certification Letter certifying that all utility negotiations (full execution of each agreement, approved utility work schedule, technical special provisions written, etc.) have been completed with arrangements made for utility work to be undertaken and completed as required

#### 4.10 Roadway Design

- A. Generally, a Typical Section Package will not be prepared. Rather, typical sections will be prepared as part of the 30% submittal and submitted to CFX for review and approval
- B. The Consultant shall design the geometrics for this project using the design standards included in the scope. The design elements shall include, but not be limited to, the horizontal and vertical alignments, cross section template development, lane width, shoulder widths, cross slopes, borders, sight distance, side slopes, lane transitions, superelevations, features of intersections, ramp terminal details, interchanges, and limited access points
- C. As necessary, the Consultant shall prepare designs and contract documents for the roadway improvements, including, but not necessarily limited to:
  1. Cover sheet (key sheet)
  2. Summary of Pay Items
  3. General notes
  4. Summary Quantities sheets
  5. Project Layout
  6. Typical roadway sections
  7. Plans and profiles (plans at 1"=50' scale)
  8. Interchange plans, profiles, alignment and plan index sheets
  9. Interchange layout plans
  10. Intersection plans and profiles or spot elevations
  11. Interchange curve and coordinate data sheets

12. Ramp Terminal Details
13. Crossroad plans and profiles (1"= 50' scale)
14. Cross-sections (with pattern plan) (1" = 20' horiz.) (1" = 5' vert.)
15. Earthwork quantities
16. Traffic Control Sheets
17. Utility Adjustment Sheets
18. Details
19. Special provisions
20. Special specifications

#### 4.11 Structures Design

- A. Prior to commencement of final design, the consultant shall prepare a Bridge Concept Memorandum which documents a limited range of structural alternatives and identifies preferred alternatives. Specifically, the alternatives to be examined include Type III vs Type IV beams, slope walls vs vertical retaining walls, and concrete vs steel H-piles
- B. The Consultant shall prepare designs and contract documents for structural design including, but not necessarily limited to the following items
  1. Complete Bridge designs will be provided for all bridges
  2. Retaining walls
  3. Box Culverts
  4. Slope protection
  5. Approach slabs
  6. Details
  7. Summary quantity tables
  8. Special provisions and specifications

9. Stage construction-sequencing details (if applicable)
10. Sign\Signal structures
11. Sound walls
12. The Consultant shall perform Load Rating Analysis per FDOT criteria for any box culverts and bridges at the 90% design phase. The Load Rating Analysis packages shall be submitted to FDOT for their review and approval

#### 4.12 Drainage Design

A. As part of the drainage design requirements, the Consultant shall:

1. Perform all drainage design in accordance with the approved criteria from Section 3.01C
2. Finalize the pond design at the 30% submittal
3. Have its chief drainage engineer available at the scheduled (bi-weekly/monthly) team meetings to review progress and discuss problems
4. Notify CFX's Project Manager immediately if any deviation from approved design criteria is anticipated
5. Provide drainage/contour maps used in the development of the drainage design to CFX for use in scheduled reviews. These maps will be returned to the Consultant along with review comments at the end of the review process
6. Provide copies of its internal quality control comments and calculations at the scheduled reviews

Critical duration analysis is not included in this effort and, if required, shall be added to the scope by Supplemental Agreement. A pond siting report is not required

B. The Consultant shall prepare designs and contract documents for drainage features including, but not necessarily limited to:

1. Connector pipes

2. Drainage structure details
3. Storm drain and culvert profiles and/or drainage cross-sections
4. Lateral ditches/channels
5. Outfall ditches/channels
6. Retention/detention ponds/exfiltration system

#### 4.13 Roadway Lighting

- A. The Consultant shall provide a complete set of final roadway lighting documents in accordance with FDOT and CFX design criteria. The work shall include coordination with the local utility to provide electrical service. Plan sheet scale shall be at 1"=50' scale
- B. CFX will provide a cut sheet for the type of lighting fixtures to be used for this project

#### 4.14 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 determined by CFX and other governmental agencies.

This includes meeting with the governmental agencies which may be impacted by the maintenance of traffic plans

#### 4.15 Signing Plans

- A. The Consultant shall prepare designs and contract documents for final signing plans including layouts showing the locations of ground mounted and overhead signs, special sign details, lighting, and any structural or foundation requirements in accordance with applicable design standards. Any requirements for electric service shall be coordinated with the local electric utility
- B. CFX will provide conceptual signing plans for the project
- C. CFX will provide preliminary aesthetic input for the architectural modification of standard FDOT details for sign structures
- D. Plan sheets will be developed at a scale of 1"=50' (11"x17" format)

#### 4.16 Pavement Marking Plans

- A. The Consultant shall prepare designs and contract documents for final pavement marking plans, including striping, crosswalks, intersection details, reflective pavement markers and traffic delineators
- B. The pavement marking design will be shown on the same plan sheets as the signing design

#### 4.17 Right-of-Way Surveys

- A. No additional right-of-way is anticipated as part of this contract. Should right-of-way surveys become necessary, a Supplemental Agreement will be made to address the scope required for the services

#### 4.18 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 ductbanks, cables, manholes, and pull boxes in areas where the existing locations conflict with construction. The Consultant shall identify existing physical features and utilities that will impact the construction and installation of the equipment. The Consultant shall review and modify standard FON details as necessary
2. Fiber optic network (FON) plans shall include the following:
  - a. Roadway geometry
  - b. Rights-of-Way
  - c. Existing utilities within the right-of-way including CFX's FON
  - d. Physical features affecting construction/installation (sign structures, light poles, fences, etc.)
  - e. Manhole/Pull box locations and stub-out details (standard details provided)
  - f. Device layout
  - g. Device installation details
  - h. Conduit installation details (standard details provided)
  - i. Fiber optic cable route marker detail (standard details provided)
  - j. Fiber count per conduit
  - k. Communications interconnect
    - l. Connectivity with the FON backbone conduits
  - m. Fiber cable design to include link loss budget calculations, per Corning standard recommended procedure
  - n. Fiber cable routing summaries, fiber cable allocation charts, and splice details and tables
  - o. Controller cabinet, CCTV pole, and foundation details
  - p. Power interconnect, calculations to support conductor size, and details. Power conductors to each device location shall be sized to the capacity of the main breaker in the cabinet
  - 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. No relocation of existing CCTV sites are anticipated under this contract nor or any new CCTV sites anticipated as part of the proposed improvements
  - w. Relocation of existing data collection sensor (DCS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing DCS would not survive project construction
  - x. No relocation of existing DMS sites are anticipated under this contract nor or any new DMS sites anticipated as part of the proposed improvements
  - 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
3. The Consultant shall take the following information into consideration when developing the site construction plans:
- a. Minimize utility conflicts and adjustments
  - b. Minimize traffic impact
  - c. Accessibility and ease of equipment maintenance
  - d. Safety of equipment maintenance personnel and the traveling public
  - e. Maintain the existing FON system through all phases of construction
  - f. Environmental conditions
  - g. Concurrent/future CFX projects
  - h. Compatibility with existing and proposed ITS infrastructure (e.g. CFX enhanced grounding standards for ITS devices, CFX transient voltage surge suppression (TVSS) standards for ITS devices, etc.)
  - i. Leased conduits in CFX FON duct bank that are occupied by the fiber optic cable of other agencies or entities

#### B. Splice and Cable Routing Details

1. The Consultant shall provide splicing detail diagrams to document fiber optic splices within and between manholes, ITS devices, tollbooths, and other junction points
2. Splicing tables shall include ITS device connectivity, fiber use, drop cable fiber identification, drop cable identification, backbone cable identification, translateral cable identification, backbone into mainline cable identification, and toll plaza patch panel jack
3. The Consultant shall provide cable routing diagrams and fiber allocation charts in CFX's standard format to document the functional connectivity between fiber optic conduit and all 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

#### Quantities and General Notes

Standard notes shall be included to provide direction to the contractor and provide pay item descriptions as necessary

- 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 contract may include modifications and/or improvements to any of the existing toll plazas, including any associated equipment and gantry systems

#### 4.22 Post-Design Services (as necessary)

- A. Services shall begin after authorization by CFX. The Consultant compensation for post-design services may be added by Supplemental Agreement and shall be at an hourly rate, inclusive of overhead, profit and expenses, and exclusive of travel. No compensation will be made for correction of errors and omissions
- B. The Consultant shall support the post design process as follows:
  - a. Answer questions relative to the plans, typical sections, quantities and special provisions
  - b. Make any necessary corrections to the plans, typical sections, quantities, notes, etc., as may be required
  - c. Attend pre-award meeting with construction contractor, CFX, and CFX's CEI
- C. The Consultant shall, prior to the pre-bid conference, be prepared to walk the project with CFX's CEI to discuss the plans and details. The Consultant shall be prepared to attend the pre-bid conference and respond to questions related to the plans, details, and special provisions
- D. The Consultant shall prepare any addenda required to clarify the work included in the construction contract documents. Addenda may be required based on the project inspection with the CEI, or questions developed in the pre-bid conference, or conditions discovered by bidders during the bid period
- E. The Consultant shall be available to respond to questions in the field that may arise relative to the plans, details or special provisions during construction. The Consultant shall periodically visit the project site to observe the progress of construction on the project. This visit will not replace the formal construction inspection by CFX. It is intended to provide the opportunity of the design team to observe whether the work is being performed in general conformance with the project plans. Written memos of all such field trips shall be submitted to CFX within five working days of the trip
- F. The Consultant shall review and approve shop drawings for structural, lighting, signing, traffic signal elements, and toll plaza shop drawings. This work will include the erection procedure plans, review proposals for

substitutions, develop supplemental agreements, and provide other engineering services required to facilitate construction of the project. Reviews will be conducted and returned within two weeks from receipt of information

- G. The Consultant shall appoint a responsible member of the firm to be the contact person for all post-design services. The person should be continually available during the course of construction for review of design plans
- H. The Consultant shall make every reasonable effort to process any material presented for review in a prompt manner recognizing a construction contract is underway
- I. The Consultant shall attend partnering meetings as requested by CFX's Project Manager. The Consultant shall also attend progress/coordination meetings as requested by CFX's Project Manager including, but not limited to, the Notice to Proceed meeting
- J. 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 help coordinate and support 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 as necessary.

B. CFX will provide conceptual aesthetics design and treatments for structures.

## 7.0 ADMINISTRATION

As this is a miscellaneous design services contract, it is understood that not all the work outlined in this Section is applicable to every project task authorization.

### 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.
- B. The current schedule for each open task work order shall be included with the agenda and minutes for each bi-weekly meeting.

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.

7.09 Consultant Personnel



- A. The Consultant's work shall be performed and/or directed by the key personnel identified in Exhibit "D". Any changes in the indicated key personnel or the Consultant's office in charge of the work shall be subject to review and approval by CFX.

#### 7.10 Site Visit

- A. The Consultant shall arrange a site visit within ten (10) calendar days of receipt of written Notice to Proceed. Consultant personnel assigned to perform the work on the project shall attend. CFX representatives may 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.

#### 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. Electronic 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), a 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)
  2. 30% Roadway Plans

3. 30% Bridge and Structural Plans
  4. 60% Roadway and specifications, Geotechnical Report
  5. 60% Bridge Plans required only on Category 2 bridges
  6. 100% Roadway, Bridge and specifications, Geotechnical Report
  7. Pre-Bid Plans
  8. Bid Set
- C. Formal review submittals shall include copies as listed above. All submittals shall be made electronically.
- D. Preparation and distribution of roadway and ROW plans to other than CFX will not be made until approved by CFX.
- E. The format of review submittal plans shall conform to the CFX Design Guidelines, 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 electronically 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 as per the CFX Design Guidelines.

#### 7.15 30% Bridge and Structural Plan Submittal

- A. At completion of this phase, design and plan development should be approximately 30 percent complete. The Consultant shall refer to FDOT Structural Design Guidelines for plan contents and submittal requirements. Preliminary geotechnical results and recommendations should also be included with this submittal.

#### 7.16 60% Roadway Plan Submittal

- A. At completion of this phase, design and plan development should be approximately 60 percent complete except stormwater pond designs. The designs of the stormwater ponds shall be at 100% complete. The following material shall be developed and submitted for review as per the CFX Design Guidelines.

#### 7.19 100% Roadway, Bridge, Structural and Right-of-Way Plans

- A. At the completion of this phase, the design, plans and special provisions shall be 100 percent complete.

#### 7.20 Schematic Toll Plaza Plans

- A. At the completion of this phase, the toll plaza layout should be complete with lane and island configurations shown. The following material shall be developed and submitted for review:
  - 1. Plan view of toll plaza with dimensions showing lane and island widths with column configuration and express lane layout.
  - 2. East and west elevation views of the canopy including concept for overhead structure for express lane ETC equipment.
  - 3. Construction phasing plan.
  - 4. Description of improvements required for the administration building to accommodate installation of toll equipment.

#### 7.21 60% Toll Plaza Plans

- A. At the completion of this phase, the toll plaza plans should be developed to 60% completion. The following material, as a minimum, shall be developed and submitted for review:
  - 1. Key sheet with sheet index

2. Architectural, structural, mechanical, plumbing and electrical general notes, abbreviations and symbols
3. Plan view
4. Exterior elevations
5. Canopy sections and details
6. Canopy reflected ceiling plan
7. Roof plan and details
8. Canopy framing and foundation plan
9. Concrete pavement plan
10. Express lane overhead structure plan and details
11. Tunnel sections and details
12. Structural sections and details
13. Plumbing plan and diagrams
14. Lighting plan
15. Power plan and diagram
16. Lightning protection plan and details
17. Demolition and construction phasing plan
18. Plans and details for improvements to the administration building (as needed by discipline) to accommodate installation of toll equipment
19. All calculations and design data to support the design for each discipline
20. Technical specifications

#### 7.22 90% and 100% Toll plaza plans

- A. At the completion of this phase, the toll plaza plans should be developed to 90% and 100% completion respectively. The material listed with the 60% submittal shall be developed along with additional details required for construction and submitted for review.
- B. The 90% and 100% submittals shall also include the technical specifications and special provisions required for construction
- C. A detailed estimate of construction costs shall be included with the 100% submittal.

7.23 Pre-Bid Plans

7.24 Bid Set

7.25 Record Drawings


- A. After construction is complete, the records drawings will be submitted to the EOR for use in preparing the Record Drawings. The EOR shall prepare record drawings in compliance with the *CFX Design Guidelines*.

**CONSENT AGENDA ITEM  
#8**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: November 16, 2021

SUBJECT: Approval of Final Ranking and Authorization of Contract Award to the Balmoral Group for Miscellaneous Planning Consultant Services – Small Sustainable Business Enterprise  
Contract No. 001844

---

Letters of Interest for the above referenced project was advertised on October 3, 2021. Three (3) responses were received by the November 16, 2021 deadline. Those firms were Landis Evans + Partners, Inc., Scalar Consulting Group, Inc. and The Balmoral Group.

The Evaluation Committee, after reviewing the Letters of Interest, prepared it's final ranking on November 16, 2021. The result is shown below:

<u>Ranking</u>	<u>Firms</u>
1	The Balmoral Group
2	Scalar Consulting Group, Inc.
3	Landis Evans + Partners, Inc.

Board approval of the final ranking and award of contract to The Balmoral Group is requested. The contract will be for three years with two one-year renewal options in the amount of \$1,800,000.00.

This contract is a component of projects included in the Five-Year Work Plan.

Reviewed by:   
Will Hawthorne, PE  
Director of Engineering

  
Glenn Pressimone, PE



**LOI-001844 Committee Meeting November 16, 2021 Minutes**

Evaluation Committee for **Miscellaneous Planning Consultant Services; LOI-001844 (SSBE)**, held a **duly noticed meeting** on Tuesday, November 16, 2021, commencing at 2:00 p.m. in the Pelican Conference Room at CFX's Administrative Bldg., Orlando, Florida.

**Evaluation Committee Members Present:**

Glenn Pressimone, Chief of Infrastructure  
Will Hawthorne, Director of Engineering  
Dana Chester, Manager of Engineering  
Raymond Williams, Orange County Representative (Standing Member per Procurement Procedures Manual)  
Iranetta Dennis, Director of Supplier Diversity  
Jamison Edwards, Engineering Project Manager

**Other Attendees:**

Aneth Williams, Director of Procurement  
Brad Osterhaus, Sr. Procurement/Quality Control Administrator

**Discussion and Motions:**

Aneth explained that today's meeting was to evaluate and rank the firms and recommend award to the top firm. Aneth commenced the meeting collecting the Evaluation Committee Members disclosure forms.

General discussion ensued about the LOI submittals. Committee members then tallied up their individual evaluation sheets and passed them in for incorporation into to the LOI final summary sheet. Evaluation Criteria forms were collected and the ranking scores from all committee members were tallied with the following results:

<b><u>Firms</u></b>	<b><u>Score</u></b>	<b><u>Ranking</u></b>
The Balmoral Group	8	1
Scalar Consulting Group, Inc.	10	2
Landis Evans + Partners, Inc.	18	3

Committee recommends CFX Board approve the ranking and contract award in a not-to-exceed amount to The Balmoral Group, LLC. Will Hawthorne reviewed and approved the minutes on behalf of the Committee.

There being no further business to come before the Committee, the meeting was adjourned at 2:20 p.m. These minutes are considered to be the official minutes of the Evaluation Committee meeting held Tuesday, November 16, 2021, and no other notes, tapes, etc., taken by anyone takes precedence.

Submitted by:   
Aneth Williams, Director of Procurement

On behalf of the Evaluation Committee these minutes have been review and approved by:

  
Will Hawthorne, Director of Engineering

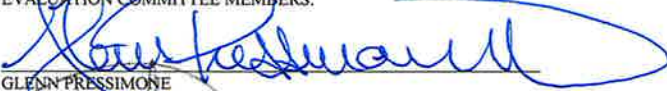
CENTRAL FLORIDA EXPRESSWAY AUTHORITY

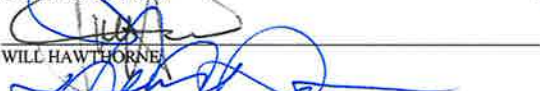
EVALUATION COMMITTEE MEMBER FINAL SUMMARY RANKING


MISCELLANEOUS PLANNING CONSULTANT SERVICES (SSBE)  
CONTRACT NO. 001844


CONSULTANT	GLENN PRESSIMONE SCORE	WILL HAWTHORNE SCORE	IRANETTA DENNIS SCORE	DANA CHESTER SCORE	JAMISON EDWARDS SCORE	RAYMOND WILLIAMS SCORE	SCORE	RANKING
THE BALMORAL GROUP, LLC.	1	2	1	2	1	1	8	1
LANDIS EVANS + PARTNERS, INC.	3	3	3	3	3	3	18	3
SCALAR CONSULTING GROUP, INC.	2	1	2	1	2	2	10	2


EVALUATION COMMITTEE MEMBERS:


  
 \_\_\_\_\_  
 GLENN PRESSIMONE

  
 \_\_\_\_\_  
 WILL HAWTHORNE

  
 \_\_\_\_\_  
 IRANETTA DENNIS

  
 \_\_\_\_\_  
 DANA CHESTER

  
 \_\_\_\_\_  
 JAMISON EDWARDS

  
 \_\_\_\_\_  
 RAYMOND WILLIAMS

DATE: Tuesday, November 16, 2021

DATE: Tuesday, November 16, 2021

DATE: Tuesday, November 16, 2021

DATE: Tuesday, November 16, 2021

DATE: Tuesday, November 16, 2021

DATE: Tuesday, November 16, 2021

# **AGREEMENT**



**CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY**

**AND**

**THE BALMORAL GROUP, LLC**

**MISCELLANEOUS PLANNING CONSULTANT SERVICES  
(SSBE)**

**CONTRACT NO. 001844**

**CONTRACT DATE: DECEMBER 09, 2021**

**NTE CONTRACT AMOUNT: \$1,800,000.00**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF  
COMPENSATION, DETAILS OF COSTS AND FEES, PROJECT  
ORGANIZATIONAL CHART, AND POTENTIAL CONFLICT OF  
INTEREST FORM**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, DETAILS OF  
COSTS AND FEES, PROJECT ORGANIZATIONAL CHART, AND POTENTIAL  
CONFLICT OF INTEREST FORM**

**FOR**

**MISCELLANEOUS PLANNING CONSULTANT SERVICES (SSBE)**

**CONTRACT NO. 001844**

**DECEMBER 2021**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

## TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
AG	Agreement	1 to 19
	Exhibit "A", Scope of Services	
	Exhibit "B", Method of Compensation	
	Exhibit "C", Details of Cost and Fees	
	Exhibit "D", Project Organization Chart	
	Exhibit "E", Potential Conflict of Interest Form	

## Table of Contents

1.0.	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.	INSURANCE.....	10
15.0.	COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS.....	12
16.0.	CONFLICT OF INTEREST AND STANDARD OF CONDUCT.....	12
17.0.	DOCUMENTED ALIENS.....	13
18.0.	E-VERIFY CLAUSE.....	14
19.0.	INSPECTOR GENERAL.....	14
20.0.	PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT.....	14
21.0.	COMPANIES PURSUANT TO SECTION 287.135 AND 215.473.....	14
22.0.	AVAILABILITY OF FUNDS.....	15
23.0.	AUDIT AND EXAMINATION OF RECORDS.....	15
24.0.	GOVERNING LAW AND VENUE.....	16
25.0.	NOTICE.....	16
26.0.	HEADINGS.....	17
27.0.	CONTRACT LANGUAGE AND INTERPRETATION.....	17
28.0.	ASSIGNMENT.....	17
29.0.	SEVERABILITY.....	18
30.0.	INTEGRATION.....	18
31.0.	ATTACHMENTS.....	18

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT, made and entered into this 9<sup>th</sup> day of December 2021, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter “CFX,” and THE BALMORAL GROUP, LLC, hereinafter called “CONSULTANT,” registered and authorized to conduct business in the State of Florida, carrying on professional practice in engineering, with offices located at 165 Lincoln Avenue, Winter Park, FL 32789.

WITNESSETH:

WHEREAS, CONSULTANT represents that it is fully qualified and authorized to render the professional services contracted herein.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, CFX and CONSULTANT agree as follows:

1.0. DEFINITIONS.

Reference herein to the Project Manager shall mean CFX’s Director of Engineering or his authorized designee. The Project Manager shall provide the management and technical direction for this Agreement on behalf of CFX. All technical and administrative provisions of this Agreement shall be managed by the Project Manager and the CONSULTANT shall comply with all of the directives of the Project Manager that are within the purview of this Agreement. Decisions concerning Agreement amendments and adjustments, such as time extensions and supplemental agreements shall be made by the Project Manager.

2.0. SERVICES TO BE PROVIDED

CFX does hereby retain the CONSULTANT to furnish certain miscellaneous Project Development and Environmental Study consultant services as identified in this Contract, Contract No. 001844.

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 includes the professional services related to planning and engineering as described in **Exhibit “A.”**

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.

After the CFX's acceptance of the 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 report. The CONSULTANT shall signify, by affixing an endorsement (seal/signature, as appropriate) on the cover sheet of the record set, that the work shown in the report was produced by the CONSULTANT.

The CONSULTANT shall submit a final set of reports and studies which shall be endorsed (seal/signature) by the CONSULTANT.

The CONSULTANT shall not be liable for use by CFX of said plans, documents, reports, studies or other data for any purpose other than intended by the terms of this Agreement.

This Agreement is considered a non-exclusive Agreement between the parties.

### 3.0. TERM OF AGREEMENT AND RENEWALS

Unless otherwise provided herein or by Supplemental Agreement, the provisions of this Agreement will remain in full force and effect for a three (3) year term from the date of the Notice to Proceed for the required project services as detailed in **Exhibit "A,"** with two one-year renewals at CFX's option. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONSULTANT are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide CONSULTANT with written notice of its intent at least thirty (30) days prior to the expiration of the original term and subsequent renewal, if any.

The CONSULTANT agrees to commence the scheduled project services to be rendered within ten (10) calendar days from the date specified in the written Notice to Proceed from the Project Manager, which Notice to Proceed will become part of this Agreement. The CONSULTANT shall complete scheduled project services within the timeframe(s) specified in **Exhibit "A"**, or as may be modified by subsequent Supplemental Agreement.

### 4.0. PROJECT SCHEDULE

The CONSULTANT agrees to provide Project Schedule progress reports for each project in a format acceptable to CFX and at intervals established by CFX. CFX will be entitled at all times to be advised, at its request, as to the status of work being done by the CONSULTANT and of the details thereof. Coordination shall be maintained by the CONSULTANT with representatives of CFX, or of other agencies interested in the project on behalf of CFX. Either party to the Agreement may request and be granted a conference.

In the event there are delays on the part of CFX as to the approval of any of the materials submitted by the CONSULTANT or if there are delays occasioned by circumstances beyond the control of the CONSULTANT, which delay the scheduled project completion date, CFX may grant to the CONSULTANT by "Letter of Time Extension" an extension of the scheduled project completion date



equal to the aforementioned delays. The letter will be for time only and will not include any additional compensation.

It shall be the responsibility of the CONSULTANT to ensure at all times that sufficient time remains within the project schedule within which to complete the services on the project. In the event there have been delays which would affect the scheduled project completion date, the CONSULTANT shall submit a written request to CFX which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one another. CFX will review the request and make a determination as to granting all or part of the requested extension.

In the event the scheduled project completion date is reached and the CONSULTANT has not requested, or if CFX has denied, an extension of the completion date, partial progress payments will be stopped when the scheduled project completion date is met. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by CFX.

#### 5.0. PROFESSIONAL STAFF

The CONSULTANT shall maintain an adequate and competent professional staff to enable the CONSULTANT to timely perform under this Agreement. The CONSULTANT shall continue to be authorized to do business within the State of Florida. In the performance of these professional services, the CONSULTANT shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The CONSULTANT shall use due care in performing in a design capacity and shall have due regard for acceptable standards of design principles. The CONSULTANT may associate with it such specialists, for the purpose of its services hereunder, without additional cost to CFX, other than those costs negotiated within the limits and terms of this Agreement. Should the CONSULTANT desire to utilize specialists, the CONSULTANT shall be fully responsible for satisfactory completion of all subcontracted work. The CONSULTANT, however, shall not sublet, assign or transfer any work under this Agreement to other than the associate consultants listed below without the written consent of CFX. It is understood and agreed that CFX will not, except for such services so designated herein, permit or authorize the CONSULTANT to perform less than the total contract work with other than its own organization.

Prior to retaining a subconsultant, or assigning any work to a subconsultant, the CONSULTANT shall verify that the subconsultant does not have any conflicts and acknowledges its duty to comply with CFX's Code of Ethics. The CONSULTANT shall ensure that each subconsultant adheres to, and cause all subconsultants to be bound by, all requirements, conditions, and standards set forth herein. The CONSULTANT shall collect and maintain the necessary subconsultant compliance and acknowledgement documentation and remove any subconsultant immediately, if the necessary said documentation is unavailable or the subconsultant is not adhering to the requirements and standards herein. The CONSULTANT shall provide subconsultant compliance and acknowledgement documentation to CFX upon request.

The approved subconsultants are:

The Balmoral Group, LLC (Class I)	Comprehensive Engineering Services Inc. (Class I)
Avant Engineering Group, LLC (Class I)	Kimley-Horn and Associates, Inc. (Class I)
BASE Consultants, Inc. (Class I)	SEARCH, Inc. (Class I)
WBQ Design & Engineering, Inc. (Class II)	Geotechnical and Environmental Consultants, 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 \$1,800,000.00 for the initial three-year term of this Agreement. The Agreement may be extended for (2) two one-year periods. 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 the report furnished under this Agreement. CFX may enforce such liability and collect the amount due if the recoverable cost will exceed the administrative cost involved or is otherwise in CFX's best interest. Records of costs incurred by the CONSULTANT under terms of this Agreement shall be maintained and made available upon request to CFX at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to CFX upon request. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed. Records of costs incurred includes the CONSULTANT's general accounting records and the project records, together with supporting documents and records, of the CONSULTANT and all subconsultants performing work on the

project, and all other records of the CONSULTANT and subconsultants considered necessary by CFX for a proper audit of project costs. The obligations in this paragraph shall survive the termination of the Agreement and continue in full force and effect.

The general cost principles and procedures for the negotiation and administration, and the determination or allowance of costs under this Agreement shall be as set forth in the Code of Federal Regulations, Titles 23, 48, 49, and other pertinent Federal and State Regulations, as applicable, with the understanding that there is no conflict between State and Federal regulations in that the more restrictive of the applicable regulations will govern. Whenever travel costs are included in **Exhibit "B"**, the provisions of Section 112.061, Florida Statutes, shall govern as to reimbursable costs.

Payments shall be made in accordance with the Local Government Prompt Payment Act in part VII, Section 218, Florida Statutes.

#### 7.0. DOCUMENT OWNERSHIP AND RECORDS

All plans, documents, reports, studies, and/or other data prepared or obtained under this Agreement shall be considered instruments made for services and shall become the property of CFX without restriction or limitation on their use on this project; and shall be made available, upon request, to CFX at any time. CFX will have the right to visit the site for inspection of the work and the drawings of the CONSULTANT at any time. Unless changed by written agreement of the parties, said site shall be 165 Lincoln Avenue, Winter Park, FL 32789.

Notwithstanding Section 15, 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. INSURANCE

The CONSULTANT, at its own expense, shall keep in force and at all times maintain during the term of this Agreement all insurance of the types and to the limits specified herein.

The CONSULTANT shall require and ensure that each of its subconsultants providing services hereunder procures and maintains, until the completion of the services, insurance of the requirements, types and to the limits specified herein. Upon request from CFX, the CONSULTANT shall furnish copies of certificates of insurance and endorsements evidencing coverage of each subconsultant.

The CONSULTANT shall require all insurance policies in any way related to the work and secured and maintained by the CONSULTANT to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against CFX. The CONSULTANT shall require of subconsultants, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section. When required by the insurer, or should a policy condition not permit an endorsement, the CONSULTANT agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the CONSULTANT enter into such an agreement on a pre-loss basis. At the CONSULTANT's expense, all limits must be maintained.

14.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to CFX) or the general aggregate limit shall be twice the required occurrence limit. CFX shall be listed as an additional insured. ISO Form CG 20 10 11 85 or if not available, ISO Forms CG 20 10 10 01 and CG 20 37 10 01, or if not available, their equivalent acceptable to CFX, shall be used to meet these requirements and a photocopy of same shall be provided with the Certificate. The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by



or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

14.2 Business Automobile Liability coverage shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence/annual aggregate. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Each of the above insurance policies shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured; (2) The stated limits of liability coverage for Commercial/Comprehensive General Liability, and Business Automobile Liability, assumes that the standard "supplementary payments" clause will pay in addition to the applicable limits of liability and that these supplementary payments are not included as part of the insurance policies limits of liability.

14.3 Workers' Compensation and Employer's Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer's Liability insurance shall be provided in amounts not less than \$100,000 per accident for bodily injury by accident, \$100,000 per employee for bodily injury by disease, and \$500,000 policy limit by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the CONSULTANT, its employees, agents and subconsultants.

14.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) per claim / annual aggregate, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

The CONSULTANT shall provide CFX with Certificate(s) of Insurance with required endorsements on all the policies of insurance and renewals thereof in a form(s) acceptable to CFX. CFX shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

All insurance policies shall be issued by responsible companies who are acceptable to CFX and licensed to do business under the laws of the State of Florida. Each Insurance company shall minimally have an A.M. Best rating of A-VII. If requested by CFX, CFX shall have the right to examine copies and relevant provisions of the insurance policies required by this Agreement, subject to the appropriate confidentiality provisions to safeguard the proprietary nature of CONSULTANT manuscript policies.

In the event any of the aforementioned insurance policies provide greater coverage or greater limits than the minimum requirements set forth herein, then CFX shall be entitled to the full coverage and limits of such policies, and these insurance requirements will be deemed to require such greater coverage and greater limits.

Any deductible or self-insured retention must be declared to and approved by CFX. At the option of CFX, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as requests CFX, or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All such insurance required by the CONSULTANT shall be primary to, and not contribute with, any insurance or self-insurance maintained by CFX.

Compliance with these insurance requirements shall not relieve or limit the CONSULTANT's liabilities and obligations under this Agreement. Failure of CFX to demand such certificate or evidence of full compliance with these insurance requirements or failure of CFX to identify a deficiency from evidence provided will not be construed as a waiver of the CONSULTANT's obligation to maintain such insurance.

The acceptance of delivery by CFX of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by CFX that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

#### 15.0. COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS

The CONSULTANT agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying CFX and securing its consent in writing, except as required by law. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data, documents, reports, or other written or electronic materials furnished in compliance with this Agreement, it being understood that, under Section 7.0 hereof, such data or information is the property of CFX.

Regarding the use of logos, printed documents and presentations produced for CFX shall not contain the name or logo of the CONSULTANT unless approved by CFX's Public Affairs Officer or his/her designee. Prior approval by CFX's Public Affairs Officer or his/her designee is required if a copy of the CFX logo or any CFX mark, including trademarks, service marks, or any other mark, collectively referred as "Marks," is to be used in a document or presentation. The Marks shall not be altered in any way. The width and height of the Marks shall be of equal proportions. If a black and white Mark is utilized, the Mark shall be properly screened to insure all layers of the Mark are visible. The proper presentation of CFX Marks is of utmost importance to CFX. Any questions regarding the use of CFX Marks shall be directed to the CFX Public Affairs Officer or his/her designee.

#### 16.0. CONFLICT OF INTEREST AND STANDARD OF CONDUCT

No Contingent Fees. CONSULTANT warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Contract, and that CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall

also include brokerage fee, however denoted. For breach of this provision, CFX shall have the right to terminate this Contract without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

CONSULTANT acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Code of Ethics. CONSULTANT acknowledges that it has read the CFX's Code of Ethics and, to the extent applicable, CONSULTANT will comply with the aforesaid CFX's Code of Ethics in connection with performance of the Contract.

As required by Section 348.753, Florida Statutes, and CFX's Code of Ethics, CONSULTANT agrees to complete CFX's Potential Conflict Disclosure Form prior to the execution of the Contract, upon the occurrence of an event that requires disclosure, and annually, not later than July 1st.

CONSULTANT covenants and agrees that it and its employees, officers, agents, and subconsultants shall be bound by the standards of conduct provided in Section 112.313, Florida Statutes, as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

CONSULTANT hereby certifies that no officer, agent or employee of CFX has any "material interest" (as defined in Section 112.312(15), Florida Statutes) either directly or indirectly, in the business of CONSULTANT, and that no such person shall have any such interest at any time during the term of this Agreement.

The CONSULTANT shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Executive Director for resolution.

During the term of this Agreement the CONSULTANT is NOT eligible to pursue any advertised construction engineering and inspection projects of CFX as either a prime or subconsultant where the CONSULTANT participated in the oversight of the projects or for any project which the CONSULTANT prepared plans and/or specifications. Subconsultants are also ineligible to pursue construction engineering and inspection projects where they participated in the oversight of the projects or for any project which the subconsultant was involved in the preparation of plans and/or specifications.

#### 17.0. DOCUMENTED ALIENS

The CONSULTANT warrants that all persons performing work for CFX under this Agreement, regardless of the nature or duration of such work, shall be United States citizens or properly authorized and documented aliens. The CONSULTANT shall comply with all federal, state and local laws and regulations pertaining to the employment of unauthorized or undocumented aliens at all times during the performance of this Agreement and shall indemnify and hold CFX harmless for any violations of the same. Furthermore, if CFX determines that CONSULTANT has knowingly employed any unauthorized alien in the performance of this Agreement, CFX may immediately and unilaterally terminate this Agreement for cause.

The obligations in Section 17.0, Documented Aliens, shall survive the expiration or termination of this Agreement and continue in full force and effect.

18.0. E-VERIFY CLAUSE

CONSULTANT shall utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the CONSULTANT during the term of the contract. CONSULTANT shall require all of its subconsultants to verify the employment eligibility of all new employees hired by the subconsultants during the term of the Agreement.

19.0. INSPECTOR GENERAL

CONSULTANT agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. CONSULTANT agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.

20.0. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT

Pursuant to Section 287.133(2)(a), Florida Statutes, “a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.”

Pursuant to Section 287.134(2)(a), Florida Statutes, “an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”

21.0. COMPANIES PURSUANT TO SECTION 287.135 AND 215.473

CFX may terminate this Agreement for breach of contract if the Consultant:

21.1. submitted a false certification as provided under Florida Statute 287.135(5); or

- 21.2. been placed on the Scrutinized Companies with Activities in Sudan List; or
- 21.3. been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- 21.4. been engaged in business operations in Cuba or Syria; or
- 21.5. found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

## 22.0. AVAILABILITY OF FUNDS

CFX's performance and obligation to pay under this Agreement are contingent upon an annual budget appropriation by its Board. The parties agree that in the event funds are not appropriated, this Agreement may be terminated, which shall be effective upon CFX giving notice to the CONSULTANT to that effect.

## 23.0. AUDIT AND EXAMINATION OF RECORDS

### 23.1 Definition of Records:

(i) "Contract Records" shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data in whatever form, related to the Contract or the CONSULTANT's performance of the Contract determined necessary or desirable by CFX for any purpose. Proposal Records shall include, but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer printouts, charts or other data compilations that contain or reflect information, data or calculations used by CONSULTANT in determining labor, unit price, or any other component of a bid submitted to CFX.

(ii) "Proposal Records" shall include, but not be limited to, any material relating to the determination or application of equipment rates, home and field overhead rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from subcontractors, or material suppliers, profit contingencies and any manuals standard in the industry that may be used by CONSULTANT in determining a price.

23.2 CFX reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Proposal Records (as hereinafter defined) of the CONSULTANT or any subcontractor. By submitting a response to the Request for Proposal, CONSULTANT or any subcontractor submits to and agree to comply with the provisions of this section.

23.3 If CFX requests access to or review of any Contract Documents or Proposal Records and CONSULTANT refuses such access or review or delays such access or review for over ten (10) calendar days, CONSULTANT shall be in default under its Contract with CFX, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of CONSULTANT. These provisions shall not be limited in any manner by the existence of any CONSULTANT claims or pending litigation relating to the Contract. Disqualification or suspension of the CONSULTANT for failure to comply with this section shall also preclude the CONSULTANT from



Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807  
Attn: General Counsel

To CONSULTANT: The Balmoral Group, LLC  
165 Lincoln Avenue  
Winter Park, FL 32789  
Attn: Greg Seidel, P.E.

The Balmoral Group, LLC  
165 Lincoln Avenue  
Winter Park, FL 32789  
Attn: Jennifer A. Nunn

## 26.0. HEADINGS

Headings are given to the sections of the Agreement solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Agreement.

## 27.0. CONTRACT LANGUAGE AND INTERPRETATION

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective functions and capacities.

If the CONSULTANT discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the CONSULTANT shall immediately notify CFX and request clarification of CFX's interpretation of this Agreement.

The Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

## 28.0. ASSIGNMENT

This Agreement may not be assigned without the written consent of CFX.

29.0. SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

30.0. INTEGRATION

This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no other agreements between the parties in connection with the subject matter hereof. No waiver, amendment, or modification of these terms hereof will be valid unless in writing, signed by all parties and only to the extent therein set forth.

31.0. ATTACHMENTS

- Exhibit "A", Scope of Services
- Exhibit "B", Method of Compensation
- Exhibit "C", Details of Cost and Fees
- Exhibit "D", Project Organization Chart
- Exhibit "E", Potential Conflict Disclosure Form

[ SIGNATURES TO FOLLOW ]



IN WITNESS WHEREOF, the CONSULTANT and CFX have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written. This Contract was awarded by CFX's Board of Directors at its meeting on December 09, 2021.

**THE BALMORAL GROUP, LLC**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

BY: \_\_\_\_\_  
Authorized Signature

BY: \_\_\_\_\_  
Director of Procurement

Print Name: \_\_\_\_\_

Print Name: Aneth Williams

Title: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_(Seal)  
Secretary or Notary

*Approved as to form and execution, only.*

\_\_\_\_\_  
*General Counsel for CFX*

Print Name: Diego "Woody" Rodriguez

**Exhibit A**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**SCOPE OF SERVICES**

**FOR**

**MISCELLANEOUS PLANNING CONSULTANT SERVICES**

**CONTRACT 001844 (SSBE)**

**IN ORANGE, SEMINOLE, LAKE, OSCEOLA, AND BREVARD  
COUNTIES, FLORIDA**

**November 2021**

Exhibit A

SCOPE OF SERVICES

TABLE OF CONTENTS

<u>Description</u>	<u>Page No.</u>
1.0 GENERAL	
1.01 Location	1
1.02 Description	1
1.03 Purpose	1
1.04 Organization	2
1.05 Term of Agreement for Planning Services	2
2.0 STANDARDS	2
3.0 DESIGN CRITERIA	
3.01 General	3
3.02 Geometry	3
3.03 Bridge and Other Structures	4
4.0 WORK PERFORMED BY CONSULTANT	
I. ENVIRONMENTAL ANALYSIS AND REPORTS	4
4.01 Proposed Improvements	4
4.02 Purpose and Need	4
4.03 Socioeconomic Characteristics	5
4.04 Economic	5
4.05 Land Use Changes	5
4.06 Mobility	5
4.07 Aesthetics	6
4.08 Relocation Potential	6
4.09 Archaeological and Historic Resources	6
4.10 Recreational/Section 4(f)	6
4.11 Wetlands and Fish Habitat	6
4.12 Water Quality	6
4.13 Special Designation	7
4.14 Floodplains	7
4.15 Coastal Barrier Resources	7

TABLE OF CONTENTS (cont.)

<u>Description</u>	<u>Page No.</u>
4.16 Wildlife Habitat	7
4.17 Noise	8
4.18 Air Quality	8
4.19 Contamination	8
4.20 Utilities and Railroads	8
4.21 Construction Impact Analysis	9
4.22 Bicycles and Pedestrians	9
4.23 Navigation	9
4.24 Identify Permit Conditions	9
II. ENGINEERING ANALYSIS AND REPORTS	9
4.25 Data Collection	10
4.26 Field Review	10
4.27 Geotechnical	10
4.28 Traffic	10
4.29 Traffic Data for Noise Study	11
4.30 Traffic Data for Air Analysis	11
4.31 Signalization Analysis	11
4.32 Safety	11
4.33 Existing Roadway Characteristics	11
4.34 Typical Section Analysis	12
4.35 Access Management	12
4.36 Existing Structure Characteristics	12
4.37 Structures Typical Section	12
4.38 Structures Design Alternatives	12
4.39 Drainage	13
4.40 Prepare Base Map for Conceptual Plans	14
4.41 Multi-modal Accommodations	14
4.42 Maintenance of Traffic	14
4.43 Construction Cost Estimate	15
III. FINAL DELIVERABLES	15
5.0 MATERIALS FURNISHED BY CFX OR ITS DESIGNEE	
5.01 Record Documents	15
5.02 Traffic Data	16
5.03 Other	16
6.0 WORK PERFORMED BY CFX OR ITS DESIGNEE	
6.01 Public Involvement	16
6.02 Conceptual Specialty Design	16

TABLE OF CONTENTS (cont.)

7.0 ADMINISTRATION

7.01	Central Florida Expressway Authority	17
7.02	CFX's Project Manager	17
7.03	Consultant	18
7.04	Project Control	18
7.05	Work Progress	19
7.06	Schedule	19
7.07	Project Related Correspondence	19
7.08	Quality Control	19
7.09	Consultant Personnel	20
7.10	Site Visit	20
7.11	Acceptability of Work	20
7.12	Reviews and Submittals	20

## 1.0 GENERAL

### 1.01 Location

- A. Projects (and project locations) to be identified on an individual basis per each Work Authorization.

### 1.02 Description

- A. The work to be performed under this contract includes miscellaneous planning services on an as-needed basis for minor projects including preparation of required CFX Project Development and Environment (PD&E) documentation [which could consist of a CFX Non-Major Action Checklist, CFX Level 1 Project Environmental Impact Report (PEIR), or CFX Level 2 PEIR] for various roadway projects, bridge projects, toll plaza projects, project re-evaluations, and other minor assignments as identified by CFX. Specific elements may include (but are not limited to): required analysis and preparation of various PD&E documentation for minor roadway, bridge, signing and pavement markings, maintenance of traffic, environmental services, miscellaneous structures and other tasks and associated activities as requested by CFX. All work on this contract will be requested and approved by means of individual Work Authorizations.

### 1.03 Purpose

- A. The purpose of this Exhibit is to describe the scope of work and responsibilities required in connection with minor projects including preparation of required PD&E documentation for various roadway projects, bridge projects, toll plaza projects, project re-evaluations, and other minor assignments related to the planning, design, construction, operation and maintenance of the expressway system as identified by CFX for the miscellaneous planning services contract. It should be noted that this Exhibit covers a full range of possible scope elements that may arise as part of this contract. This Exhibit is provided as a guide to be used by the CONSULTANT in preparation of individual Work Authorizations as requested by CFX. It is further understood that elements of this Exhibit may not be applicable to all Work Authorizations approved under this contract.
- B. As necessary, the CONSULTANT will perform those planning services required for PD&E documentation as identified by CFX. Specific elements may include (but are not limited to): required analysis and preparation of various PD&E documentation for minor roadway, bridge, signing and pavement markings, maintenance of traffic, environmental services, miscellaneous structures and other tasks and associated activities as requested by CFX.

- C. CFX's Project Manager will provide contract administration, management services, and technical reviews of all work associated with the draft and final documents.
- 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 Miscellaneous Planning Services

- A. The term of the Agreement will be for three (3) years from the notice to proceed. The Agreement is further eligible for two (2), one (1) year renewals following the initial three (3) year period.

## 2.0 STANDARDS

- A. The CFX Project Development & Environment (PD&E) Study Documentation Guidance (August 2021 and future editions) will be the primary reference for preparation of documents and reports. Additionally, the services performed by the CONSULTANT will be in compliance with all applicable current CFX criteria and FDOT Manuals and Guidelines. The FDOT's Manuals and Guidelines incorporate by requirement or reference all applicable State and Federal regulations. The current edition, including updates, of the following FDOT Manuals and Guidelines will be used in the performance of this work. It is understood that AASHTO criteria will apply as incipient policy. Some standards may not apply to each project but are listed for reference.

- Florida Statutes
- Florida Administrative Codes
- Applicable federal regulations and technical advisories.
- Project Development and Environment Manual
- Plans Preparation Manual
- Roadway Traffic and Design Standards
- Highway Capacity Manual
- Manual of Uniform Traffic Control Devices (MUTCD)
- Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways
- Bicycle Facilities Planning and Design Manual

- Right-of-Way Mapping Handbook
- Location Survey Manual
- EFB User Guide
- Drainage Manual
- Outline Specifications - Aerial Surveys/Photogrammetry
- Soils and Foundations Manual
- Structures Design Guidelines
- CADD Manual (No. 625-050-001)
- CADD Production Criteria Handbook
- Florida's Level of Service Standards and Guidelines Manual for Planning (No. 525-000-005)
- Equivalent Single Axle Load Guidelines (No. 525-030-121)
- Design Traffic Procedure (No. 525-030-120)
- K-Factor Estimation Process
- Project Traffic Forecasting Guidelines
- Florida Highway Landscape Guide
- Basis of Estimates Manual

### 3.0 DESIGN CRITERIA

#### 3.01 General

Design of the projects will be guided by the basic design criteria listed below.

- A. The design criteria listed in this section and Project Design Directives, provided by CFX during the project, may supplement the Project Design Guidelines.
- B. As necessary, along with conceptual plan review submittal, the CONSULTANT will 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 will use the most restrictive or conservative criteria applicable.

#### 3.02 Geometry

- A. All plans and designs will be prepared in accordance with the latest standard specifications adopted by AASHTO, FDOT Structures Design Guidelines (Manual), FDOT Structures Detailing Manual, FDOT Florida Design Manual, CFX Design Guidelines, etc., except as otherwise directed by CFX.



### 3.03 Bridge and Other Structures

- A. All plans and designs will be prepared in accordance with the latest standard specifications adopted by AASHTO, FDOT Structures Design Guidelines (Manual), FDOT Structures Detailing Manual, FDOT Florida Design Manual, CFX Design Guidelines, etc., except as otherwise directed by CFX.

## 4.0 WORK PERFORMED BY CONSULTANT

As required by CFX, the CONSULTANT will be responsible for the work outlined in this Section according to each Work Authorization.

### I. ENVIRONMENTAL ANALYSIS AND REPORTS

The CONSULTANT will perform the appropriate level of environmental analysis of each community, cultural, natural, or physical feature of the project and prepare the required corresponding documentation to support the preparation of a CFX Non-Major Action Checklist, CFX Level 1 PEIR, or CFX Level 2 PEIR as outlined in the CFX PD&E Documentation Guidance. For project re-evaluations, as stated in the Guidance, changes to the proposed environmental conditions of the project that have been made since the approval of an existing environmental document and the resulting impacts should be described, evaluated, and documented.

The Environmental Documents prepared by the CONSULTANT will comply with the procedures listed in the FDOT PD&E Manual and will also include content described in the FDOT PD&E Manual. The task of documentation includes the preparation of draft reports or technical memorandums prepared by the CONSULTANT for review and comment by the CFX prior to producing final reports and documents. As this is a miscellaneous planning services contract, it is understood that not all of the work outlined in this Section is applicable to every project Work Authorization.

#### 4.01 Proposed Improvements

- A. In coordination with CFX, the CONSULTANT will prepare a description of the proposed improvements associated with the project.

#### 4.02 Purpose and Need

- A. In coordination with CFX, the CONSULTANT will prepare the Purpose and Need statement of the proposed project.

#### 4.03 Socioeconomic Characteristics

- A. The CONSULTANT will conduct an overview of the study area to explore the socioeconomic issues, features, and activities that will influence the development of the conceptual alternative. Socioeconomic features to be cataloged will include, but not be limited to:
  - a. Schools
  - b. Places of worship
  - c. Community centers and parks
  - d. Other public facilities
  - e. Neighborhoods
  - f. Specialized housing
- B. The CONSULTANT will collect enough meaningful data to perform a comprehensive socioeconomic analysis that can be used in conjunction with the other environmental factors in evaluating the conceptual alternative. The CONSULTANT should be prepared to interview knowledgeable people and conduct field reviews to verify as necessary.
- C. The CONSULTANT will describe existing neighborhoods and evaluate the potential impacts of the project upon them.

#### 4.04 Economic

- A. The CONSULTANT will document how public comments, ideas, and concerns have been addressed as part of the project. Changes to an existing roadway alignment with new traffic patterns can greatly alter access/ease of access to local businesses.

#### 4.05 Land Use Changes

- A. The CONSULTANT will review existing and future land uses and analyze the compatibility of the project with the identified land use in accordance with the PD&E Manual. An analysis will be required that demonstrates to what extent the project would likely change the surrounding land use, compared to existing (taking into account current plans and ongoing roadway improvements).

#### 4.06 Mobility

- A. The CONSULTANT will review and analyze current mobility options for local traffic and pedestrians to access area businesses, parks, places of worship, etc. and how mobility options may be altered.

#### 4.07 Aesthetics

- A. Aesthetic considerations such as impacts on existing neighborhoods and surrounding communities (positive and negative), landscaping opportunities, gateway opportunities, theme opportunities and vistas/focal points will also be addressed. Structural design opportunities, stormwater facility, preservation of existing vegetation, and vacated right-of-way potential will also be considered. The CONSULTANT will evaluate the potential visual and aesthetic impacts to the community associated with the project in accordance with the PD&E Manual.

#### 4.08 Relocation Potential

- A. If federal funding is applicable, relocation impacts will be assessed by the CONSULTANT.

#### 4.09 Archaeological and Historical Resources

- A. The CONSULTANT will provide a cultural resource assessment for the conceptual alternative, which will include coordination with SHPO. A complete Cultural Resource Assessment Survey will be performed in accordance with the PD&E Manual. The CONSULTANT will completely analyze the impacts to all cultural and historic resources within the Area of Potential Effect (APE) and prepare a Cultural Resource Assessment Request Package as described in the PD&E Manual.

#### 4.10 Recreational / Section 4(f)

- A. Section 4(f) is not applicable. Recreational areas will be identified as part of 4.01.

#### 4.11 Wetlands and Essential Fish Habitat

- A. The CONSULTANT will collect all available information on wetlands located within the study area. The CONSULTANT will evaluate and document all potential impacts to the study area wetlands in accordance with the PD&E Manual.
- B. The CONSULTANT will collect all data necessary to confirm there are no aquatic preserves or essential fish habitats located within the study area.

#### 4.12 Water Quality

- A. The CONSULTANT will obtain information on the existing water quality

of potential receiving water bodies and evaluate the project's potential for enhancing or degrading their water quality. A Water Quality Impact Evaluation checklist and supporting documentation will be prepared pursuant to the PD&E Manual.

#### 4.13 Special Designation

- A. The CONSULTANT will collect all data necessary to perform an assessment of Outstanding Florida Waters in accordance with the PD&E Manual. The CONSULTANT will confirm there are no Wild and Scenic River designations within the study area. The CONSULTANT will confirm no aquatic preserves or Wild and Scenic Rivers are impacted by the project and provide the appropriate level of documentation in accordance with the PD&E Manual.

#### 4.14 Floodplains

- A. The CONSULTANT will collect all available information on floodplains located within the study area. The CONSULTANT will evaluate and document all potential impacts to the study area floodplains in accordance with the PD&E Manual.

#### 4.15 Coastal Barrier Resources

- A. The CONSULTANT will collect all available information on coastal barrier resources located within the study area. The CONSULTANT will evaluate and document all potential impacts to the study area coastal barrier resources in accordance with the PD&E Manual.

#### 4.16 Wildlife and Habitat

- A. The CONSULTANT will generally describe the project area and, more specifically, describe the area within the proposed right-of-way limits including common names and Latin binomials for dominant and/or representative species. The CONSULTANT will further quantify areas that will be impacted both directly (within the right-of-way limits) and indirectly (ecotone encroachment, etc.) by the conceptual alternative.
- B. The CONSULTANT will record all fauna observed and outline what species might be expected to be found based on flora. Any State or Federal "critical habitat" must be identified.
- C. The CONSULTANT will obtain all biological information needed to prepare a Natural Resources Evaluation of the project where endangered or threatened species are identified. The CONSULTANT will prepare a

Natural Resources Evaluation for the project in accordance with the PD&E Manual.

#### 4.17 Noise

- A. The CONSULTANT will perform a traffic noise analysis in accordance with the FDOT PD&E Manual. A desktop review will be performed to assess the potential for traffic noise impacts and if a detailed noise analysis is warranted. This task will include collecting all data necessary to perform the noise impact analysis. The CONSULTANT will develop Traffic Noise Model input data and evaluate the existing conditions, the No-Build Alternative and one Build Alternative for the Noise Sensitive Areas (NSAs) potentially impacted by traffic noise. The CONSULTANT will conduct detailed traffic noise barrier analyses for NSAs within 400 feet of the project corridor. The CONSULTANT will prepare a comprehensive Technical Memorandum in lieu of a full Noise Study Report.

#### 4.18 Air Quality

- A. The CONSULTANT will collect all data necessary to perform the air quality screening test in accordance with the PD&E Manual. The air quality study will be performed in accordance with the PD&E Manual. The air quality screening analysis will be documented in a brief Technical Memorandum.

#### 4.19 Contamination

- A. The CONSULTANT will collect all data necessary to perform the Contamination Screening Evaluation in accordance with the PD&E Manual.

#### 4.20 Utilities and Railroads

- A. The CONSULTANT will collect data on the location of all existing utilities within the study area. The CONSULTANT will obtain data and information and meet with utility owners concerning proposed utility improvements, some of which may influence location/design considerations. Utility data to be collected will address the following:
  - a. Overhead Transmission lines, microwave towers, etc.
  - b. Underground water, gas, sanitary sewer, force mains, power and telephone cables, etc.
  - c. Bridge attachments.
- B. Based on the coordination with the utility companies along the project, the

CONSULTANT will prepare a Utility Assessment Package as described in the PD&E Manual. The CONSULTANT will also address impacts to existing and proposed railroads, if applicable.

4.21 Construction Impact Analysis

- A. The CONSULTANT will address potential construction impacts associated with the project in accordance with the PD&E Manual.

4.22 Bicycles and Pedestrians

- A. The CONSULTANT will collect all available information on bicycle and pedestrian facilities located within the study area. The CONSULTANT will evaluate and document all potential impacts to the study area bicycle and pedestrian facilities in accordance with the PD&E Manual.

4.23 Navigation

- A. The CONSULTANT will collect all available information on navigable waterways located within the study area. The CONSULTANT will evaluate and document all potential impacts to the study area navigable waterways in accordance with the PD&E Manual.

4.24 Identify Permit Conditions

- A. The CONSULTANT will obtain permit related information about sites that may require dredge and fill permits, water quality permits or stormwater discharge permits. This task includes the identification of all permitting agencies. The CONSULTANT will identify permit conditions, and type of permits required.

II. ENGINEERING ANALYSIS AND REPORTS

The CONSULTANT will perform the appropriate level of engineering analysis for the project and, as applicable, prepare the required corresponding documentation to support the preparation of a CFX Non-Major Action Checklist, CFX Level 1 PEIR, or CFX Level 2 PEIR as outlined in the CFX PD&E Documentation Guidance and/or CFX criteria. For project re-evaluations, as stated in the Guidance, changes to the proposed design elements of the project that have been made since the approval of an existing environmental document and the resulting impacts should be described, evaluated, and documented. As determined by the CFX PM, CFX or the CONSULTANT will produce a conceptual plan for the project.

The Engineering Documents prepared by the CONSULTANT will comply with the procedures listed in the FDOT PD&E Manual, will also follow the format and include content described in the FDOT PD&E Manual, as well as adhere to CFX

criteria. The task of documentation includes the preparation of draft reports prepared by the CONSULTANT for review and comment by the CFX prior to producing final reports and documents. As this is a miscellaneous planning services contract, it is understood that not all of the work outlined in this Section is applicable to every project Work Authorization.

#### 4.25 Data Collection

- A. Immediately following the Notice to Proceed, the CONSULTANT will begin data collection. The information collected should include all data necessary to adequately identify and evaluate the location and design of the facility. All data collection efforts should be performed in accordance with the PD&E Manual.
- B. The CONSULTANT will make maximum use of existing information available from state, regional and local agencies such as the Florida Geographic Data Library (FGDL), or other appropriate databases that include existing features. This data base information shall be compatible for use on base maps used for public presentations, corridor maps, and alternative plans.

#### 4.26 Field Review

- A. The CONSULTANT will conduct all anticipated, necessary field trips needed to collect engineering data.

#### 4.27 Geotechnical

- A. The CONSULTANT will obtain information to describe the soil composition within the project study area using previous geotechnical reports and investigations, county and city soil survey maps, and other information from the Soil Conservation Service and detailed soil surveys as needed to determine the impacts of the project.
- B. This task is for the CONSULTANT to coordinate with the geotechnical staff regarding project requirements, review of geotechnical data, and scheduling. Soil borings and lab analysis may be a component of the Work Authorizations/PD&E study.

#### 4.28 Traffic

- A. The CONSULTANT will coordinate with CFX and the Traffic and Revenue Consultant (T&RC) and be provided all project traffic related information including travel demand forecasting, design traffic and all operational analysis required for completion of the study from CFX.

4.29 Traffic Data for Noise Study

- A. The CONSULTANT will obtain required traffic information from CFX and the T&RC.

4.30 Traffic Data for Air Analysis

- A. The CONSULTANT will obtain required traffic information from CFX and the T&RC.

4.31 Signalization Analysis

- A. On an as-needed basis, in coordination with the CFX, the CONSULTANT will perform signalization analysis and/or signal warrant studies at the intersections in accordance with all applicable manuals, procedures, guidelines, and current design memorandums. The CONSULTANT will propose preliminary signal timing plan and signal operation plan for each intersection that requires signalization on the conceptual alternative. The CONSULTANT will coordinate with the T&RC on the signalization analysis and the associated geometry of the intersections.

4.32 Safety

- A. The CONSULTANT will obtain available data from FDOT'S Crash Analysis Reporting System (CARS) (Program numbers AARPJ12 and AARPJ13) and Signal Four for various highway segments within the study area. The CONSULTANT will obtain the most recent data for the previous five years. The data collected will include the number and type of crashes, crash locations, number of fatalities and injuries, and estimates of property damage and economic loss.

4.33 Existing Roadway Characteristics

- A. The CONSULTANT will document the existing roadway characteristics within the project limits. The CONSULTANT will review and document available plans, pavement reports, existing rights-of-way, tax and maintenance maps and other readily available data. This effort should include obtaining the design plans for any adjacent project(s) being advanced by CFX, FDOT, FTE, or a County. The CONSULTANT should have detailed knowledge of the various projects that make up the overall improvement.



- B. The CONSULTANT will develop a CADD database, supported by computer spreadsheets, that includes all existing highway characteristics noted above, as appropriate. CADD database information will be compatible for use on aerial photography used for Public Hearing displays, the Corridor Base Map(s), and Conceptual Design Plans.

#### 4.34 Typical Section Analysis

- A. The CONSULTANT will develop appropriate typical sections for the project. Typical sections for connecting roadways will be developed to meet the requirements of the government agency that is responsible for the maintenance of the roadway. The CONSULTANT will examine typical sections that may result in minimizing right-of-way, and the incorporating of other desirable features, as deemed appropriate.

#### 4.35 Access Management

- A. The CONSULTANT will ensure the appropriate access management standards are reflected within any alternative that affects the local roadway network.

#### 4.36 Existing Structure Characteristics

- A. The CONSULTANT will inventory and research existing structures to assess their age, rating, and any other factors that could be used to determine condition and future use or need for replacement.

#### 4.37 Structures Typical Section Analysis

- A. The CONSULTANT will develop all appropriate structural typical section alternatives for the project. These will include the CFX's standard typical sections, and any typical sections that may result in minimizing right-of-way and environmental impacts and incorporating context sensitive solutions for complex bridges and retaining walls.

#### 4.38 Structures Design Alternatives

- A. The CONSULTANT will show estimated bridge limits on the conceptual alternative. Schematic elevations for bridges over crossroads will indicate the basic typical section under the bridge and the approximate length will be prepared. Based on the bridge requirements, the CONSULTANT will determine the structure type and unit costs for each conceptual alternative bridge.

#### 4.39 Drainage

- A. The CONSULTANT will collect hydraulic data as needed to assess constraints for the conceptual alternative. This effort will be coordinated with CFX applicable entities to identify any historic maintenance problems involving drainage or flooding which may affect the viability of the conceptual design and influence the evaluation results. The history and past hydraulic performance will be noted on all structures.
- B. The CONSULTANT will collect any stormwater management or master drainage plans prepared for the area to determine the hydrologic basin characteristics, both existing and future, of bridges and culverts, such as size, topography, and land use. The CONSULTANT will inventory the immediate upstream and downstream structures and inventory existing storm drain systems; noting their type, size, hydraulic basin they serve, and discharge points.
- C. The CONSULTANT will determine and quantify the base floodplain involvement for the conceptual alternative. Additionally, the CONSULTANT will obtain all data necessary to analyze any encroachments.
- D. On an as-needed basis, the CONSULTANT will perform preliminary drainage design in order to determine potential outfall locations and preliminary sizes (volume and area) of required detention and/or retention facilities for stormwater treatment or attenuation. The location and size of potential detention/retention areas will be determined for the conceptual alternate. A maximum of two (2) stormwater treatment / attenuation alternates per drainage basin will be identified, including the recommended alternate for each basin. The CONSULTANT will prepare a pond siting analysis including pond shapes prepared in CADD format to be included in the final document. The CONSULTANT will perform pond sites analysis and floodplain impact compensation analysis for the proposed ponds. A cost estimate will be prepared for alternative pond sites selected and a summary of recommended pond sites will be provided. The CONSULTANT will identify Seasonal High-Water elevations using available geotechnical data.
- E. On an as-needed basis, the CONSULTANT will prepare a location hydraulics analysis, which will include: identify and list all existing cross drains for its size, length, and flow lines information; perform proposed cross drain analysis based on recommended typical sections, using HY8 software; perform preliminary hydrologic analysis for proposed bridge improvements over applicable waterways. The analysis includes 50-year,

100-year and 500-year stages in the river and flood stage increment compared to existing condition for each cross drain; provide recommendation summary table for proposed cross drain size and length based on the analysis. As applicable per project, a preliminary hydrologic and hydraulic analysis will be performed using HEC-RAS to provide a conceptual design for two proposed alternatives, an open channel concept and a closed system, to meet the intent of the FEMA No-Rise certification.

#### 4.40 Prepare Base Map for Conceptual Plans

- A. The CONSULTANT will review the aerial base maps used for the corridor analysis and update or provide any additional information as required for the development and evaluation of the Conceptual Design Plans. Information to be checked and updated will include:
  - a. Existing features: plot existing roadway right-of-way, intersections, bicycle/pedestrian walkways, and drainage easements.
  - b. Street names: label street names and highway numbers in immediate project area.
  - c. Surface features: label all pertinent cultural and natural features and land use information.
  - d. North Arrow: locate north arrow at upper-mid portion of sheet. Show scale and aerial flight date with north arrow.
  - e. Plot property lines.
  - f. Plot new data, including updated aerials, as it becomes available to keep base maps up to date.

#### 4.41 Multi-Modal Accommodations

- A. The CONSULTANT will coordinate with transit and local government officials in order to determine what multi-modal accommodations will be studied and evaluated as part of the project alternative. This includes identifying the location of potential “Park and Ride” facilities, potential public-transit-stop operational or safety improvements, and potential multi-use trail crossing.

#### 4.42 Maintenance of Traffic

- A. The CONSULTANT will analyze the conceptual alternative for constructability and the ability to maintain traffic. If the constructability analysis indicates that there will be a substantial cost to maintain traffic, the cost to maintain traffic estimate will be included in the cost estimate for that alternative.

#### 4.43 Construction Cost Estimate

- A. As part of the alternatives evaluation, the CONSULTANT will prepare a construction cost estimate for the alternative(s) as well as a refined cost estimate of the conceptual alternative.

### III. FINAL DELIVERABLES

The CONSULTANT may be required to provide (Final) hard copies of any of the documents as listed below. Depending upon the level of analysis and required documentation per project, including project re-evaluations, these submittals could be full reports, technical memorandums, or summary information contained in the project documentation (NMA Checklist or PEIR). Any combination of these could be considered the anticipated submittals for a given project. In all projects, electronic submittals shall accompany all hard copy submittals.

- A. Environmental Items:
  - CFX Non-Major Action Checklist
  - CFX Project Environmental Impact Report (Level 1 PEIR or Level 2 PEIR)
  - Cultural Resource Assessment Survey
  - Natural Resource Evaluation
  - Water Quality Impact Evaluation Report
  - Noise Study Tech Memo
  - Air Quality Report/Tech Memo
  - Contamination Screening Evaluation Report
  - Utility Assessment Package
- B. Engineering Items:
  - Conceptual Design Roadway Plan Set
  - Geotechnical Report
  - Typical Section Package
  - Conceptual Right-of-Way Plans
  - Location Hydraulics Report
  - Pond Siting Report

## 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. Previous planning studies completed by CFX.
  - 2. Available record drawings of existing conditions.

3. Available right-of-way plans of existing conditions.
4. Current list available to CFX of owners of all affected properties within the section.
5. Sample plans to be used as guidelines for format, organization and content.
6. 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 AADT.
  2. Current and design year peak hour volumes.
  3. Turning movements at each intersection/interchange.
  4. K, D and T factors.
  5. Design speed.
  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 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.

#### 6.02 Conceptual Specialty Design

- A. CFX will provide a conceptual major guide signing plan as necessary.

- B. CFX will provide conceptual aesthetics design and treatments for structures.

## 7.0 ADMINISTRATION

As this is a miscellaneous planning services contract, it is understood that not all the work outlined in this Section is applicable to every project Work Authorization.

### 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 will 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 PD&E documents prepared under this project and will check all such material accordingly. The documents will be reviewed by CFX for conformity with CFX procedures and the terms of the Contract, as well as coordination with adjacent planning and/or design contracts. Review by CFX does not include detailed review or checking of data of major components and related details or the accuracy with which such information are stated in the documents. The responsibility for accuracy and completeness of such items remains solely that of the CONSULTANT. The CONSULTANT will:
  - 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 will 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 schedule 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 will 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 will provide CFX's Project Manager with a draft copy of the Progress Report and a typewritten agenda for the meeting. The CONSULTANT will prepare typewritten meeting minutes and submit them to CFX's Project Manager within five working days after the meeting. The minutes will 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 will provide a schedule of calendar deadlines in a format prescribed by CFX.
- B. The current schedule for each open task work order will be included with the agenda and minutes for each bi-weekly meeting.

#### 7.07 Project Related Correspondence

- A. The CONSULTANT will 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 will 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 documents and report prepared under this project and



will check all such material accordingly. CONSULTANT will have a quality control plan in effect during the entire time work is being performed under the Contract. The plan will establish a process whereby data and documents are independently checked, corrected and back checked. All documents submitted for review will be fully checked by a qualified individual other than the originator.

#### 7.09 CONSULTANT Personnel

- A. The CONSULTANT's work will 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 will be subject to review and approval by CFX.

#### 7.10 Site Visit

- A. The CONSULTANT will arrange a site visit within ten (10) calendar days of receipt of written Notice to Proceed. CONSULTANT personnel assigned to perform the work on the project will attend. CFX representatives may be present. Within seven calendar days of the site visit, the CONSULTANT will 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 PD&E analysis and documentation process.

#### 7.11 Acceptability of the Work

- A. The reports and other documents furnished under this Scope of Services will conform to the "standards-of-the industry" quality as acceptable to CFX. The criteria for acceptance will 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.

#### 7.12 Reviews and Submittals


- A. Review and coordination of the CONSULTANT's work by CFX will continue through the project development process.
- B. Formal submittals for review will be made to CFX when the documents have been developed to the draft and final levels of completion.

**CONSENT AGENDA ITEM  
#9**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: November 23, 2021

SUBJECT: Approval of Contract Award to Real Image Solutions  
for Interactive 3D Virtual Modeling  
Contract No. 001870


---

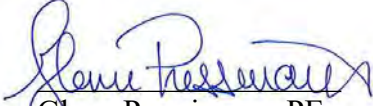
Board approval to award a contract with Real Image Solutions in a not-to-exceed amount of \$500,000.00 is requested. The contract will be for three years with two one-year renewals.

The work to be performed includes the development of interactive 3D virtual models for CFX projects.

Real Image Solutions has been designated as a sole source provider for these services because they are the only vendor that offers the 123BIM Cloud-Based Platform, which is utilized to develop interactive 3D virtual models. Use of these services and proprietary technology will continue to help CFX facilitate communication with the public and project stakeholders in new and innovative ways, that does not require software, file downloads, installations and can be viewed on any device.

This contract is a component of projects included in the Five-Year Work Plan.

Reviewed by:   
Will Hawthorne, PE  
Director of Engineering

  
Glenn Pressimone, PE

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

DATE: November 17, 2021

VENDOR NAME: Real Image Solutions (RIS)

VENDOR ADDRESS: 1877 Edgewater Drive,  
Orlando, FL 32804

SUBJECT: Justification for RIS Sole-Source

The following is the reason to use standardization as a basis for designating this vendor as a sole-source.

Real Image Solutions (RIS) is the only vendor that offers the 123BIM Cloud-Based Platform, which is utilized by RIS to develop interactive 3D virtual models for CFX projects. Using the services of RIS and their proprietary technology will continue to help CFX facilitate communication with the public and project stakeholders in new and innovative ways, that does not require software, file downloads, installations and can be viewed on any device from workstation to smartphone.

  
\_\_\_\_\_  
Will Hawthorne, PE  
Director of Engineering

Signature of Procurement Director: \_\_\_\_\_



Date: \_\_\_\_\_

11/17/2021  
\_\_\_\_\_

**CONTRACT  
REAL IMAGE SOLUTIONS (RIS)  
CONTRACT NO. 001870**

This Contract No. 001870 (the “Contract” as defined herein below), is made this 9<sup>th</sup> day of December, 2021, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called “CFX” and REAL IMAGE SOLUTIONS, hereinafter the “CONSULTANT”:

**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 Authority System; and,

**WHEREAS**, CFX has been granted the power under Section 348.754(2)(m) of Florida Statutes, “to do all acts and things necessary or convenient for the conduct of its business and the general welfare of CFX, in order to carry out the powers granted to it (by state law);” and,

**WHEREAS**, CFX has determined that it is necessary and convenient in the conduct of its business to retain the services of a consultant to provide legislative advocacy and other services as may be assigned to the consultant by CFX; and,

**WHEREAS**, having verified the CONSULTANT’s unique qualifications, CFX has determined that it is in its best interest to “sole source” the services to CONSULTANT;

**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 CONSULTANT 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 Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized representatives of CFX, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include providing interactive 3D Virtual Modeling and other services as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

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 CONSULTANT 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 consultants or CFX staff.

The Contract Documents, in order of precedence, consist of:

- 1.1 The Contract, including insurance policies,
- 1.2 The Scope of Services,
- 1.3 The Method of Compensation,

(collectively, the "Contract").

## **2. TERM AND NOTICE**

The initial term of the Contract will be three (3) years beginning \_\_\_\_\_, 2021. There shall be two renewal options of one (1) year each. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONSULTANT are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide the CONSULTANT with written notice of its intent at least 60 days prior to the expiration of the initial Contract Term and each renewal, if any.

CFX shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 15 days notice for convenience or 30 days with cure notice for cause for CONSULTANT'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 CONSULTANT (in writing) of such action with instructions as to the effective date of termination or suspension, in accordance with the time frames set forth hereinabove. CONSULTANT will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONSULTANT will not be paid for special, indirect, consequential, or undocumented termination 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 cause.

If CONSULTANT: (i) fails to perform the Contract terms and conditions; (ii) fails to begin the work under the Contract within the time specified in the "Notice to Proceed"; (iii) fails to perform the work with sufficient personnel or with sufficient materials to assure the prompt performance of the work items covered by the Contract; (iv) 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 in an acceptable manner, CFX will give notice in writing to the CONSULTANT of such delay, neglect or default. If the Contract is declared in default, CFX may take over the work covered by the Contract.

If CONSULTANT (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 CONSULTANT 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 CONSULTANT's default (including the costs of completing Contract performance) shall be charged against the CONSULTANT. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the CONSULTANT 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, CONSULTANT demonstrates an intent and ability to cure the default in accordance with CFX's requirements, CFX may, but is not obligated to, permit CONSULTANT 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 CONSULTANT under the Contract. Any such costs incurred by CFX which exceed the remaining amount due on the Contract shall be reimbursed to CFX by CONSULTANT. 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 CONSULTANT for expenses or profits related to unfinished work on a Contract terminated for default.

CFX reserves the right to terminate or cancel this Contract in the event the CONSULTANT shall be placed in either voluntary or involuntary bankruptcy or an assignment is made for the benefit of creditors. Such termination shall be deemed a termination for default.

### **3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES**

3.1 The Contract Amount for the Contract term is \$500,000.00.

3.2 CONSULTANT's compensation for the services provided hereunder shall be task-order for services performed in accordance with the Method of Compensation.

### **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 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 subconsultants, or material suppliers, profit contingencies and any manuals standard in the industry that may be used by CONSULTANT 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 CONSULTANT or any subconsultants. By submitting a response to the Request for Proposal, CONSULTANT or any subconsultant 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 CONSULTANT refuses such access or review, 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 subconsultant of another CONSULTANT 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.

Final Audit for Project Closeout: The CONSULTANT shall permit CFX, at CFX’s option, to perform or have performed, an audit of the records of the CONSULTANT and any or all subconsultants to support the compensation paid the CONSULTANT. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the CONSULTANT under the Contract are subsequently determined to have been inadvertently paid by CFX because of accounting errors or charges not in conformity with the Contract, the CONSULTANT agrees that such amounts are due to CFX upon demand. Final payment to the CONSULTANT shall be adjusted for audit results.

CONSULTANT shall preserve all Proposal Records and Contract Records for the entire term of the Contract and for a period of five (5) years after the later of: (i) final acceptance of the project by CFX, (ii) until all claims (if any) regarding the Contract are resolved, or (iii) expiration of the



Proposal Records and Contract Records' status as public records, as and if applicable, under Chapter 119, Florida Statutes.

## **5. MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

CFX has adopted a program to provide opportunities for small business, including Minority Business Enterprises ("MBEs") and Women's Business Enterprises ("WBEs"). Under CFX program, CONSULTANT is encouraged to grant small businesses the maximum opportunity to participate in the provision of the Services.

## **6. CONSULTANT INSURANCE**

CONSULTANT 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. CONSULTANT shall carry and keep in force the following insurance coverage, and provide CFX with correct certificates of insurance (ACORD forms) upon Contract execution:

6.1 **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 or equivalent including products and completed operations coverage. The contractual liability insurance coverage shall include coverage for bodily injury and property damage claims by CONSULTANT under this agreement.

6.2 **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;

6.3 **Workers' Compensation Insurance** Coverage, including all coverage required under the laws of the state of Florida (as amended from time to time hereafter);

6.4 **Unemployment Insurance** Coverage in amounts and forms required by Florida law, as it may be amended from time to time hereafter.

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, or authorized representative 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. CONSULTANT 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 CONSULTANT hereunder, CONSULTANT 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 CONSULTANT'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 CONSULTANT's policies shall be excess insurance, not contributory.

If CONSULTANT 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 CONSULTANT's expense and deduct such costs from CONSULTANT payments.

## **CONSULTANT RESPONSIBILITY**

7.1 CONSULTANT shall take all reasonable precautions in the performance of the Services and shall cause its employees, agents and subcontractors to do the same. CONSULTANT shall be solely responsible for the safety of, and shall provide protection to prevent damage, injury or loss to:

(i) all employees of CONSULTANT and its subcontractors and other persons who would reasonably be expected to be affected by the performance of the Services;

(ii) other property of CONSULTANT and its employees, agents, officers and subcontractors and all other persons for whom CONSULTANT may be legally or contractually responsible on or adjacent to areas upon which services are performed;

7.2 CONSULTANT shall comply, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONSULTANT may be legally or contractually responsible, with the Standard Operating Procedures, 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) 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.

7.3 CONSULTANT shall be responsible for actual damage and loss that may occur with respect to any and all property located on or about any structures in any way involved in the provision of services by CONSULTANT, whether such property is owned by CONSULTANT, CFX, or any other person, to the extent such damage or loss shall have been caused or brought about by the negligent acts or omissions of CONSULTANT or its employees, agents, officers or subcontractors or any other persons for whom CONSULTANT may be legally or contractually responsible.

7.4 CONSULTANT shall ensure that all of its activities and the activities of its employees, agents, officers and subcontractors and all other persons for whom CONSULTANT may be legally or contractually responsible are undertaken in a manner that will minimize the effect on surrounding property and the public. CONSULTANT shall be responsible for any theft or conversion of collected funds by employees of CONSULTANT, or arising out of the negligence or willful misconduct of CONSULTANT;

7.5 CONSULTANT shall immediately notify CFX of any material adverse change in CONSULTANT's financial condition, business, prospects, affairs, or operations, or of such change of any partner, or of such change of any shareholder holding greater than a 10% interest in CONSULTANT, or of the existence of any material impairment of rights or ability of CONSULTANT to carry on as its business and operations are currently conducted.

7.6 CONSULTANT shall not make any requirement of any employee or enter into a non-competition agreement with any employee, whether oral or written, of any kind or nature, that would prohibit CONSULTANT's employees from leaving CONSULTANT's employ and taking employment with any successor of CONSULTANT for CFX's toll operations and management services.

## **8. INDEMNITY**

To the extent caused by the CONSULTANT, the CONSULTANT shall indemnify, defend and hold harmless CFX and all of its respective officers, CONSULTANT's or 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 CONSULTANT (its subcontractors, officers, agents or employees) or due to any negligent or intentional act or occurrence of omission or commission or misconduct of the CONSULTANT (its subcontractors, officers, agents or employees), including without limitation any intentional 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:

8.1 violation of same by CONSULTANT, its subcontractors, officers, agents or employees,

8.2 CFX's use or possession of the CONSULTANT Property or CONSULTANT Intellectual Property (as defined herein below),

8.3 CFX's full exercise of its rights under any license conveyed to it by CONSULTANT,

8.4 CONSULTANT's violation of the confidentiality and security requirements associated with CFX Property and CFX Intellectual Property (as defined herein below),

8.5 CONSULTANT's failure to include terms in its subcontracts as required by this Contract,

8.6 CONSULTANT's failure to ensure compliance with the requirements of the Contract by its employees, agents, officers, or subcontractors, or

8.7 CONSULTANT's breach of any of the warranties or representations contained in this Contract.

CONSULTANT 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. Notwithstanding the foregoing, CONSULTANT's total liability for a breach of contract or warranty shall not exceed the value of this Contract. The parties agree that 1% of the total compensation to the CONSULTANT for performance of each task authorized under the Contract is the specific consideration from CFX to CONSULTANT for CONSULTANT's indemnity and the parties further agree that the 1% is included in the amount negotiated for each authorized task.

## **9. PUBLIC RECORDS**

**IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT'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," 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, and to:

9.1 Keep and maintain public records required by the public agency to perform the service.

9.2 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.

9.3 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 CONSULTANT does not transfer the records to the public agency.

9.4 Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of CONSULTANT or keep and maintain public records required by the public agency to perform the service. If CONSULTANT transfers all public records to the public agency upon completion of the contract, CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONSULTANT keeps and maintains public records upon completion of the contract, CONSULTANT 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 CONSULTANT in conjunction with this Contract (including without limitation Contract Records and Proposal Records, if and as applicable), CONSULTANT shall immediately notify CFX. In the event CONSULTANT has public records in its possession, CONSULTANT shall comply with the Public Records Act and CONSULTANT must provide the records to CFX or allow the records to be inspected or copied within a reasonable time. Failure by CONSULTANT 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 CONSULTANT 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.

## **10. PRESS RELEASES**

CONSULTANT shall make no statements, press releases or publicity releases concerning the Contract or its subject matter, or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished under the Contract, or any particulars thereof, including without limitation CFX Property and CFX Intellectual Property, without first notifying CFX and securing its consent in writing.

## **11. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS**

CFX is and shall be and remain the sole owner of all rights, title, and interest in, to, and associated with all plans, documents, software in all forms, hardware, programs, procedures, specifications, drawings, brochures pamphlets, manuals, flyers, models, photographic or design images, negatives, videos and film, tapes, work product, information, data and other items (all whether in preliminary, draft, master, final, paper, electronic, or other form), along with the

media on which they reside and with which they interface for function or aesthetics, that are generated or developed with respect to and in connection with this Contract and the performance thereof (collectively, the “CFX Property”). CFX’s ownership of CFX Property includes without limitation all common law, statutory and other rights, title, and interest in, to, and associated with trademark, service mark, copyright, patent, trade secret, and publicity (collectively, the “CFX Intellectual Property”). CONSULTANT, its employees, agents, officers, and subconsultants acknowledge that E-PASS® is CFX’s registered trademark name for CFX’s electronic toll collection system and comprises a portion of CFX Intellectual Property.

CONSULTANT, its employees, agents, officers, and subconsultants may not use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONSULTANT, its employees, agents, officers, and subconsultants’ access to and/or use of CFX Property and CFX Intellectual Property is without any warranty or representation by CFX regarding same.

For all materials listed hereinabove that are not generated or developed under this Contract or performance hereof, but rather are brought in, provided, or installed by CONSULTANT (collectively, the “CONSULTANT Property”), and the intellectual property rights associated therewith (collectively, the “CONSULTANT Intellectual Property”), CONSULTANT (its employees, officers, agents, and subconsultants, which for purposes of this section shall collectively be referred to as “CONSULTANT”) warrants and represents the following:

11.1 CONSULTANT was and is the sole owner of all right, title and interest in and to all CONSULTANT Property and CONSULTANT Intellectual Property; **OR**

11.2 CONSULTANT has obtained, and was and is the sole holder of one or more freely assignable, transferable, non-exclusive licenses in and to the CONSULTANT Property and CONSULTANT Intellectual Property, as necessary to provide and install the CONSULTANT Property and/or to assign or grant corresponding to CFX all licenses necessary for the full performance of this Contract; and that the CONSULTANT is current and will remain current on all royalty payments due and payable under any license where CONSULTANT is licensee; **AND**

11.3 CONSULTANT has not conveyed, and will not convey, any assignment, security interest, exclusive license, or other right, title, or interest that would interfere in any way with CFX’s use of the CONSULTANT Property or any license granted to CFX for use of the CONSULTANT Intellectual Property rights; **AND**

11.4 Subject to Chapter 119, Florida Statutes (Florida Public Records Act), CONSULTANT shall maintain CFX Property and CFX Intellectual Property in strictest confidence and may not transfer, disclose, duplicate, or otherwise use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONSULTANT shall not publish, copyright, trademark, service mark, patent, or

claim trade secret, publicity, or other rights of any kind in any of the Property. In ensuring the confidentiality and security of CFX Property and CFX Intellectual Property, CONSULTANT shall utilize the same standards of protection and confidentiality that CONSULTANT uses to protect its own property and confidential information, but in no instance less than reasonable care plus the standards set forth anywhere in this Contract.

CONSULTANT further warrants and represents that there is no pending, threatened, or anticipated Claims against CONSULTANT, its employees, officers, agents, or subconsultants with respect to the CONSULTANT Property or CONSULTANT Intellectual Property.

The provisions of this Section shall survive the term of this Contract for the longer of:

11.5 The statute of limitations on any action arising out of either party's conduct relating to this section, whether such action may be brought by CFX, CONSULTANT, or a third party; **or**

11.6 CFX's continued use (notwithstanding any temporary suspension of use) of any CONSULTANT Property or CONSULTANT Intellectual Property; **and**

11.7 Notwithstanding sections 11.5 and 11.6, the confidentiality and security provisions contained herein shall survive the term of this Contract for ten (10) years beyond 11.5 and 11.6.

## **12. PERMITS, LICENSES, ETC.**

Throughout the Term of the Contract, the CONSULTANT shall procure and maintain, at its sole expense, all permits and licenses that may be required in connection with the performance of Services by CONSULTANT; 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. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT**

CONSULTANT warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the 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.

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 Ethics Policy. CONSULTANT acknowledges that it has read the Ethics Policy and, to the extent applicable, CONSULTANT will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

In the performance of the Contract, CONSULTANT shall comply with all applicable local, state, and federal laws and regulations and obtain all permits necessary to provide the Contract services.

CONSULTANT covenants and agrees that it and its employees, officers, agents, and subconsultants shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.

#### **14. NONDISCRIMINATION**

CONSULTANT, its employees, officers, agents, and subconsultants 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.

#### **15. SUBLETTING AND ASSIGNMENT**

CFX has selected CONSULTANT to perform the Services based upon characteristics and qualifications of CONSULTANT and its employees. Therefore, CONSULTANT shall not 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 Director of Procurement for authorization to enter into such subcontract. Except in the case of an emergency, as determined by the Executive Director or her/his 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 her/his 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.



## **16. DISPUTES**

All services shall be performed by the CONSULTANT to the reasonable satisfaction of CFX Executive Director (or her/his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof. 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.

## **17. PREVAILING PARTY ATTORNEY'S FEES**

If any contested claim arises hereunder or relating to the Contract (or CONSULTANT's work hereunder), and either party engages legal CONSULTANT, the prevailing party in such dispute, as "prevailing party" is hereinafter defined, shall be entitled to recover reasonable attorneys' fees and costs as defined herein, from the non-prevailing party.

In order for CONSULTANT to be the prevailing party, CONSULTANT 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 for purposes of this Contract.

Should this section be judged void, unenforceable or illegal, in whole or in substantial part, by a court of competent jurisdiction, this section shall be void in its entirety and each party shall bear its own attorneys' fees and costs.

## **18. OTHER SEVERABILITY**

If any section of this Contract, other than the immediately preceding Prevailing Party Attorneys' Fees section, be judged void, unenforceable or illegal, then the illegal provision shall be, if at all possible, interpreted or re-drafted into a valid, enforceable, legal provision as close to the parties' original intention, and the remaining portions of the Contract shall remain in full force and effect and shall be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

## **19. GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the laws of Florida. Venue of any legal or administrative proceedings arising out of this Contract shall be exclusively in Orange County, Florida.

In consideration of the foregoing premises, CFX agrees to pay CONSULTANT for work performed and materials furnished at the prices submitted with the Proposal.

## **20. RELATIONSHIPS**

CONSULTANT acknowledges that no employment relationship exists between CFX and CONSULTANT or CONSULTANT's employees. CONSULTANT shall be responsible for all direction and control of its employees and payment of all wages and salaries and other amounts due its employees. CONSULTANT 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.

CONSULTANT shall conduct no act or omission that would lead CONSULTANT's employees or any legal tribunal or regulatory agency to believe or conclude that CONSULTANT'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, subconsultant, or matter.

## **21. 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 CONSULTANT 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, CONSULTANT may immediately notify CFX and request clarification of CFX's interpretation of the Contract. The Contract Documents, together with and including all exhibits, comprise the entire agreement of the parties and supersedes and nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

## **22. 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 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.

## **23. 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:

23.1 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

23.2 Payment to CONSULTANT for satisfactory work performed or for termination expenses, if applicable; and

23.3 Prohibition on non-competition agreements of CONSULTANT's employees with respect to any successor of CONSULTANT; and

23.4 Obligations upon expiration or termination of the Contract; and

23.5 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.

## **24. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT**

24.1 Immediately upon expiration or termination of this Contract CONSULTANT shall submit to CFX, upon request, a report containing the last known contact information for each subconsultant or employee of CONSULTANT who performed work under the Contract; and

24.2 CONSULTANT 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.

## **25. INSPECTOR GENERAL**

CONSULTANT 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.

## **26. ASSIGNMENT**

This Contract may not be assigned without the written consent of CFX.

## **27. VERIFY**

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 subcontractors to verify the employment eligibility of all new employees hired by the subcontractors during the term of the Agreement.

## **28. 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 CONSULTANT to that effect.

## **29. COMPANIES PURSUANT TO SECTION 287.135 AND 215.473**

CFX may terminate this Agreement for breach of contract if the Consultant:

- 29.1. submitted a false certification as provided under Florida Statute 287.135(5); or
- 29.2. been placed on the Scrutinized Companies with Activities in Sudan List; or
- 29.3. been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- 29.4. been engaged in business operations in Cuba or Syria; or
- 29.5. found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

## **30. 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: General Counsel

CENTRAL FLORIDA EXPRESSWAY (CFX)  
4974 ORL Tower Road  
Orlando, Florida 32807  
ATTN: Director of Engineering

CONSULTANT:

### **31. EXHIBITS**

This Contract references the exhibits listed below.

Exhibit "A" Scope of Services  
Exhibit "B" Method of Compensation  
Exhibit "C" Details of Costs and Fees

[ SIGNATURES TO FOLLOW ]

IN WITNESS WHEREOF, the authorized signatures named below have caused this instrument to be signed by their respective fully authorized officials, as of the day and year first written above.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: \_\_\_\_\_  
Director of Procurement

Print Name: Aneth Williams

REAL IMAGE SOLUTIONS

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

ATTEST: \_\_\_\_\_ (Seal)

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**

## **SCOPE OF SERVICES**

## Exhibit “A”

### **Scope of Services for 3D Cloud-Based Virtual Project Modeling**

#### 1.0 GENERAL

##### 1.01 Location

Projects (and project locations) to be identified on an individual basis per each Work Authorizations.

##### 1.02 Description

The work to be performed under this contract includes the production and coordination of cloud-based, interactive 3D virtual models for CFX projects, to help facilitate communication with the public and project stakeholders in new and innovative ways, that does not require software, file downloads, installations and can be viewed on any device from workstation to smartphone.

The purpose of the cloud-based 3D virtual project models is to communicate the proposed project design and design alternatives (in various conditions and phases). The cloud-based 3D virtual project models produced will be used both internally for design collaboration and review, as well as stakeholder meetings, open houses, and other venues. The end user of cloud-based 3D virtual project models must be able to move freely, view from any location, compare and contrast different conditions, as well as analyze and extract useful information such as lane dimensions or ditch grade.

The cloud-based 3D virtual project models shall effectively communicate CFX concepts, designs, and design alternatives to assist stakeholders understanding of proposed impact of projects in various conditions in various locations.

The selected firms and their subconsultant(s) shall not enter into any other contract with CFX during the term of their contract which would create or involve a conflict of interest with the services to be provided.

##### 1.03 Scope of Services

A. The consultant shall provide a cloud-based collaboration service to enable CFX to view and navigate the visualization models using standard internet browsers, rather than contractor provided software and packaged files. This service needs to be able to extend to public stakeholders and engage in web-based meetings with shared model view, with an option to navigate on local desktop computers without internet access. The cloud collaboration service shall extend for time period designated by CFX. Training will also be provided to CFX as necessary. The cloud-based 3D virtual project models must have the ability to offer the following:



## Exhibit “A”

- Multiple visual assets and not depend on computational render times
- Interactively view, analyze, and present projects in various conditions inside of one virtual project model
- Provide ‘platform agnostic’ built in collaboration tools, for remote project collaboration
- Preset multiple viewpoints or animation paths
- View existing conditions and design alternatives
- Generate still images and videos without the requirement of render engines
- Be accessible to public audiences from any web connected device, with no downloads or installations
- Provide ‘one click’ connection to key social media platforms from within cloud-based visual asset

### B. CFX Responsibilities

- Survey data and Triangulated Irregular Network (“TIN”) surface models of existing ground surface where available for the project in particular formats (dgn, dwg, etc.)
- Available Ortho-rectified geo-referenced aerial photography of the area to be modeled
- Examples and guidelines for relevant features of the proposed design such as medians, curbs, sidewalks, barrier and guardrail types, locations and appearance of other roadway furniture (i.e. CFX standard drawings and project plan sheets)
- Available ground or oblique photography of existing buildings designated for detailed, realistic representation
- Computer-aided design (“CAD”) engineering files of details including proposed grading, striping, signage, sections and details of proposed structures and available amenities (landscaping, lighting etc.)
- Agency logo and other applicable graphics

### C. Deliverables

- Visual Assets of Existing Conditions o Contractor shall create a cloud-based georeferenced 1:1 3D model, depicting existing conditions of the project. Model must be a realistic, detailed representation of the determined project area and include, aerial imagery, roadways, curbs, sidewalks, buildings, trees, signs, waterways and other details and features as determined by this agency.
- Visual Assets of Proposed Design and Design Alternatives (including phased construction, MOT, ROW etc.). Contractor shall create a cloud-based georeferenced 1:1 3D model, that depicts the proposed design and design alternatives of any given project. Model must be a realistic, detailed representation of the proposed project design(s) and related improvements and

## Exhibit “A”

incorporate proposed alternative roadways. Curbs, sidewalks, lights, signs and other features. Model must also incorporate the initial design modeling to include appropriate buildings, trees, signs, waterways, vehicles, pedestrians and other details and features as determined by this agency.

- Contractor shall generate a draft virtual model that includes existing and proposed designs for Agency review and a final model that incorporates all agency comments and revisions.

### D. Format and Software Requirements

- Visual Assets must be housed and retained on Contractor cloud-based servers.
- Primary Visual Assets must be accessible to the Agency via an internet connection
- Provide an ‘optional’ software solution that will synchronize to the cloud-based 3D virtual model, for use should internet connection be lost or unavailable.
- Interactive virtual model must be accessible to the general public via computers, tablets and smartphones using internet connection only.
- Contractor shall provide access to virtual model for agreed life of project.

### E. Experience Requirements

- Three (3) years of experience in creating 3D, interactive virtual project models as described in the Scope of Services.
- Five (5) successful 3D virtual project models used for public outreach purposes, completed within the last three (3) years


## 1.05 Term of Agreement for Miscellaneous Design Services

- A. The term of the Agreement shall be for three (3) years from the notice to proceed. The Agreement is further eligible for two (2), one (1) year renewals following the initial three (3) year period.
- B. The Consultant may continue the design efforts while design submittals are being reviewed. Doing so, however, in no way relieves the Consultant of the responsibility to incorporate review comments into the design, nor does it entitle the Consultant to any additional design fees as a result of making changes due to review comments

**CONSENT AGENDA ITEM  
#10**

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: November 17, 2021

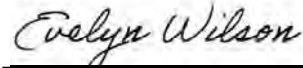
SUBJECT: Approval of Second Contract Renewal with Tews Consulting, Inc. for Staffing Services  
Contract No. 001678

Board approval is requested for the second renewal of the referenced contract with Tews Consulting, Inc. in the amount of \$90,000.00 for a one year period beginning April 9, 2022 and ending April 8, 2023. The original contract was one year with four one-year renewals.

The services to be provided under this contract are for administrative staffing.

Original Contract	\$ 45,000.00
First Renewal	\$ 45,000.00
Second Renewal	\$ 90,000.00
Total	\$180,000.00

This contract is included in the OM&A Budget.

Reviewed by:   
Evelyn Wilson  
Director of Human Resources

  
Laura Kelley

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
CONTRACT RENEWAL NO. 2 AGREEMENT  
CONTRACT NO. 001678**

**THIS CONTRACT RENEWAL NO. 2 AGREEMENT** (“Renewal Agreement”), is made and entered into this 9th day of December 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and TEWS Consulting Services, Inc. hereinafter called the (“Contractor”). CFX and Contractor are referred to herein sometimes as a “Party” or the “Parties”.

**WITNESSETH**

**WHEREAS**, on April 9, 2020, CFX and the Contractor entered into a Contract Agreement (the “Original Agreement”), whereby CFX retained the Contractor to provide staffing 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 first renewal of said Initial CFX Contract, which renewal shall begin on April 9, 2022 and end on April 8, 2023 (“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 \$90,000.00 (“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.

**TEWS CONSULTING, 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. 001678**

**THIS CONTRACT RENEWAL NO. 1 AGREEMENT** ("Renewal Agreement"), is made and entered into this 11th day of March 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called "CFX", and TEWS Consulting, Inc. hereinafter called the ("Contractor"). CFX and Contractor are referred to herein sometimes as a "Party" or the "Parties".

**WITNESSETH**

**WHEREAS**, on April 9, 2020, CFX and the Contractor entered into a Contract Agreement (the "Original Agreement"), whereby CFX retained the Contractor to provide staffing 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 first renewal of said Initial CFX Contract, which renewal shall begin on April 9, 2021 and end on April 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 \$45,000.00 ("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.

TEWS CONSULTING, INC.

CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY

By: Chm L. Tey  
Print Name: CHMUNA L. TEWY  
Title: PRESIDENT

By: Aneth Williams Digitally signed by Aneth Williams  
Date: 2021.03.17 16:57:16 -04'00'  
Aneth Williams, Director of Procurement

County of Orange  
ATTEST: Felicia Boglin (SEAL)  
PDLT200143662021-8 - EX 10/21/21  
Secretary or Notary

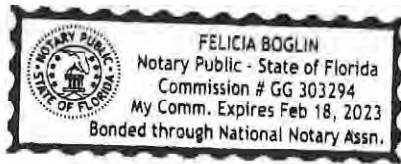
Approved as to form and legality by legal counsel  
to the Central Florida Expressway Authority on  
this \_\_\_ day of \_\_\_\_\_, 2021 for its exclusive  
use and reliance.

By: Felicia Boglin  
Print Name: Felicia Boglin

By: Laura Kelly Digitally signed by Laura Kelly,  
Associate General Counsel  
Date: 2021.03.17 12:57:34 -04'00'  
General Counsel

By: Travisia Rymer  
Print Name: Travisia Rymer

Diego "Woody" Rodriguez, General Counsel





# CONTRACT

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
TEWS CONSULTING, INC.

STAFFING SERVICES

CONTRACT NO.001678

CONTRACT DATE: May 7, 2020  
CONTRACT AMOUNT: \$45,000.00

CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
STAFFING SERVICES  
CONTRACT NO. 001678**

This Contract is made this 9th day of April 2020, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called "CFX" and TEWS CONSULTING, INC. dba TEWS COMPANY, 1000 Legion Place, Suite 730, Orlando, FL 32801, hereinafter the "CONTRACTOR":

**WITNESSETH:**

**WHEREAS**, CFX was created by statute and is charged with acquiring, constructing, operating and maintaining a system of limited access roadways known as the Central Florida Expressway System; and,

**WHEREAS**, CFX has been granted the power under Section 348.754(2)(m) of Florida Statutes, "to do all acts and things necessary or convenient for the conduct of its business and the general welfare of the Central Florida Expressway Authority, in order to carry out the powers granted to it (by state law);" and,

**WHEREAS**, CFX has determined that it is necessary and convenient in the conduct of its business to retain the services of a CONTRACTOR to provide staffing services which is exempt from the Procurement process; and,

**NOW THEREFORE**, in consideration of the mutual covenants and benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged by each party to the other, the parties hereto agree as follows:

**1. SERVICES TO BE PROVIDED**

The CONTRACTOR shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all equipment, supplies, labor and incidentals necessary to perform this Contract in the manner and to the full extent as required by CFX

**2. CONTRACT TERM AND AMOUNT**

The term of the Contract will be one (1) year beginning April 9, 2020. There shall be four (4) renewal options of one year each. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide the CONTRACTOR with written notice of its intent at least 60 days prior to the expiration of the initial three-year Contract terms. The Contract amount shall not exceed \$45,000.00.00 during the term.

**3. COMPENSATION FOR SERVICES**

Compensation shall be in accordance with the CONTRACTOR's Master Service Agreement.

**4. CONTRACTOR RESPONSIBILITY**

CONTRACTOR shall take all reasonable precautions in the performance of the services and shall cause its employees, agents and subcontractors to do the same.

4.1 CONTRACTOR shall comply, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible, with applicable laws, ordinances, rules, regulations, orders of public authorities, sound business practices, including without limitation:

- (i) those relating to the safety of persons and property and their protection from damage, injury or loss, and
- (ii) all workplace laws, regulations, and posting requirements, and

4.2 CONTRACTOR shall be responsible for all damage and loss that may occur with respect to any and all property in any way involved in the provision of services by CONTRACTOR, whether such property is owned by CONTRACTOR, CFX, or any other person, to the extent such damage or loss shall have been caused or brought about by the acts or omissions of CONTRACTOR or its employees, agents, officers or subcontractors or any other persons for whom CONTRACTOR may be legally or contractually responsible.

4.3 CONTRACTOR shall ensure that all of its activities and the activities of its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible are undertaken in a manner that will minimize the effect on surrounding property and the public.

## 5. INDEMNITY

The CONTRACTOR shall indemnify, defend and hold harmless CFX and all of its respective officers, agents, CONTRACTOR's or employees from all suits, actions, claims, demands, costs as defined elsewhere herein, expenses (including reasonable attorneys' fees as defined elsewhere herein), judgments, liabilities of any nature whatsoever (collectively, "Claims") arising out of, because of, or due to breach of the Contract by the CONTRACTOR (its subcontractors, officers, agents or employees) or due to any negligent or intentional act or occurrence of omission or commission of the CONTRACTOR (its subcontractors, officers, agents or employees). CONTRACTOR will not be liable for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of CFX or any of its officers, agents or employees. The parties agree that 1% of the total compensation to the CONTRACTOR for performance of each task authorized under the Contract is the specific consideration from CFX to CONTRACTOR for CONTRACTOR's indemnity and the parties further agree that the 1% is included in the amount negotiated for each authorized task.

## 6. PUBLIC RECORDS

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify CFX. Thereafter, CONTRACTOR shall follow CFX's instructions with regard to such request. To the extent that such request seeks non-exempt public records, CFX shall direct CONTRACTOR to provide such records for inspection and copying in compliance with Chapter 119. A subsequent refusal or failure by CONTRACTOR to timely grant such public access will be grounds for immediate, unilateral cancellation of the Contract by CFX.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807  
(407) 690-5000  
[PublicRecords@CFXWay.com](mailto:PublicRecords@CFXWay.com)

## 7. MEDIA RELEASES

CONTRACTOR shall make no statements, press releases or publicity releases concerning the Contract or its subject matter, or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished under the Contract, or any particulars thereof, without first notifying CFX and securing its consent in writing.

## 8. PERMITS, LICENSES, ETC.

Throughout the term of the Contract, the CONTRACTOR shall procure and maintain, at its sole expense, all permits and licenses that may be required in connection with the performance of Services by CONTRACTOR; shall pay all charges, fees, royalties, and taxes; and shall give all notices necessary and incidental to the due and lawful prosecution of the Services. Copies of required permits and licenses shall be furnished to CFX upon request.

#### **9. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT**

CONTRACTOR acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Ethics Policy. To the extent applicable, CONTRACTOR will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

In the performance of the Contract, CONTRACTOR shall comply with all applicable local, state, and federal laws and regulations and obtain all permits necessary to provide the Contract services.

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.

#### **10. NONDISCRIMINATION**

CONTRACTOR, its employees, officers, agents, and subcontractors shall not discriminate on the grounds of race, color, religion, sex, national origin, or other protected class, in the performance of work or selection of personnel under this Contract.

#### **11. SUBLETTING AND ASSIGNMENT**

CONTRACTOR shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONTRACTOR's right, title, or interest therein without the written consent of CFX, which may be withheld in CFX's sole and absolute discretion. Any attempt by CONTRACTOR to dispose of this Contract as described above, in part or in whole, without CFX's written consent shall be null and void and shall, at CFX's option, constitute a default under the Contract.

#### **12. DISPUTES AND TERMINATION**

All services shall be performed by the CONTRACTOR to the reasonable satisfaction of CFX's Executive Director (or her/his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof.

CFX shall have the right to terminate or suspend the Contract, in whole or in part, at any time, for any reason, with 7 days' notice for convenience or 10 days' notice for cause.

### **13. OTHER SEVERABILITY**

If any section of this Contract be judged void, unenforceable or illegal, then the illegal provision shall be, if at all possible, interpreted or re-drafted into a valid, enforceable, legal provision as close to the parties' original intention, and the remaining portions of the Contract shall remain in full force and effect and shall be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

### **14. GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the laws of Florida. Venue of any legal or administrative proceedings arising out of this Contract shall be exclusively in Orange County, Florida.

### **15. RELATIONSHIPS**

CONTRACTOR acknowledges that no employment relationship exists between CFX and CONTRACTOR or CONTRACTOR's employees. CONTRACTOR shall be responsible for all direction and control of its employees and payment of all wages and salaries and other amounts due its employees. CONTRACTOR shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax and income tax withholding, unemployment compensation, workers compensation, and employment benefits.

Any approval by CFX of a subcontract or other matter herein requiring CFX approval for its occurrence shall not be deemed a warranty or endorsement of any kind by CFX of such subcontract, subcontractor, or matter.

### **16. INTERPRETATION**

For purposes of this Contract, the singular shall include the plural, and the plural shall include the singular, unless the context clearly requires otherwise. Reference to one gender shall include all genders. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the stated statute or regulation. Words not otherwise defined and that have well-known technical, industry, or legal meanings, are used in accordance with such recognized meanings, in the order stated. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities. If CONTRACTOR discovers any material discrepancy, deficiency, or ambiguity in this Contract, or is otherwise in doubt as to the meaning of any provision of the Contract, CONTRACTOR may immediately notify CFX and request clarification of CFX's interpretation of the Contract. The Contract, together with and including all exhibits, comprise the entire agreement of the parties and supersedes and nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

**17. SURVIVAL OF EXPIRATION OR TERMINATION**

Any clause, sentence, paragraph, or section providing for, discussing, or relating to any of the following shall survive the expiration or earlier termination of the Contract:

17.1 Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and

17.2 Any other term or terms of this Contract which by their nature or context necessarily survive the expiration or earlier termination of the Contract for their fulfillment.

**18. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT**

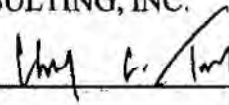
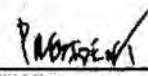
CONTRACTOR shall initiate settlement of all outstanding liabilities and claims arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of CFX.

IN WITNESS WHEREOF, the authorized signatures named below have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

By: Aneth Williams Digitally signed by Aneth Williams  
Date: 2020.06.23 07:50:20 -04'00'  
**Director of Procurement**

**TEWS CONSULTING, INC.**

By:   
  
**Title**

Approved as to form and execution, only.

**Diego "Woody" Rodriguez** Digitally signed by Diego "Woody"  
Rodriguez  
Date: 2020.06.22 11:22:29 -04'00'

**CFX General Counsel**

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY INFORMATION TECHNOLOGY  
STAFFING SERVICES  
CONTRACT NO. 001678**

**ACKNOWLEDGMENT OF STANDARD OF CONDUCT  
AND CODE OF ETHICS**

The undersigned covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes Chapter 112.313 and Sections 348.753, and 104.31 as it relates to work performed under the Contract, which standards will by reference be made a part of the Contract as though set forth in full. The undersigned agrees to incorporate the provisions of this requirement in any subcontract into which it might enter with reference to the work performed or services provided.

The undersigned further acknowledges that it has read the CFX Code of Ethics and, to the extent applicable to the undersigned, agrees to abide with such policy.

TEWS CONSULTING, INC.

By:                     *Chambers L. Tews*                      
Signature

Print:                     CHAMBERS L. TEWS                    

Title:                     PRESIDENT



**EXHIBIT "A"**

**TEWS CONSULTING, INC.,  
MASTER AGREEMENT**

**Tews Company**  
**Administrative & Accounting Division**  
**Master Service Agreement**

This agreement for staffing services is entered into between Tews Consulting, Inc (dba Tews Company) and Central Florida Expressway Authority (Client). Tews Company will provide, upon Client's request, placement services to include locating, interviewing, screening and hiring personnel for Client. Placement services are rendered on a Contract, Contract To Hire and Direct Hire basis.

**Background Checks**

Tews Company will conduct a criminal background check on all IT and Accounting candidates placed at Client worksites. Criminal background checks will be performed on all Administrative candidates working assignments a minimum of four weeks in duration or longer. Additional background checks required by the Client must be specifically requested in writing on attached background check addendum.

**Fee Schedule & Payment Terms**

Client shall compensate Tews Company for services rendered at the hourly rate listed below for Contract and Contract To Hire placements. For Direct Hire placements, Tews Company will bill Client the percentage of first year annual base salary listed below.

**Contract/Contract To Hire Placement**

Rate: Quoted Per Position - 55% markup

Contract To Hire Hours: 560 (\*)

(\*) Client solely responsible for tracking total hours worked by candidate.

**Direct Hire Placement**

% Of Annual Base Salary: 15% Administrative  
20% All other placements

Guarantee Period: 90 days

Client agrees that from six months following receipt of Tews Company candidate resume(s) any future hiring of candidate(s) on either a contract, contract to hire, or direct hire basis will be through Tews Company. If client desires to hire a Tews Company candidate or employee it is agreed that notification will be given to Tews Company, and the client will agree to one of the following hiring options: (a) client agrees that employee will remain on Tews Company's payroll for the designated contract to hire period stated in this agreement; (b) client agrees to buyout the remaining hours on the employee's contract via a prorated buyout fee (c) client agrees to hire the candidate immediately and be billed the direct hire fee percentage stated in this agreement.

Client agrees that fee for services regarding a Tews Company candidate shall be deemed earned by Tews Company, if at any time from the date Tews Company provides the identity of said candidate to Client until six (6) months thereafter, said candidate is employed by Client or subsidiary or related entity of Client. The fee for service shall be

earned and due to Tews Company regardless of the position in which the candidate is hired, even if different than the position for which the candidate is originally referred.

Invoices are payable upon receipt. Invoices not paid within 30 days shall bear interest at the maximum rate allowed by law. Client agrees to bear all reasonable and necessary costs of collection, including attorney's fees and costs. Client further waives all rights to trial by jury in any dispute between Client and Tews Company.

#### Candidate Health Care Insurance/Affordable Care Act

Tews Company is fully compliant with the Patient Protection and Affordable Care Act (ACA). Tews Company employees assigned to contract assignments working a minimum of 30 hours per week for 120 consecutive days or longer will be offered the option to enroll in Tews Company's health insurance plan. Should an employee elect to enroll in Tews Company's health insurance plan Client bill rate shall increase \$1.50 per hour commencing on the employee's 91st business day of employment at Client worksite.

#### Replacement Guarantee

Tews Company provides a ninety (90) day replacement guarantee on all contract to hire and direct hire placements. In order to receive the replacement guarantee, a client must have paid all invoices in full within 10 days of employee start date. In the event, Tews Company is notified during the first 90 calendar days after candidate start date, Tews Company will replace the candidate at no additional charge to Client. Replacement must be hired within 30 Business days after Tews Company is notified and applies only to replacement of the original position placed with Client.

#### Co-Employment & Client Worksite Requirements

If a Tews Company Employee is injured, Client agrees to immediately report the accident and shall cooperate in any investigation or litigation related to the accident or claim. Client agrees that it shall report all claims, demands, or threats it receives from any Tews Company employee and shall advise Tews Company of any concerns or disputes involving Tews Company employees.

Client agrees not to entrust contract or contract to hire employees with unsupervised care, custody and control of financial property including cash, checks, accounts, ledgers, balance sheets, reconciliations and payroll deposits. Client acknowledges that they alone control the work environment at Client's business offices. Client acknowledges complete responsibility for implementing reasonable internal controls and procedures to prevent misuse of financial documents and property. Client further acknowledges that Tews Company recommends that Client seek out the advice of a Certified Public Accountant regarding comprehensive internal control procedures to implement in Client's business.

Client, in consideration of being provided temporary or permanent staffing by Tews Company, hereby releases, waives, discharge and covenant not to sue Tews Company, its officers, directors, shareholders, employees or agents (hereinafter "RELEASEES") for liability, actions, claims, or damages arising out of Tews Company providing temporary or permanent staffing to Client. This release includes but is not limited to a release of liability for negligent hiring, negligent supervision, failure to warn or any action or inaction by the Releasees specifically including failure to uncover specific acts of wrongdoing in an employee(s) past through background checks, or inaccuracies in an employee's resume, employment application, or other disclosures of information.

Tews Company makes no express or implied warranties, representations, or promises regarding the fitness, honesty, or reliability of any particular employee however, Client agrees to accept the risk that an employee placed by Tews Company or hired through Tews Company may commit an act of wrongdoing while employed by Client's business resulting in a loss of financial or other property.


Client further agrees that it shall be solely responsible for compliance with all laws prohibiting discrimination, harassment, and retaliation in the workplace since age, gender, sex, religion, disability, marital status, veteran status, national origin, race, color or creed.

The Agreement shall be governed by the laws of the State of Florida and Client and Tews Company mutually agree that the venue for any suit seeking relief under this Agreement shall be the Circuit Court of Orange County, Florida, or the U.S. District Court, Middle District of Florida, Orlando Division. The parties hereby specifically waive any and all objections to venue in such courts including without limitation any objection based on a claim of inconvenient forum.

**CONSENT AGENDA ITEM  
#11**

MEMORANDUM

TO: Central Florida Expressway Authority Board Members

FROM: Jeffrey Tecau, Managing Director, Protiviti  


DATE: November 7, 2021

SUBJECT: Internal Audit Reports

---

Attached, please find the following Internal Audit reports as reviewed and accepted by the Central Florida Expressway Authority Audit Committee on October 27, 2021.

1. Prior Audit Recommendations: Semi-Annual Follow Up
2. Secure Code Review

Reviewed by: 

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Prior Audit Recommendations Follow-Up

September 30, 2021

# TABLE OF CONTENTS



**3 Executive Summary**

**5 Status of Open Recommendations**



# EXECUTIVE SUMMARY



## Overview

As part of the Fiscal Year 2021 Internal Audit plan, Internal Audit performed a review of open audit recommendations from prior audit reports as of September 30, 2021 to verify the implementation status reported by management. Open recommendations from the following audits were evaluated:



2017 Change Management – Tolling System Replacement Audit	2020 COSO ERM Governance Review
2018 IT General Controls Review	2020 Marketing and Social Media Audit
2019 Accounting Financial Controls Review	2020 P-Card and Gas Card Audit
2019 IT Project Management Review	2020 Retail Transponder Sales Review
2019 LENS Access Control Review	2020 Public Records Review
2020 Secure Code Review	2021 Toll Revenue Audit

Internal Audit last reviewed the status of open audit recommendations in March 2021. Results were reported to the Audit Committee in April 2021.



## Objectives, Scope, and Approach

This review was completed as of September 30, 2021 and consisted of meetings with management to determine the status of open audit recommendations and testing of management's response and status. In addition, only those recommendations that remained open at the time of the last review have been included in this report. If a recommendation was completed as of March 31, 2021, no further work was performed, and the recommendation was not included for review.

Testing performed included inquiry with the employees responsible for completing the recommendations and/or review of documentation evidence to confirm management's reported status and explanation. In instances where the evidence obtained did not agree with management's status, discussions with management were held and the differences were resolved. There were no instances where management and Internal Audit did not come to an agreement on the status of a prior audit recommendation.

# EXECUTIVE SUMMARY



## Recommendations Summary

Audit	Open as of March 31, 2021*	New Action Plans	Completed as of September 30, 2021	In Progress as of September 30, 2021*	Past Due*
2017 Change Management - Tolling System Replacement Audit	1	0	0	1	0
2018 IT General Controls Review	1	0	0	1	0
2019 Accounting and Financial Controls Audit	1	0	0	1	0
2019 IT Project Management Review	1	0	0	1	0
2019 LENS Access Control Review	1	0	0	1	0
2020 Secure Code Review	1	0	0	1	1
2020 COSO ERM Governance Review	2	0	2	0	0
2020 Marketing and Social Media Audit	2	0	1	1	1
2020 P-Card and Gas Card Audit	2	0	1	1	0
2020 Retail Transponder Sales Review	1	0	0	1	0
2020 Public Records	2	0	2	0	0
2021 Toll Revenue Audit	0	5	3	2	0
<b>Total</b>	<b>15*</b>	<b>5</b>	<b>9</b>	<b>11*</b>	<b>2*</b>

**\*11** recommendations are classified as "In Progress." **Eight** of the 11 recommendations are past the initial agreed-upon due date; however, **six** of these eight recommendations are pending completion of a new system implementation or a procurement/vendor selection event, so the due date has been revised to match the estimated timing of the necessary event. **One** of the 11 recommendations is past the initial agreed-upon due date and has been assigned a revised due date. The other remaining "In Progress" recommendations are within the original, agreed-upon due date.

# STATUS OF ALL OPEN RECOMMENDATIONS

# STATUS OF ALL OPEN RECOMMENDATIONS

## 2017 Change Management - Tolling System Replacement Audit

Management Action Plan	Responsible Party	Status	Summary of Status	Due Date
<p><b>TSR Vulnerability Scans:</b></p> <p>Management will remediate the Medium vulnerabilities near the completion of the TSR project.</p>	<p>Jim Greer, Chief of Technology and Operations</p>	<p>In Progress - Contingent upon Full Implementation of New Tolling System</p>	<p>Per discussion with the Chief of Technology and Operations, CFX has determined that remediation of these vulnerabilities will be performed prior to completion of the Toll System Replacement Project. Management expects the Medium vulnerabilities related to the Tolling System Replacement to be completed by the revised due date of 6/30/2022.</p>	<p>Original: 6/30/2019</p> <p>Revised: 9/30/2020</p> <p>Revised: 12/31/2020</p> <p>Revised: 12/31/2021</p> <p>Revised: 6/30/2022</p>

## 2018 IT General Controls Review (1 – In Progress – Contingent on System Implementation) Exempt F.S.282.318

# STATUS OF ALL OPEN RECOMMENDATIONS

## 2019 Accounting and Financial Controls Review

Management Action Plan	Responsible Party	Status	Summary of Status	Due Date
<p><b>Vendor Master File Management:</b></p> <p>CFX will implement a review of new vendors into the Accounting Clerk's review of invoices to ensure the vendor was entered completely and accurately. CFX will further implement a review of vendor changes into the CFOs monthly review procedures.</p>	Lisa Lumbar, CFO	In Progress - Contingent on Implementation of New ERP System	Per discussion with the CFO, the EDEN accounting system recognizes every invoice paid as an update to the vendor within the AP module. As such, it is not possible to review monthly vendor changes as part of the current review process. As of the date of testing, the Authority is currently in the beginning stages of implementing a new ERP system which, among other things, will allow management to review actual vendor changes in the AP module. In the meantime, the invoice review process has been updated to include a review of vendor information per EDEN against the invoice received to ensure appropriateness of the payee. The implementation of the new ERP system is expected to be completed by the revised due date of 12/31/2022.	<p>Original: 8/31/2019</p> <p>Revised: 12/31/2022</p>

# STATUS OF ALL OPEN RECOMMENDATIONS

## 2019 IT Project Management Review

Management Action Plan	Responsible Party	Status	Summary of Status	Due Date
<p><b>Resource Planning:</b></p> <p>Management will formalize resourcing practices with regard to projects at CFX based on requirements and budgets defined in the project intake process (see Observation 2). CFX will integrate these practices within the ERP system planned for 2021.</p>	<p>Jim Greer, Chief Technology and Operations Officer</p>	<p>In Progress - Contingent on Implementation of New ERP System</p>	<p>Per discussion with the Chief of Technology and Operations, remediation of this finding will involve integration of CFX's timekeeping ERP system within Cherwell. As EDEN is slated to be replaced in 2022 by a new ERP system, remediation of this finding is contingent upon new ERP system implementation; the revised due date reflects this contingency. This recommendation is expected to be completed by the revised due date.</p>	<p>Original: 7/31/2020</p> <p>Revised: 12/31/2022</p>

**2019 LENS Access Control Review (1 – In Progress) Exempt F.S.282.318**

**2020 Secure Code Review (1 – In Progress (Past Due)) Exempt F.S.282.318**

# STATUS OF ALL OPEN RECOMMENDATIONS

## 2020 COSO ERM Governance Review

Management Action Plan	Responsible Party	Status	Summary of Status	Due Date
<p><b>Risk Management Feedback:</b></p> <p>The Risk Management Working Group will include an agenda item to solicit feedback from each relevant department regarding key strategic risks. The Risk Management Working Group, in coordination with management, will update the Three-Year Strategic Plan with the strategic risks for each strategic goal.</p>	Lisa Lumbar, Chief Financial Officer	Complete	Per discussion with the Risk Manager, the Three-Year Strategic Plan has been updated with feedback from relevant departments regarding strategic risks for each goal. Internal Audit obtained the Strategic Three-Year Plan 2020-2023 document to confirm completion of the action plan.	Original: 3/31/2021  Revised: 6/30/2021
<p><b>Data Requests:</b></p> <p>The Risk Management Working Group will include an agenda item to monitor status of each of the above data requests and follow up as needed. Additionally, the Risk Management Working Group will coordinate with the Technology / Operations Department to refine the ticketing system by which reporting requests are made and will support development of that system towards capture of relevant cost / benefit information.</p>	Lisa Lumbar, Chief Financial Officer	Complete	Per discussion with the CFO and Risk Manager, the Risk Management Working Group coordinated with IT to conduct a cost/benefit analysis of the proposed ticketing system refinements and determined that existing processes by which the IT Steering Committee manually assesses reporting requests are functioning adequately, and that the benefits associated with developing additional infrastructure would be minimal. Internal Audit concurred with management's assessment.	6/30/2021

# STATUS OF ALL OPEN RECOMMENDATIONS

## 2020 Marketing and Social Media Audit

Management Action Plan	Responsible Party	Status	Summary of Status	Due Date
<p><b>Contractor Use Guidelines:</b></p> <p>Management will develop a social media use guideline or policy for CFX contractor and subcontractor employees. Management will also incorporate an annual social media policy acknowledgement for all CFX employees. Finally, management will implement periodic social media continuing education for employees that work directly with social media platforms and tools.</p>	<p>Michelle Maikisch, Chief of Staff/Public Affairs Officer</p>	<p>In Progress</p>	<p>Per discussion with the Chief of Staff/Public Affairs Officer, the communications team has developed a social media use policy for contractor and subcontractor employees and requires acknowledgement during onboard. However, an annual acknowledgement of the policy has not been implemented; nor has continuing education taken place. Internal Audit obtained the signed Social Media Guidelines document to confirm partial completion of the action plan.</p>	<p>Original: 1/31/2021</p> <p>Revised: 6/30/2021</p>
<p><b>Social Media Procedures:</b></p> <p>Management will consider the recommended topics as an update to the Social Media Procedures Manual.</p>	<p>Angela Melton, Manager of Communications and Marketing</p>	<p>Complete</p>	<p>Per discussion with the Manager of Communications and Marketing, management has implemented updates to the Social Media Procedures Manual as prescribed. Internal Audit obtained the signed Social Media Guidelines document to confirm completion of the action plan.</p>	<p>6/30/2021</p>



# STATUS OF ALL OPEN RECOMMENDATIONS

## 2020 P-Card and Gas Card Audit

Management Action Plan	Responsible Party	Status	Summary of Status	Due Date
<p><b>Digital Approval Workflow:</b></p> <p>Procurement will work with the IT team to determine the best workflow option for each part of the recommendation (Adobe Sign, SharePoint, or others). Management will develop and implement the digital workflow(s) in accordance with the recommendation.</p>	<p>Aneth Williams, Director of Procurement</p>	<p>In Progress - Contingent on Implementation of New ERP System</p>	<p>Per discussion with the CFO, implementation of a digital approval workflow will involve integration with CFX's new ERP system. As completion of this action plan is contingent upon implementation of the new ERP system in 2022, the revised due date reflects this contingency. This recommendation is expected to be completed by the revised due date.</p>	<p>Original: 12/31/2020</p> <p>Revised: 12/31/2022</p>
<p><b>Vendor Reporting Capabilities:</b></p> <p>Management will review P-Card vendor reporting capabilities to extract transaction data. The Manager of Contract Compliance will implement a process to review transaction data and sample P-Card monthly statements for the quarterly audit. Procedures will be updated as the process is developed.</p>	<p>Carrie Baker, Manager of Contract Compliance</p>	<p>Complete</p>	<p>Per discussion with the Manager of Contract Compliance, a periodic analytical review process has been designed and implemented regarding P-Card transaction data provided by the vendor. Internal Audit obtained the most recent P-Card transaction analysis workbook to confirm completion of the action plan.</p>	<p>Original: 10/31/2020</p> <p>Revised: 6/30/2021</p>

# STATUS OF ALL OPEN RECOMMENDATIONS

## 2020 Retail Transponder Sales Review

Management Action Plan	Responsible Party	Status	Summary of Status	Due Date
<p><b>Reporting Capabilities:</b></p> <p>CFX will organize a working group comprised of stakeholders involved in retail transponder sales and inventory management processes and IT to discuss fulfillment of key reporting needs through current CRM implementation.</p>	<p>Mike Carlisle, Director of Accounting and Finance</p>	<p>In Progress – Contingent on Implementation of CRM System</p>	<p>Per discussion with the Director of Accounting and Finance, stakeholders involved in retail transponder sales and inventory management processes have begun meeting to evaluate CRM capabilities. As completion of this action plan is contingent upon implementation of the new CRM system in 2022, the revised due date reflects this contingency. This recommendation is expected to be completed by the revised due date.</p>	<p>Original: 3/31/2021</p> <p>Revised: 12/31/2022</p>

# STATUS OF ALL OPEN RECOMMENDATIONS

## 2020 Public Records Review

Management Action Plan	Responsible Party	Status	Summary of Status	Due Date
<p><b>Public Records Destruction:</b></p> <p>Management will develop and document a road map to achieve a future-state process that includes systematic and periodic disposal of electronic and hardcopy records in accordance with policy and statutory obligations. The road map will help document dependencies, challenges, resource needs, management decision points, etc.</p>	<p>Tim O'Toole, Director of Records Management</p>	Complete	<p>Per discussion with the Director of Records Management, CFX developed a road map to implement future-state processes as prescribed. Internal Audit obtained the Records and Information Management Audit Response Plan document to confirm completion of the action plan.</p>	6/30/2021
<p><b>Offsite Public Records Destruction:</b></p> <p>Management will coordinate with Access Records Storage to amend the contract terms to better align the information disclosed on the Certificates of Destruction with what is required to comply with Florida Public Records Law.</p>	<p>Tim O'Toole, Director of Records Management</p>	Complete	<p>Per discussion with the Director of Records Management, CFX drafted and executed an addendum to the Access Records Storage contract. Internal Audit obtained the contract addendum and correspondence from the vendor confirming revision to relevant terms and the vendor's acceptance.</p>	<p>Original: 12/31/2020</p> <p>Revised: 6/30/2021</p>

# STATUS OF ALL OPEN RECOMMENDATIONS

## 2021 Toll Revenue Audit

Management Action Plan	Responsible Party	Status	Summary of Status	Due Date
<p><b>Toll System Performance Monitoring – Short-term:</b></p> <p>Management should perform a manual review of transaction handling for a sample of transactions within the population of flushes with the highest estimated frequency and material impact to determine the rate and impact of error; Management should perform the above review monthly until a permanent solution is developed.</p>	David Boston, Manager of Toll Technical Systems	Complete	Per discussion with the Manager of Toll Technical Systems, management has implemented a monthly review of flushed transactions on a sample basis. Internal Audit obtained documentation related to the manual reviews which occurred in May, June, and July 2021 to confirm implementation of the action plan.	6/30/2021

# STATUS OF ALL OPEN RECOMMENDATIONS

## 2021 Toll Revenue Audit (Continued)

Management Action Plan	Responsible Party	Status	Summary of Status	Due Date
<p><b>Toll System Performance Monitoring - Long-term:</b></p> <p>Management should catalogue all known scenarios for flush handling failure (i.e., improper flush and failure to flush);            Define criteria for each scenario; identify characteristics which can be used to identify;            Perform manual review of a sample of transactions in each scenario to determine relative material impact;            Prioritize development of monitoring mechanisms (for each scenario according to relative material impact) to facilitate real-time identification of issues utilizing thresholds and alerts;            Perform periodic manual review of transactions in each scenario to validate monitoring mechanisms.</p>	<p>David Boston,            Manager of Toll Technical Systems</p>	<p>In Progress</p>	<p>Per discussion with the Manager of Toll Technical Systems, development of a catalogue of flush handling failure scenarios is underway utilizing analysis from the monthly reviews of flushed transactions. Additionally, monitoring mechanisms utilizing thresholds and real-time alerts are being developed for known issues. This recommendation is expected to be completed by the prescribed due date.</p>	<p>6/30/2022</p>

# STATUS OF ALL OPEN RECOMMENDATIONS

## 2021 Toll Revenue Audit (Continued)

Management Action Plan	Responsible Party	Status	Summary of Status	Due Date
<p><b>Logical Access to TRIMS:</b></p> <p>Management will:            Perform an impact assessment to confirm instances of inappropriate access and removed access where needed;            Coordinate with Alliance One to realign responsibilities related to personnel changes to ensure timely notification of CFX IT for any terminations and personnel changes;            Enhance procedures around periodic user access review to ensure sufficient coverage.</p>	<p>Dave Wynne,            Director of Toll Operations</p> <p>Rafael Milan,            Director of Information Technology</p>	Complete	<p>Per discussion with the Director of Toll Operations, an impact assessment has been performed to confirm instances of inappropriate access to TRIMS and access has been removed where needed.</p> <p>Additionally, responsibilities related to personnel changes have been realigned to Alliance One staff. Internal Audit obtained documentation utilized in the impact assessment and most recent review of TRIMS access as support for completion of the action plan.</p>	Original: 6/30/2021
<p><b>Review of Badge Access:</b></p> <p>Management should ensure that review of badge access is performed with a degree of detail sufficient to uncover errors in report parameters which may hinder the efficacy of the review.</p>	<p>Dave Wynne,            Director of Toll Operations</p>	Complete	<p>Per discussion with the Director of Toll Operations, management has revised the badge access report parameters to permit for effective review. Additionally, responsibilities for access review have been realigned to Alliance One staff. Internal Audit obtained documentation from the most recent review of badge access as support for completion of the action plan by the prescribed due date.</p>	6/30/2021
<p><b>Negative Discrepancy Billing:</b></p> <p>Management should coordinate with the toll collections contractor to mutually document and approve the criteria governing negative discrepancy billing.</p>	<p>Mike Carlisle,            Director of Accounting and Finance</p>	In Progress	<p>Per discussion with the Director of Accounting and Finance, development of the required documentation is underway between CFX and the toll collections contractor. This recommendation is expected to be completed by the prescribed due date.</p>	12/31/2021

*Face the Future with Confidence*

© 2021 Protiviti Inc. All Rights Reserved. This document has been prepared for use by CFXs 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®



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY SECURE CODE REVIEW SUMMARY

July 2021



## **Disclaimer**

This report is intended solely for the use of management of Central Florida Expressway Authority ("Client" or "CFX") and is not to be used or relied upon by others for any purpose whatsoever. This report and the related findings and recommendations detailed herein provide management with information about the condition or risks and internal controls at one point in time. Future changes in environmental factors and actions by personnel may significantly and adversely impact these risks and controls in ways that this report did not and cannot anticipate.

This report presents the results of a CFX performed by Protiviti between May 2021 and June 2021. The scope of the review was limited to specific target mobile applications which were agreed upon during project scoping. This executive summary report is designed for the reader to understand the level of security assessed, to identify security deficiencies, to identify areas of strength and weakness, and to develop a course of action to correct vulnerabilities and mitigate associated risks.

Penetration testing is an uncertain process which is based upon past experiences, currently available information, and known threats. It should be understood that all information security systems, which by their nature are dependent on their human operators, are vulnerable to some degree. Therefore, while the team believes to have identified the major security vulnerabilities on the systems analyzed, there can be no assurance that any exercise of this nature will identify all possible vulnerabilities or propose exhaustive and operationally viable recommendations to mitigate those exposures. This report identifies known vulnerabilities that were detected during the test period; new devices, configuration changes and new/future vulnerabilities were not tested. While the matters presented herein are the result of the review, had additional procedures been performed, other matters may have been identified that would have been reported to CFX.

Additionally, this report contains information concerning potential vulnerabilities of CFX network(s)/system(s) and methods for exploiting them. The team recommends that special precautions be taken to protect the confidentiality of both this document and the information contained herein.

# Table of Contents

Disclaimer ..... 2

Table of Contents ..... 3

Executive Summary ..... 4

    Background.....4

    Objectives and Scope.....4

    Summary of Results .....4

## Executive Summary

### Background

As part of their 2021 Audit Plan, Central Florida Expressway Authority ("Client" or "CFX") engaged Protiviti to perform mobile application penetration testing and source code review. The project focused on evaluating controls that directly correlate to threats and risks that may compromise the confidentiality, integrity, and availability of the E-Pass / Pay-by-Plate ("E-Pass") and Visitor Toll Pass ("VTP") applications. Fieldwork was performed remotely from Protiviti security labs between May 2021 and June 2021.

### Objectives and Scope

This engagement was executed with the intent of assessing controls that are in place within the applications and are designed to minimize the risks of the organization. Emphasis was placed on evaluating the application safeguards that restrict unauthorized access to the CFX applications, the data they transmit, and the critical data (e.g. credentials, personally identifiable data, credit card information etc.) they store.

The scope of the engagement included the following:

- **Mobile Application Penetration Test** – Protiviti assessed both CFX mobile applications on both iOS and Android platforms for security vulnerabilities by emulating end-users with physical and remote access to mobile devices with the CFX application installed. As part of the assessment, Protiviti analyzed the behavior, data protection mechanisms, and sensitive information handling for both applications with respect to their host mobile operating systems. Additionally, Protiviti monitored data traffic from the applications to backend CFX servers to identify potential methods of abuse.
- **Source Code Review** – Protiviti reviewed the E-Pass and VTP codebases for security vulnerabilities, third-party dependency and library usage, as well as secure coding standards and practices. As part of the source code analysis, Protiviti manually reviewed configurations and any third-party packages used, to identify vulnerable or outdated packages.

### Summary of Results

During the assessment, Protiviti discovered one (1) medium priority, four (4) low priority, and (2) informational issues affecting the in-scope mobile applications. The medium and low priority issues are summarized below:

- **Password Policy** – The E-Pass application password policy could be enhanced to strengthen the security of customer accounts.
- **Application Backups** – The manner in which backups are configured for the VTP app could be enhanced to further protect customer data.
- **Background Screen Caching** – Screenshots automatically captured for the E-Pass application could be further protected.
- **Root Detection** – Both the E-Pass and VTP applications could be enhanced to detect rooted devices.
- **Random Number Generation** - Both the E-Pass and VTP applications could use more secure techniques to randomly generate numbers.



*Face the Future with Confidence*

**CONSENT AGENDA ITEM  
#12**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members *WR*

FROM: Diego “Woody” Rodriguez, General Counsel

DATE: December 2, 2021

SUBJECT: Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement Between the City of Apopka and the Central Florida Expressway Authority for Harmon Road  
Project No. 429-604  
Portions of Parcels 63-125 Pond and 63-117 Pond

---

## BACKGROUND

On or about June 29, 2018, the Central Florida Expressway Authority (“CFX”) conveyed to the City of Apopka (“City”) certain real property including certain parcels identified as CFX Parcels 63-125 Pond and 63-117 Pond (collectively, the “Transferred Property”) pursuant to a quit claim deed recorded on August 2, 2018. The quit claim deed included a restriction and reversionary clause restricting the use of the Transferred Property for limited use as a public right-of-way, and in the event the Transferred Property was no longer used for City such right-of-way purposes, all right, title and interest automatically were to revert back to CFX. The City’s plans for Harmon Road subsequently changed as did their uses for the adjacent parcels. The City entered into an agreement with Adventist Health System/Sunbelt, Inc. (“Adventist Health”) for the development, construction, use, and maintenance of a portion of the Transferred Property as a not-for-profit hospital and received certain additional parcels to allow for the construction of a fire station.

Realizing that the Transferred Property deeded to the City had those certain restrictions, the City requested that the restrictions be expanded from public right of way to public uses, to include the use for a fire station and for the not-for-profit hospital uses. At the August 25, 2021, meeting of the CFX Right of Way Committee, the Committee approved a Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement Between the City of Apopka and the Central Florida Expressway Authority (“CFX”) for Harmon Road (“Partial Release”).

After the August 25<sup>th</sup> Right of Way Committee meeting, the City approached CFX about the possibility of relocating an existing nearby public safety radio communication tower which provides police and fire safety personnel with much needed telecommunication services. In addition to the public safety services, the City has been able to contract with two private carriers which provide for co-location of telecommunication services which results in some additional revenue to the City. To allow for those additional uses, the City and CFX revised the Partial Release to provide that CFX and the City will share equally in any revenues derived from any



future telecommunications tower as consideration for expanding the public use limitations of the Transferred Property.

The revised Partial Release now provides that CFX will receive 50% of any revenues derived from any telecommunications towers placed on the property for public use for a term of up to 30 years. The negotiated Partial Release includes revenues from the installation of any telecommunications tower on the Transferred Property or any adjacent properties that have been acquired by the City to develop the fire station and Harmon Road.

On December 2, 2021, the Right of Way Committee met and upon review of the information and presentation, recommended that the Board approve the revised Partial Release.

### **REQUEST**

Approval of the Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement between CFX and the City subject to approval of the legal descriptions by CFX's General Engineering Consultant and any minor or clerical revisions approved by the General Counsel or designee.

### **ATTACHMENT**

- A. Memo Dated November 18, 2021 to the Right of Way Committee with attachments.

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Right of Way Committee Members  
*Woody Rodriguez*

FROM: Diego "Woody" Rodriguez, General Counsel

DATE: November 18, 2021

SUBJECT: Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement Between the City of Apopka and the Central Florida Expressway Authority for Harmon Road  
 Project No. 429-604  
 Portions of Parcels: 63-125 Pond and 63-117 Pond

BACKGROUND

At the August 25, 2021, meeting of the CFX Right of Way Committee, the Committee approved a Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement Between the City of Apopka and the Central Florida Expressway Authority ("CFX") for Harmon Road ("Partial Release") in a form substantially similar to the release provided and subject to minor or clerical revisions approved by the General Counsel. A copy of the August Memorandum with Attachments is attached as **Attachment "A"** to this memo. Included with **Attachment "A"** is the Certificate from CFX's General Engineering Consultant.

The City of Apopka ("City") currently owns a nearby public safety radio communication tower which provides police and fire safety personnel with much needed telecommunication services. However, the current tower is in need of repairs and/or replacement and a relocation by the City is highly probable in the near future. In addition to the public safety services, the City has been able to contract with two private carriers which provide for co-location of telecommunication services and it results in some additional revenue to the City.

At the time of the August meeting, the proposed Partial Release waiver would have allowed some uses but not necessarily a commingled public and private use for the property for a telecommunications tower. After further discussions, the Partial Release initially approved by the ROW Committee was not recommended to the Board for approval and instead the City and CFX have negotiated a new Partial Release that is attached as **Attachment "B"** hereto for the Committee's consideration.

The newly proposed Partial Release provides that:

Notwithstanding the Use Restriction set forth above, CFX hereby agrees to waive CFX's right to claim a reversionary interest in and to the Property for the limited purpose of granting to the City the right to use a portion of the Property, on the terms and conditions set forth in this Release, for the purpose operating and



maintaining the City's public safety radio communication tower and associated antennas, related cables, power generation and other support equipment, including the right of ingress and egress ("Limited Waiver"). It is expressly stipulated that this Release is for permissive use only and that CFX is not representing or warranting the condition or suitability of the Property for use as a public safety radio communication tower and associated antennas.

The Limited Waiver of this release extends to the use of the property being relieved of the restrictions or if the tower is placed on the adjacent properties currently or subsequently owned by the City. Any revenues derived from licenses with private carriers is to be divided equally between the City and CFX. The Limited Waiver is available so long as the primary use is for a public safety telecommunications tower. The terms of the Limited Waiver would be for 10 years with up to two additional 10-year terms for a total of 30 years.

### **REQUEST**

A recommendation by the Right of Way Committee for CFX Board's approval of the Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement between CFX and the City in a form substantially similar to the attached Release, subject to approval of the legal descriptions by CFX's General Engineering Consultant and any minor or clerical revisions approved by the General Counsel or designee.

### **ATTACHMENTS**

- A. Memorandum to the Right of Way Committee dated August 18, 2021, with attachments
- B. Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement (revised to include the new terms referenced herein)

# MEMO ATTACHMENT "A"

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY

### MEMORANDUM

TO: CFX Right-of-Way Committee Members

FROM: Laura Newlin Kelly, Associate General Counsel *lnk*

DATE: August 18, 2021

SUBJECT: Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement Between the City of Apopka and the Central Florida Expressway Authority for Harmon Road  
Project Numbers 429-200 and 429-604  
Portions of Parcels 63-117 Pond and 63-125 Pond

---

### BACKGROUND

On or about June 29, 2018, the Central Florida Expressway Authority ("CFX") conveyed to the City of Apopka ("City") certain real property including certain parcels identified as CFX Parcels 63-125 Pond and 63-117 Pond (collectively, the "Transferred Property") pursuant to that certain Quit Claim Deed with Reservations and Easements recorded August 2, 2018, as Document Number 20180459286 in the Public Records of Orange County, Florida ("Deed"). The Transferred Property is more particularly depicted in the map attached hereto as **Attachment "A"**. The Deed included a restriction and reversionary clause on the Transferred Property restricting the use of the Transferred Property for use as a public right-of-way, and in the event the Transferred Property was no longer used for City public right-of-way purposes, all right, title and interest automatically reverts back to CFX, at CFX's option (collectively, the "Restriction"). A copy of the Deed is attached hereto as **Attachment "B"**. Concurrent with the execution of the Deed, CFX and the City entered into that certain Easement Agreement for Expressway Facilities dated June 29, 2018, and recorded August 3, 2018, as Document Number 20180460203 in the Public Records of Orange County, Florida ("Easement Agreement"), whereby CFX reserved a perpetual easement over the Property for expressway facilities. A copy of the Easement Agreement is attached hereto as **Attachment "C"**.

The City desires to convey certain real property, including portions of the Transferred Property, to Adventist Health System/Sunbelt, Inc. ("Adventist Health") for the development, construction, use, and maintenance of a portion of the Transferred Property as a not-for-profit hospital. Another portion of the Transferred Property will be used by the City for the development, construction, use, and maintenance, of a City fire station. On or about August 2, 2021, the City made application to CFX requesting the release of the Transferred Property from the Restriction and Easement Agreement. A copy of the City's request is attached hereto as **Attachment "D"**. CFX and City have negotiated the terms of a Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement ("Release") to effectuate the release of the Restriction and Easement Agreement over the Transferred Property.

A copy of the draft Release is attached hereto as **Attachment “E”**. Pursuant to the terms of the Release, CFX will release the Transferred Property from the existing Restriction provided the City agrees to revise and reestablish the terms of the use restriction over the Transferred Property to include the following new restriction:

“City, and City’s successors and assigns, agree that the Property shall only be used for public purposes, including, without limitation, not-for-profit hospital and healthcare uses, public right-of-way, stormwater, fire station or other health and safety uses, pedestrian, or recreational uses (collectively, the “Permitted Uses”). Further, the foregoing use restriction shall run with title to Property for a term of the lesser of ten (10) years from the Effective Date of this Release or the maximum number of years allowable by law (“Term”). During the Term, if the Property ceases to be used for any of the Permitted Uses, CFX may elect to pursue any remedies available to the CFX in law or equity including, without limitation, specific performance, or for all right, title, and interest to the Property that is not used for one of the Permitted Uses to automatically revert back to CFX at no cost to CFX. In such event, CFX shall notify City in writing of its intent to exercise its right of reverter with respect to the CFX Property (“Reversion Notice”). Notwithstanding the foregoing, in the event City, or City’s successors or assigns, desires to cease operation of the Property for any of the Permitted Uses or otherwise sell, convey, or transfer the Property to a third party for a use other than any of the Permitted Uses during the Term, City, or City’s successors or assigns, shall provide written notice to CFX of such (“Sale Notice”) and in such event, CFX shall have the right of first refusal and shall have ninety (90) days from CFX’s receipt of the Sale Notice to deliver to City a Reversion Notice.”

Only that portion of the Transferred Property that will be conveyed to Adventist Health will be released from the terms of the Easement Agreement.

Pursuant to CFX’s Property Acquisition, Disposition & Permitting Procedures Manual (“ROW Manual”), CFX staff and CFX’s General Engineering Consultant have examined the Transferred Property and determined that the easement over the Transferred Property is not needed to support existing Expressway System. Accordingly, CFX’s General Engineering Consultant has certified that releasing the Property from the Easement Agreement would not impede or restrict the Expressway System. A copy of the certification is attached hereto as **Attachment “F”**.

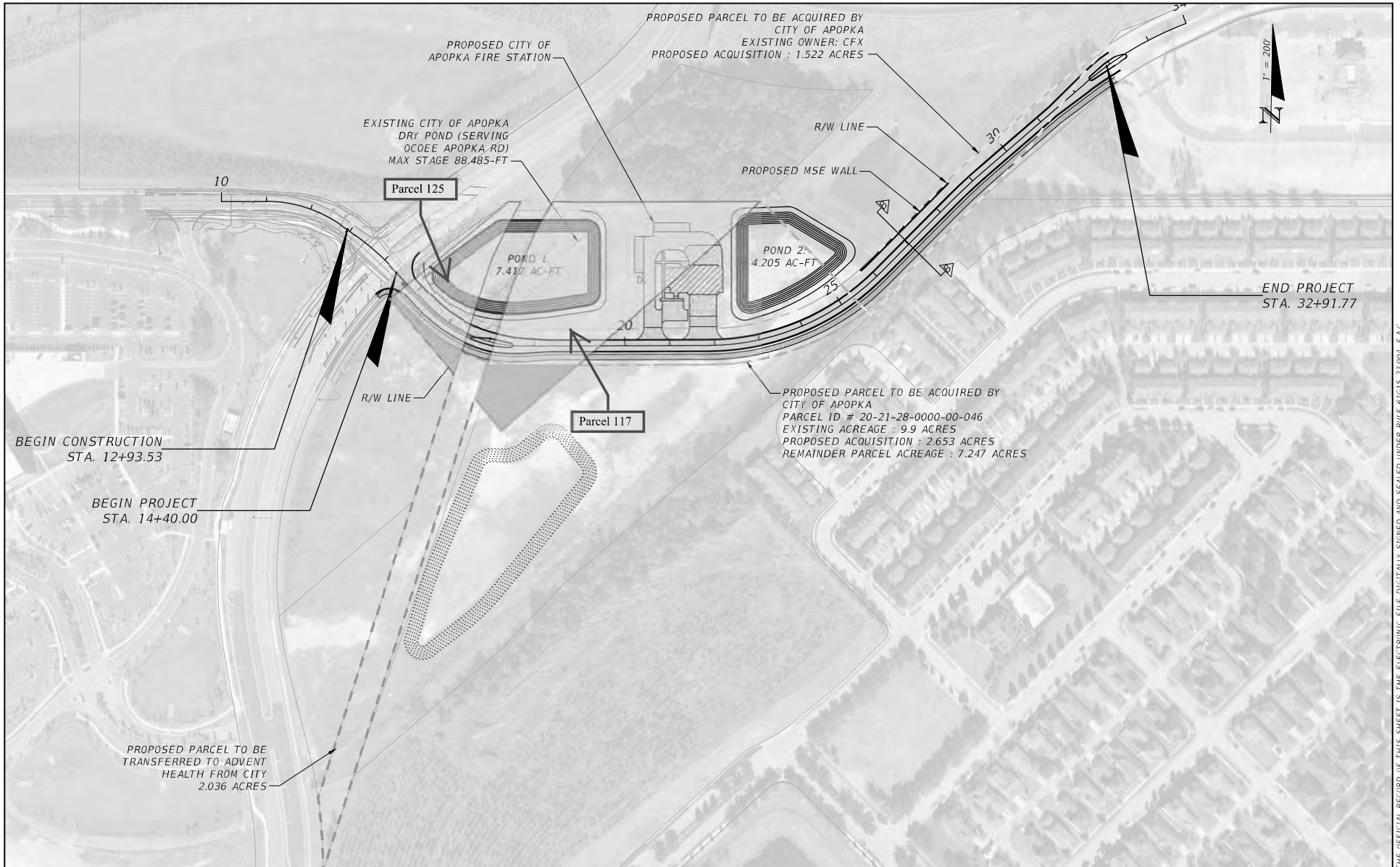
The City has reviewed the Release and agrees with its form, subject to confirmation of the exact legal descriptions and the technical portions of the Release.

### **REQUEST**


A recommendation by the Right-of-Way Committee for CFX Board's approval of the Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement between CFX and the City in a form substantially similar to the attached Release, subject to approval of the legal descriptions by CFX's General Engineering Consultant and any minor or clerical revisions approved by the General Counsel or designee.

### **ATTACHMENTS**

- A. Map of the Property
- B. Quit Claim Deed
- C. Easement and Maintenance Agreement
- D. Application from the City of Apopka
- E. Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement
- F. Certificate from CFX's General Engineering Consultant



THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

REVISIONS		REVISIONS		TYLER JEFFERY MALMBORG, P.E. P.E. LICENSE NUMBER 75630 NEWKIRK ENGINEERING, INC. 1230 NORTH US-HIGHWAY 1, SUITE 3 ORMOND BEACH, FL 32174 CERTIFICATE OF AUTHORIZATION 30209	 <b>CITY OF APOPKA</b> HARMON ROAD EXTENSION	<b>ATTACHMENT "A"</b>	SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION				C-1

Tyler Malmberg

2/19/2021 9:35:51 AM

C:\Projects\Harmon CAD\CADD\Roadway\PLANR002.dwg

# ATTACHMENT "B"

DOC# 20180459286  
08/02/2018 03:31:02 PM Page 1 of 41  
Rec Fee: \$350.00  
Deed Doc Tax: \$0.00  
DOR Admin Fee: \$0.00  
Intangible Tax: \$0.00  
Mortgage Stamp: \$0.00  
Phil Dianond, Comptroller  
Orange County, FL  
NB - Ret To: CENTRAL FLORIDA EXPRESSWAY



**Prepared By:**

Linda S. Brehmer Lanosa, Deputy General Counsel  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

Reserved for Recording

Project 429-604; 429-200 A; 429-200

This deed is exempt from Florida documentary stamp tax under Department of Revenue Rules 12B-4.002(4)(a), 12B-4.014(10), F.A.C., and Section 201.02(6), Florida Statutes.

## QUIT CLAIM DEED WITH RESERVATIONS AND EASEMENTS

THIS QUIT CLAIM DEED, dated as of the date of execution below, by **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 ("GRANTOR") and the **CITY OF APOPKA**, a charter city and political subdivision of the State of Florida, whose address is 120 E. Main Street, Apopka, Florida 32703 ("City" or "GRANTEE").

WITNESSETH: That the GRANTOR, for and in consideration of the sum of \$10.00 and other valuable considerations, the receipt of whereof is hereby acknowledged, does hereby remise, release, and forever quit-claim unto the said GRANTEE, all the right, title, interest, claim, and demand which the GRANTOR has in and to the following described lots, pieces, or parcels of land, situate, lying and being in the county of Orange, state of Florida, to-wit:

### SEE ATTACHED EXHIBIT "1"

**Property Appraiser's Parcel Identification Number:  
Not Assigned**

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining and all the estate, right, title, interest, lien, equity, and claim whatsoever of the GRANTOR, either in law or equity, to the only proper use, benefit, and behoove of the GRANTEE forever.

Project 429-604; 429-200 A; 429-200

SUBJECT TO the covenants, conditions, restrictions, reservations, and easements which are set forth below:

- a) GRANTOR reserves unto itself, its successors and assigns the Easement Agreement for Expressway Facilities recorded in the Official Records of Orange County, Florida, as Document Number to be determined on or about at O.R. Book — and Page —. 8/3/2018
- b) GRANTOR reserves unto itself, its successors and assigns the Permanent Drainage Easement recorded in the Official Records of Orange County, Florida, as Document Number 1998-0120140 at O.R. Book 5447 and Page 2165.
- c) GRANTOR reserves unto itself, its successors and assigns, all rights of ingress, egress, light, air, and view to, from, or across any State Road (S.R.) 429, 414, or 451 right-of-way property which may otherwise accrue to any property adjoining said right of way.
- d) GRANTEE has no rights of ingress, egress, or access to S.R. 429, 414, or 451 from the GRANTEE's property, nor does GRANTEE have any rights of light, air or view from S.R. 429, 414, or 451 bridges.
- e) GRANTEE expressly agrees for itself, and its successors and assigns, to prevent any use of the hereinafter described real property which would interfere with S.R. 429, 414, or 451 or otherwise constitute a hazard for S.R. 429, 414, or 451 or any related system or structure.
- f) GRANTEE expressly agree for themselves, their successors and assigns that if the GRANTEE no longer uses the property (or any part thereof) for City or County public right-of-way purposes, then all right, title, and interest to the Property that is not used for public right-of-way purposes shall automatically revert back to CFX at CFX's option and at no cost to CFX.

IN WITNESS WHEREOF, the said GRANTOR has caused these presents to be signed in its name by its duly authorized representative.

Project 429-604; 429-200 A; 429-200

Signed, sealed, and delivered  
in the presence of:

"CFX"

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

**First Witness:**

*[Signature]*  
Signature

BY: *[Signature]*  
CHAIRMAN

BETH VALENTI  
Print Name

Date: 6-29-18

**Second Witness:**

*[Signature]*  
ATTEST: Regla ("Mimi") Lamaute  
Recording Clerk

**APPROVED AS TO FORM FOR  
RELIANCE BY CFX ONLY**

By: *[Signature]*  
General Counsel

STATE OF FLORIDA )  
COUNTY OF Orange )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of June, 2018, by Fred Hawkins, as Chairman of the Central Florida Expressway Authority.

NOTARY PUBLIC  
Signature: *[Signature]*  
Signature of Notary Public - State of Florida



Print, Type or Stamp Commissioned Name of Notary Public

Personally Known  OR Produced Identification [ ], Type: \_\_\_\_\_



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 PARCEL 204, PROJECT 429-200A

A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 9142, PAGE 4035, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 195.45 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A; THENCE SOUTH 11°58'32" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 254.66 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 7-1/2 ACRES OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 29 FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE RUN NORTH 89°01'55" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 42.66 FEET; THENCE DEPARTING SAID SOUTH LINE RUN SOUTH 11°58'32" WEST, A DISTANCE OF 93.87 FEET; THENCE SOUTH 18°27'01" WEST, A DISTANCE OF 368.70 FEET TO A POINT ON AFORESAID EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 450.66 FEET TO THE POINT OF BEGINNING.

CONTAINING 11,320 SQUARE FEET, MORE OR LESS.

TOGETHER WITH

A PORTION OF PARCEL 204A, PROJECT 429-200A

A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4885, PAGE 2413, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST, ALONG

CONTINUED ON SHEET 2


- Δ = DELTA (CENTRAL ANGLE)
- A.P.O. = A PORTION OF
- CB = CHORD BEARING
- CH = CHORD DISTANCE
- C.R. = COUNTY ROAD
- FDOT = FLORIDA DEPARTMENT OF TRANSPORTATION
- L = LENGTH OF CURVE
- L.A. = LIMITED ACCESS

**LEGEND AND ABBREVIATIONS**

- MSE = MECHANICALLY STABILIZED EARTH
- NO. = NUMBER
- NT = NON-TANGENT
- OOCEA = ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY
- PC = POINT OF CURVATURE
- PT = POINT OF TANGENCY

- P.O.B. = POINT OF BEGINNING
- P.O.C. = POINT OF COMMENCEMENT
- P.O.T. = POINT OF TERMINATION
- R = RADIUS
- R/W = RIGHT OF WAY
- SEC. = SECTION
- S.R. = STATE ROAD
- ⊙ = CHANGE IN DIRECTION

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 06, 2018	CERTIFICATION OF AUTHORIZATION No. LS 8011  800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32808 (407) 943-5120 FAX 407-648-8864	<b>SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)</b>	
DRAWN BY	M.ROLLINS		PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
CHECKED BY	S.WARE		S.R. 429	SCALE: N/A
DRAWN PROJECT NO.	50087135		CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	SHEET 1 OF 12
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 1

A PORTION OF PARCEL 204A, PROJECT 429-200A (CONTINUED)

THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 195.45 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A FOR THE POINT OF BEGINNING; THENCE NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 56.89 FEET; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE RUN SOUTH 29°52'07" EAST, A DISTANCE OF 62.32 FEET; THENCE SOUTH 11°58'32" WEST, A DISTANCE OF 255.57 FEET TO A POINT ON THE EXISTING WESTERLY LIMITED ACCESS RIGHT OF WAY LINE OF STATE ROAD 429 AS SHOWN ON AFORESAID RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A, SAID POINT ALSO BEING A POINT ON THE SOUTH LINE OF THE NORTH 7-1/2 ACRES OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF AFORESAID SECTION 29; THENCE DEPARTING SAID WESTERLY LIMITED ACCESS RIGHT OF WAY LINE RUN SOUTH 89°01'55" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 42.66 FEET TO A POINT ON AFORESAID EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE DEPARTING SAID SOUTH LINE RUN NORTH 11°58'32" EAST ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 254.66 FEET TO A POINT ON THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE POINT OF BEGINNING.

CONTAINING 11,790 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY S.R. 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH


A PORTION OF PARCEL 63-110, PROJECT 75320-6460-604

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 195.45 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY

CONTINUED ON SHEET 3

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018	CERTIFICATION OF AUTHORIZATION No. LS 8011   800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-9128 FAX 407-649-8884	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	M.ROLLINS		S.R. 429	SCALE: N/A
CHECKED BY	E.WARE		CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SHEET 2 OF 12
DEWBERRY PROJECT NO.	50867135		ORANGE COUNTY, FLORIDA	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 2

A PORTION OF PARCEL 63-110, PROJECT 75320-6460-604 (CONTINUED)

EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A; THENCE DEPARTING SAID NORTH LINE RUN NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 56.89 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE NORTH 11°58'32" EAST ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 524.65 FEET; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE RUN SOUTH 29°52'07" EAST, A DISTANCE OF 19.33 FEET; THENCE SOUTH 12°06'53" WEST, A DISTANCE OF 97.41 FEET TO A POINT ON THE FACE OF A MECHANICALLY STABILIZED EARTH (MSE) WALL; THENCE RUN ALONG THE FACE OF SAID MSE WALL THE FOLLOWING THREE COURSES AND DISTANCES: THENCE SOUTH 27°11'21" WEST, A DISTANCE OF 41.46 FEET; THENCE SOUTH 11°57'13" WEST, A DISTANCE OF 213.48 FEET; THENCE SOUTH 03°13'14" EAST, A DISTANCE OF 82.54 FEET; THENCE DEPARTING SAID MSE WALL, SOUTH 23°17'23" EAST, A DISTANCE OF 31.31 FEET; THENCE SOUTH 11°58'32" WEST, A DISTANCE OF 100.56 FEET; THENCE NORTH 29°52'07" WEST, A DISTANCE OF 62.32 FEET TO THE POINT OF BEGINNING.

CONTAINING 7,073 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY S.R. 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH


A PORTION OF PARCEL 219 PART A, PROJECT 429-200A

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 8911, PAGE 3226, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 195.45 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A; THENCE DEPARTING SAID NORTH LINE RUN NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 581.54 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 325.76 FEET; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE RUN SOUTH 78°01'28" EAST, A DISTANCE OF 13.72 FEET; THENCE SOUTH 12°06'53" WEST, A DISTANCE OF 340.16 FEET;

CONTINUED ON SHEET 4

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 06, 2018	CERTIFICATION OF AUTHORIZATION No. LB 8011   800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-5120 FAX 407-649-8864	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	M. ROLLINS		S.R. 429	SCALE: N/A
CHECKED BY	S. HINE		CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SHEET 3 OF 12
DEWBERRY PROJECT NO.	52087135		ORANGE COUNTY, FLORIDA	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 3

A PORTION OF PARCEL 219 PART A, PROJECT 429-200A (CONTINUED)

THENCE NORTH 29°52'07" WEST, A DISTANCE OF 19.33 TO THE POINT OF BEGINNING.

CONTAINING 4,435 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY S.R. 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

AND

RESERVING UNTO GRANTOR ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY PROPERTY ADJOINING THE FOLLOWING DESCRIBED LINE:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 195.45 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A; THENCE DEPARTING SAID NORTH LINE RUN NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 907.30 FEET; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE RUN SOUTH 78°01'28" EAST, A DISTANCE OF 13.72 FEET FOR THE POINT OF BEGINNING; THENCE SOUTH 12°06'53" WEST, A DISTANCE OF 83.33 FEET TO THE POINT OF TERMINATION.

TOGETHER WITH


PARCEL 219 PART B, PROJECT 429-200A

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 8911, PAGE 3226, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF

CONTINUED ON SHEET 5

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018	 CERTIFICATION OF AUTHORIZATION No. LR 8011 800 NORTH MAGNOLIA AVENUE SUITE 1050 ORLANDO, FLORIDA 32803 (407) 843-9120 FAX 407-648-8854	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	MADOLLINS		S.R. 429	SCALE: N/A
CHECKED BY	S.WARE		CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SHEET 4 OF 12
DEWBERRY PROJECT NO.	30987133		ORANGE COUNTY, FLORIDA	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 4

PARCEL 219 PART B, PROJECT 429-200A (CONTINUED)

195.45 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A; THENCE DEPARTING SAID NORTH LINE RUN NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 907.30 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE NORTH 11°58'32" EAST ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 226.55 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 5699.58 FEET; THENCE FROM A CHORD BEARING OF NORTH 12°50'52" EAST; RUN NORTHERLY, ALONG SAID EASTERLY RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 01°44'41", AN ARC DISTANCE OF 173.55 FEET; THENCE DEPARTING SAID CURVE AND SAID EASTERLY RIGHT OF WAY LINE, RUN SOUTH 04°13'20" WEST, A DISTANCE OF 109.08 FEET; THENCE SOUTH 12°41'19" WEST, A DISTANCE OF 292.02 FEET; THENCE NORTH 78°01'28" WEST, A DISTANCE OF 13.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 5,466 SQUARE FEET, MORE OR LESS.

TOGETHER WITH


PARCEL 217, PROJECT 429-200A

A PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 6062, PAGE 1398, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 5/8" IRON ROD IN A CONCRETE DITCH WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE SOUTH 00°11'18" WEST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER AND ALONG THE EXISTING EASTERLY LIMITED ACCESS RIGHT OF WAY LINE OF STATE ROAD 429 AS SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A, A DISTANCE OF 1333.59 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE DEPARTING SAID WEST LINE, RUN NORTH 88°34'39" EAST, ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER AND ALONG SAID EASTERLY LIMITED ACCESS RIGHT OF WAY LINE, A DISTANCE OF 402.08 FEET FOR THE POINT OF BEGINNING, SAID POINT LYING 16.00 FEET WESTERLY, AS MEASURED AT RIGHT ANGLES, FROM THE EXISTING WESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON SAID RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A, SAID POINT ALSO BEING A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 5775.58 FEET; THENCE DEPARTING SAID NORTH LINE AND

CONTINUED ON SHEET 6

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018	CERTIFICATION OF AUTHORIZATION REG. LB 8011  800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-5130 FAX 407-845-8864	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	H.ROLLINS		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	SCALE: N/A SHEET 5 OF 12
CHECKED BY	J.HARRIS			
DEWBERRY PROJECT NO.	SD087135			
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 5

PARCEL 217, PROJECT 429-200A (CONTINUED)

SAID EASTERLY LIMITED ACCESS RIGHT OF WAY LINE FROM A CHORD BEARING OF NORTH 16°12'28" EAST, RUN NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°04'43", AN ARC DISTANCE OF 411.14 FEET; THENCE DEPARTING SAID CURVE, RUN SOUTH 71°45'10" EAST ALONG A RADIAL LINE, A DISTANCE OF 16.00 FEET TO A POINT ON AFORESAID WESTERLY RIGHT OF WAY LINE, SAID POINT BEING A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 5759.58 FEET; THENCE FROM A CHORD BEARING OF SOUTH 16°13'48" WEST, RUN SOUTHERLY ALONG SAID RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°02'03", AN ARC DISTANCE OF 405.54 FEET TO A POINT ON AFORESAID NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29; THENCE SOUTH 88°34'39" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 16.61 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,533 SQUARE FEET, MORE OR LESS.

TOGETHER WITH


PARCEL 218 PART B, PROJECT 429-200A

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 6134, PAGE 3730, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 5/8" IRON ROD IN A CONCRETE DITCH WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE SOUTH 00°11'18" WEST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER AND ALONG THE EXISTING EASTERLY LIMITED ACCESS RIGHT OF WAY LINE OF STATE ROAD 429 AS SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A, A DISTANCE OF 1333.59 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE DEPARTING SAID WEST LINE, RUN NORTH 88°34'39" EAST, ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER AND ALONG SAID EASTERLY LIMITED ACCESS RIGHT OF WAY LINE, A DISTANCE OF 407.27 FEET FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID EASTERLY LIMITED ACCESS RIGHT OF WAY LINE CONTINUE NORTH 88°34'39" EAST ALONG SAID NORTH LINE, A DISTANCE OF 11.42 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON SAID RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A, SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE EASTERLY, AND HAVING A RADIUS OF 5759.58 FEET; THENCE FROM A CHORD BEARING OF SOUTH 13°05'39" WEST, RUN SOUTHERLY, ALONG SAID RIGHT OF WAY LINE, AND ALONG THE

CONTINUED ON SHEET 7

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018	CERTIFICATION OF AUTHORIZATION No. LR 9011  800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-5120 FAX 407-549-8064	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 83-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	M. KILLINS		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	SCALE: N/A SHEET 6 OF 12
CHECKED BY	S. HANE			
DEWBERRY PROJECT NO.	3087125			
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 6

PARCEL 218 PART B, PROJECT 429-200A (CONTINUED)

ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 02°14'15", AN ARC DISTANCE OF 224.91 FEET TO THE POINT OF TANGENCY THEREOF; THENCE CONTINUE ALONG SAID WESTERLY RIGHT OF WAY LINE SOUTH 11°58'32" WEST, A DISTANCE OF 470.32 FEET; THENCE DEPARTING SAID WESTERLY RIGHT OF WAY LINE RUN NORTH 29°46'11" WEST, A DISTANCE OF 79.34 FEET; THENCE NORTH 16°24'21" EAST, A DISTANCE OF 127.20 FEET; THENCE NORTH 13°33'47" EAST A DISTANCE OF 216.55 FEET; THENCE NORTH 30°42'05" EAST A DISTANCE OF 62.30 FEET; THENCE NORTH 14°31'23" EAST, A DISTANCE OF 231.27 FEET TO THE POINT OF BEGINNING.

CONTAINING 20,964 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY S.R. 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH


A PORTION OF PARCEL 63-110 AND A PORTION OF PARCEL 63-112, PROJECT 75320-6460-604

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 133.89 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 11°58'32" EAST, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 114.02 FEET FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID WESTERLY RIGHT OF WAY LINE RUN NORTH 78°00'18" WEST, A DISTANCE OF 52.83 FEET; THENCE NORTH 11°58'32" EAST, A DISTANCE OF 219.50 FEET TO A POINT ON THE FACE OF A MECHANICALLY STABILIZED EARTH (MSE) WALL; THENCE RUN ALONG THE FACE OF SAID MSE WALL THE FOLLOWING THREE COURSES AND DISTANCES: THENCE NORTH 26°59'06" EAST, A DISTANCE OF 21.23 FEET; THENCE NORTH 11°57'15" EAST, A DISTANCE OF 213.54 FEET; THENCE NORTH 03°20'06" WEST, A DISTANCE OF 20.52 FEET; THENCE DEPARTING SAID MSE WALL RUN NORTH 11°58'32" EAST, A DISTANCE OF 149.14 FEET; THENCE SOUTH 29°46'11" EAST, A DISTANCE OF 79.34 FEET TO A POINT ON AFORESAID WESTERLY RIGHT OF

CONTINUED ON SHEET 8

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018	CERTIFICATION OF AUTHORIZATION No. LS 8011  800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-3120 FAX 407-649-8884	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	M. COLLINS		S.R. 429	SCALE: N/A
CHECKED BY	S. WARE		CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SHEET 7 OF 12
DEWBERRY PROJECT NO.	50087125		ORANGE COUNTY, FLORIDA	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 7

A PORTION OF PARCEL 63-110 AND A PORTION OF PARCEL 63-112, PROJECT 75320-6460-604  
 (CONTINUED)


WAY LINE OF COUNTY ROAD 437-A; THENCE SOUTH 11°58'32" WEST ALONG SAID WESTERLY  
 RIGHT OF WAY LINE, A DISTANCE OF 563.30 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.690 ACRES MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS  
 ANY S.R. 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY  
 ADJOINING SAID RIGHT OF WAY.

CONTAINING IN THE AGGREGATE 2.241 ACRES, MORE OR LESS.

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018	CERTIFICATION OF AUTHORIZATION No. LB 8011   800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-3120 FAX 407-849-8664	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	M.ROLLINS		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	SCALE: N/A
CHECKED BY	S. NAZE		SHEET 8 OF 12	
BOUNDARY PROJECT NO.	58081173			
REVISION	BY	DATE		





BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF THE NORTHWEST 1/4 OF SEC. 29-21-28, BEING S00°11'18"W.

SCALE: 1" = 100'

0 50 100

SEE SHEET 11 FOR CONTINUATION

TOWNSHIP 21 SOUTH  
RANGE 28 EAST

SECTION 30  
1333.50'

SECTION 29  
S.R. 429  
R/W VARIES

ACCESS ROAD "B"

WEST LINE OF THE NW 1/4 OF SECTION 29

EXISTING WESTERLY I.A. R/W LINE OF S.R. 429 PER DOCEA R/W MAP FOR S.R. 429, PROJECT NO. 75320-6460-604

EXISTING EASTERLY R/W LINE OF C.R. 437-A AS MONUMENTED AND SHOWN ON DOCEA R/W MAP FOR S.R. 429, PROJECT NO. 429-200A

EXISTING EASTERLY R/W LINE OF C.R. 437-A AS MONUMENTED AND SHOWN ON DOCEA R/W MAP FOR S.R. 429, PROJECT NO. 429-200A

SEE DETAIL "A"

SEE DETAIL "B"

SW 1/4 OF THE NW 1/4

NOTE 1:  
P.O.B. A PORTION OF PARCEL 63-110

P.O.B. A PORTION OF PARCELS 63-110 AND 63-112

CONTINUED FROM SHEET 9

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018
DRAWN BY	M. HILLIERS
CHECKED BY	S. WARE
DRAWING PROJECT NO.	SO067135
REVISION	BY DATE

CERTIFICATION OF AUTHORIZATION No. 18 9011



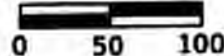
800 NORTH MAGNOLIA AVENUE  
SUITE 1000  
ORLANDO, FLORIDA 32803  
(407) 843-3120  
FAX 407-849-8864

SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)	
PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
S.R. 429	SCALE: 1"=100'
CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	SHEET 10 OF 12



BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF THE NORTHWEST 1/4 OF SEC. 29-21-28, BEING 500°11'18"W.

SCALE: 1" = 100'



19 | 20  
30 | 29

P.O.C.  
PARCEL 217  
PARCEL 218 PART B  
NORTHWEST CORNER OF THE  
NORTHWEST 1/4 OF SECTION 29  
FOUND 5/8" IRON ROD  
WITH NO IDENTIFICATION  
IN A CONCRETE DITCH.

NW 1/4 OF  
THE NW 1/4

TOWNSHIP 21 SOUTH  
RANGE 28 EAST

1333.59'  
500°11'18"W

EXISTING EASTERLY L.A. R/W LINE  
OF S.R. 429 PER OOCEA R/W MAP  
FOR S.R. 429, PROJECT NO. 429-200A  
AND WEST LINE OF THE NW 1/4  
OF SECTION 29

EXISTING WESTERLY  
R/W LINE OF C.R. 437-A  
AS MONUMENTED AND  
SHOWN ON OOCEA R/W  
MAP FOR S.R. 429, PROJECT  
NO. 429-200A

(RADIAL)  
571°45'10"E  
16.00'

Δ = 04°04'43"  
L = 411.14'  
R = 5775.58'  
CH = 411.06'  
CB = N16°12'28"E

Δ = 04°02'03"  
L = 405.54'  
R = 5738.58'  
CH = 405.46'  
CB = S16°13'48"W

PARCEL 217 6333 S.F. ±  
C.R. 437-A  
R/W VARIES

PROJECT NO. 429-200A  
& 75320-6460-604

CONTINUED FROM SHEET 11

I HEREBY CERTIFY THAT THIS SKETCH OF DESCRIPTION IS IN ACCORDANCE WITH THE STANDARDS OF PRACTICE AS REQUIRED BY CHAPTER 11-11 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.921, FLORIDA STATUTES.

*Sheila A. Ware* 05/15/2018  
SHEILA A. WARE, P.E. DATE  
LICENSE NUMBER 1129

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFICATION OF AUTHORIZATION No. LA 8911

**Dewberry**

800 NORTH MAGNOLIA AVENUE  
SUITE 1000  
ORLANDO, FLORIDA 32803  
(407) 843-3120  
FAX 407-648-8884

SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)

PARCELS 204, 217, 218 PART B AND 219 PART B,  
A PORTION OF PARCELS 204A, 219 PART A AND 63-110  
AND A PORTION OF PARCELS 63-110 AND 63-112

S.R. 429  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
ORANGE COUNTY, FLORIDA

SCALE: 1"=100'

SHEET 12 OF 12

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200

PURPOSE: RIGHT OF WAY

LEGAL DESCRIPTION:

A PORTION OF PARCEL 63-114

A PORTION OF THE NORTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°37'58"E ALONG THE NORTH LINE OF SAID SOUTHWEST ONE-QUARTER FOR 1376.33 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE N89°37'58"E ALONG SAID NORTH LINE FOR 147.70 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE DEPARTING SAID NORTH LINE, RUN S17°47'49"W ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE FOR 1387.17 FEET TO THE SOUTH LINE OF THE NORTH ONE-HALF OF SAID SOUTHWEST ONE-QUARTER OF SECTION 20; THENCE S88°52'46"W ALONG SAID SOUTH LINE FOR 47.57 FEET; THENCE DEPARTING SAID SOUTH LINE RUN N17°47'49"E FOR 958.15 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 879.93 FEET, A CHORD DISTANCE OF 409.65 FEET AND A CHORD BEARING OF N04°20'21"E; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 26°55'14", A DISTANCE OF 413.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.752 ACRES, MORE OF LESS.

TOGETHER WITH

A PORTION OF PARCEL 63-117

A PORTION OF THE NORTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE S00°31'43"W ALONG THE EAST LINE OF SAID NORTHWEST ONE-QUARTER FOR 2650.31 FEET; THENCE S00°31'43"W ALONG THE EAST LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 20 FOR 1298.12 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH ONE-HALF OF SAID SOUTHWEST ONE-QUARTER OF SECTION 20; THENCE S88°52'46"W ALONG SAID SOUTH LINE FOR 1416.10 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE S88°52'46"W FOR 47.57 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE DEPARTING SAID SOUTH LINE RUN N17°47'49"E ALONG SAID RIGHT OF WAY LINE FOR 1223.27 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 1029.93 FEET, A CHORD DISTANCE OF 304.46 FEET AND A CHORD BEARING

CONTINUED ON SHEET 2

**LEGEND AND ABBREVIATIONS**

Δ	= DELTA (CENTRAL ANGLE)	L	= LENGTH OF CURVE	P.O.B.	= POINT OF BEGINNING
A.P.O.	= A PORTION OF	L.A.	= LIMITED ACCESS	P.O.C.	= POINT OF COMMENCEMENT
CB	= CHORD BEARING	NO.	= NUMBER	R	= RADIUS
CH	= CHORD DISTANCE	NT	= NON-TANGENT	R/W	= RIGHT OF WAY
C.R.	= COUNTY ROAD	PC	= POINT OF CURVATURE	SEC.	= SECTION
FDOT	= FLORIDA DEPARTMENT OF TRANSPORTATION	PT	= POINT OF TANGENCY	S.R.	= STATE ROAD
		⊙	= CHANGE IN DIRECTION		

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018	CERTIFICATION OF AUTHORIZATION No. LB 8011  800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-5120 FAX 407-649-8884	<b>SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)</b> PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
DRAWN BY	J. HERRD		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
CHECKED BY	S. HANE	SCALE: N/A		
DHS PROJECT NO.	35087135	SHEET 1 OF 11		
REVISION	BY DATE			

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200

PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:

CONTINUED FROM SHEET 1

A PORTION OF PARCEL 63-117 (CONTINUED)

OF 509°17'50"W; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 16°59'58", FOR 305.58 FEET TO THE POINT OF TANGENCY; THENCE S17°47'49"W FOR 906.74 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.153 ACRES, MORE OR LESS.

TOGETHER WITH

A PORTION OF PARCEL 63-117

A PORTION OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE S00°31'43"W ALONG THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20 FOR 1021.15 FEET; THENCE N77°00'15"W FOR 282.43 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE N77°00'15"W FOR 32.02 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A AND A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 746.20 FEET, A CHORD DISTANCE OF 271.90 FEET AND A CHORD BEARING OF N23°23'23"E; THENCE RUN NORTHEASTERLY ALONG SAID RIGHT OF WAY LINE AND THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 20°59'40", FOR 273.43 FEET TO THE POINT OF TANGENCY; THENCE N12°53'33"E FOR 155.23 FEET; THENCE DEPARTING SAID SOUTHEASTERLY RIGHT OF WAY LINE, RUN S89°59'47"E FOR 30.78 FEET; THENCE S12°53'33"W FOR 162.09 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 776.20 FEET, A CHORD DISTANCE OF 271.59 FEET AND A CHORD BEARING OF S22°58'06"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 20°09'06", FOR 273.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 12,956 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH

A PORTION OF PARCEL 63-117 - POND

A PORTION OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE S00°31'43"W ALONG THE EAST LINE OF THE

CONTINUED ON SHEET 3

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018	 CERTIFICATION OF AUTHORIZATION No. LS 8011 800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-3120 FAX 407-648-8864	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)	
DRAWN BY	J.MUNRO		PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
CHECKED BY	S.WARE		S.R. 429	SCALE: N/A
DWS PROJECT NO.	SOBET135		CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SHEET 2 OF 11
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200

PURPOSE: RIGHT OF WAY

LEGAL DESCRIPTION:

CONTINUED FROM SHEET 2

A PORTION OF PARCEL 63-117 - POND (CONTINUED)

NORTHWEST ONE-QUARTER OF SAID SECTION 20 FOR 1325.16 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF SAID SECTION 20; THENCE S89°49'06"W ALONG SAID NORTH LINE FOR 139.74 FEET FOR THE POINT OF BEGINNING; SAID POINT ALSO BEING A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 7469.44 FEET, A CHORD DISTANCE OF 382.43 FEET AND A CHORD BEARING OF S47°58'03"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 02°56'02", FOR 382.47 FEET TO THE POINT OF TANGENCY; THENCE S49°26'04"W FOR 386.97 FEET; THENCE N40°33'56"W FOR 91.38 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE RUN ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE THE FOLLOWING TWO COURSES; THENCE N17°47'49"E FOR 229.99 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 924.93 FEET, A CHORD DISTANCE OF 240.91 FEET AND A CHORD BEARING OF N25°16'48"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 14°57'58", FOR 241.60 FEET TO A POINT ON AFORESAID NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 20; THENCE N89°49'06"E FOR 464.28 FEET TO THE POINT OF BEGINNING.

CONTAINING 3.302 ACRES, MORE OR LESS.

TOGETHER WITH

A PORTION OF PARCEL 63-118

A PORTION OF THE NORTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 1 1/2" IRON PIPE AT THE SOUTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 20; THENCE N00°31'43"E ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 20, FOR 2596.23 FEET; THENCE N00°31'43"E ALONG THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20, FOR 1325.15 FEET TO THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE S89°49'06"W ALONG SAID SOUTH LINE FOR 604.02 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, BEING A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 924.93 FEET, A CHORD DISTANCE OF 115.63 FEET AND A CHORD BEARING OF N36°20'49"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 07°10'04", FOR 115.71 FEET TO THE POINT OF TANGENCY; THENCE N39°55'51"E FOR 73.51 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE N39°55'51"E ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE FOR 214.15 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 746.20 FEET, A CHORD DISTANCE OF 78.67 FEET AND A CHORD BEARING OF N36°54'32"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°02'37", FOR 78.71 FEET; THENCE DEPARTING SAID SOUTHEASTERLY RIGHT OF WAY LINE RUN S77°00'15"E FOR 32.02 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 776.20 FEET, A CHORD DISTANCE OF 294.70 FEET AND A CHORD BEARING OF

CONTINUED ON SHEET 4

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018	 CERTIFICATION OF AUTHORIZATION No. LA 9011 800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-5130 FAX 407-849-8884	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
DRAWN BY	L.MURDO		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
CHECKED BY	S.WARE		SCALE: N/A	
DES PROJECT NO.	5097125		SHEET 3 OF 11	
REVISION	BY DATE			

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200

PURPOSE: RIGHT OF WAY

LEGAL DESCRIPTION:

CONTINUED FROM SHEET 3

A PORTION OF PARCEL 63-118 (CONTINUED)

543°59'15"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°53'12", FOR 296.50 FEET TO THE POINT OF TANGENCY; THENCE 554°55'51"W FOR 13.72 TO THE POINT OF BEGINNING.

CONTAINING 6872 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH


PARCEL 63-125

A PORTION OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°37'58"E ALONG THE NORTH LINE OF SAID SOUTHWEST ONE-QUARTER FOR 1376.33 FEET FOR THE POINT OF BEGINNING; SAID POINT ALSO BEING A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 879.93 FEET, A CHORD DISTANCE OF 13.98 FEET AND A CHORD BEARING OF N09°34'35"W; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00°54'38", A DISTANCE OF 13.99 FEET TO THE POINT OF TANGENCY; THENCE N10°01'54"W FOR 316.94 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 1026.93 FEET, A CHORD DISTANCE OF 355.09 FEET AND A CHORD BEARING OF N00°38'31"W; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 18°46'47", A DISTANCE OF 336.59 FEET; THENCE DEPARTING SAID CURVE ALONG A NON-TANGENT LINE RUN N22°53'51"E FOR 54.78 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1014.93 FEET, A CHORD DISTANCE OF 582.11 FEET AND A CHORD BEARING OF N28°24'47"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 33°19'47", A DISTANCE OF 590.40 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 220.00 FEET, A CHORD DISTANCE OF 168.36 FEET AND A CHORD BEARING OF N66°34'50"W; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 44°59'39", FOR 172.76 FEET; THENCE DEPARTING SAID CURVE ALONG A RADIAL LINE, RUN N00°55'20"E FOR 39.08 FEET TO THE NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°49'06"E ALONG SAID NORTH LINE FOR 101.31 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 280.00 FEET, A CHORD DISTANCE OF 116.28 FEET AND A CHORD BEARING OF S55°53'06"E; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 23°58'10", FOR 117.14 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1014.93 FEET, A CHORD DISTANCE OF 105.55 FEET AND A CHORD BEARING OF

CONTINUED ON SHEET 5

PROJECT NO. 75320-6460-604 & 429-200

DATE		FEBRUARY 28, 2012		CERTIFICATION OF AUTHORIZATION No. LR 8011   800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-9130 FAX 407-840-8864	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)	
DRAWN BY		LJUNRO			PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
CHECKED BY		S.WAZE			S.R. 429	
OBS PROJECT NO.		S0061120			CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
REVISION		BY	DATE	SCALE: N/A		
				SHEET 4 OF 11		



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200

PURPOSE: RIGHT OF WAY

LEGAL DESCRIPTION:

CONTINUED FROM SHEET 4

A PORTION OF PARCEL 63-125 (CONTINUED)

N51°26'48"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°57'41", FOR 105.60 FEET TO SAID NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER; THENCE N89°49'06"E ALONG SAID NORTH LINE FOR 209.73 FEET; THENCE DEPARTING SAID NORTH LINE RUN S54°55'51"W FOR 163.12 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 894.93 FEET, A CHORD DISTANCE OF 1015.41 FEET AND A CHORD BEARING OF S20°22'04"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 69°07'34", FOR 1079.71 FEET TO THE POINT OF TANGENCY; THENCE S14°11'43"E FOR 177.70 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 1029.93 FEET, A CHORD DISTANCE OF 105.92 FEET AND A CHORD BEARING OF S11°14'51"E; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05°53'43", A DISTANCE OF 105.97 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE S17°47'49"W ALONG SAID RIGHT OF WAY LINE FOR 8.62 FEET TO A POINT ON AFORESAID NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 20; THENCE DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE RUN S89°37'58"W ALONG SAID NORTH LINE FOR 147.70 FEET TO THE POINT OF BEGINNING.

CONTAINING 4.651 ACRES, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH

PARCEL 63-125 - POND

A PORTION OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE SOUTHWEST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°37'58"E ALONG THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20 FOR 1524.03 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE N17°47'49"E ALONG SAID RIGHT OF WAY LINE FOR 994.64 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE N17°47'49"E FOR 193.02 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 984.93 FEET, A CHORD DISTANCE OF 218.42 FEET AND A CHORD BEARING OF N24°09'46"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°43'55", FOR 218.87 FEET TO THE NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE RUN S89°49'06"W ALONG SAID NORTH LINE FOR 27.10 FEET; THENCE DEPARTING SAID NORTH LINE RUN S54°55'51"W FOR 163.12 FEET TO THE POINT OF CURVATURE OF A CURVE,

CONTINUED ON SHEET 6

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018	CERTIFICATION OF AUTHORIZATION No. LS 9011   800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 845-5120 FAX 407-648-8664	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
DRAWN BY	LJMBRO		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
CHECKED BY	SJHANE		SCALE: N/A	
DBS PROJECT NO.	19087135		SHEET 5 OF 11	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 5

PARCEL 63-125 - POND (CONTINUED)

CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 894.93 FEET, A CHORD DISTANCE OF 178.84 FEET AND A CHORD BEARING OF S49°11'47"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 11°28'08", FOR 179.14 FEET; THENCE S40°33'56"E FOR 226.92 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.979 ACRES, MORE OR LESS.

TOGETHER WITH

PARCEL 63-144  
 PARCEL "A"

A PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, RUN N89°49'06"E, ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID NORTHWEST 1/4, A DISTANCE OF 132.14 FEET FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID SOUTH LINE RUN N00°55'20"E, A DISTANCE OF 20.92 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A A RADIUS OF 280.00 FEET, A CHORD DISTANCE OF 103.05 FEET AND A CHORD BEARING OF S78°28'25"E; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°12'29", FOR 103.64 FEET TO A POINT ON AFORESAID SOUTH LINE; THENCE DEPARTING SAID CURVE, RUN S89°49'06"W, ALONG SAID SOUTH LINE, A DISTANCE OF 101.31 FEET TO THE POINT OF BEGINNING.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

CONTAINING 1388 SQUARE FEET, MORE OR LESS

TOGETHER WITH


PARCEL 63-144  
 PARCEL "B"

A PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, RUN N89°49'06"E, ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID NORTHWEST 1/4, A DISTANCE OF 412.27 FEET FOR THE POINT OF BEGINNING; SAID POINT ALSO BEING ON A

CONTINUED ON SHEET 7

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018	 CERTIFICATION OF AUTHORIZATION No. LA 8011 800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-3120 FAX 407-846-8884	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
DRAWN BY	LJL/RC		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
CHECKED BY	LJL/RC		SCALE: N/A	
DES PROJECT NO.	MM7125		SHEET 6 OF 11	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 6

PARCEL 63-144 (CONTINUED)

NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1014.93 FEET, A CHORD DISTANCE OF 8.92 FEET AND A CHORD BEARING OF N54°40'45"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 00°30'13", FOR 8.92 FEET TO THE POINT OF TANGENCY; THENCE N54°55'51"E, A DISTANCE OF 437.60 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 656.20 FEET, A CHORD DISTANCE OF 470.73 FEET AND A CHORD BEARING OF N33°54'42"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 42°02'18", FOR 481.46 FEET TO THE POINT OF TANGENCY; THENCE RUN S77°06'27"E, A DISTANCE OF 30.00 FEET TO A POINT ON THE EXISTING NORTHWESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; SAID POINT ALSO BEING ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 686.20 FEET, A CHORD DISTANCE OF 320.83 FEET AND A CHORD BEARING OF S26°24'42"W; THENCE RUN SOUTHWESTERLY ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 27°02'18" FOR 323.82 FEET TO THE POINT OF TANGENCY; THENCE CONTINUE ALONG SAID WESTERLY RIGHT OF WAY LINE THE FOLLOWING TWO COURSES: THENCE S39°55'51"W, A DISTANCE OF 287.66 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 984.93 FEET, A CHORD DISTANCE OF 161.44 FEET AND A CHORD BEARING OF S35°13'47"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 09°24'07", FOR 161.62 FEET TO A POINT ON AFORESAID SOUTH LINE; THENCE DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE RUN N89°49'06"E, ALONG SAID SOUTH LINE, A DISTANCE OF 236.83 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.200 ACRES MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH


PARCEL 215  
 PART B

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"X6" CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°59'37"W, ALONG THE NORTH LINE OF SAID NORTHWEST ONE-QUARTER, A DISTANCE OF 109.01 FEET TO THE EXISTING NORTHWESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A AS SHOWN ON OCEA RIGHT OF WAY MAP PROJECT NUMBER 429-200; THENCE DEPARTING SAID NORTH LINE RUN S12°53'33"W ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE A DISTANCE OF 396.32 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE S12°53'33"W A DISTANCE OF 308.92

CONTINUED ON SHEET 8

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018	CERTIFICATION OF AUTHORIZATION No. LB 8311   800 NORTH MAGNOLIA AVENUE SUITE 1650 ORLANDO, FLORIDA 32803 (407) 843-8120 FAX 407-848-8884	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)	
DRAWN BY	J.M.BIRD		PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
CHECKED BY	S.MARE		S.R. 429	
DES PROJECT NO.	5087135		CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
REVISION	BY	DATE	SCALE:	N/A
			SHEET 7 OF 11	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:

CONTINUED FROM SHEET 7

PARCEL 215 PART B (CONTINUED)

FEET; THENCE DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE RUN N77°06'27"W A DISTANCE OF 30.00 FEET; THENCE N12°53'33"E A DISTANCE OF 302.10 FEET; THENCE S89°55'15"E A DISTANCE OF 30.77 FEET TO THE POINT OF BEGINNING.

CONTAINING 9165 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH

PARCEL 227  
 PART B

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"X6" CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°59'37"W, ALONG THE NORTH LINE OF SAID NORTHWEST ONE-QUARTER, FOR A DISTANCE OF 47.46 FEET TO THE EXISTING SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A AS SHOWN ON OOCEA RIGHT OF WAY MAP PROJECT NUMBER 429-200; THENCE DEPARTING SAID NORTH LINE RUN S12°53'33"W ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 461.01 FEET FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID SOUTHEASTERLY RIGHT OF WAY LINE RUN S89°55'15"E FOR A DISTANCE OF 30.77 FEET; THENCE S12°53'33"W FOR A DISTANCE OF 102.68 FEET; THENCE N89°59'47"W FOR A DISTANCE OF 30.78 FEET TO AFORESAID SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE N12°53'33"E ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE FOR A DISTANCE OF 102.73 FEET TO THE POINT OF BEGINNING.

CONTAINING 3081 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

CONTAINING IN THE AGGREGATE 13.524 ACRES, MORE OR LESS.

PROJECT NO. 75320-6460-604 & 429-200

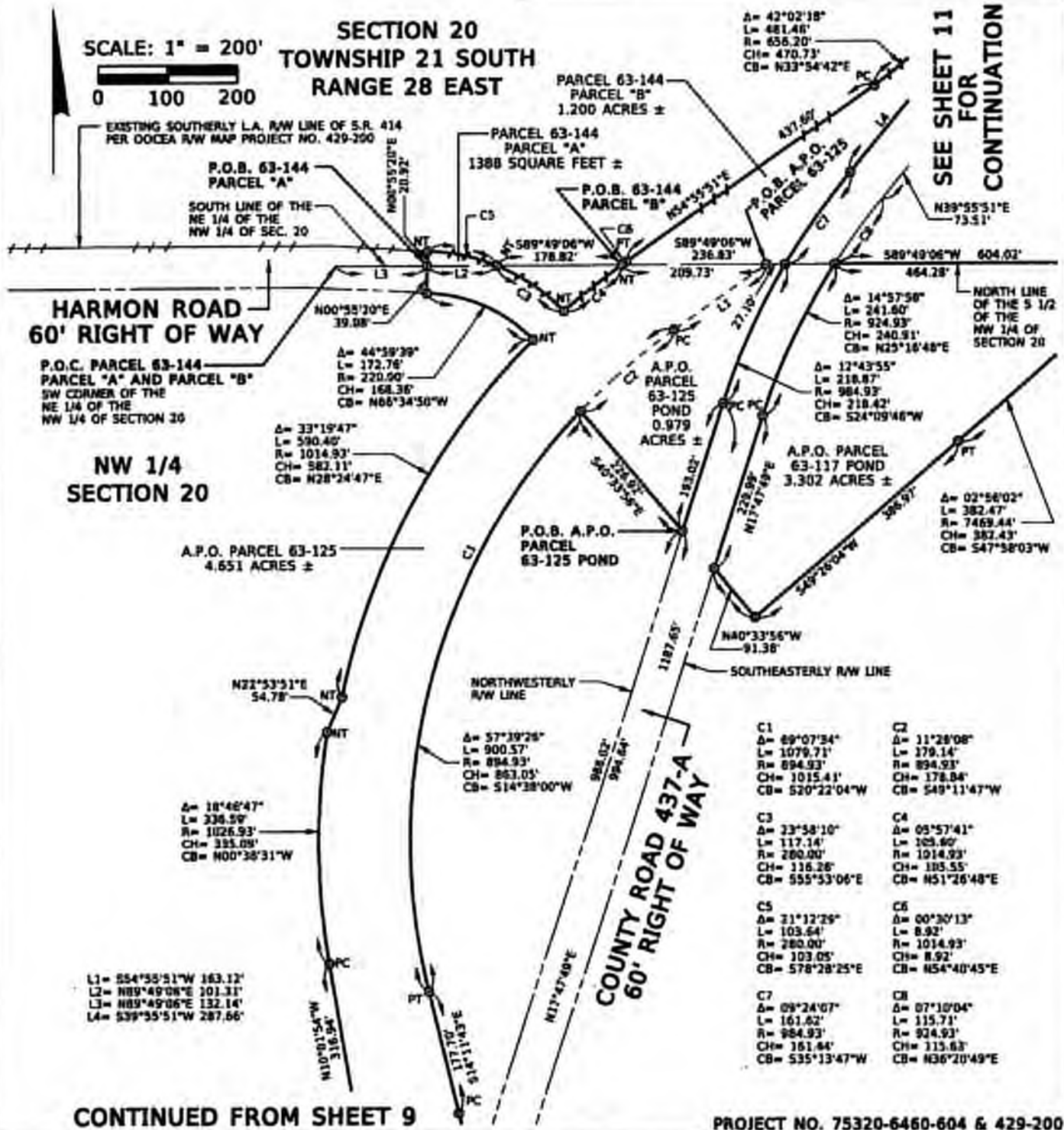
DATE	FEBRUARY 28, 2018	CERTIFICATION OF AUTHORIZATION NO. LA 8011  800 NORTH MAGNOLIA AVENUE SUITE 3000 ORLANDO, FLORIDA 32803 (407) 843-9120 FAX 407-648-8884	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
DRAWN BY	LMBRD		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
CHECKED BY	S.WARE		SCALE: N/A	
DES PROJECT NO.	SHORT115		SHEET 8 OF 11	
REVISION	BY	DATE		



BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF SEC. 20-21-28, BEING N89°37'58"E.

SCALE: 1" = 200'  
0 100 200

SECTION 20  
TOWNSHIP 21 SOUTH  
RANGE 28 EAST



SEE SHEET 11 FOR CONTINUATION

CONTINUED FROM SHEET 9

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018
DRAWN BY	J.M.W.R.O.
CHECKED BY	S.W.A.R.E.
DES PROJECT NO.	5067135
REVISION	BY DATE

CERTIFICATION OF AUTHORIZATION NO. LS 8011

**Dewberry**

800 NORTH MAGNOLIA AVENUE  
SUITE 1000  
ORLANDO, FLORIDA 32803  
(407) 843-3120  
FAX 407-648-8064

SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)	
PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
S.R. 429	SCALE: 1"=200'
CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SHEET 10 OF 11
ORANGE COUNTY, FLORIDA	



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604  
 PURPOSE: RIGHT OF WAY TRANSFER

**LEGAL DESCRIPTION:**

A PORTION OF PARCEL 63-117

**RIGHT OF WAY**

A PORTION OF THE SOUTHEAST ONE-QUARTER OF SECTION 17, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT RAILROAD SPIKE AT THE SOUTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF SECTION 17; THENCE N89°56'47"W ALONG THE SOUTH LINE OF SAID SOUTHEAST ONE-QUARTER FOR 30.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF MARDEN ROAD AS RECORDED IN OFFICIAL RECORDS BOOK 543, PAGE 3 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE N00°08'47"E ALONG SAID RIGHT OF WAY LINE FOR 2270.29 FEET TO THE POINT OF BEGINNING; THENCE S75°23'24"W FOR 182.73 FEET; THENCE S80°31'56"W FOR 196.26 FEET TO A NON-TANGENT CURVE CONCAVE WESTERLY; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 7809.44 FEET, A CHORD BEARING OF N13°51'35"E AND A CHORD DISTANCE OF 64.03 FEET, THROUGH A CENTRAL ANGLE OF 00°28'11", FOR 64.03 FEET; THENCE S83°27'10"W FOR 76.05 FEET TO A POINT ON THE FACE OF A MECHANICALLY STABILIZED EARTH (MSE) WALL; THENCE RUN ALONG THE FACE OF SAID MSE WALL THE FOLLOWING THREE COURSES: THENCE N80°38'10"W FOR 27.79 FEET; THENCE S83°25'35"W FOR 154.11 FEET; THENCE S68°11'10"W FOR 71.30 FEET TO A NON-TANGENT CURVE CONCAVE SOUTHERLY; THENCE DEPARTING SAID MSE WALL RUN WESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 894.93 FEET, A CHORD BEARING OF S67°00'24"W AND A CHORD DISTANCE OF 229.34 FEET, THROUGH A CENTRAL ANGLE OF 14°43'25", FOR 229.98 FEET TO THE POINT OF TANGENCY; THENCE S59°38'41"W FOR 1088.83 FEET; THENCE N67°32'57"W FOR 37.66 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A (OCOOE-APOPKA ROAD); THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING FOUR COURSES: N59°38'41"E FOR 650.58 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 435.87 FEET, A CHORD BEARING OF N52°35'07"E AND A CHORD DISTANCE OF 107.14 FEET, THROUGH A CENTRAL ANGLE OF 14°07'08", FOR 107.41 FEET TO THE POINT OF TANGENCY; THENCE N45°31'33"E FOR 447.36 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 365.14 FEET, A CHORD BEARING OF N63°41'10"E AND A CHORD DISTANCE OF 227.61 FEET, THROUGH A CENTRAL ANGLE OF 36°19'15", FOR 231.47 FEET TO A NON-TANGENT CURVE CONCAVE WESTERLY; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 7449.44 FEET, A CHORD BEARING OF S13°29'44"W AND A CHORD DISTANCE OF 68.93 FEET, THROUGH A CENTRAL ANGLE OF 00°31'49", FOR 68.93 FEET TO A NON-TANGENT CURVE CONCAVE SOUTHERLY; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 1014.93 FEET, A CHORD BEARING OF N77°21'47"E AND A CHORD DISTANCE OF 105.03 FEET, THROUGH A CENTRAL ANGLE OF 05°55'55", FOR 105.08 FEET TO A POINT ON THE FACE OF A MSE WALL; THENCE RUN ALONG THE FACE OF SAID WALL THE FOLLOWING THREE COURSES: THENCE S81°44'06"E FOR 23.51 FEET; THENCE N83°22'43"E FOR 153.37 FEET; THENCE N68°34'10"E FOR 28.50 FEET; THENCE DEPARTING THE FACE OF SAID MSE WALL, N83°27'10"E FOR 57.50 FEET TO SAID SOUTHERLY RIGHT OF WAY LINE; THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING TWO COURSES: S86°40'27"E FOR 311.73 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 439.26 FEET, A CHORD BEARING OF S89°03'06"E AND A CHORD DISTANCE OF 36.44 FEET, THROUGH A CENTRAL ANGLE OF 04°45'18", FOR 36.45 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SAID MARDEN ROAD; THENCE S00°08'47"W ALONG SAID WESTERLY RIGHT OF WAY LINE FOR 86.77 FEET TO THE POINT OF BEGINNING.


CONTAINING 4.229 ACRES, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW BETWEEN THE GRANTOR'S REMAINING PROPERTY AND ANY FACILITY CONSTRUCTED ON THE ABOVE DESCRIBED PROPERTY.

**LEGEND AND ABBREVIATIONS**

Δ	= DELTA (CENTRAL ANGLE)	L	= LENGTH OF CURVE	P.O.B.	= POINT OF BEGINNING
A.P.O.	= A PORTION OF	L.A.	= LIMITED ACCESS	P.O.C.	= POINT OF COMMENCEMENT
CB	= CHORD BEARING	MSE	= MECHANICALLY STABILIZED EARTH	R	= RADIUS
CH	= CHORD DISTANCE	NO.	= NUMBER	RW	= RIGHT OF WAY
C.R.	= COUNTY ROAD	NT	= NON-TANGENT	SEC.	= SECTION
FDOT	= FLORIDA DEPARTMENT OF TRANSPORTATION	PC	= POINT OF CURVATURE	S.R.	= STATE ROAD
		PT	= POINT OF TANGENCY	⊙	= CHANGE IN DIRECTION

PROJECT NO. 75320-6460-604

DATE	APRIL 21, 2017	CERTIFICATION OF AUTHORIZATION No. LS 8611  800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-5120 FAX 407-843-8864	<b>SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)</b>	
DRAWN BY	J.M.HRAD		A PORTION OF PARCEL 63-117	
CHECKED BY	S.WARE	S.R. 429		
URS PROJECT NO.	5007125	CENTRAL FLORIDA EXPRESSWAY AUTHORITY		
		ORANGE COUNTY, FLORIDA		
REVISION	BY DATE	SCALE: N/A		
		SHEET 1 OF 2		





ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
SR 429 PROJECT NO. 200

PARCEL 209  
PART C

RIGHT OF WAY

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE SAID NORTHEAST 1/4 (A 4" DIAMETER CONCRETE MONUMENT WITH 3/4" IRON ROD, WITH NO IDENTIFICATION, AS NOW EXISTS); THENCE N00°01'36"E ALONG THE WEST LINE THEREOF A DISTANCE OF 1303.18 FEET TO A POINT ON A LINE 30.00 FEET SOUTH OF AND PARALLEL TO THE NORTH BOUNDARY OF THE SOUTHEAST 1/4 OF SAID NORTHEAST 1/4 AND THE POINT OF BEGINNING; THENCE N89°55'35"E ALONG SAID PARALLEL LINE A DISTANCE OF 134.77 FEET; THENCE DEPARTING SAID PARALLEL LINE S00°04'25"E A DISTANCE OF 18.70 FEET; THENCE S82°29'02"E A DISTANCE OF 102.37 FEET; THENCE S85°03'45"E A DISTANCE OF 592.87 FEET; THENCE N28°27'26"E A DISTANCE OF 95.62 FEET TO A POINT ON A LINE 30.00 FEET SOUTH OF AND PARALLEL TO THE NORTH BOUNDARY OF THE SOUTHEAST 1/4 OF SAID NORTHEAST 1/4; THENCE N89°55'35"E ALONG SAID PARALLEL LINE A DISTANCE OF 221.19 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE DEPARTING SAID PARALLEL LINE 353.69 FEET ALONG THE ARC OF SAID CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 1817.00 FEET, A CENTRAL ANGLE OF 11°09'11" AND A CHORD BEARING OF S18°23'56"E; THENCE N89°55'14"E A DISTANCE OF 79.43 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE 138.22 FEET ALONG THE ARC OF SAID CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 659.49 FEET, A CENTRAL ANGLE OF 12°00'31" AND A CHORD BEARING OF N17°01'07"E TO A POINT ON THE EAST LINE OF SAID NORTHEAST 1/4; THENCE N00°09'02"E ALONG SAID EAST LINE A DISTANCE OF 233.34 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID NORTHEAST 1/4; THENCE S89°55'35"W ALONG THE NORTH LINE THEREOF A DISTANCE OF 1325.59 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID NORTHEAST 1/4; THENCE S00°01'36"W ALONG THE WEST LINE THEREOF A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 3.041 ACRES, MORE OR LESS

TOGETHER WITH

PARCEL 209  
PART D

RIGHT OF WAY

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE SAID NORTHEAST 1/4 (A 4" DIAMETER CONCRETE MONUMENT WITH 3/4" IRON ROD, WITH NO IDENTIFICATION, AS NOW EXISTS); THENCE N00°01'36"E ALONG THE WEST LINE THEREOF A DISTANCE OF 1333.18 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID NORTHEAST 1/4 OF SECTION 19; THENCE CONTINUE N00°01'36"E ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF SAID NORTHEAST 1/4 OF SECTION 19 A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF HARMON ROAD AS DESCRIBED IN DEED BOOK 785, PAGE 87, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE N89°55'35"E ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 134.73 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID RIGHT OF WAY LINE N78°14'12"E A DISTANCE OF 99.34 FEET; THENCE N82°28'54"E A DISTANCE OF 506.90 FEET; THENCE S53°06'57"E A DISTANCE OF 142.72 FEET TO A POINT ON SAID NORTHERLY RIGHT OF WAY LINE OF HARMON ROAD; THENCE S89°55'35"W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 713.95 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.746 ACRES, MORE OR LESS.

TOGETHER WITH

PARCEL 209  
PART E

RIGHT OF WAY

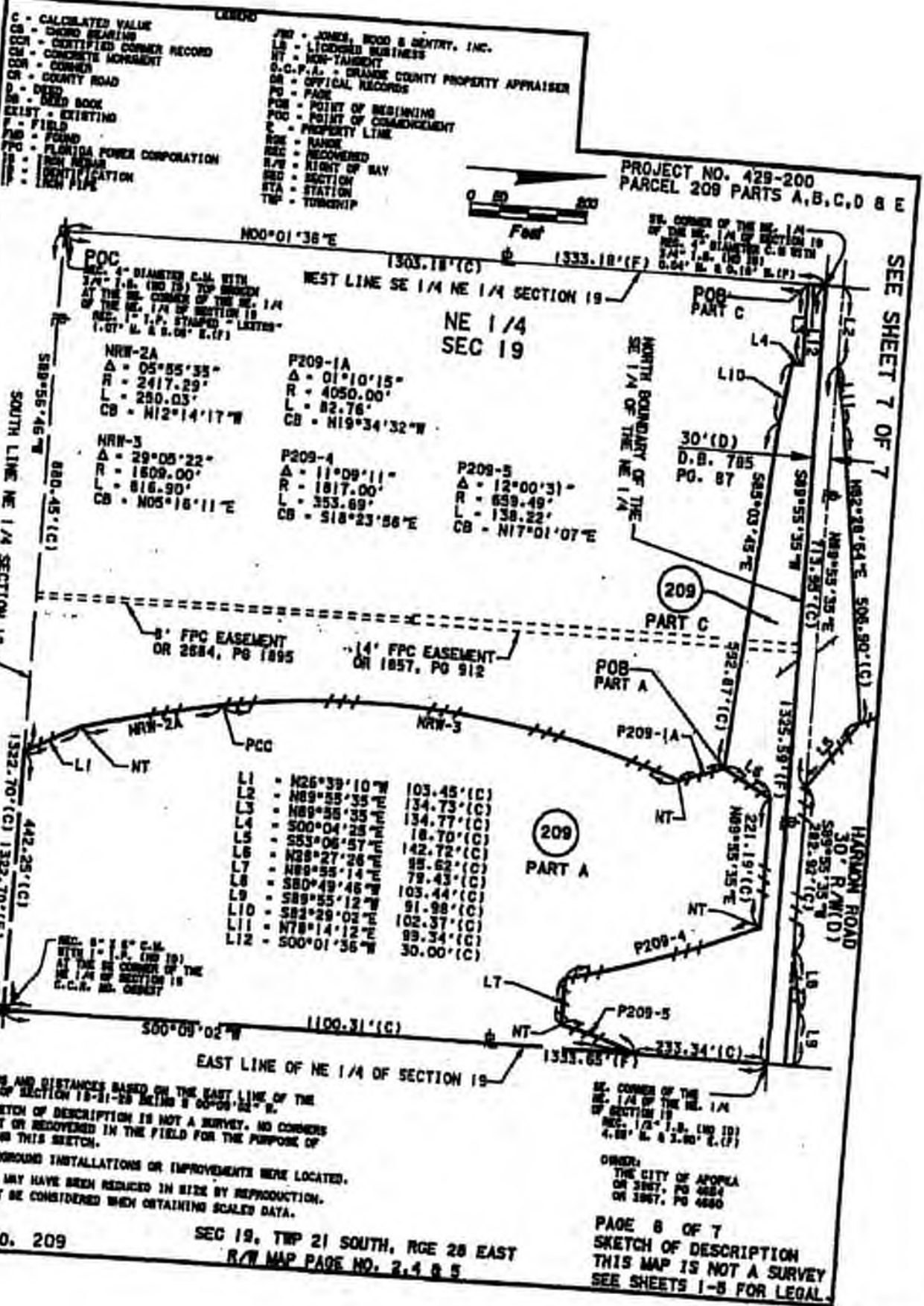
A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE SAID NORTHEAST 1/4 (A 4" DIAMETER CONCRETE MONUMENT WITH 3/4" IRON ROD, WITH NO IDENTIFICATION, AS NOW EXISTS); THENCE N00°01'36"E ALONG THE WEST LINE THEREOF A DISTANCE OF 1333.18 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID NORTHEAST 1/4 OF SECTION 19; THENCE CONTINUE N00°01'36"E ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF SAID NORTHEAST 1/4 OF SECTION 19 A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF HARMON ROAD AS DESCRIBED IN DEED BOOK 785, PAGE 87, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE N89°55'35"E ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 1131.61 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N89°55'53"E ALONG SAID NORTH RIGHT OF WAY A DISTANCE

OF 194.05 FEET TO A POINT ON THE EAST LINE OF SAID NORTHEAST 1/4; THENCE  $N00^{\circ}09'02''E$  ALONG SAID EAST LINE A DISTANCE OF 16.36 FEET; THENCE LEAVING SAID EAST LINE  $S89^{\circ}55'12''W$  A DISTANCE OF 91.98 FEET; THENCE  $S80^{\circ}49'46''W$  A DISTANCE OF 103.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 2339 SQUARE FEET, MORE OR LESS.

AS TO ALL PARCELS RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY





ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
PROJECT NO. 429-200

PARCEL 212  
PART C

RIGHT OF WAY

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHWEST 1/4 (A 5/8" IRON BAR WITH CAP STAMPED "FDOT JWG LB 1" AS NOW EXISTS); THENCE S89°38'03"W ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4 A DISTANCE OF 2638.93 FEET TO THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4; THENCE DEPARTING SAID SOUTH LINE N00°09'02"E ALONG THE WEST LINE THEREOF A DISTANCE OF 1100.31 FEET TO THE POINT OF BEGINNING SAID POINT BEING ON A NON-TANGENT CURVE; THENCE 246.44 FEET ALONG THE ARC OF SAID CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 659.49 FEET, A CENTRAL ANGLE OF 21°24'37" AND A CHORD BEARING OF N33°43'41"E TO A POINT ON A LINE 30.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE N89°49'12"E ALONG SAID PARALLEL LINE A DISTANCE OF 134.37 FEET; THENCE DEPARTING SAID PARALLEL LINE S58°13'21"E A DISTANCE OF 71.52 FEET; THENCE N86°35'28"E A DISTANCE OF 179.83 FEET; THENCE N80°21'23"E A DISTANCE OF 100.25 FEET; THENCE N00°10'48"W A DISTANCE OF 11.24 FEET TO A POINT 30.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE N89°49'12"E ALONG SAID PARALLEL LINE A DISTANCE OF 714.70 FEET; THENCE DEPARTING SAID PARALLEL LINE S86°12'05"E A DISTANCE OF 132.15 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT OF WAY OF COUNTY ROAD No. 437A AS RECORDED IN OFFICIAL RECORDS BOOK 5460, PAGE 4800, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE N00°56'06"E ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 39.18 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE DEPARTING SAID RIGHT OF WAY LINE S89°49'12"W ALONG SAID SOUTH LINE A DISTANCE OF 463.27 FEET TO A POINT ON THE EAST LINE OF THE WEST 3/4 OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE N00°17'28"E ALONG SAID EAST LINE A DISTANCE OF 30.00 FEET TO A POINT ON A LINE 30.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE DEPARTING SAID EAST LINE S89°49'12"W ALONG SAID PARALLEL LINE A DISTANCE OF 383.45 FEET; THENCE DEPARTING SAID PARALLEL LINE N00°10'48"W A DISTANCE OF 11.00 FEET; THENCE N85°09'31"W A DISTANCE OF 101.07 FEET; THENCE S89°55'12"W A DISTANCE OF 120.00 FEET; THENCE S74°22'44"W A DISTANCE OF 75.33 FEET TO A POINT 30.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE S89°49'12"W ALONG SAID PARALLEL LINE A DISTANCE OF 108.08 FEET; THENCE DEPARTING SAID PARALLEL LINE N75°08'55"W A DISTANCE OF 62.10 FEET; THENCE S89°55'12"W A DISTANCE OF 148.02 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE S00°09'02"W ALONG SAID WEST LINE A DISTANCE OF 46.36 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE CONTINUE S00°09'02"W ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID NORTHWEST 1/4 A DISTANCE OF 233.34 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.353 ACRES, ACRES MORE OR LESS.

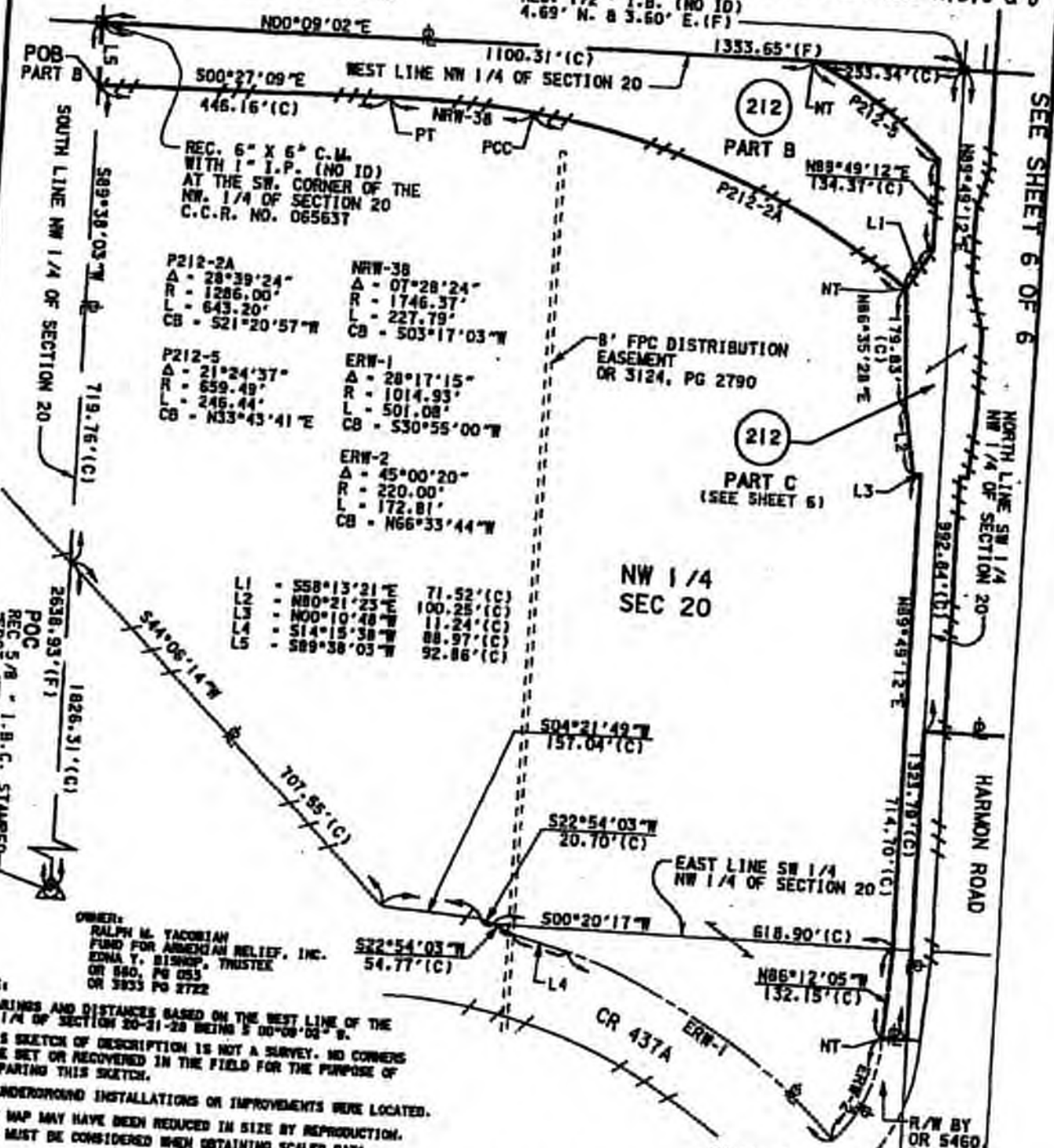
RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY S.R. 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY

- LEGEND**
- Δ - CALCULATED VALUE
  - CB - CHORD BEARING
  - CCR - CERTIFIED CORNER RECORD
  - CM - CONCRETE MONUMENT
  - CR - CORNER
  - CR - COUNTY ROAD
  - D - DEED
  - EXIST - EXISTING
  - F - FIELD
  - FND - FOUND
  - ID - IDENTIFICATION
  - IP - IRON PIPE
  - JMG - JONES, BOOD & GENTRY, INC.
  - LB - LICENSED BUSINESS
  - NT - NON-TANGENT
  - OR - OFFICIAL RECORDS
  - PG - PAGE
  - POB - POINT OF BEGINNING
  - POC - POINT OF COMMENCEMENT
  - PL - PROPERTY LINE
  - RG - RANGE
  - REC - RECOVERED
  - R/W - RIGHT OF WAY
  - SEC - SECTION
  - STA - STATION
  - TWP - TOWNSHIP



NW CORNER SW 1/4 OF NW 1/4 OF SEC 20  
 REC. 1/2" I.B. (NO ID)  
 4.69' N. 83.60' E. (F)

PROJECT NO. 429-200  
 PARCEL 212 PARTS A, B, C & D



REC. 6" X 6" C.M.  
 WITH 1" I.P. (NO ID)  
 AT THE SW. CORNER OF THE  
 NW 1/4 OF SECTION 20  
 C.C.R. NO. 06563T

P212-2A  
 Δ - 28°39'24"  
 R - 1286.00'  
 L - 643.20'  
 CB - S21°20'57"W

NRW-38  
 Δ - 07°28'24"  
 R - 1746.37'  
 L - 227.79'  
 CB - S03°17'03"W

P212-5  
 Δ - 21°24'37"  
 R - 659.49'  
 L - 246.44'  
 CB - N33°43'41"E

ERW-1  
 Δ - 28°17'15"  
 R - 1014.93'  
 L - 501.08'  
 CB - S30°55'00"W

ERW-2  
 Δ - 45°00'20"  
 R - 220.00'  
 L - 172.81'  
 CB - N66°33'44"W

L1 - S58°13'21"E 71.52'(C)  
 L2 - N80°21'23"E 100.25'(C)  
 L3 - N00°10'48"W 11.24'(C)  
 L4 - S14°15'38"W 88.97'(C)  
 L5 - S89°38'03"W 92.86'(C)

OWNER:  
 RALPH M. YACOBIAH  
 FUND FOR ARMENIAN RELIEF, INC.  
 EDNA Y. BISHOP, TRUSTEE  
 OR 580, PG 053  
 OR 3833 PG 2722

- NOTES:**
1. BEARINGS AND DISTANCES BASED ON THE BEST LINE OF THE NW 1/4 OF SECTION 20-21-22 BEING S 00°08'03" W.
  2. THIS SKETCH OF DESCRIPTION IS NOT A SURVEY. NO CORNERS WERE SET OR RECOVERED IN THE FIELD FOR THE PURPOSE OF PREPARING THIS SKETCH.
  3. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS WERE LOCATED.
  4. THIS MAP MAY HAVE BEEN REDUCED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.

PARCEL NO. 212

SEC 20, TWP 21 SOUTH, RGE 28 EAST  
 R/W MAP PAGE NO. 2,3,4,5 & 8

PAGE 5 OF 6  
 SKETCH OF DESCRIPTION  
 THIS MAP IS NOT A SURVEY  
 SEE SHEETS 1-4 FOR LEGAL.

SEE SHEET 6 OF 6

NORTH LINE SW 1/4 NW 1/4 OF SECTION 20

HARMON ROAD

PART C (SEE SHEET 6)

B' FPC DISTRIBUTION EASEMENT OR 3124, PG 2790

R/W BY OR 5460 PG 4800



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SR 429 - PROJECT No. 429-200  
PURPOSE: RIGHT OF WAY

PARCEL 215  
PART C

RIGHT OF WAY

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHWEST ¼ OF SECTION 20, TOWNSHIP 21, SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST ¼ OF SAID SECTION 20 (A 6" X 6" CONCRETE MONUMENT WITH 1" IRON PIPE AS NOW EXISTS); THENCE N89°59'43"W, ALONG THE NORTH LINE OF SAID NORTHWEST ¼, A DISTANCE OF 1586.15 FEET; THENCE CONTINUE N89°59'43"W A DISTANCE OF 74.00 FEET TO A POINT ON THE WEST LINE OF THE EAST ¼ OF THE NORTHWEST ¼ OF SAID NORTHWEST ¼; THENCE LEAVING SAID NORTH LINE 500°17'28"W A DISTANCE OF 1300.46 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID WEST LINE N89°49'12"E A DISTANCE OF 330.97 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST ¼ OF SAID NORTHWEST ¼; THENCE LEAVING SAID WEST LINE S86°12'55"E A DISTANCE OF 132.77 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437A AS SHOWN ON THE SR 451 RIGHT OF WAY MAPS FORMERLY KNOWN AS SR 429 / WESTERN BELTWAY OCEA PROJECT No. 7532-6460-604; THENCE S00°56'06"W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 20.82 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST ¼ OF SAID NORTHWEST ¼; THENCE LEAVING SAID RIGHT OF WAY LINE S89°49'12"W ALONG SAID SOUTH LINE A DISTANCE OF 132.32 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST ¼ OF SAID NORTHWEST ¼; THENCE S89°49'12"W ALONG THE SOUTH LINE THEREOF A DISTANCE OF 330.95 FEET TO THE SOUTHWEST CORNER OF THE EAST ¼ OF THE NORTHWEST ¼ OF SAID NORTHWEST ¼; THENCE LEAVING SAID SOUTH LINE N00°17'28"E ALONG THE WEST LINE THEREOF A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 13.294 SQUARE FEET, MORE OR LESS

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

- LEGEND**
- C - CALCULATED VALUE
  - CB - CHORD BEARING
  - CCR - CERTIFIED CORNER RECORD
  - CM - CONCRETE MONUMENT
  - CR - CORNER
  - CR - COUNTY ROAD
  - D - DEED
  - EXIST - EXISTING
  - F - FIELD
  - FO - FOUND
  - ID - IDENTIFICATION
  - IP - IRON PIPE
  - JND - JONES, ROOD & BENTLEY, INC.
  - LA - LIMITED ACCESS
  - LB - LICENSED BUSINESS
  - MT - NON-TAMMENT
  - OR - OPTICAL RECORDS
  - PS - PAGE
  - PC - POINT OF CURVATURE
  - PCC - POINT OF COMPOUND CURVATURE
  - PT - POINT OF TANGENCY
  - POB - POINT OF BEGINNING
  - POC - POINT OF COMMENCEMENT
  - PL - PROPERTY LINE
  - R/E - RANGE
  - REC - RECOVERED
  - R/W - RIGHT OF WAY
  - SEC - SECTION
  - STA - STATION
  - TB - TANGENT BEARING
  - TWP - TOWNSHIP

PROJECT NO. 429-200  
PARCEL 215 PARTS A, B & C



- NOTES:**
1. BEARINGS AND DISTANCES BASED ON THE NORTH LINE OF THE NW 1/4 OF SECTION 20-21-22 BEING S 89°59'43" E.
  2. THIS SKETCH OF DESCRIPTION IS NOT A SURVEY. NO CORNERS WERE SET OR RECOVERED IN THE FIELD FOR THE PURPOSE OF PREPARING THIS SKETCH.
  3. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS WERE LOCATED.
  4. THIS MAP MAY HAVE BEEN REDUCED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.
  5. PARCEL 215 IS SUBJECT TO:
    - A) EASEMENT AND RIGHT OF WAY FOR WATER PIPE PER DEED BOOK 406, PAGE 183.
    - B) EASEMENTS IN FAVOR OF FLORIDA PUBLIC SERVICE CO. PER MISC. BOOK 41, PAGE 347, MISC. BOOK 41, PAGE 431 AND MISC. BOOK 41, PAGE 432.

- CR 437A**  
DOCEA PROJECT NO. 75320-6460-604  
R/W VARIES
- SR 451**  
(FORMERLY HWY 90)  
DOCEA PROJECT NO. 75320-6460-604  
R/W VARIES
- RM215-1**  
A - 21°08'53"(C)  
R - 21°13'37"(D)  
L - 180.00'(D)  
L - 103.35'(C)  
L - 103.65'(D)  
CB - N78°29'28"W
- RM215-2**  
A - 00°30'04"(C)  
R - 00°30'13"(D)  
L - 014.95'(D)  
L - 8.89'(C)  
L - 8.92'(D)  
CB - S54°40'16"W
- ERR-5**  
A - 42°01'40"  
R - 636.20'  
L - 481.34'  
CB - S33°54'28"W

PARCEL NO. 215      SEC 20, TWP 21 SOUTH, RGE 28 EAST  
R/W MAP PAGE NO. 2 & 8

PAGE 4 OF 4  
SKETCH OF DESCRIPTION  
THIS MAP IS NOT A SURVEY  
SEE SHEETS 1-3 FOR LEGAL.

ORLANDO ORANGE COUNTY EXPRESSWAY AUTHORITY  
STATE ROAD 414 - PROJECT 414-210

PART "B" (RIGHT OF WAY)

A PORTION OF THE SOUTH SEVEN-EIGHTHS OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THAT CERTAIN PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 5328, PAGE 4002, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH A 3/4" IRON PIPE IN CENTER (NO ID) MARKING THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE RUN SOUTH 00°31'48" EAST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22, A DISTANCE OF 1314.98 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE SOUTH 89°51'02" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 189.19 FEET TO THE EAST LINE OF THE WEST 189.18 FEET OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE NORTH 00°31'48" WEST ALONG SAID EAST LINE A DISTANCE OF 130.01 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 130 FEET OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE CONTINUE NORTH 00°31'48" WEST ALONG SAID EAST LINE, A DISTANCE OF 990.69 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 30 FEET OF THE SOUTH SEVEN-EIGHTHS OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE SOUTH 89°52'44" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 684.59 FEET; THENCE SOUTH 00°06'14" WEST, A DISTANCE OF 807.93 FEET; THENCE SOUTH 50°42'32" EAST, A DISTANCE OF 209.04 FEET; THENCE SOUTH 67°37'06" EAST, A DISTANCE OF 230.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 35°14'43" EAST A DISTANCE OF 71.60 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF CORAL HILLS ROAD AS DESCRIBED IN DEED BOOK 347, PAGE 292, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE SOUTH 00°07'46" WEST, ALONG SAID WESTERLY RIGHT OF WAY, A DISTANCE OF 122.63 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 30 FEET OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE NORTH 73°23'12" WEST, A DISTANCE OF 62.70 FEET; THENCE NORTH 22°22'54" EAST, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 4,085 SQUARE FEET, MORE OR LESS.

NOTES:

THIS SKETCH HAS BEEN PREPARED WITH THE BENEFIT OF CERTIFICATE OF TITLE INFORMATION NO. 04.00169/72818. PREPARED BY FIRST AMERICAN TITLE COMPANY, EFFECTIVE DATE JANUARY 24, 2005.

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

ORLANDO-ORANGE  
COUNTY EXPRESSWAY  
AUTHORITY  
STATE ROAD 414



520 SOUTH MAGNOLIA AVENUE  
ORLANDO, FLORIDA 32801

ORANGE COUNTY, FLORIDA

ORLANDO-  
ORANGE COUNTY  
EXPRESSWAY  
AUTHORITY

PARCEL 262



ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
STATE ROAD 414 - PROJECT NO. 414-210  
RIGHT OF WAY  
ESTATE: FEE SIMPLE

LEGAL DESCRIPTION:

PART "B"

A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THAT CERTAIN PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 7600, PAGE 4488, OF THE PUBLIC RECORD OF ORANGE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" x 6" CONCRETE MONUMENT WITH A 1" IRON PIPE IN THE CENTER (NO I.D.) MARKING THE SOUTHWEST CORNER OF SECTION 22; THENCE NORTH 00°31'48" WEST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22, A DISTANCE OF 1,314.98 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE SOUTH 89°51'02" EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22, A DISTANCE OF 1,754.91 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF APOPKA - VINELAND ROAD (COUNTY ROAD 435) AS DESCRIBED IN OFFICIAL RECORDS BOOK 3933, PAGE 3878, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, SAID POINT ALSO BEING A POINT ON A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 5,779.58 FEET AND A CHORD DISTANCE OF 538.84 FEET; THENCE DEPARTING SAID NORTH LINE, FROM A CHORD BEARING OF SOUTH 18°17'54" EAST, RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°20'37", AN ARC DISTANCE OF 539.03 FEET TO THE POINT OF TANGENCY THEREOF; THENCE SOUTH 20°58'13" EAST ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 247.93 FEET; THENCE DEPARTING SAID WESTERLY RIGHT OF WAY LINE RUN NORTH 68°08'47" WEST, A DISTANCE OF 666.72 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 68°08'47" WEST, A DISTANCE OF 62.15 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF CORAL HILLS ROAD; THENCE SOUTH 00°07'46" WEST ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 125.06 FEET; THENCE SOUTH 89°52'14" EAST, A DISTANCE OF 15.99 FEET; THENCE NORTH 22°22'54" EAST, A DISTANCE OF 110.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 4,427 SQUARE FEET, MORE OR LESS.

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

ORLANDO-ORANGE  
COUNTY EXPRESSWAY  
AUTHORITY  
STATE ROAD 414

**BOWYER  
SINGLETON**  
& ASSOCIATES, INCORPORATED  
ENGINEERING • PLANNING • SURVEYING • ENVIRONMENTAL

520 SOUTH MAGNOLIA AVENUE  
ORLANDO, FLORIDA 32801  
(407) 843-5120

ORANGE COUNTY, FLORIDA

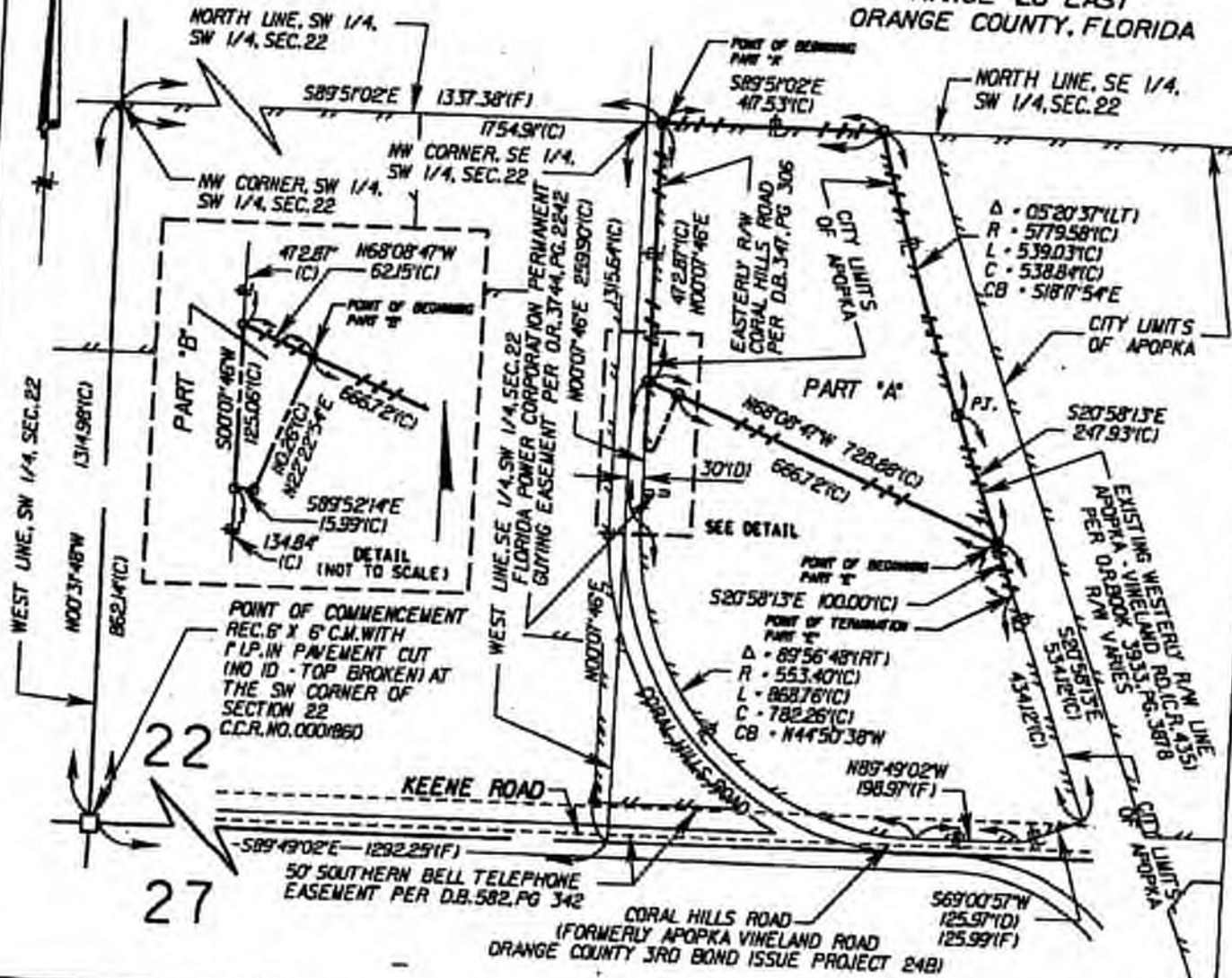
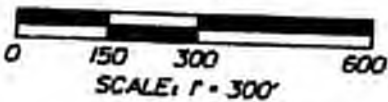
ORLANDO-  
ORANGE COUNTY  
EXPRESSWAY  
AUTHORITY

PARCEL 266

DRAWING DATE: 08/08/06

BEARING STRUCTURE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SEC. 22-21-28, BEING S89°51'02"E, FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, N.A.D. 1983/1990 ADJUSTMENT.

SECTION 22  
TOWNSHIP 21 SOUTH  
RANGE 28 EAST  
ORANGE COUNTY, FLORIDA



SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

ORLANDO-ORANGE  
COUNTY EXPRESSWAY  
AUTHORITY  
STATE ROAD 414

**BOWYER  
SINGLETON**  
& ASSOCIATES, INCORPORATED  
ENGINEERING • PLANNING • SURVEYING • ENVIRONMENTAL

520 SOUTH MAGNOLIA AVENUE  
ORLANDO, FLORIDA 32801  
(407) 843-5120

ORANGE COUNTY, FLORIDA

ORLANDO-  
ORANGE COUNTY  
EXPRESSWAY  
AUTHORITY

PARCEL 266

DRAWING DATE: 08/08/06

# ATTACHMENT "C"

Prepared By and Return To:  
Linda S. Brehmer Lanosa  
Deputy General Counsel  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

DOC# 20180460203  
06/03/2018 08:30:34 AM Page 1 of 45  
Rec Fee: \$384.00  
Deed Doc Tax: \$0.00  
DOR Admin Fee: \$0.00  
Intangible Tax: \$0.00  
Mortgage Stamp: \$0.00  
Phil Diamond, Comptroller  
Orange County, FL  
MB - Ret To: CENTRAL FLORIDA EXPRESSWA



For Recording Purposes Only

Projects 429-604, 429-200A, 429-200

This document is exempt from Florida documentary stamp tax under Department of Revenue Rules 12B-4.002(4)(a), 12B-4.014(10), F.A.C., and Section 201.02(6), Florida Statutes.

## EASEMENT AGREEMENT FOR EXPRESSWAY FACILITIES

**THIS EASEMENT AGREEMENT** is executed this 29<sup>th</sup> day of June, 2018, by the **CITY OF APOPKA**, a Florida Municipal Corporation existing under the laws of the State of Florida, whose address is 120 East Main Street, Apopka, Florida 32703 ("Grantor" or "City") to and in favor of **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, public corporation and an agency of the State of Florida, whose mailing address is 4974 ORL Tower Road, Orlando, Florida 32807 ("Grantee" or "CFX").

### WITNESSETH:

WHEREAS, pursuant to section 348.753, Florida Statutes, CFX is empowered to construct, improve, maintain, and operate the Central Florida Expressway System ("Expressway System") and, in connection therewith, to construct any extensions, additions or improvements to said system or appurtenant facilities, including all necessary approaches, roads, bridges and avenues of access; and

WHEREAS, pursuant to Section 166.021, Florida Statutes, the City is empowered to provide and maintain arterial and other roads for the benefit of its citizens; and

WHEREAS, pursuant to Section 335.0415, Florida Statutes, "public roads may be transferred between jurisdictions . . . by mutual agreement;" and

WHEREAS, in the course of the construction State Road (S.R.) 429, CFX acquired certain land for the benefit of the local jurisdictions and constructed thereon certain roadways and other improvements to insure a minimal disruption of traffic to the citizens and to provide for a smooth transition to the Expressway System, thus making both the Expressway System and the local road system compatible; and

WHEREAS, the construction of the Maitland Boulevard Extension S.R. 429 / 414 Systems Interchange Project No. 429-200, the S.R. 429 Interchange with C.R. 437A (a/k/a Ocoee-Apopka Road) Project No. 429-200A, and the Western Beltway S.R. 429 Project 75320-6460-604, are completed, and both parties desire title to the local roads and related facilities to vest in the City, subject to certain rights retained by CFX, and title to all of CFX's right-of-way and related facilities and crossings to vest in CFX; and

WHEREAS, in conjunction with this Easement Agreement, the parties have entered into or will enter into a separate Right of Way Transfer and Continuing Maintenance Agreement ("Maintenance Agreement") addressing, in part, each party's maintenance responsibilities with respect to the property identified therein; and

WHEREAS, the property that is the subject of this Easement Agreement involves the expressway bridges, ramps, columns, fencing, signage, and related structures and facilities (referred to as "Expressway Facilities") that cross over, under or through local road right-of-way within the jurisdictional limits of the City, either now or in the foreseeable future, as more particularly described in **Exhibit "1"** attached hereto; and

WHEREAS, CFX affirms and City acknowledges that CFX reserves unto itself, its successors and assigns the Permanent Drainage Easement recorded in the Official Records of Orange County, Florida, as Document Number 1998-0120140 at O.R. Book 5447 and Page 2165; and

WHEREAS, the City desires to formally grant to CFX certain easements for the operation, maintenance, expansion, or removal of Expressway Facilities on, over and under the load road right-of-way.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration and the covenants and promises of the parties hereto, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, it is thereupon understood and agreed as follows:

1. **Recitals.** That all of the foregoing recitals contained in this Easement Agreement are true and correct and are incorporated herein by this reference.

2. **Grant of Easement for Expressway Facilities.** The City hereby grants and conveys to CFX and its successors and assigns, perpetual, exclusive easements for the Expressway Facilities over the local road right-of-ways as itemized in **Exhibit "1"**, referred to as "Easement Property," including the right to access, install, construct, use, operate, maintain, alter, improve, repair, replace, renew, expand, and remove all or part of the Expressway Facilities over, through, across, and under the Easement Property. In addition, the City hereby grants and conveys to CFX and its successors and assigns, a perpetual, non-exclusive easement for limited-access fences, signs and related structures and facilities, including the right to access, install, construct, use, operate, maintain, alter, improve, repair replace, renew, expand, and remove on, over, through, across, and under the Easement Property. Further, if and when the



City acquires additional portions of local road right-of-way, the Easement Property shall encompass the additional portion of the local road right-of-way. The City or its successors in interest shall be entitled to make reasonable use of the Easement Property for local right-of-way not inconsistent with CFX's use; provided, any use by the City of the Easement Property shall not in any manner adversely affect the exercise of CFX's rights hereunder, use or enjoyment of the Easement Property. The City expressly agrees for itself and its successors and assigns, to refrain from any use of the Easement Property which would interfere with the Expressway Facilities or the Expressway System, or otherwise constitute a hazard for the Expressway Facilities or Expressway System.

3. **Notices.** Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered, transmitted electronically or within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

CFX: CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: Executive Director

Copy to: Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: General Counsel

CITY: CITY OF APOPKA  
120 East Main Street  
Apopka, Florida 32703  
Attn: Mayor

Copy to: CITY OF APOPKA  
120 East Main Street  
Apopka, Florida 32703  
Attn: City Attorney

or to such other address as any party hereto shall from time to time designate to the other party by notice in writing as herein provided.

4. **Modification.** This Easement Agreement may not be amended, modified, altered, or changed in any respect whatsoever, except by a further agreement in writing duly executed by the parties hereto and recorded in the Public Records of Orange County, Florida.

5. **Successors and Assigns.** All easements contained herein shall be appurtenant to the lands herein described, and, except as hereinafter set forth, shall run with said lands forever

and be binding upon and inure to the benefit of and be enforceable by the heirs, legal representatives, successors and assigns of the parties hereto. All obligations of the City and CFX hereunder shall be binding upon their respective successors-in-title and assigns; provided the covenants and obligations herein are only personal to and enforceable against the parties or successors-in-title, as the case may be, owning title to the respective properties at the time any liability or claim arising under this Easement Agreement shall have accrued, it being intended that upon the conveyance of title by a party, the party conveying title shall thereupon be released from any liability hereunder as to the property conveyed for any breach of this Agreement or claim arising under this Agreement accruing after the date of such conveyance. The easements set forth in this Agreement shall be perpetual.

6. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the transactions contemplated herein, and it supersedes all prior understandings or agreements between the parties.

7. **No Public Rights.** This instrument is not intended to, and shall not, create any rights in favor of the general public.

8. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Florida.

**[SIGNATURE AND ACKNOWLEDGMENT PAGE FOLLOWING]**

For Recording Purposes Only

IN WITNESS WHEREOF, the City has caused this Easement Agreement to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the date first above written.

CITY OF APOPKA, a Florida Municipal Corporation existing under the laws of the State of Florida.

[Signature]  
Stacy VanCamp  
(Print Name)

By: [Signature]  
Title: Mayor  
Print: BRYAN NELSON  
Date: 6-12-18

[Signature]  
Linda F Goff  
(Print Name)

Approved as to form and legality for the execution by a signatory of the City of Apopka

Legal Counsel:  
By: [Signature]  
Print: Clifford B. Shepard  
Date: 6-20-18

STATE OF FLORIDA  
COUNTY OF ORANGE

Before me, the undersigned authority, duly authorized under the laws of the State of Florida to take acknowledgments, this day personally appeared Bryan Nelson as Mayor, of the City of Apopka, personally known to me to be the individual and officer described in and who executed the foregoing instrument on behalf of said City of Apopka.



[Signature]  
(Signature of Notary Public)  
Linda F Goff  
(Print or Type Name of Notary Public)  
Notary Public, State of Florida  
Commission No. & Expiration FF 994463 7/4/20

For Recording Purposes Only

IN WITNESS WHEREOF, the Central Florida Expressway Authority has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

“GRANTEE”  
CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY, an agency of the State of  
Florida

*[Signature]*  
Print Name: Lisa Lombard

By: *[Signature]*  
Laura Kelley, Executive Director

*[Signature]*  
Print Name: Ruth Valentin

Attest: *[Signature]*  
Executive Secretary

APPROVED AS TO FORM AND  
LEGALITY this 29<sup>th</sup> day of June,  
2018, for use and reliance by Central Florida  
Expressway Authority Only

By: *[Signature]*  
Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of June; 2018, by Laura Kelley, as Executive Director of the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a public corporation and an agency of the State of Florida, on behalf of the agency. She is personally known to me.

*[Signature]*  
(Signature of Notary Public)



REGLA LAMAUTE  
MY COMMISSION # FF 897031  
EXPIRES: November 6, 2019  
Bonded Third Budget Notary Services

Regla Lamaute  
(Print or Type Name of Notary Public)  
Notary Public, State of Florida  
Commission No. & Expiration Nov. 6, 2019

For Recording Purposes Only

**EXHIBIT "1"**  
**("Easement Property")**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 PARCEL 204, PROJECT 429-200A

A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 9142, PAGE 4035, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 195.45 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A; THENCE SOUTH 11°58'32" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 254.66 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 7-1/2 ACRES OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 29 FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE RUN NORTH 89°01'55" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 42.66 FEET; THENCE DEPARTING SAID SOUTH LINE RUN SOUTH 11°58'32" WEST, A DISTANCE OF 93.87 FEET; THENCE SOUTH 18°27'01" WEST, A DISTANCE OF 368.70 FEET TO A POINT ON AFORESAID EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 450.66 FEET TO THE POINT OF BEGINNING.

CONTAINING 11,320 SQUARE FEET, MORE OR LESS.

TOGETHER WITH

A PORTION OF PARCEL 204A, PROJECT 429-200A

A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4885, PAGE 2413, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST, ALONG

CONTINUED ON SHEET 2


- Δ = DELTA (CENTRAL ANGLE)
- A.P.O. = A PORTION OF
- CB = CHORD BEARING
- CH = CHORD DISTANCE
- C.R. = COUNTY ROAD
- FDOT = FLORIDA DEPARTMENT OF TRANSPORTATION
- L = LENGTH OF CURVE
- L.A. = LIMITED ACCESS

**LEGEND AND ABBREVIATIONS**

- MSE = MECHANICALLY STABILIZED EARTH
- NO. = NUMBER
- NT = NON-TANGENT
- OOCEA = ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY
- PC = POINT OF CURVATURE
- PT = POINT OF TANGENCY

- P.O.B. = POINT OF BEGINNING
- P.O.C. = POINT OF COMMENCEMENT
- P.O.T. = POINT OF TERMINATION
- R = RADIUS
- R/W = RIGHT OF WAY
- SEC. = SECTION
- S.R. = STATE ROAD
- ⊙ = CHANGE IN DIRECTION

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 06, 2018	 CERTIFICATION OF AUTHORIZATION NO. LB 8013 800 NORTH MAGNOLIA AVENUE SUITE 3000 ORLANDO, FLORIDA 32803 (407) 845-9130 FAX 407-640-8994	<b>SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)</b> PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	H.J. COLLINS		S.R. 429	SCALE: N/A
CHECKED BY	S. WARE		CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SHEET 1 OF 12
DRAWN PROJECT NO.	50687135		ORANGE COUNTY, FLORIDA	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 1

A PORTION OF PARCEL 204A, PROJECT 429-200A (CONTINUED)

THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 195.45 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A FOR THE POINT OF BEGINNING; THENCE NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 56.89 FEET; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE RUN SOUTH 29°52'07" EAST, A DISTANCE OF 62.32 FEET; THENCE SOUTH 11°58'32" WEST, A DISTANCE OF 255.57 FEET TO A POINT ON THE EXISTING WESTERLY LIMITED ACCESS RIGHT OF WAY LINE OF STATE ROAD 429 AS SHOWN ON AFORESAID RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A, SAID POINT ALSO BEING A POINT ON THE SOUTH LINE OF THE NORTH 7-1/2 ACRES OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF AFORESAID SECTION 29; THENCE DEPARTING SAID WESTERLY LIMITED ACCESS RIGHT OF WAY LINE RUN SOUTH 89°01'55" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 42.66 FEET TO A POINT ON AFORESAID EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE DEPARTING SAID SOUTH LINE RUN NORTH 11°58'32" EAST ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 254.66 FEET TO A POINT ON THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE POINT OF BEGINNING.

CONTAINING 11,790 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY S.R. 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH


A PORTION OF PARCEL 63-110, PROJECT 75320-6460-604

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 195.45 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY

CONTINUED ON SHEET 3

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 26, 2018	 CERTIFICATION OF AUTHORIZATION No. LR 9011 800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-9130 FAX 407-848-8854	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	H.MOJIBS		S.R. 429	SCALE: N/A
CHECKED BY	S.WARE		CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SHEET 2 OF 12
DEWBERRY PROJECT NO.	ED087131		ORANGE COUNTY, FLORIDA	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 2

A PORTION OF PARCEL 63-110, PROJECT 75320-6460-604 (CONTINUED)

EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A; THENCE DEPARTING SAID NORTH LINE RUN NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 56.89 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE NORTH 11°58'32" EAST ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 524.65 FEET; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE RUN SOUTH 29°52'07" EAST, A DISTANCE OF 19.33 FEET; THENCE SOUTH 12°06'53" WEST, A DISTANCE OF 97.41 FEET TO A POINT ON THE FACE OF A MECHANICALLY STABILIZED EARTH (MSE) WALL; THENCE RUN ALONG THE FACE OF SAID MSE WALL THE FOLLOWING THREE COURSES AND DISTANCES: THENCE SOUTH 27°11'21" WEST, A DISTANCE OF 41.46 FEET; THENCE SOUTH 11°57'13" WEST, A DISTANCE OF 213.48 FEET; THENCE SOUTH 03°13'14" EAST, A DISTANCE OF 82.54 FEET; THENCE DEPARTING SAID MSE WALL, SOUTH 23°17'23" EAST, A DISTANCE OF 31.31 FEET; THENCE SOUTH 11°58'32" WEST, A DISTANCE OF 100.56 FEET; THENCE NORTH 29°52'07" WEST, A DISTANCE OF 62.32 FEET TO THE POINT OF BEGINNING.

CONTAINING 7,073 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY S.R. 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH


A PORTION OF PARCEL 219 PART A, PROJECT 429-200A

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 8911, PAGE 3226, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 195.45 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A; THENCE DEPARTING SAID NORTH LINE RUN NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 581.54 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 325.76 FEET; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE RUN SOUTH 78°01'28" EAST, A DISTANCE OF 13.72 FEET; THENCE SOUTH 12°06'53" WEST, A DISTANCE OF 340.16 FEET;

CONTINUED ON SHEET 4

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018	CERTIFICATION OF AUTHORIZATION NO. LS 9611   800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-5128 FAX 407-648-8664	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	PL KOLLINS		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
CHECKED BY	S. WARE		SCALE: N/A	
DREWBERRY PROJECT NO.	5087128		SHEET 3 OF 12	
REVISION	BY	DATE		



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
S.R. 429 - PROJECT NO. 429-200A &  
75320-6460-604  
PURPOSE: RIGHT OF WAY  
LEGAL DESCRIPTION:  
CONTINUED FROM SHEET 3

A PORTION OF PARCEL 219 PART A, PROJECT 429-200A (CONTINUED)

THENCE NORTH 29°52'07" WEST, A DISTANCE OF 19.33 TO THE POINT OF BEGINNING.

CONTAINING 4,435 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY S.R. 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

AND

RESERVING UNTO GRANTOR ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY PROPERTY ADJOINING THE FOLLOWING DESCRIBED LINE:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 195.45 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A; THENCE DEPARTING SAID NORTH LINE RUN NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 907.30 FEET; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE RUN SOUTH 78°01'28" EAST, A DISTANCE OF 13.72 FEET FOR THE POINT OF BEGINNING; THENCE SOUTH 12°06'53" WEST, A DISTANCE OF 83.33 FEET TO THE POINT OF TERMINATION.

TOGETHER WITH


PARCEL 219 PART B, PROJECT 429-200A

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 8911, PAGE 3226, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF

CONTINUED ON SHEET 5

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018	CERTIFICATION OF AUTHORIZATION No. LR 8911   800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32813 (407) 843-3130 FAX 407-849-8884	<b>SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)</b> PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	M.ROLLINS		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	SCALE: N/A  SHEET 4 OF 12
CHECKED BY	S.WARE			
DEWBERRY PROJECT NO.	30067125			
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 4

PARCEL 219 PART B, PROJECT 429-200A (CONTINUED)

195.45 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A; THENCE DEPARTING SAID NORTH LINE RUN NORTH 11°58'32" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 907.30 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE NORTH 11°58'32" EAST ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 226.55 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 5699.58 FEET; THENCE FROM A CHORD BEARING OF NORTH 12°50'52" EAST; RUN NORTHERLY, ALONG SAID EASTERLY RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 01°44'41", AN ARC DISTANCE OF 173.55 FEET; THENCE DEPARTING SAID CURVE AND SAID EASTERLY RIGHT OF WAY LINE, RUN SOUTH 04°13'20" WEST, A DISTANCE OF 109.08 FEET; THENCE SOUTH 12°41'19" WEST, A DISTANCE OF 292.02 FEET; THENCE NORTH 78°01'28" WEST, A DISTANCE OF 13.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 5,466 SQUARE FEET, MORE OR LESS.

TOGETHER WITH


PARCEL 217, PROJECT 429-200A

A PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 6062, PAGE 1398, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 5/8" IRON ROD IN A CONCRETE DITCH WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE SOUTH 00°11'18" WEST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER AND ALONG THE EXISTING EASTERLY LIMITED ACCESS RIGHT OF WAY LINE OF STATE ROAD 429 AS SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A, A DISTANCE OF 1333.59 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE DEPARTING SAID WEST LINE, RUN NORTH 88°34'39" EAST, ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER AND ALONG SAID EASTERLY LIMITED ACCESS RIGHT OF WAY LINE, A DISTANCE OF 402.08 FEET FOR THE POINT OF BEGINNING, SAID POINT LYING 16.00 FEET WESTERLY, AS MEASURED AT RIGHT ANGLES, FROM THE EXISTING WESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON SAID RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A, SAID POINT ALSO BEING A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 5775.58 FEET; THENCE DEPARTING SAID NORTH LINE AND

CONTINUED ON SHEET 6

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018	CERTIFICATION OF AUTHORIZATION No. LR 8811  800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-8130 FAX 407-849-8884	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	M.ROLLINS		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
CHECKED BY	S.WARE		SCALE: N/A	
DEWBERRY PROJECT NO.	08087133		SHEET 5 OF 12	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 5

PARCEL 217, PROJECT 429-200A (CONTINUED)

SAID EASTERLY LIMITED ACCESS RIGHT OF WAY LINE FROM A CHORD BEARING OF NORTH 16°12'28" EAST, RUN NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°04'43", AN ARC DISTANCE OF 411.14 FEET; THENCE DEPARTING SAID CURVE, RUN SOUTH 71°45'10" EAST ALONG A RADIAL LINE, A DISTANCE OF 16.00 FEET TO A POINT ON AFORESAID WESTERLY RIGHT OF WAY LINE, SAID POINT BEING A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 5759.58 FEET; THENCE FROM A CHORD BEARING OF SOUTH 16°13'48" WEST, RUN SOUTHERLY ALONG SAID RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°02'03", AN ARC DISTANCE OF 405.54 FEET TO A POINT ON AFORESAID NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29; THENCE SOUTH 88°34'39" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 16.61 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,533 SQUARE FEET, MORE OR LESS.

TOGETHER WITH

PARCEL 218 PART B, PROJECT 429-200A

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 6134, PAGE 3730, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 5/8" IRON ROD IN A CONCRETE DITCH WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE SOUTH 00°11'18" WEST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER AND ALONG THE EXISTING EASTERLY LIMITED ACCESS RIGHT OF WAY LINE OF STATE ROAD 429 AS SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A, A DISTANCE OF 1333.59 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE DEPARTING SAID WEST LINE, RUN NORTH 88°34'39" EAST, ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER AND ALONG SAID EASTERLY LIMITED ACCESS RIGHT OF WAY LINE, A DISTANCE OF 407.27 FEET FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID EASTERLY LIMITED ACCESS RIGHT OF WAY LINE CONTINUE NORTH 88°34'39" EAST ALONG SAID NORTH LINE, A DISTANCE OF 11.42 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON SAID RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A, SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE EASTERLY, AND HAVING A RADIUS OF 5759.58 FEET; THENCE FROM A CHORD BEARING OF SOUTH 13°05'39" WEST, RUN SOUTHERLY, ALONG SAID RIGHT OF WAY LINE, AND ALONG THE

CONTINUED ON SHEET 7

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018	CERTIFICATION OF AUTHORIZATOR No. 18 0811   800 NORTH MAGNOLIA AVENUE SUITE 1100 ORLANDO, FLORIDA 32803 (407) 843-3120 FAX 407-849-8854	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	MADOLLS		S.R. 429	SCALE: N/A
CHECKED BY	SWARE		CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SHEET 6 OF 12
DEWBERRY PROJECT NO.	30087125		ORANGE COUNTY, FLORIDA	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 6

PARCEL 218 PART B, PROJECT 429-200A (CONTINUED)

ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 02°14'15", AN ARC DISTANCE OF 224.91 FEET TO THE POINT OF TANGENCY THEREOF; THENCE CONTINUE ALONG SAID WESTERLY RIGHT OF WAY LINE SOUTH 11°58'32" WEST, A DISTANCE OF 470.32 FEET; THENCE DEPARTING SAID WESTERLY RIGHT OF WAY LINE RUN NORTH 29°46'11" WEST, A DISTANCE OF 79.34 FEET; THENCE NORTH 16°24'21" EAST, A DISTANCE OF 127.20 FEET; THENCE NORTH 13°33'47" EAST A DISTANCE OF 216.55 FEET; THENCE NORTH 30°42'05" EAST A DISTANCE OF 62.30 FEET; THENCE NORTH 14°31'23" EAST, A DISTANCE OF 231.27 FEET TO THE POINT OF BEGINNING.

CONTAINING 20,964 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY S.R. 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH


A PORTION OF PARCEL 63-110 AND A PORTION OF PARCEL 63-112, PROJECT 75320-6460-604

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH NO IDENTIFICATION MARKING THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 89°01'55" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 133.89 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, AS MONUMENTED AND SHOWN ON THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY RIGHT OF WAY MAP FOR STATE ROAD 429, PROJECT NUMBER 429-200A; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 11°58'32" EAST, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 114.02 FEET FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID WESTERLY RIGHT OF WAY LINE RUN NORTH 78°00'18" WEST, A DISTANCE OF 52.83 FEET; THENCE NORTH 11°58'32" EAST, A DISTANCE OF 219.50 FEET TO A POINT ON THE FACE OF A MECHANICALLY STABILIZED EARTH (MSE) WALL; THENCE RUN ALONG THE FACE OF SAID MSE WALL THE FOLLOWING THREE COURSES AND DISTANCES: THENCE NORTH 26°59'06" EAST, A DISTANCE OF 21.23 FEET; THENCE NORTH 11°57'15" EAST, A DISTANCE OF 213.54 FEET; THENCE NORTH 03°20'06" WEST, A DISTANCE OF 20.52 FEET; THENCE DEPARTING SAID MSE WALL RUN NORTH 11°58'32" EAST, A DISTANCE OF 149.14 FEET; THENCE SOUTH 29°46'11" EAST, A DISTANCE OF 79.34 FEET TO A POINT ON AFORESAID WESTERLY RIGHT OF

CONTINUED ON SHEET 8

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018	 CERTIFICATION OF AUTHORIZATION No. 19 0611 800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-5120 FAX 407-849-8884	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
DRAWN BY	H. ROLLINS		S.R. 429	SCALE: N/A
CHECKED BY	SWARE		CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SHEET 7 OF 12
DEWBERRY PROJECT NO.	SR07135		ORANGE COUNTY, FLORIDA	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 429-200A &  
 75320-6460-604  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 7

A PORTION OF PARCEL 63-110 AND A PORTION OF PARCEL 63-112, PROJECT 75320-6460-604  
 (CONTINUED)


WAY LINE OF COUNTY ROAD 437-A; THENCE SOUTH 11°58'32" WEST ALONG SAID WESTERLY  
 RIGHT OF WAY LINE, A DISTANCE OF 563.30 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.690 ACRES MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS  
 ANY S.R. 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY  
 ADJOINING SAID RIGHT OF WAY.

CONTAINING IN THE AGGREGATE 2.241 ACRES, MORE OR LESS.

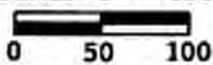
PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 08, 2018	CERTIFICATION OF AUTHORIZATION No. LB 8811  	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)	
DRAWN BY	M.ROLLINS		PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
CHECKED BY	S.WAVE	800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32808 (407) 843-5120 FAX 407-849-8884	S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
DEWBERRY PROJECT NO.	88887128		SCALE: N/A SHEET 8 OF 12	
REVISION	BY	DATE		



BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF THE NORTHWEST 1/4 OF SEC. 29-21-28, BEING  $500^{\circ}11'18''W$ .

SCALE: 1" = 100'



SEE SHEET 11 FOR CONTINUATION

TOWNSHIP 21 SOUTH  
RANGE 28 EAST

SECTION 30

SECTION 29

S.R. 429  
R/W VARIES

ACCESS  
ROAD "B"

EXISTING WESTERLY  
L.A. R/W LINE OF S.R. 429  
PER OCCEA R/W MAP  
FOR S.R. 429, PROJECT NO.  
75320-6460-604

EXISTING EASTERLY  
R/W LINE OF C.R. 437-A  
AS MONUMENTED AND  
SHOWN ON OCCEA R/W  
MAP FOR S.R. 429, PROJECT  
NO. 429-200A



NOTE 1:  
P.O.B.  
A PORTION OF  
PARCEL 63-110

P.O.B.  
A PORTION OF  
PARCELS 63-110  
AND 63-112

C.R. 437-A  
R/W VARIES

S.R. 429  
R/W VARIES

SW 1/4 OF  
THE NW 1/4

CONTINUED FROM SHEET 9

PROJECT NO. 429-200A & 75320-6460-604

DATE	MARCH 02, 2018
DRAWN BY	M. COLLINS
CHECKED BY	S. WARE
DEWBERRY PROJECT NO.	SUNNY125
REVISION	BY DATE

CERTIFICATION OF AUTHORIZATION No. LR 8011

800 NORTH MAGNOLIA AVENUE  
SUITE 3000  
ORLANDO, FLORIDA 32803  
(407) 843-3132  
FAX 407-849-8864

SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)	
PARCELS 204, 217, 218 PART B AND 219 PART B, A PORTION OF PARCELS 204A, 219 PART A AND 63-110 AND A PORTION OF PARCELS 63-110 AND 63-112	
S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	SCALE: 1"=100' SHEET 10 OF 12





BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF THE NORTHWEST 1/4 OF SEC. 29-21-28, BEING  $500^{\circ}11'18''W$ .

19 20  
30 29

SCALE: 1" = 100'  
0 50 100

P.O.C.  
PARCEL 217  
PARCEL 218 PART B  
NORTHWEST CORNER OF THE  
NORTHWEST 1/4 OF SECTION 29  
FOUND 5/8" IRON ROD  
WITH NO IDENTIFICATION  
IN A CONCRETE DITCH

NW 1/4 OF  
THE NW 1/4

TOWNSHIP 21 SOUTH  
RANGE 28 EAST

EXISTING EASTERLY L.A. R/W LINE  
OF S.R. 429 PER COCEA R/W MAP  
FOR S.R. 429, PROJECT NO. 429-200A  
AND WEST LINE OF THE NW 1/4  
OF SECTION 29

EXISTING WESTERLY  
R/W LINE OF C.R. 437-A  
AS MONUMENTED AND  
SHOWN ON COCEA R/W  
MAP FOR S.R. 429, PROJECT  
NO. 429-200A

$\theta = 04^{\circ}04'43''$   
 $L = 411.14'$   
 $R = 3775.58'$   
 $CB = 411.06'$   
 $CR = N15^{\circ}12'28''E$

(RADIAL)  
 $S71^{\circ}45'10''E$   
18.00'

C.R. 437-A  
R/W VARIES

$\theta = 04^{\circ}07'03''$   
 $L = 405.54'$   
 $R = 3798.58'$   
 $CB = 405.46'$   
 $CR = S16^{\circ}12'48''W$

CONTINUED FROM SHEET 11

PROJECT NO. 429-200A  
& 75320-6460-604

I HEREBY CERTIFY THAT THIS SKETCH OF DESCRIPTION IS IN ACCORDANCE WITH THE STANDARDS OF PRACTICE AS REQUIRED BY CHAPTER 51-13, FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.002, FLORIDA STATUTES.

*Shirley A. Ware* 05/15/2018  
DATE

SHIRLEY A. WARE, P.E.M.  
LICENSE NUMBER 5122  
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL BASED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

CERTIFICATION OF AUTHORIZATION No. 08 9011

**Dewberry**

800 NORTH MAGNOLIA AVENUE  
SUITE 1000  
ORLANDO, FLORIDA 32803  
(407) 843-5130  
FAX 407-849-8884

SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)

PARCELS 204, 217, 218 PART B AND 219 PART B,  
A PORTION OF PARCELS 204A, 219 PART A AND 63-110  
AND A PORTION OF PARCELS 63-110 AND 63-112

S.R. 429  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
ORANGE COUNTY, FLORIDA

SCALE: 1"=100'

SHEET 12 OF 12

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:

A PORTION OF PARCEL 63-114

A PORTION OF THE NORTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°37'58"E ALONG THE NORTH LINE OF SAID SOUTHWEST ONE-QUARTER FOR 1376.33 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE N89°37'58"E ALONG SAID NORTH LINE FOR 147.70 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE DEPARTING SAID NORTH LINE, RUN S17°47'49"W ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE FOR 1387.17 FEET TO THE SOUTH LINE OF THE NORTH ONE-HALF OF SAID SOUTHWEST ONE-QUARTER OF SECTION 20; THENCE S88°52'46"W ALONG SAID SOUTH LINE FOR 47.57 FEET; THENCE DEPARTING SAID SOUTH LINE RUN N17°47'49"E FOR 958.15 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 879.93 FEET, A CHORD DISTANCE OF 409.65 FEET AND A CHORD BEARING OF N04°20'21"E; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 26°55'14", A DISTANCE OF 413.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.752 ACRES, MORE OF LESS.

TOGETHER WITH

A PORTION OF PARCEL 63-117

A PORTION OF THE NORTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE S00°31'43"W ALONG THE EAST LINE OF SAID NORTHWEST ONE-QUARTER FOR 2650.31 FEET; THENCE S00°31'43"W ALONG THE EAST LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 20 FOR 1298.12 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH ONE-HALF OF SAID SOUTHWEST ONE-QUARTER OF SECTION 20; THENCE S88°52'46"W ALONG SAID SOUTH LINE FOR 1416.10 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE S88°52'46"W FOR 47.57 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE DEPARTING SAID SOUTH LINE RUN N17°47'49"E ALONG SAID RIGHT OF WAY LINE FOR 1223.27 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 1029.93 FEET, A CHORD DISTANCE OF 304.46 FEET AND A CHORD BEARING

CONTINUED ON SHEET 2

**LEGEND AND ABBREVIATIONS**

- |        |  |      |                       |        |                         |
|--------|--|------|-----------------------|--------|-------------------------|
| Δ      | = DELTA (CENTRAL ANGLE)                | L    | = LENGTH OF CURVE     | P.O.B. | = POINT OF BEGINNING    |
| A.P.O. | = A PORTION OF                         | L.A. | = LIMITED ACCESS      | P.O.C. | = POINT OF COMMENCEMENT |
| CB     | = CHORD BEARING                        | NO.  | = NUMBER              | R      | = RADIUS                |
| CH     | = CHORD DISTANCE                       | NT   | = NON-TANGENT         | R/W    | = RIGHT OF WAY          |
| C.R.   | = COUNTY ROAD                          | PC   | = POINT OF CURVATURE  | SEC.   | = SECTION               |
| FDOT   | = FLORIDA DEPARTMENT OF TRANSPORTATION | PT   | = POINT OF TANGENCY   | S.R.   | = STATE ROAD            |
|        |  | ⊙    | = CHANGE IN DIRECTION |        |                         |

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018	 CERTIFICATION OF AUTHORIZATION NO. LR 8011 800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-8120 FAX 407-843-8664	<b>SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)</b>	
DRAWN BY	JARINO		PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
CHECKED BY	SWANE		S.R. 429	
DWG PROJECT NO.	10887133		CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
REVISION	BY	DATE	SCALE:	N/A
			SHEET 1 OF 11	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200

PURPOSE: RIGHT OF WAY

LEGAL DESCRIPTION:

CONTINUED FROM SHEET 1

A PORTION OF PARCEL 63-117 (CONTINUED)

OF S09°17'50"W; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 16°59'58", FOR 305.58 FEET TO THE POINT OF TANGENCY; THENCE S17°47'49"W FOR 906.74 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.153 ACRES, MORE OR LESS.

TOGETHER WITH

A PORTION OF PARCEL 63-117

A PORTION OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE S00°31'43"W ALONG THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20 FOR 1021.15 FEET; THENCE N77°00'15"W FOR 282.43 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE N77°00'15"W FOR 32.02 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A AND A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 746.20 FEET, A CHORD DISTANCE OF 271.90 FEET AND A CHORD BEARING OF N23°23'23"E; THENCE RUN NORTHEASTERLY ALONG SAID RIGHT OF WAY LINE AND THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 20°59'40", FOR 273.43 FEET TO THE POINT OF TANGENCY; THENCE N12°53'33"E FOR 155.23 FEET; THENCE DEPARTING SAID SOUTHEASTERLY RIGHT OF WAY LINE, RUN S89°59'47"E FOR 30.78 FEET; THENCE S12°53'33"W FOR 162.09 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 776.20 FEET, A CHORD DISTANCE OF 271.59 FEET AND A CHORD BEARING OF S22°58'06"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 20°09'06", FOR 273.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 12,956 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH

A PORTION OF PARCEL 63-117 - POND

A PORTION OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE S00°31'43"W ALONG THE EAST LINE OF THE

CONTINUED ON SHEET 3

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 26, 2018	CERTIFICATION OF AUTHORIZATION BY: L.S. MULL  800 NORTH MAGNOLIA AVENUE SUITE 3000 ORLANDO, FLORIDA 32803 (407) 843-3123 FAX 407-849-8604	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
DRAWN BY	JLM/MD		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
CHECKED BY	S.M/AE		SCALE: N/A	
DESIGN PROJECT NO.	80897133		SHEET 2 OF 11	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:

CONTINUED FROM SHEET 2

A PORTION OF PARCEL 63-117 - POND (CONTINUED)

NORTHWEST ONE-QUARTER OF SAID SECTION 20 FOR 1325.16 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF SAID SECTION 20; THENCE 589°49'06"W ALONG SAID NORTH LINE FOR 139.74 FEET FOR THE POINT OF BEGINNING; SAID POINT ALSO BEING A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 7469.44 FEET, A CHORD DISTANCE OF 382.43 FEET AND A CHORD BEARING OF S47°58'03"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 02°56'02", FOR 382.47 FEET TO THE POINT OF TANGENCY; THENCE S49°26'04"W FOR 386.97 FEET; THENCE N40°33'56"W FOR 91.38 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE RUN ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE THE FOLLOWING TWO COURSES; THENCE N17°47'49"E FOR 229.99 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 924.93 FEET, A CHORD DISTANCE OF 240.91 FEET AND A CHORD BEARING OF N25°16'48"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 14°57'58", FOR 241.60 FEET TO A POINT ON AFORESAID NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 20; THENCE N89°49'06"E FOR 464.28 FEET TO THE POINT OF BEGINNING.

CONTAINING 3.302 ACRES, MORE OR LESS.

TOGETHER WITH

A PORTION OF PARCEL 63-118

A PORTION OF THE NORTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 1 1/2" IRON PIPE AT THE SOUTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 20; THENCE N00°31'43"E ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 20, FOR 2596.23 FEET; THENCE N00°31'43"E ALONG THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20, FOR 1325.15 FEET TO THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE 589°49'06"W ALONG SAID SOUTH LINE FOR 604.02 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A, BEING A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 924.93 FEET, A CHORD DISTANCE OF 115.63 FEET AND A CHORD BEARING OF N36°20'49"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 07°10'04", FOR 115.71 FEET TO THE POINT OF TANGENCY; THENCE N39°55'51"E FOR 73.51 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE N39°55'51"E ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE FOR 214.15 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 746.20 FEET, A CHORD DISTANCE OF 78.67 FEET AND A CHORD BEARING OF N36°54'32"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°02'37", FOR 78.71 FEET; THENCE DEPARTING SAID SOUTHEASTERLY RIGHT OF WAY LINE RUN S77°00'15"E FOR 32.02 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 776.20 FEET, A CHORD DISTANCE OF 294.70 FEET AND A CHORD BEARING OF

CONTINUED ON SHEET 4

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 26, 2010	CERTIFICATION OF AUTHORIZATION No. LR 8011  800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-5129 FAX 407-646-8864	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
DRAWN BY	L.HENRI		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
CHECKED BY	S.WARE	SCALE: N/A		
ORIS PROJECT NO.	5087125	SHEET 3 OF 11		
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 3

A PORTION OF PARCEL 63-118 (CONTINUED)

S43°59'15"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°53'12", FOR 296.50 FEET TO THE POINT OF TANGENCY; THENCE S54°55'51"W FOR 13.72 TO THE POINT OF BEGINNING.

CONTAINING 6872 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH

PARCEL 63-125

A PORTION OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°37'58"E ALONG THE NORTH LINE OF SAID SOUTHWEST ONE-QUARTER FOR 1376.33 FEET FOR THE POINT OF BEGINNING; SAID POINT ALSO BEING A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 879.93 FEET, A CHORD DISTANCE OF 13.98 FEET AND A CHORD BEARING OF N09°34'35"W; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00°54'38", A DISTANCE OF 13.99 FEET TO THE POINT OF TANGENCY; THENCE N10°01'54"W FOR 316.94 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 1026.93 FEET, A CHORD DISTANCE OF 355.09 FEET AND A CHORD BEARING OF N00°38'31"W; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 18°46'47", A DISTANCE OF 336.59 FEET; THENCE DEPARTING SAID CURVE ALONG A NON-TANGENT LINE RUN N22°53'51"E FOR 54.78 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1014.93 FEET, A CHORD DISTANCE OF 582.11 FEET AND A CHORD BEARING OF N28°24'47"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 33°19'47", A DISTANCE OF 590.40 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 220.00 FEET, A CHORD DISTANCE OF 168.36 FEET AND A CHORD BEARING OF N66°34'50"W; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 44°59'39", FOR 172.76 FEET; THENCE DEPARTING SAID CURVE ALONG A RADIAL LINE, RUN N00°55'20"E FOR 39.08 FEET TO THE NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°49'06"E ALONG SAID NORTH LINE FOR 101.31 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 280.00 FEET, A CHORD DISTANCE OF 116.28 FEET AND A CHORD BEARING OF S55°53'06"E; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 23°58'10", FOR 117.14 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1014.93 FEET, A CHORD DISTANCE OF 105.55 FEET AND A CHORD BEARING OF

CONTINUED ON SHEET 5

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2012	CERTIFICATION OF AUTHORIZATION No. LB 8011  800 NORTH MAGNOLIA AVENUE SUITE 3000 ORLANDO, FLORIDA 32803 (407) 843-9120 FAX 407-642-8864	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)	
DRAWN BY	LJLWRO		PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
CHECKED BY	S.MARE		S.R. 429	SCALE: N/A
CBS PROJECT NO.	30887125		CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SHEET 4 OF 11
REVISION	BY DATE	CENTRAL FLORIDA EXPRESSWAY AUTHORITY	ORANGE COUNTY, FLORIDA	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:

CONTINUED FROM SHEET 4

A PORTION OF PARCEL 63-125 (CONTINUED)

N51°26'48"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°57'41", FOR 105.60 FEET TO SAID NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER; THENCE N89°49'06"E ALONG SAID NORTH LINE FOR 209.73 FEET; THENCE DEPARTING SAID NORTH LINE RUN S54°55'51"W FOR 163.12 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 894.93 FEET, A CHORD DISTANCE OF 1015.41 FEET AND A CHORD BEARING OF S20°22'04"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 69°07'34", FOR 1079.71 FEET TO THE POINT OF TANGENCY; THENCE S14°11'43"E FOR 177.70 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 1029.93 FEET, A CHORD DISTANCE OF 105.92 FEET AND A CHORD BEARING OF S11°14'51"E; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05°53'43", A DISTANCE OF 105.97 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE S17°47'49"W ALONG SAID RIGHT OF WAY LINE FOR 8.62 FEET TO A POINT ON AFORESAID NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 20; THENCE DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE RUN S89°37'58"W ALONG SAID NORTH LINE FOR 147.70 FEET TO THE POINT OF BEGINNING.

CONTAINING 4.651 ACRES, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH


PARCEL 63-125 - POND

A PORTION OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE SOUTHWEST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°37'58"E ALONG THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20 FOR 1524.03 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE N17°47'49"E ALONG SAID RIGHT OF WAY LINE FOR 994.64 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE N17°47'49"E FOR 193.02 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 984.93 FEET, A CHORD DISTANCE OF 218.42 FEET AND A CHORD BEARING OF N24°09'46"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°43'55", FOR 218.87 FEET TO THE NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE RUN S89°49'06"W ALONG SAID NORTH LINE FOR 27.10 FEET; THENCE DEPARTING SAID NORTH LINE RUN S54°55'51"W FOR 163.12 FEET TO THE POINT OF CURVATURE OF A CURVE,

CONTINUED ON SHEET 6

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018	CERTIFICATION OF AUTHORIZATION No. LB 8111  800 NORTH MAGNOLIA AVENUE SUITE 3000 ORLANDO, FLORIDA 32803 (407) 843-5120 FAX 407-648-8884	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
DRAWN BY	JMURRO		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	SCALE: N/A SHEET 5 OF 11
CHECKED BY	S.WANZ			
DWG PROJECT NO.	20087133			
REVISION	BY DATE			

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 5

PARCEL 63-125 - POND (CONTINUED)

CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 894.93 FEET, A CHORD DISTANCE OF 178.84 FEET AND A CHORD BEARING OF S49°11'47"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 11°28'08", FOR 179.14 FEET; THENCE S40°33'56"E FOR 226.92 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.979 ACRES, MORE OR LESS.

TOGETHER WITH

PARCEL 63-144  
 PARCEL "A"

A PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, RUN N89°49'06"E, ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID NORTHWEST 1/4, A DISTANCE OF 132.14 FEET FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID SOUTH LINE RUN N00°55'20"E, A DISTANCE OF 20.92 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 280.00 FEET, A CHORD DISTANCE OF 103.05 FEET AND A CHORD BEARING OF S78°28'25"E; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°12'29", FOR 103.64 FEET TO A POINT ON AFORESAID SOUTH LINE; THENCE DEPARTING SAID CURVE, RUN S89°49'06"W, ALONG SAID SOUTH LINE, A DISTANCE OF 101.31 FEET TO THE POINT OF BEGINNING.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

CONTAINING 1388 SQUARE FEET, MORE OR LESS

TOGETHER WITH


PARCEL 63-144  
 PARCEL "B"

A PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, RUN N89°49'06"E, ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID NORTHWEST 1/4, A DISTANCE OF 412.27 FEET FOR THE POINT OF BEGINNING; SAID POINT ALSO BEING ON A

CONTINUED ON SHEET 7

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018	 CERTIFICATION OF AUTHORIZATION No. LB 8811 800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-8130 FAX 407-849-8864	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
DRAWN BY	LJURRHO		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
CHECKED BY	S.MARR		SCALE: N/A	
DNS PROJECT NO.	50967125		SHEET 6 OF 11	
REVISION	BY	DATE		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:  
 CONTINUED FROM SHEET 6

PARCEL 63-144 (CONTINUED)

NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1014.93 FEET, A CHORD DISTANCE OF 8.92 FEET AND A CHORD BEARING OF N54°40'45"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 00°30'13", FOR 8.92 FEET TO THE POINT OF TANGENCY; THENCE N54°55'51"E, A DISTANCE OF 437.60 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 656.20 FEET, A CHORD DISTANCE OF 470.73 FEET AND A CHORD BEARING OF N33°54'42"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 42°02'18", FOR 481.46 FEET TO THE POINT OF TANGENCY; THENCE RUN S77°06'27"E, A DISTANCE OF 30.00 FEET TO A POINT ON THE EXISTING NORTHWESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; SAID POINT ALSO BEING ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 686.20 FEET, A CHORD DISTANCE OF 320.83 FEET AND A CHORD BEARING OF S26°24'42"W; THENCE RUN SOUTHWESTERLY ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 27°02'18" FOR 323.82 FEET TO THE POINT OF TANGENCY; THENCE CONTINUE ALONG SAID WESTERLY RIGHT OF WAY LINE THE FOLLOWING TWO COURSES: THENCE S39°55'51"W, A DISTANCE OF 287.66 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 984.93 FEET, A CHORD DISTANCE OF 161.44 FEET AND A CHORD BEARING OF S35°13'47"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 09°24'07", FOR 161.62 FEET TO A POINT ON AFORESAID SOUTH LINE; THENCE DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE RUN N89°49'06"E, ALONG SAID SOUTH LINE, A DISTANCE OF 236.83 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.200 ACRES MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH


PARCEL 215  
 PART B

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"X6" CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°59'37"W, ALONG THE NORTH LINE OF SAID NORTHWEST ONE-QUARTER, A DISTANCE OF 109.01 FEET TO THE EXISTING NORTHWESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A AS SHOWN ON OCEA RIGHT OF WAY MAP PROJECT NUMBER 429-200; THENCE DEPARTING SAID NORTH LINE RUN S12°53'33"W ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE A DISTANCE OF 396.32 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE S12°53'33"W A DISTANCE OF 308.92

CONTINUED ON SHEET 8

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018	CERTIFICATION OF AUTHORIZATION NO. LB 8011   800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-9120 FAX 407-848-8864	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
DRAWN BY	J.MUNRO		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
CHECKED BY	S.WARE			
DWG PROJECT NO.	SDNET125		SHEET 7 OF 11	
REVISION	BY	DATE		



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604 &  
 429-200  
 PURPOSE: RIGHT OF WAY  
 LEGAL DESCRIPTION:

CONTINUED FROM SHEET 7

PARCEL 215 PART B (CONTINUED)

FEET; THENCE DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE RUN N77°06'27"W A DISTANCE OF 30.00 FEET; THENCE N12°53'33"E A DISTANCE OF 302.10 FEET; THENCE S89°55'15"E A DISTANCE OF 30.77 FEET TO THE POINT OF BEGINNING.

CONTAINING 9165 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

TOGETHER WITH

PARCEL 227  
 PART B

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:


COMMENCE AT A 6"X6" CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°59'37"W, ALONG THE NORTH LINE OF SAID NORTHWEST ONE-QUARTER, FOR A DISTANCE OF 47.46 FEET TO THE EXISTING SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A AS SHOWN ON OOCEA RIGHT OF WAY MAP PROJECT NUMBER 429-200; THENCE DEPARTING SAID NORTH LINE RUN S12°53'33"W ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 461.01 FEET FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID SOUTHEASTERLY RIGHT OF WAY LINE RUN S89°55'15"E FOR A DISTANCE OF 30.77 FEET; THENCE S12°53'33"W FOR A DISTANCE OF 102.68 FEET; THENCE N89°59'47"W FOR A DISTANCE OF 30.78 FEET TO AFORESAID SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE N12°53'33"E ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE FOR A DISTANCE OF 102.73 FEET TO THE POINT OF BEGINNING.

CONTAINING 3081 SQUARE FEET, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

CONTAINING IN THE AGGREGATE 13.524 ACRES, MORE OR LESS.

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018	CERTIFICATION OF AUTHORIZATION No. LS 8811  800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (807) 843-9130 FAX 407-642-8864	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
DRAWN BY	J.MUNRO		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	
CHECKED BY	S.WARD		SCALE: N/A	
DWG PROJECT NO.	SR07135		SHEET 8 OF 11	
REVISION	BY DATE			

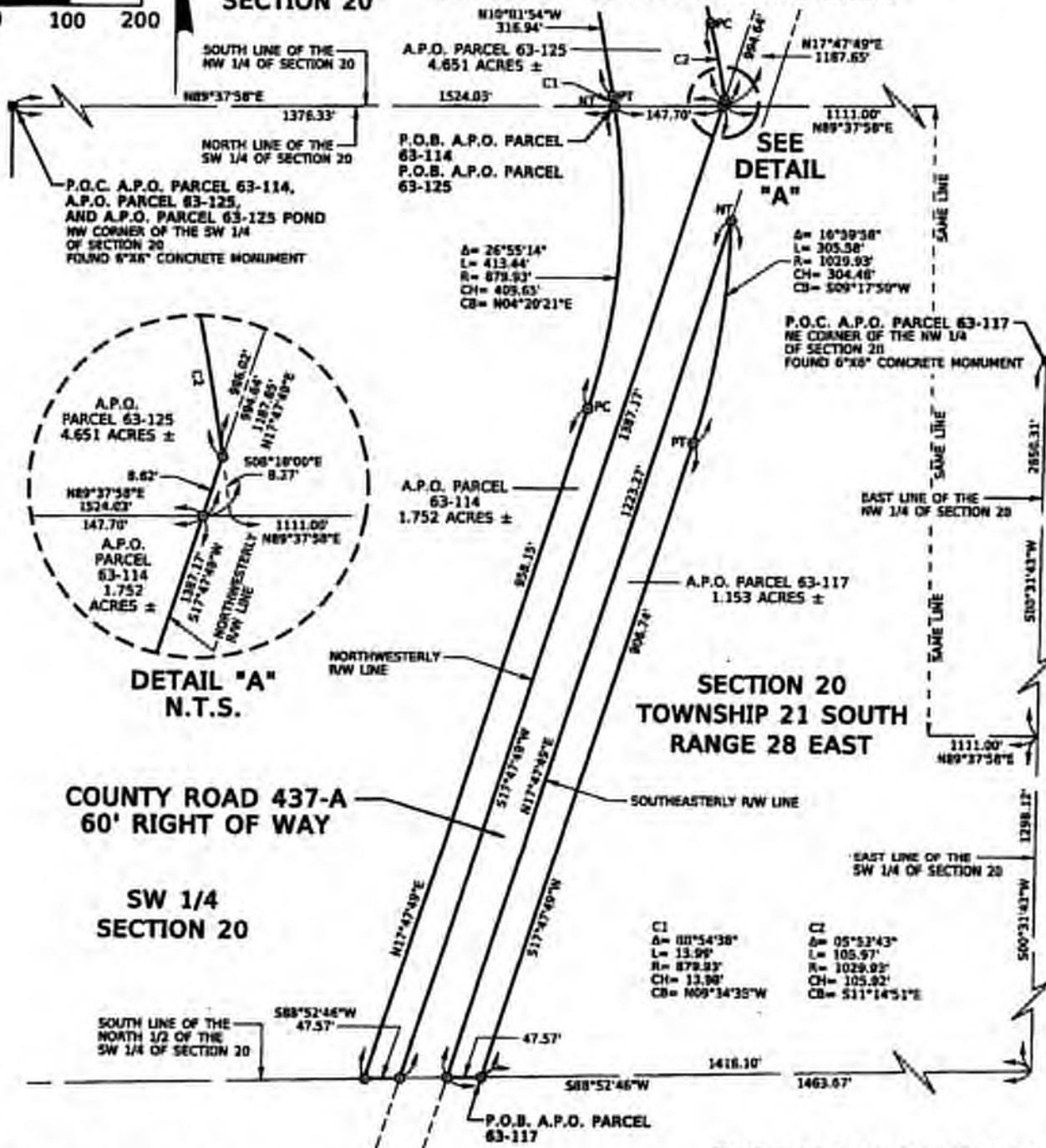
BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF SEC. 20-21-28, BEING N89°37'58"E.

SCALE: 1" = 200'



NW 1/4 SECTION 20

SEE SHEET 10 FOR CONTINUATION



COUNTY ROAD 437-A  
60' RIGHT OF WAY

SW 1/4 SECTION 20

SECTION 20  
TOWNSHIP 21 SOUTH  
RANGE 28 EAST

PROJECT NO. 75320-6460-604 & 429-200

DATE	FEBRUARY 28, 2018
DRAWN BY	JLR/MD
CHECKED BY	S.W.M
DBS PROJECT NO.	30087135
REVISION	BY DATE

CERTIFICATION OF AUTHORIZATION No. LB 8011

800 NORTH MAGNOLIA AVENUE  
SUITE 2000  
ORLANDO, FLORIDA 32803  
(407) 843-3130  
FAX 407-649-8864

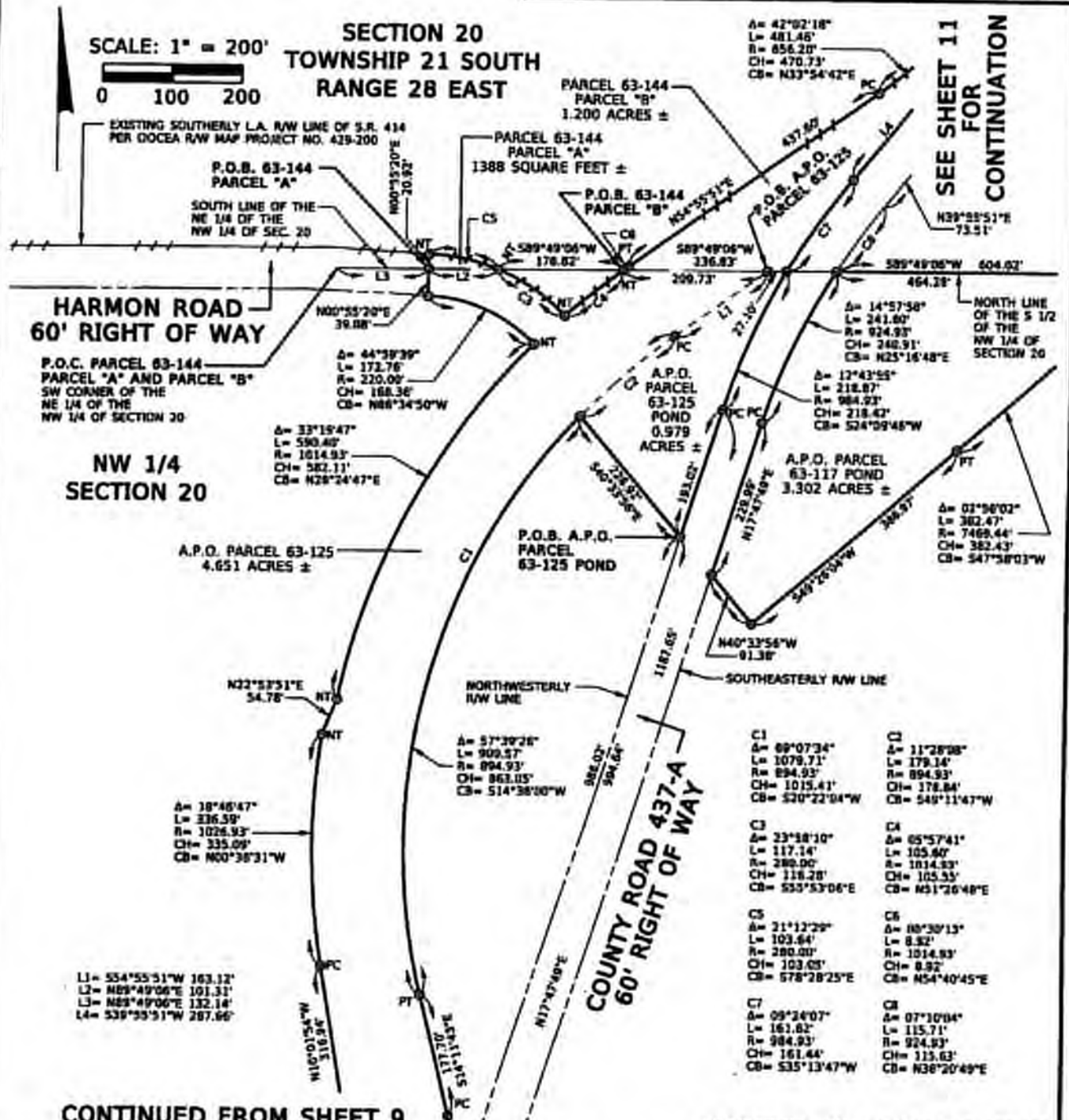
<b>SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)</b>	
PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
S.R. 429	SCALE: 1"=200'
CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SHEET 9 OF 11
ORANGE COUNTY, FLORIDA	

BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF SEC. 20-21-28, BEING N89°37'58"E.

SCALE: 1" = 200'  
0 100 200

SECTION 20  
TOWNSHIP 21 SOUTH  
RANGE 28 EAST

SEE SHEET 11  
FOR  
CONTINUATION



CONTINUED FROM SHEET 9

PROJECT NO. 75320-6460-604 & 429-200

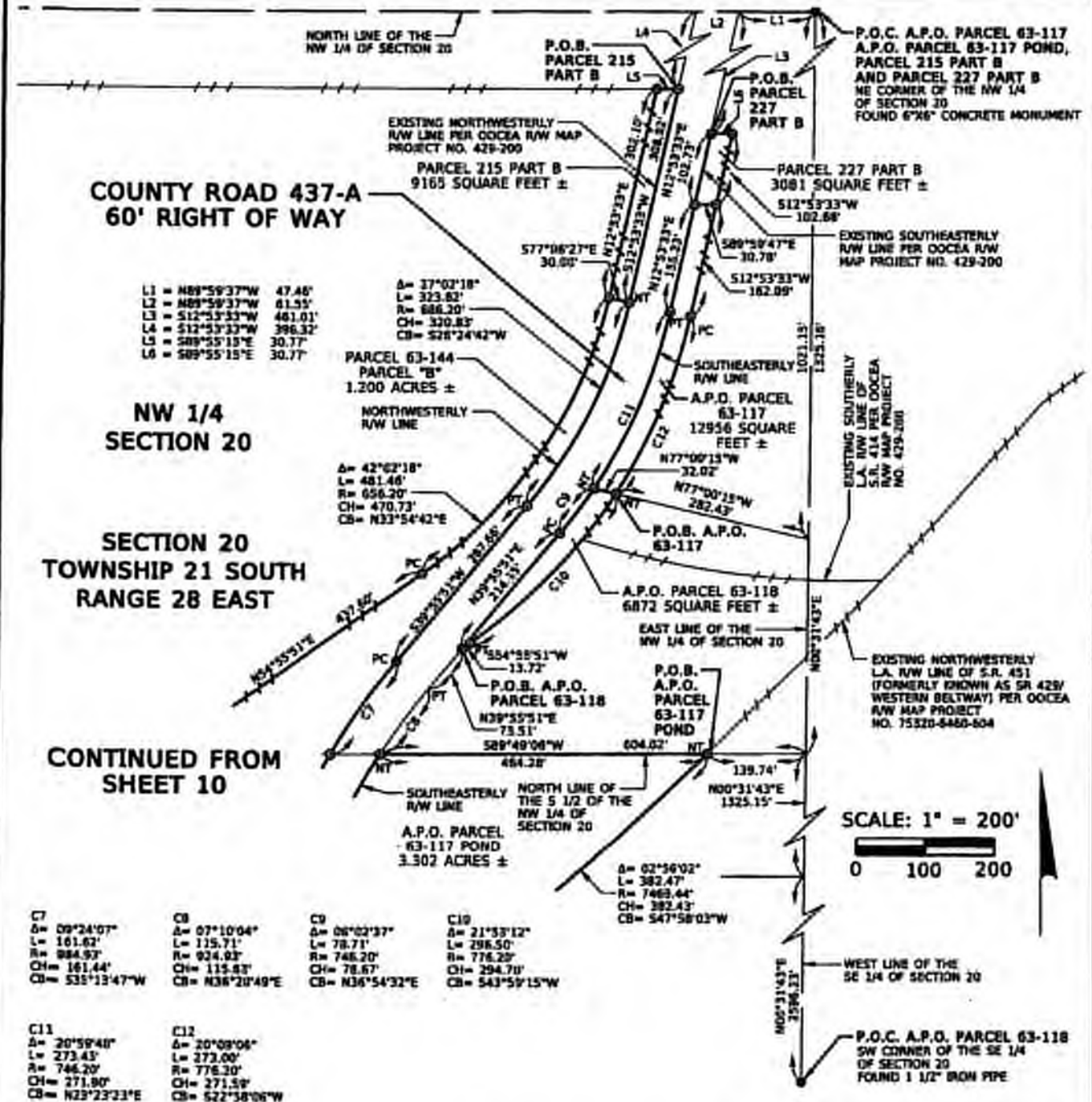
DATE	FEBRUARY 28, 2018
DRAWN BY	LJUNING
CHECKED BY	S.WARE
THIS PROJECT NO.	34067125
REVISION	BY DATE

CERTIFICATION OF AUTHORIZATION No. LS 8311

800 NORTH MAGNOLIA AVENUE  
SUITE 3000  
ORLANDO, FLORIDA 32803  
(407) 843-5120  
FAX 407-649-8664

SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)	
PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125	
S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	SCALE: 1"=200' SHEET 10 OF 11

BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF SEC. 20-21-28, BEING N89°37'58"E.



I HEREBY CERTIFY THAT THIS SKETCH OF DESCRIPTION IS IN ACCORDANCE WITH THE STANDARDS OF PRACTICE AS REQUIRED BY CHAPTER 51-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.021, FLORIDA STATUTES.

*Sheila A. Mann* 05/15/2018  
 SHEILA A. MANN, P.S.M.  
 LICENSE NUMBER 3629

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RASSED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFICATION OF AUTHORIZATION R/L 08 0811

**Dewberry**

800 NORTH MAGNOLIA AVENUE  
 SUITE 3000  
 ORLANDO, FLORIDA 32803  
 (407) 843-5120  
 FAX 407-849-6664

**SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)**

**PARCEL 63-144, PARCEL 215 PART B, PARCEL 227 PART B AND A PORTION OF PARCEL 63-114, 63-117, 63-118, 63-125**

**S.R. 429  
 CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 ORANGE COUNTY, FLORIDA**

**SCALE: 1"=200'**

**SHEET 11 OF 11**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 S.R. 429 - PROJECT NO. 75320-6460-604  
 PURPOSE: RIGHT OF WAY TRANSFER

**LEGAL DESCRIPTION:**

A PORTION OF PARCEL 63-117

**RIGHT OF WAY**

A PORTION OF THE SOUTHEAST ONE-QUARTER OF SECTION 17, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT RAILROAD SPIKE AT THE SOUTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF SECTION 17; THENCE N89°56'47"W ALONG THE SOUTH LINE OF SAID SOUTHEAST ONE-QUARTER FOR 30.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF MARDEN ROAD AS RECORDED IN OFFICIAL RECORDS BOOK 543, PAGE 3 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE N00°08'47"E ALONG SAID RIGHT OF WAY LINE FOR 2270.29 FEET TO THE POINT OF BEGINNING; THENCE S75°23'24"W FOR 182.73 FEET; THENCE S80°31'56"W FOR 196.26 FEET TO A NON-TANGENT CURVE CONCAVE WESTERLY; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 7809.44 FEET, A CHORD BEARING OF N13°51'35"E AND A CHORD DISTANCE OF 64.03 FEET, THROUGH A CENTRAL ANGLE OF 00°28'11", FOR 64.03 FEET; THENCE S83°27'10"W FOR 76.05 FEET TO A POINT ON THE FACE OF A MECHANICALLY STABILIZED EARTH (MSE) WALL; THENCE RUN ALONG THE FACE OF SAID MSE WALL THE FOLLOWING THREE COURSES: THENCE N80°38'10"W FOR 27.79 FEET; THENCE S83°25'35"W FOR 154.11 FEET; THENCE S68°11'10"W FOR 71.30 FEET TO A NON-TANGENT CURVE CONCAVE SOUTHERLY; THENCE DEPARTING SAID MSE WALL RUN WESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 894.93 FEET, A CHORD BEARING OF S67°00'24"W AND A CHORD DISTANCE OF 229.34 FEET, THROUGH A CENTRAL ANGLE OF 14°43'25", FOR 229.98 FEET TO THE POINT OF TANGENCY; THENCE S59°38'41"W FOR 1088.83 FEET; THENCE N67°32'57"W FOR 37.66 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A (OCOE-POPKA ROAD); THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING FOUR COURSES: N59°38'41"E FOR 650.58 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 435.87 FEET, A CHORD BEARING OF N52°35'07"E AND A CHORD DISTANCE OF 107.14 FEET, THROUGH A CENTRAL ANGLE OF 14°07'08", FOR 107.41 FEET TO THE POINT OF TANGENCY; THENCE N45°31'33"E FOR 447.36 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 365.14 FEET, A CHORD BEARING OF N63°41'10"E AND A CHORD DISTANCE OF 227.61 FEET, THROUGH A CENTRAL ANGLE OF 36°19'15", FOR 231.47 FEET TO A NON-TANGENT CURVE CONCAVE WESTERLY; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 7449.44 FEET, A CHORD BEARING OF S13°29'44"W AND A CHORD DISTANCE OF 68.93 FEET, THROUGH A CENTRAL ANGLE OF 00°31'49", FOR 68.93 FEET TO A NON-TANGENT CURVE CONCAVE SOUTHERLY; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 1014.93 FEET, A CHORD BEARING OF N77°21'47"E AND A CHORD DISTANCE OF 105.03 FEET, THROUGH A CENTRAL ANGLE OF 05°55'55", FOR 105.08 FEET TO A POINT ON THE FACE OF A MSE WALL; THENCE RUN ALONG THE FACE OF SAID WALL THE FOLLOWING THREE COURSES: THENCE S81°44'06"E FOR 23.51 FEET; THENCE N83°22'43"E FOR 153.37 FEET; THENCE N68°34'10"E FOR 28.50 FEET; THENCE DEPARTING THE FACE OF SAID MSE WALL, N83°27'10"E FOR 57.50 FEET TO SAID SOUTHERLY RIGHT OF WAY LINE; THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING TWO COURSES: S86°40'27"E FOR 311.73 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 439.26 FEET, A CHORD BEARING OF S89°03'06"E AND A CHORD DISTANCE OF 36.44 FEET, THROUGH A CENTRAL ANGLE OF 04°45'18", FOR 36.45 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SAID MARDEN ROAD; THENCE S00°08'47"W ALONG SAID WESTERLY RIGHT OF WAY LINE FOR 86.77 FEET TO THE POINT OF BEGINNING.


CONTAINING 4.229 ACRES, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW BETWEEN THE GRANTOR'S REMAINING PROPERTY AND ANY FACILITY CONSTRUCTED ON THE ABOVE DESCRIBED PROPERTY.

**LEGEND AND ABBREVIATIONS**

Δ	= DELTA (CENTRAL ANGLE)	L	= LENGTH OF CURVE	P.O.B.	= POINT OF BEGINNING
A.P.O.	= A PORTION OF	L.A.	= LIMITED ACCESS	P.O.C.	= POINT OF COMMENCEMENT
CB	= CHORD BEARING	MSE	= MECHANICALLY STABILIZED EARTH	R	= RADIUS
CH	= CHORD DISTANCE	NO.	= NUMBER	R/W	= RIGHT OF WAY
C.R.	= COUNTY ROAD	NT	= NON-TANGENT	SEC.	= SECTION
FDOT	= FLORIDA DEPARTMENT OF TRANSPORTATION	PC	= POINT OF CURVATURE	S.R.	= STATE ROAD
		PT	= POINT OF TANGENCY	⊕	= CHANGE IN DIRECTION

PROJECT NO. 75320-6460-604

DATE	APRIL 21, 2017	CERTIFICATION OF AUTHORIZATION NO. 18 8011  800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FLORIDA 32803 (407) 843-5130 FAX 407-843-8884	SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY) A PORTION OF PARCEL 63-117	
DRAWN BY	LJH/KRO		S.R. 429 CENTRAL FLORIDA EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	SCALE: N/A SHEET 1 OF 2
CHECKED BY	S.WAVE			
DESIGN PROJECT NO.	5107115			
REVISION	BY	DATE		

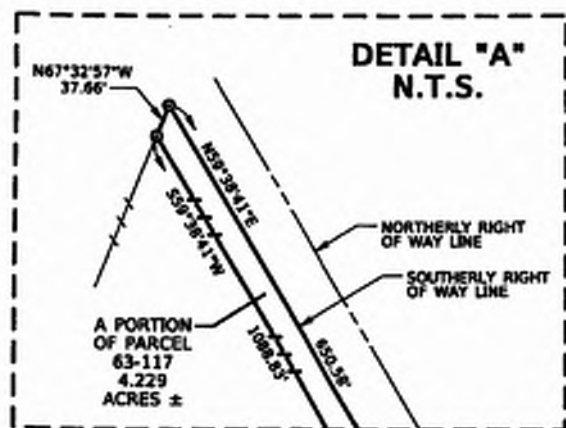
BEARINGS SHOWN HEREON ARE BASED ON  
THE EAST LINE OF THE SOUTHEAST 1/4 OF  
SEC. 17-21-28, BEING S00°08'47"W.

SEE DETAIL "A"  
FOR CONTINUATION

SECTION 17  
TOWNSHIP 21 SOUTH  
RANGE 28 EAST

SCALE: 1" = 200'

0 100 200



$\Delta = 14^{\circ}07'08''$   
L = 107.41'  
R = 435.87'  
CH = 107.14'  
CB = N52°35'07"E

COUNTY ROAD 437-A  
(OCOE-APOPKA ROAD)  
60' RIGHT OF WAY

NORTHERLY RIGHT  
OF WAY LINE

$\Delta = 36^{\circ}19'15''$   
L = 231.47'  
R = 365.14'  
CH = 227.61'  
CB = N63°41'10"E

$\Delta = 00^{\circ}31'49''$   
L = 68.93'  
R = 7449.44'  
CH = 68.93'  
CB = S13°29'44"W

$\Delta = 05^{\circ}55'55''$   
L = 105.08'  
R = 1014.93'  
CH = 105.03'  
CB = N77°21'47"E

S81°44'06"E  
23.51'

NORTHERLY RIGHT  
OF WAY LINE

N68°34'10"E  
28.50'

N83°27'10"E  
37.50'

SOUTHERLY RIGHT  
OF WAY LINE

$\Delta = 04^{\circ}45'18''$   
L = 36.45'  
R = 439.26'  
CH = 36.44'  
CB = S89°03'06"E

$\Delta = 14^{\circ}43'25''$   
L = 229.28'  
R = 894.93'  
CH = 229.34'  
CB = S67°00'24"W

S58°11'10"W  
71.30'

$\Delta = 00^{\circ}28'11''$   
L = 64.03'  
R = 7809.44'  
CH = 64.03'  
CB = N13°51'35"E

S81°25'35"W  
154.11'

S81°25'35"W  
154.11'

S80°31'56"W  
196.28'

S71°23'24"W  
182.73'

S50°08'47"W  
86.77'

S58°40'27"E  
311.73'

L1 = S83°27'10"W 76.05'  
L2 = N80°38'10"W 27.79'

SE 1/4  
SECTION 17

P.O.C. A.P.O. 63-117  
SOUTHEAST CORNER OF THE  
SOUTHEAST 1/4 OF SECTION 17  
RAILROAD SPRING

SECTION 20

SECTION 17

SOUTH LINE OF THE  
SE 1/4 OF SECTION 17

N89°56'47"W  
30.00'

EAST LINE OF THE  
SE 1/4 OF SECTION 17

N00°08'47"E

WESTERLY RIGHT  
OF WAY LINE

2270.29'

S00°08'47"W

MARDEN ROAD  
30' RIGHT OF WAY  
(OFFICIAL RECORDS BOOK 543, PAGE 3)

P.O.B.  
A.P.O. 63-117

PROJECT NO. 75320-6460-604

I HEREBY CERTIFY THAT THIS SKETCH OF DESCRIPTION  
IS IN ACCORDANCE WITH THE STANDARDS OF  
PRACTICE AS REQUIRED BY CHAPTER 34-17, FLORIDA  
ADMINISTRATIVE CODE PURSUANT TO SECTION 472.927,  
FLORIDA STATUTES.

*Sheila A. Ware* 05/15/2018  
SHEILA A. WARE, P.S.M.  
LICENSE NUMBER 5518 DATE

NOT VALID WITHOUT THE SIGNATURE AND  
THE ORIGINAL RAISED SEAL OF A FLORIDA  
LICENSED SURVEYOR AND MAPPER

CERTIFICATION OF  
AUTHORIZATION No. LS 8011

**Dewberry**

800 NORTH MAGNOLIA AVENUE  
SUITE 1000  
ORLANDO, FLORIDA 32803  
(407) 843-3120  
FAX 407-849-8864

SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)

A PORTION OF PARCEL 63-117

S.R. 429  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
ORANGE COUNTY, FLORIDA

SCALE: 1"=200'

SHEET 2 OF 2

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
SR 429 PROJECT NO. 200

PARCEL 209  
PART C

RIGHT OF WAY

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE SAID NORTHEAST 1/4 (A 4" DIAMETER CONCRETE MONUMENT WITH 3/4" IRON ROD, WITH NO IDENTIFICATION, AS NOW EXISTS); THENCE N00°01'36"E ALONG THE WEST LINE THEREOF A DISTANCE OF 1303.18 FEET TO A POINT ON A LINE 30.00 FEET SOUTH OF AND PARALLEL TO THE NORTH BOUNDARY OF THE SOUTHEAST 1/4 OF SAID NORTHEAST 1/4 AND THE POINT OF BEGINNING; THENCE N89°55'35"E ALONG SAID PARALLEL LINE A DISTANCE OF 134.77 FEET; THENCE DEPARTING SAID PARALLEL LINE S00°04'25"E A DISTANCE OF 18.70 FEET; THENCE S82°29'02"E A DISTANCE OF 102.37 FEET; THENCE S85°03'45"E A DISTANCE OF 592.87 FEET; THENCE N28°27'26"E A DISTANCE OF 95.62 FEET TO A POINT ON A LINE 30.00 FEET SOUTH OF AND PARALLEL TO THE NORTH BOUNDARY OF THE SOUTHEAST 1/4 OF SAID NORTHEAST 1/4; THENCE N89°55'35"E ALONG SAID PARALLEL LINE A DISTANCE OF 221.19 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE DEPARTING SAID PARALLEL LINE 353.69 FEET ALONG THE ARC OF SAID CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 1817.00 FEET, A CENTRAL ANGLE OF 11°09'11" AND A CHORD BEARING OF S18°23'56"E; THENCE N89°55'14"E A DISTANCE OF 79.43 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE 138.22 FEET ALONG THE ARC OF SAID CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 659.49 FEET, A CENTRAL ANGLE OF 12°00'31" AND A CHORD BEARING OF N17°01'07"E TO A POINT ON THE EAST LINE OF SAID NORTHEAST 1/4; THENCE N00°09'02"E ALONG SAID EAST LINE A DISTANCE OF 233.34 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID NORTHEAST 1/4; THENCE S89°55'35"W ALONG THE NORTH LINE THEREOF A DISTANCE OF 1325.59 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID NORTHEAST 1/4; THENCE S00°01'36"W ALONG THE WEST LINE THEREOF A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 3.041 ACRES, MORE OR LESS

TOGETHER WITH

PARCEL 209  
PART D

RIGHT OF WAY

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE SAID NORTHEAST 1/4 (A 4" DIAMETER CONCRETE MONUMENT WITH 3/4" IRON ROD, WITH NO IDENTIFICATION, AS NOW EXISTS); THENCE N00°01'36"E ALONG THE WEST LINE THEREOF A DISTANCE OF 1333.18 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID NORTHEAST 1/4 OF SECTION 19; THENCE CONTINUE N00°01'36"E ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF SAID NORTHEAST 1/4 OF SECTION 19 A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF HARMON ROAD AS DESCRIBED IN DEED BOOK 785, PAGE 87, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE N89°55'35"E ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 134.73 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID RIGHT OF WAY LINE N78°14'12"E A DISTANCE OF 99.34 FEET; THENCE N82°28'54"E A DISTANCE OF 506.90 FEET; THENCE S53°06'57"E A DISTANCE OF 142.72 FEET TO A POINT ON SAID NORTHERLY RIGHT OF WAY LINE OF HARMON ROAD; THENCE S89°55'35"W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 713.95 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.746 ACRES, MORE OR LESS.

TOGETHER WITH

PARCEL 209  
PART E

RIGHT OF WAY

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE SAID NORTHEAST 1/4 (A 4" DIAMETER CONCRETE MONUMENT WITH 3/4" IRON ROD, WITH NO IDENTIFICATION, AS NOW EXISTS); THENCE N00°01'36"E ALONG THE WEST LINE THEREOF A DISTANCE OF 1333.18 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID NORTHEAST 1/4 OF SECTION 19; THENCE CONTINUE N00°01'36"E ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF SAID NORTHEAST 1/4 OF SECTION 19 A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF HARMON ROAD AS DESCRIBED IN DEED BOOK 785, PAGE 87, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE N89°55'35"E ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 1131.61 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N89°55'53"E ALONG SAID NORTH RIGHT OF WAY A DISTANCE



OF 194.05 FEET TO A POINT ON THE EAST LINE OF SAID NORTHEAST 1/4; THENCE N00°09'02"E ALONG SAID EAST LINE A DISTANCE OF 16.36 FEET; THENCE LEAVING SAID EAST LINE S89°55'12"W A DISTANCE OF 91.98 FEET; THENCE S80°49'46"W A DISTANCE OF 103.44 FEET TO THE POINT OF BEGINNING.  
CONTAINING 2339 SQUARE FEET, MORE OR LESS.

AS TO ALL PARCELS RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY





ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
PROJECT NO. 429-200

PARCEL 212  
PART C

RIGHT OF WAY

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHWEST 1/4 (A 5/8" IRON BAR WITH CAP STAMPED "FOOT JWG LB 1" AS NOW EXISTS); THENCE S89°38'03"W ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4 A DISTANCE OF 2638.93 FEET TO THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4; THENCE DEPARTING SAID SOUTH LINE N00°09'02"E ALONG THE WEST LINE THEREOF A DISTANCE OF 1100.31 FEET TO THE POINT OF BEGINNING SAID POINT BEING ON A NON-TANGENT CURVE; THENCE 246.44 FEET ALONG THE ARC OF SAID CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 659.49 FEET, A CENTRAL ANGLE OF 21°24'37" AND A CHORD BEARING OF N33°43'41"E TO A POINT ON A LINE 30.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE N89°49'12"E ALONG SAID PARALLEL LINE A DISTANCE OF 134.37 FEET; THENCE DEPARTING SAID PARALLEL LINE S58°13'21"E A DISTANCE OF 71.52 FEET; THENCE N86°35'28"E A DISTANCE OF 179.83 FEET; THENCE N80°21'23"E A DISTANCE OF 100.25 FEET; THENCE N00°10'48"W A DISTANCE OF 11.24 FEET TO A POINT 30.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE N89°49'12"E ALONG SAID PARALLEL LINE A DISTANCE OF 714.70 FEET; THENCE DEPARTING SAID PARALLEL LINE S86°12'05"E A DISTANCE OF 132.15 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT OF WAY OF COUNTY ROAD No. 437A AS RECORDED IN OFFICIAL RECORDS BOOK 5460, PAGE 4800, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE N00°56'06"E ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 39.18 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE DEPARTING SAID RIGHT OF WAY LINE S89°49'12"W ALONG SAID SOUTH LINE A DISTANCE OF 463.27 FEET TO A POINT ON THE EAST LINE OF THE WEST 3/4 OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE N00°17'28"E ALONG SAID EAST LINE A DISTANCE OF 30.00 FEET TO A POINT ON A LINE 30.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE DEPARTING SAID EAST LINE S89°49'12"W ALONG SAID PARALLEL LINE A DISTANCE OF 383.45 FEET; THENCE DEPARTING SAID PARALLEL LINE N00°10'48"W A DISTANCE OF 11.00 FEET; THENCE N85°09'31"W A DISTANCE OF 101.07 FEET; THENCE S89°55'12"W A DISTANCE OF 120.00 FEET; THENCE S74°22'44"W A DISTANCE OF 75.33 FEET TO A POINT 30.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE S89°49'12"W ALONG SAID PARALLEL LINE A DISTANCE OF 108.08 FEET; THENCE DEPARTING SAID PARALLEL LINE N75°08'55"W A DISTANCE OF 62.10 FEET; THENCE S89°55'12"W A DISTANCE OF 148.02 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE S00°09'02"W ALONG SAID WEST LINE A DISTANCE OF 46.36 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID NORTHWEST 1/4; THENCE CONTINUE S00°09'02"W ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID NORTHWEST 1/4 A DISTANCE OF 233.34 FEET TO THE POINT OF BEGINNING.

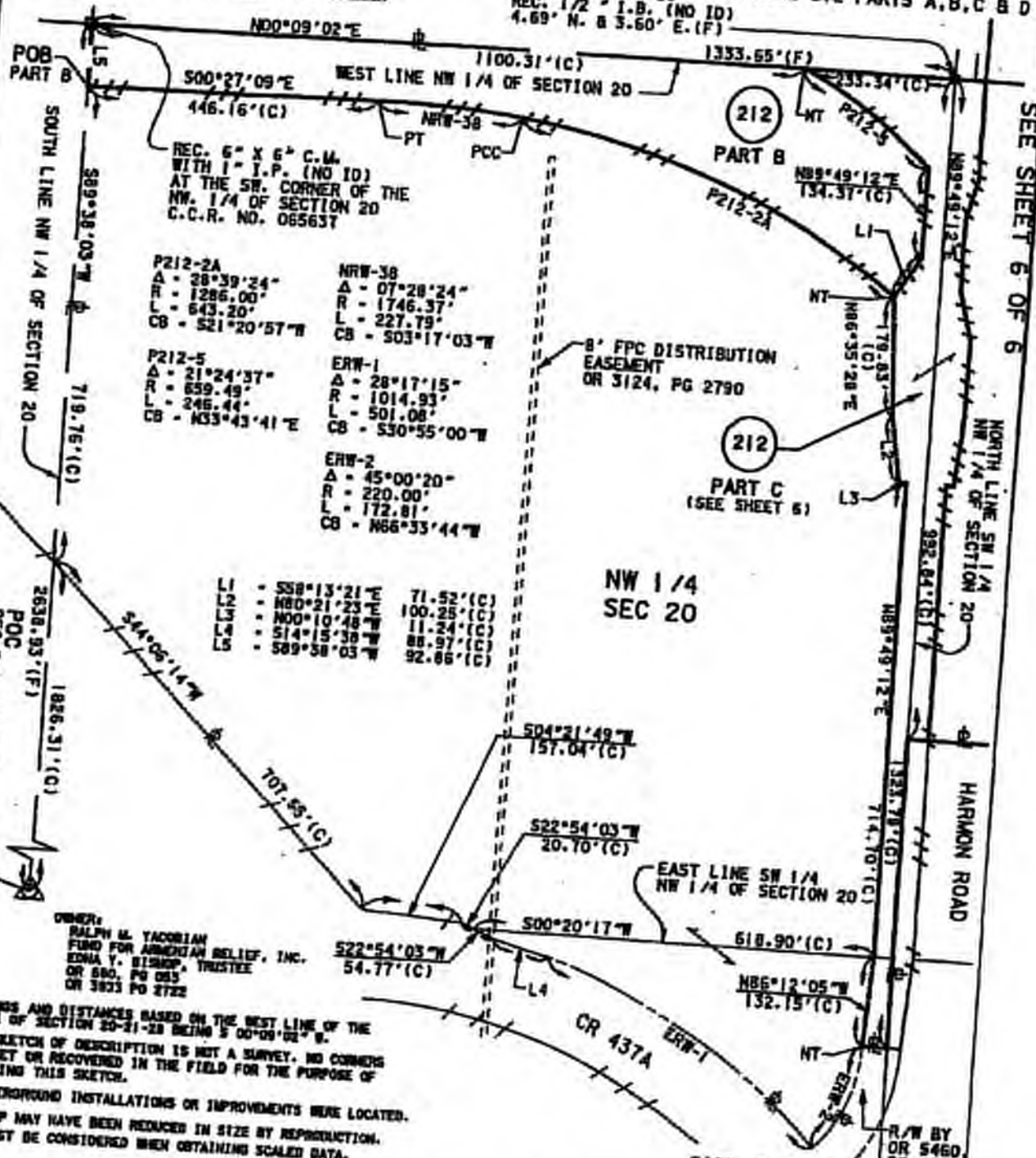
CONTAINING 2.353 ACRES, ACRES MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY S.R. 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY

- AL - CALCULATED VALUE
- CB - CHAIN BEARING
- CC - CERTIFIED CORNER RECORD
- CM - CONCRETE MONUMENT
- CR - CORNER
- CR - COUNTY ROAD
- D - DEED
- EXIST - EXISTING
- F - FIELD
- FND - FOUND
- ID - IDENTIFICATION
- IP - IRON PIPE
- JBE - JONES, BOOD & GENTRY, INC.
- LB - LICENSED BUSINESS
- NT - NON-TARRANT
- OR - OFFICIAL RECORDS
- PG - PAGE
- POB - POINT OF BEGINNING
- POC - POINT OF COMMENCEMENT
- PL - PROPERTY LINE
- RE - RAISE
- REC - RECOVERED
- R/W - RIGHT OF WAY
- SEC - SECTION
- STA - STATION
- TWP - TOWNSHIP



PROJECT NO. 429-200  
 PARCEL 212 PARTS A, B, C & D  
 NW CORNER SW 1/4 OF NW 1/4 OF SEC 20  
 REC. 1/2 - I.B. (NO ID)  
 4.69' N. & 3.60' E. (F)



- NOTES:
1. BEARINGS AND DISTANCES BASED ON THE BEST LINE OF THE NW 1/4 OF SECTION 20-21-28 BEING S 00°09'02" W.
  2. THIS SKETCH OF DESCRIPTION IS NOT A SURVEY. NO CORNERS WERE SET OR RECOVERED IN THE FIELD FOR THE PURPOSE OF PREPARING THIS SKETCH.
  3. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS WERE LOCATED.
  4. THIS MAP MAY HAVE BEEN REDUCED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.

PARCEL NO. 212  
 SEC 20, TWP 21 SOUTH, RGE 28 EAST  
 R/W MAP PAGE NO. 2,3,4,5 & 8

PAGE 5 OF 6  
 SKETCH OF DESCRIPTION  
 THIS MAP IS NOT A SURVEY  
 SEE SHEETS 1-4 FOR LEGAL.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SR 429 – PROJECT No. 429-200  
PURPOSE: RIGHT OF WAY

PARCEL 215  
PART C

RIGHT OF WAY

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHWEST ¼ OF SECTION 20, TOWNSHIP 21, SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST ¼ OF SAID SECTION 20 (A 6" X 6" CONCRETE MONUMENT WITH 1" IRON PIPE AS NOW EXISTS); THENCE N89°59'43"W, ALONG THE NORTH LINE OF SAID NORTHWEST ¼, A DISTANCE OF 1586.15 FEET; THENCE CONTINUE N89°59'43"W A DISTANCE OF 74.00 FEET TO A POINT ON THE WEST LINE OF THE EAST ¼ OF THE NORTHWEST ¼ OF SAID NORTHWEST ¼; THENCE LEAVING SAID NORTH LINE S00°17'28"W A DISTANCE OF 1300.46 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID WEST LINE N89°49'12"E A DISTANCE OF 330.97 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST ¼ OF SAID NORTHWEST ¼; THENCE LEAVING SAID WEST LINE S86°12'55"E A DISTANCE OF 132.77 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437A AS SHOWN ON THE SR 451 RIGHT OF WAY MAPS FORMERLY KNOWN AS SR 429 / WESTERN BELTWAY OCEA PROJECT No. 7532-6460-604; THENCE S00°56'06"W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 20.82 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST ¼ OF SAID NORTHWEST ¼; THENCE LEAVING SAID RIGHT OF WAY LINE S89°49'12"W ALONG SAID SOUTH LINE A DISTANCE OF 132.32 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST ¼ OF SAID NORTHWEST ¼; THENCE S89°49'12"W ALONG THE SOUTH LINE THEREOF A DISTANCE OF 330.95 FEET TO THE SOUTHWEST CORNER OF THE EAST ¼ OF THE NORTHWEST ¼ OF SAID NORTHWEST ¼; THENCE LEAVING SAID SOUTH LINE N00°17'28"E ALONG THE WEST LINE THEREOF A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 13.294 SQUARE FEET, MORE OR LESS

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.



ORLANDO ORANGE COUNTY EXPRESSWAY AUTHORITY  
STATE ROAD 414 - PROJECT 414-210

PART "B" (RIGHT OF WAY)

A PORTION OF THE SOUTH SEVEN-EIGHTHS OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THAT CERTAIN PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 5328, PAGE 4002, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6"x6" CONCRETE MONUMENT WITH A 3/4" IRON PIPE IN CENTER (NO ID) MARKING THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE RUN SOUTH 00°31'48" EAST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22, A DISTANCE OF 1314.98 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE SOUTH 89°51'02" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 189.19 FEET TO THE EAST LINE OF THE WEST 189.18 FEET OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE NORTH 00°31'48" WEST ALONG SAID EAST LINE A DISTANCE OF 130.01 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 130 FEET OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE CONTINUE NORTH 00°31'48" WEST ALONG SAID EAST LINE, A DISTANCE OF 990.69 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 30 FEET OF THE SOUTH SEVEN-EIGHTHS OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE SOUTH 89°52'44" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 684.59 FEET; THENCE SOUTH 00°06'14" WEST, A DISTANCE OF 807.93 FEET; THENCE SOUTH 50°42'32" EAST, A DISTANCE OF 209.04 FEET; THENCE SOUTH 67°37'06" EAST, A DISTANCE OF 230.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 35°14'43" EAST A DISTANCE OF 71.60 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF CORAL HILLS ROAD AS DESCRIBED IN DEED BOOK 347, PAGE 292, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE SOUTH 00°07'46" WEST, ALONG SAID WESTERLY RIGHT OF WAY, A DISTANCE OF 122.63 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 30 FEET OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE NORTH 73°23'12" WEST, A DISTANCE OF 62.70 FEET; THENCE NORTH 22°22'54" EAST, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 4.085 SOJARE FEET, MORE OR LESS.

NOTES:

THIS SKETCH HAS BEEN PREPARED WITH THE BENEFIT OF CERTIFICATE OF TITLE INFORMATION NO. 04.00169/72818. PREPARED BY FIRST AMERICAN TITLE COMPANY, EFFECTIVE DATE JANUARY 24, 2005.

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

ORLANDO-ORANGE  
COUNTY EXPRESSWAY  
AUTHORITY  
STATE ROAD 414



520 SOUTH MAGNOLIA AVENUE  
ORLANDO, FLORIDA 32801

ORANGE COUNTY, FLORIDA

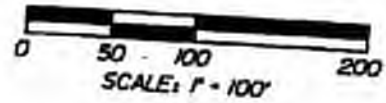
ORLANDO-  
ORANGE COUNTY  
EXPRESSWAY  
AUTHORITY

PARCEL 262

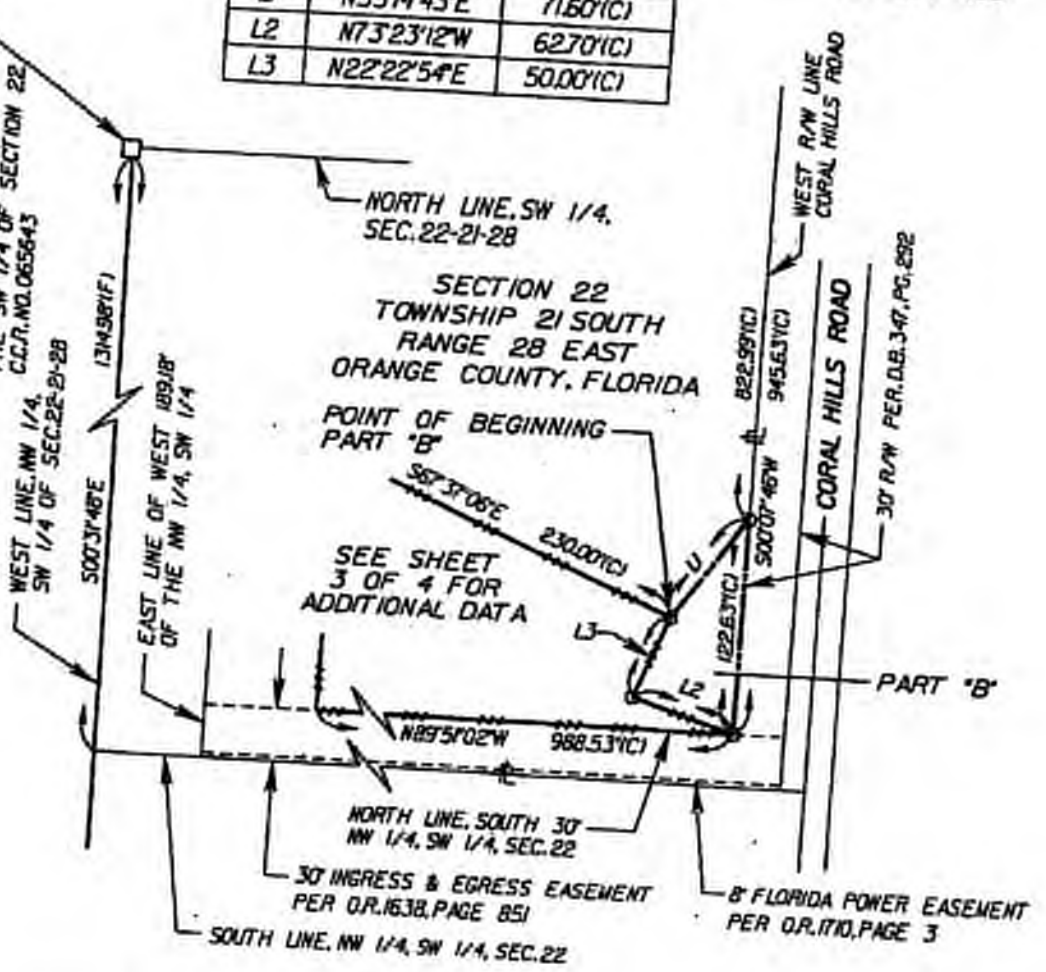


BEARING STRUCTURE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF SEC. 22-21-28, BEING S89°52'59"E, FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, 1983/1990 ADJUSTMENT.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N35°14'43"E	71.60'(C)
L2	N73°23'12"W	62.70'(C)
L3	N22°22'54"E	50.00'(C)



POINT OF COMMENCEMENT  
REC. 6' X 6' C.M.  
WITH 3/4" I.P. AND 10"  
AT THE NW CORNER OF  
THE SW 1/4 OF SECTION 22  
C.C.R. NO. 0655643



SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

I HEREBY CERTIFY THAT THIS SKETCH OF DESCRIPTION IS IN ACCORDANCE WITH THE MINIMUM TECHNICAL STANDARDS AS REQUIRED BY CHAPTER 66G16 FAC.

*[Signature]*

JOHN F. CHENEY, P.L.S.  
LICENSE NUMBER 4806

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND BANNER

CERTIFICATE OF AUTHORIZATION NO. LB 1281

**BOWYER SINGLETON**  
& ASSOCIATES, INCORPORATED  
ENGINEERING • PLANNING • SURVEYING • ENVIRONMENTAL

520 SOUTH MAGNOLIA AVENUE  
ORLANDO, FLORIDA 32801  
(407) 843-5120

ORANGE COUNTY, FLORIDA

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

PARCEL 262

DRAWING DATE: 04/26/06

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
STATE ROAD 414 - PROJECT NO. 414-210  
RIGHT OF WAY  
ESTATE: FEE SIMPLE

LEGAL DESCRIPTION:

PART "B"

A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A PORTION OF THAT CERTAIN PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 7600, PAGE 4488, OF THE PUBLIC RECORD OF ORANGE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 6" x 6" CONCRETE MONUMENT WITH A 1" IRON PIPE IN THE CENTER (NO I.O.) MARKING THE SOUTHWEST CORNER OF SECTION 22; THENCE NORTH 00°31'48" WEST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22, A DISTANCE OF 1,314.98 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE SOUTH 89°51'02" EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER OF SAID SECTION 22, A DISTANCE OF 1,754.91 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF APOPKA - VINELAND ROAD (COUNTY ROAD 435) AS DESCRIBED IN OFFICIAL RECORDS BOOK 3933, PAGE 3878, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, SAID POINT ALSO BEING A POINT ON A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 5,779.58 FEET AND A CHORD DISTANCE OF 538.84 FEET; THENCE DEPARTING SAID NORTH LINE, FROM A CHORD BEARING OF SOUTH 18°17'54" EAST, RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°20'37", AN ARC DISTANCE OF 539.03 FEET TO THE POINT OF TANGENCY THEREOF; THENCE SOUTH 20°58'13" EAST ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 247.93 FEET; THENCE DEPARTING SAID WESTERLY RIGHT OF WAY LINE RUN NORTH 68°08'47" WEST, A DISTANCE OF 666.72 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 68°08'47" WEST, A DISTANCE OF 62.15 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF CORAL HILLS ROAD; THENCE SOUTH 00°07'46" WEST ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 125.06 FEET; THENCE SOUTH 89°52'14" EAST, A DISTANCE OF 15.99 FEET; THENCE NORTH 22°22'54" EAST, A DISTANCE OF 110.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 4.427 SQUARE FEET, MORE OR LESS.

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

ORLANDO-ORANGE  
COUNTY EXPRESSWAY  
AUTHORITY  
STATE ROAD 414



520 SOUTH MAGNOLIA AVENUE  
ORLANDO, FLORIDA 32801  
(407) 843-5120

ORANGE COUNTY, FLORIDA

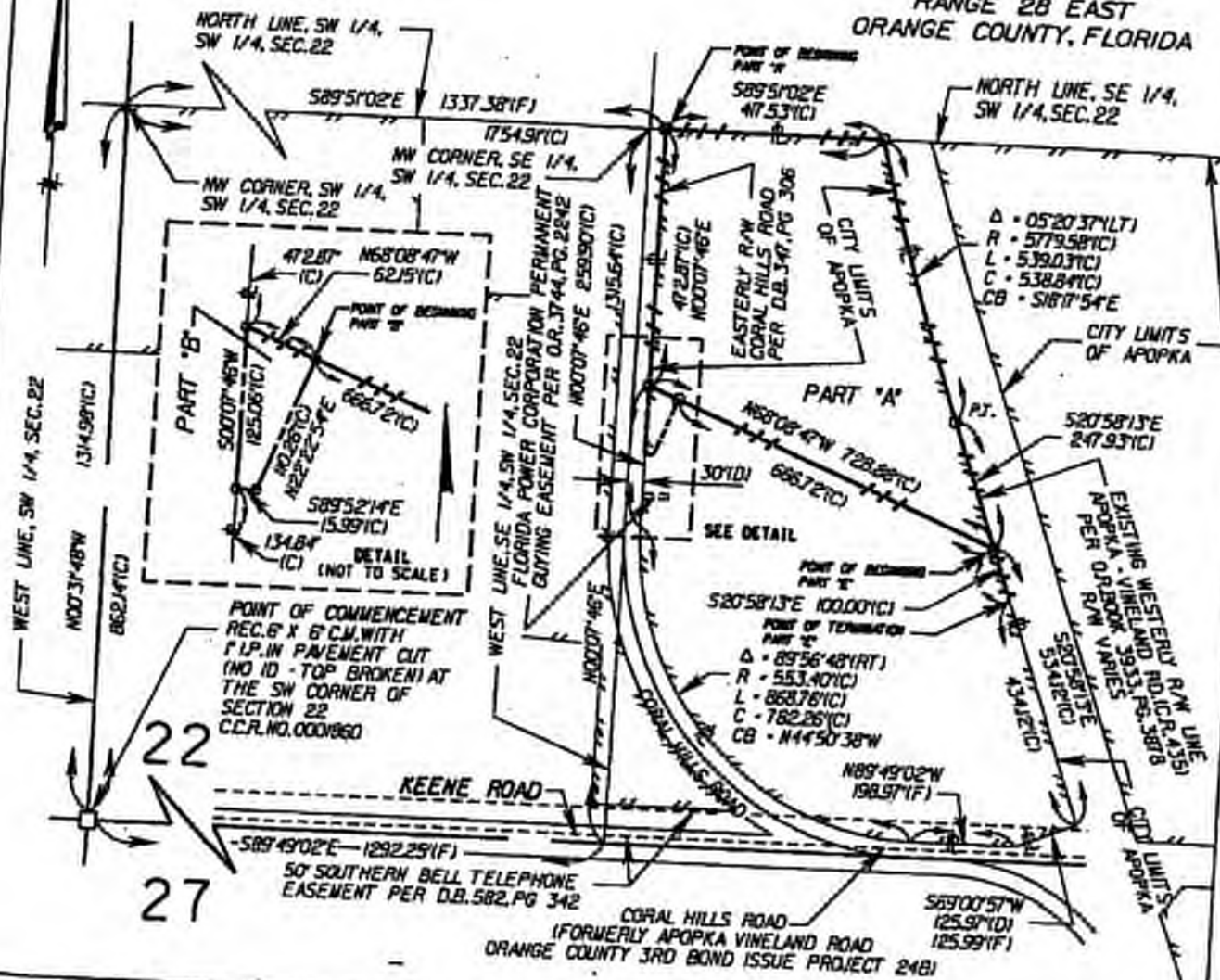
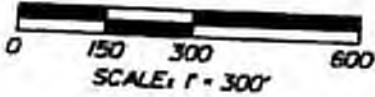
ORLANDO-  
ORANGE COUNTY  
EXPRESSWAY  
AUTHORITY

PARCEL 266

DRAWING DATE: 08/08/05

BEARING STRUCTURE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SEC. 22-21-28, BEING S89°5'02"E, FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, N.A.D. 1983/1990 ADJUSTMENT.

SECTION 22  
TOWNSHIP 21 SOUTH  
RANGE 28 EAST  
ORANGE COUNTY, FLORIDA



SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY STATE ROAD 414

**BOWYER SINGLETON & ASSOCIATES, INCORPORATED**  
ENGINEERING • PLANNING • SURVEYING • ENVIRONMENTAL  
520 SOUTH MAGNOLIA AVENUE  
ORLANDO, FLORIDA 32801  
(407) 843-5120

ORANGE COUNTY, FLORIDA  
ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
PARCEL 266  
DRAWING DATE: 08/08/06



120 E. Main St. · APOPKA, FLORIDA 32703-5346  
PHONE (407) 703-1700

August 2, 2021

Ms. Laura Kelley, Executive Director  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

RE: Road Right-of-Way and Property needed for the Harmon Road Extension

Dear Ms. Kelley,

The City is tasked with ensuring that the necessary support infrastructure is in place, including fire stations, hospitals, and roadways, to support the growing population in the City of Apopka. To accomplish this task, the City has planned several infrastructure projects in the area of Harmon Road. The City's top priority for roadway construction is the Harmon Road Extension. Once completed, Harmon Road will extend from Binion Road to Marden Road and the SR 414 ramps creating a road network that will provide better local circulation and a clear, direct access to the AdventHealth Hospital ("AdventHealth") and the proposed new fire station. In order for this infrastructure project to progress, we are requesting the assistance and partnerships of the Central Florida Expressway System ("CFX") and AdventHealth.

The construction of the Harmon Road Extension and the new fire station requires right-of-way owned by AdventHealth, a not-for-profit public hospital, and CFX, as depicted on the map included as Attachment "A". The fire station site was initially planned for the south side of the proposed Harmon Road Extension. You can see in Attachment "B" that it was to be 0.4 acres of real property that was conveyed by CFX to the City ("CFX Property"). However, after the road design began, it became clear that the fire station site needed to be relocated to the north side of the road on a portion of real property owned by AdventHealth ("Hospital Property") to accommodate the Harmon Road alignment and retention ponds for the new fire station and road network. The new location for the fire station on a portion of the Hospital Property is ideal because of its proximity to the hospital, SR 414 and SR 429.

The City has worked closely with AdventHealth to secure their partnership in this infrastructure project and recently entered into a mutually beneficial agreement with AdventHealth to swap City properties, including the CFX Property, for the Hospital Property. The location and shape of the CFX Property as a remnant parcel after the construction of the Harmon Road Extension, make it undevelopable as a standalone piece. However, when combined with the adjacent real property owned by AdventHealth, the CFX Property will enhance AdventHealth's ability to expand vital health services it provides to the community. The proposed swap will enable AdventHealth to expand invaluable health services it provides to the community by providing it with a larger parcel more appropriate for its expansion plans and will provide additional road frontage on Ocoee Apopka Road and Harmon Road, making future services developed on the site more accessible to the residents served by the hospital.

As a condition to the closing of the property swap with AdventHealth, the City is required to convey unencumbered title to the CFX Property. A title search conducted before the closing of the property swap revealed that the CFX Property that was originally conveyed to the City by CFX is subject to a reverter clause set forth in the Quit Claim Deed and Drainage Easement. See a copy of those documents which are included as Attachment "C" The reverter clause in the Deed specifically requires that the CFX Property be used for City or County public right-of-way ("Reverter Clause"). The City is requesting a release of the CFX Property and that the remaining property conveyed to the City by CFX in the Deed ("Remaining Property") from the Reverter Clause and a release of the CFX Property from the Easement Agreement to allow the property swap with AdventHealth to close and the construction of the Harmon Road Extension and the fire station to move forward.

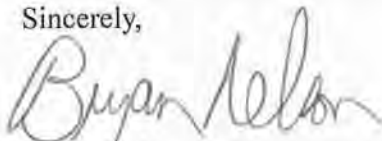
All of the property conveyed to the City by CFX, including the CFX Property transferred to AdventHealth, will continue to be used for valid public purposes that will serve the needs of the surrounding community. With the exception of the CFX Property being exchanged for the Hospital Property, the Remaining Property will continue to be used for public right-of-way uses and other valid public purposes, including the Harmon Road Extension and drainage ponds necessary for the road construction and the fire station. To ensure the continued use of the CFX Property as a public use, AdventHealth has confirmed that it is their intention to develop and maintain ownership of this CFX Property. If the swap is approved, AdventHealth would not object to a new reverter clause being placed on the CFX property that would restrict AdventHealth's use of the CFX Property to public uses for a term of ten years. The City is also agreeable to amending the Reverter Clause to provide that all of the real property conveyed to the City by CFX, including the CFX Property and Remaining Property, will be used for public purposes.

This infrastructure project has been a high priority for the City and AdventHealth from the time it was announced that a new hospital was being constructed on Ocoee Apopka Road at Harmon Road. Design phase for the Harmon Road Extension was funded in the current fiscal year and will be completed in about two months. The construction phase of the Harmon Road Extension is funded in City's fiscal year 2021/2022, and the City plans to advertise an RFP before the end of 2021. Furthermore, the Apopka Fire Department was just awarded a legislative appropriation for the fire station construction, and the City is ready to commence construction on this vital infrastructure to support the needs of our residents so time is of the essence in getting our requests approved.

We sincerely hope you will look favorably on the overall public purpose and impact the remaining CFX Property will have on the City and its citizens and that while a transfer to a third party is not a typical request, in this rare instance it is being provided to a not-for-profit entity that serves the community in an effort to accommodate the City's need to build the fire state and extend Harmon Road.

Should you have any questions, please do not hesitate to contact me.

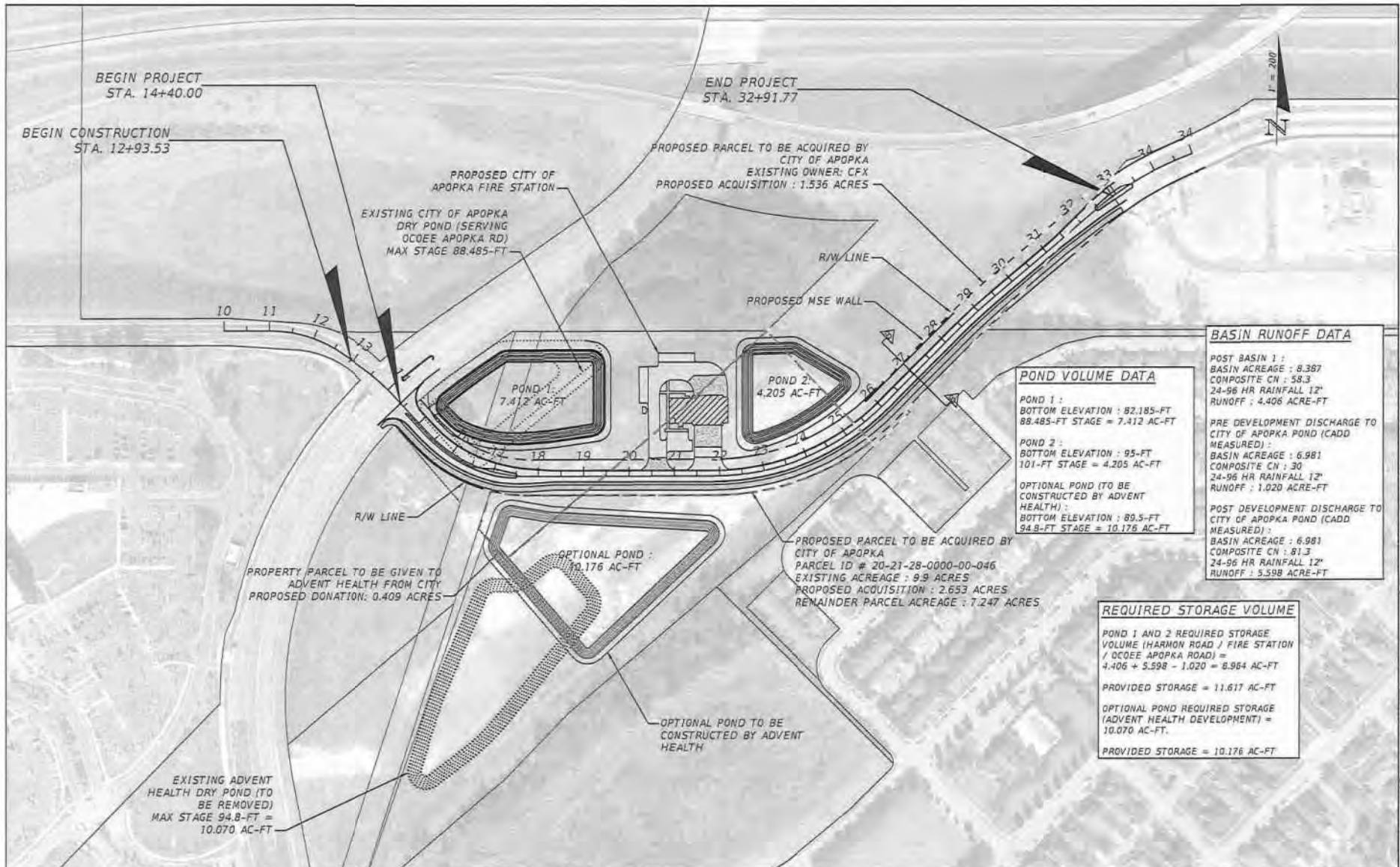
Sincerely,



Bryan Nelson  
Mayor, City of Apopka  
Attachments

Cc: Tim Clark, AdventHealth  
Edward Bass, City of Apopka  
Michael A. Rodriguez, City of Apopka  
James Hitt, City of Apopka

Exhibit "A"



POND VOLUME DATA	
POND 1 :	
BOTTOM ELEVATION : 82.185-FT	
88.485-FT STAGE = 7.412 AC-FT	
POND 2 :	
BOTTOM ELEVATION : 95-FT	
101-FT STAGE = 4.205 AC-FT	
OPTIONAL POND (TO BE CONSTRUCTED BY ADVENT HEALTH) :	
BOTTOM ELEVATION : 89.5-FT	
94.8-FT STAGE = 10.176 AC-FT	

BASIN RUNOFF DATA	
POST BASIN 1 :	
BASIN ACREAGE : 8.387	
COMPOSITE CN : 58.3	
24-96 HR RAINFALL 12"	
RUNOFF : 4.406 ACRE-FT	
PRE DEVELOPMENT DISCHARGE TO CITY OF APOPKA POND (CADD MEASURED) :	
BASIN ACREAGE : 6.981	
COMPOSITE CN : 30	
24-96 HR RAINFALL 12"	
RUNOFF : 1.020 ACRE-FT	
POST DEVELOPMENT DISCHARGE TO CITY OF APOPKA POND (CADD MEASURED) :	
BASIN ACREAGE : 6.981	
COMPOSITE CN : 81.3	
24-96 HR RAINFALL 12"	
RUNOFF : 5.598 ACRE-FT	

REQUIRED STORAGE VOLUME	
POND 1 AND 2 REQUIRED STORAGE VOLUME (HARMON ROAD / FIRE STATION / OCOEE APOPKA ROAD) =	4.406 + 5.598 - 1.020 = 8.984 AC-FT
PROVIDED STORAGE =	11.617 AC-FT
OPTIONAL POND REQUIRED STORAGE (ADVENT HEALTH DEVELOPMENT) =	10.070 AC-FT
PROVIDED STORAGE =	10.176 AC-FT

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION
-	-	-	-

TYLER JEFFERY MALMBORG, P.E.  
 P.E. LICENSE NUMBER 75630  
 NEWKIRK ENGINEERING, INC.  
 1230 NORTH US-HIGHWAY 1, SUITE 3  
 ORMOND BEACH, FL 32174  
 CERTIFICATE OF AUTHORIZATION 30209

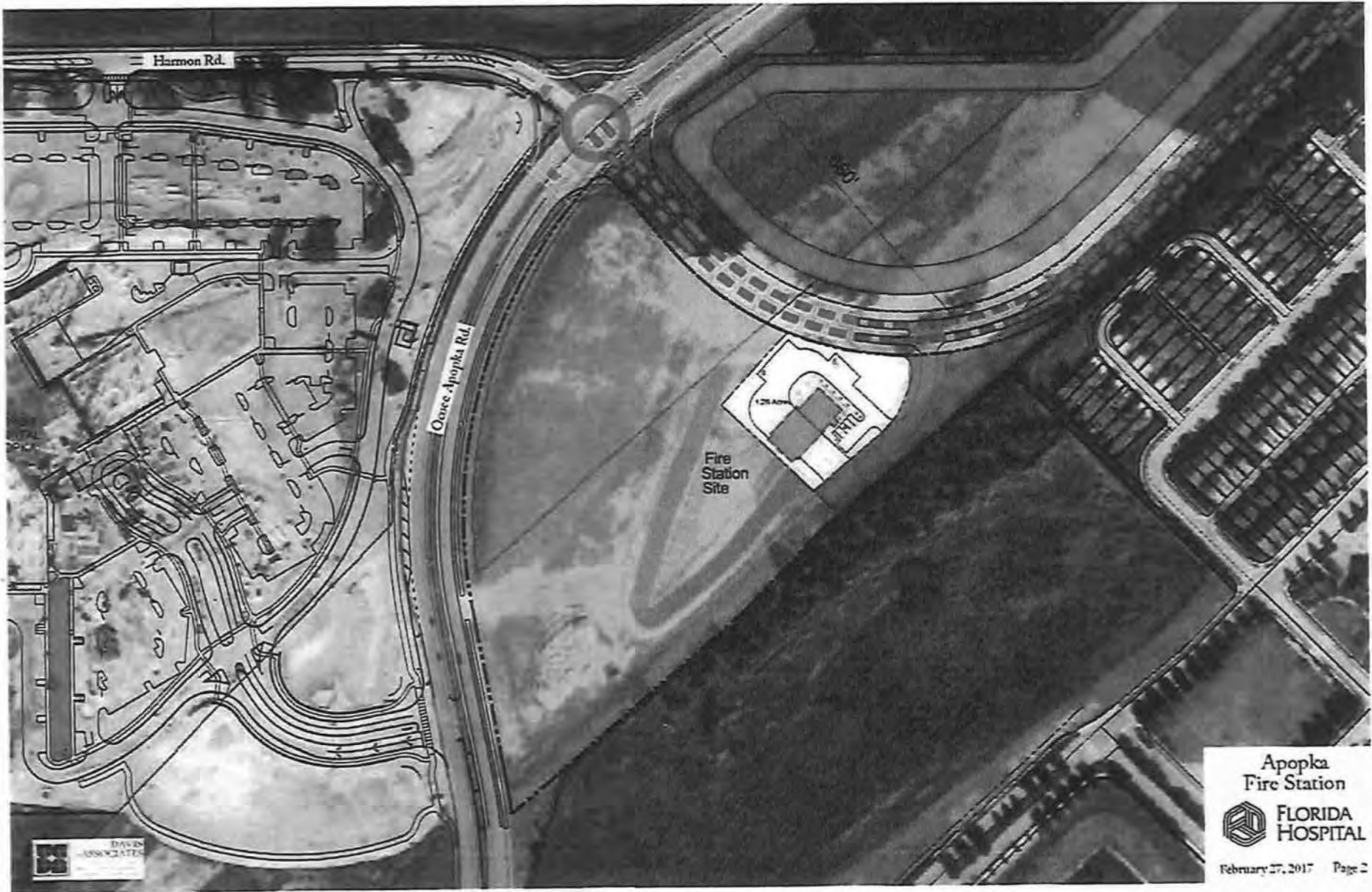


CITY OF APOPKA  
 HARMON ROAD  
 EXTENSION

PLAN SHEET

SHEET NO.  
 C-1

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE ORIGINALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.



DAVIS ASSOCIATES

Apopka  
Fire Station  
 FLORIDA  
HOSPITAL

February 27, 2017 Page 2

Exhibit "B"

# ATTACHMENT "E"

***Prepared by and Return to:***

Laura L. Kelly  
Associate General Counsel  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807

For recording purposes

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

## **PARTIAL RELEASE AND REESTABLISHMENT OF RESTRICTION AND PARTIAL RELEASE OF EASEMENT AND MAINTENANCE AGREEMENT**

**THIS PARTIAL RELEASE AND REESTABLISHMENT OF RESTRICTION AND PARTIAL RELEASE OF EASEMENT AND MAINTENANCE AGREEMENT** (“Release”) is hereby made and entered into as of the Effective Date (hereinafter defined) by **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes (“CFX”), whose mailing address is 4974 ORL Tower Road, Orlando, Florida 32807, and the **CITY OF APOPKA, FLORIDA**, a municipality of the State of Florida, whose address is 120 East Main Street, Apopka, Florida 32703-5346 (“City”).

### **RECITALS:**

**WHEREAS**, CFX conveyed to the City that certain real property more particularly described in **Exhibit “A”** attached hereto and incorporated herein by reference (“Property”) pursuant to that certain Quit Claim Deed with Reservations and Easements dated June 29, 2018, and recorded August 2, 2018, as Document Number 20180459286 in the Public Records of Orange County, Florida (“Deed”); and

**WHEREAS**, the Deed included a restriction and reversionary clause on the Property restricting the use of the Property for use as public right-of-way, and in the event the Property is no longer used for City or County public right-of-way purposes, all right, title and interest automatically reverts back to CFX, at CFX’s option (collectively, the “Restriction”); and

**WHEREAS**, concurrent with the execution of the Deed, CFX and the City entered into that certain Easement Agreement for Expressway Facilities dated June 29, 2018, and recorded August 3, 2018, as Document Number 20180460203 in the Public Records of Orange County, Florida (“Easement Agreement”); and



Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**WHEREAS**, the City desires to convey certain real property as more particularly described in **Exhibit “B”** attached hereto and incorporated herein by reference (“Future Hospital Property”), which includes a portion of the Property, to Adventist Health System/Sunbelt, Inc., for the development, construction, use, and maintenance of a portion of the Property as a not-for-profit hospital; and

**WHEREAS**, the City desires to use the remaining portion of the Property for the development, construction, use, and maintenance, of a fire station and ancillary facilities and infrastructure required for the development of a fire station; and

**WHEREAS**, the City is requesting, and CFX is agreeable to, the release of the Property from the Restriction, subject to the reestablishment of a revised restriction in accordance with the terms and conditions hereof; and

**WHEREAS**, the City is requesting, and CFX is agreeable to, the release of the Future Hospital Property from the terms of the Easement Agreement, subject to the terms and conditions hereof.

**WITNESSETH:**

**NOW, THEREFORE**, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which CFX hereby acknowledges, the CFX agrees:

1. **Incorporation.** The foregoing recitals are hereby incorporated into and made a part of this Notice.

1. **Release and Reestablishment of Restriction.** CFX hereby releases and discharges the Property from the Restriction by this reference, provided; however, as consideration for releasing and discharging Property from the Restriction, CFX and City agree and acknowledge that the Property shall be subject to the following use restriction and reversionary clause (“Use Restriction”):

City, and City’s successors and assigns, agree that the Property shall only be used for public purposes, including, without limitation, not-for-profit hospital and healthcare uses, public right-of-way, stormwater, fire station or other health and safety uses, pedestrian, or recreational uses (collectively, the “Permitted Uses”). Further, the foregoing use restriction shall run with title to Property for a term of the lesser of ten (10) years from the Effective Date of this Release or the maximum number of years allowable by law (“Term”). During the Term, if the Property ceases to be used for any of the Permitted Uses, CFX may elect to pursue any remedies available to the CFX in law or equity including, without limitation, specific performance, or for all right, title, and interest to the Property that is not used for one of the Permitted Uses to automatically revert back to CFX at no cost to CFX. In such event, CFX shall notify City in writing of its intent to exercise its right of reverter with

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

respect to the CFX Property (“Reversion Notice”). Notwithstanding the foregoing, in the event City, or City’s successors or assigns, desires to cease operation of the Property for any of the Permitted Uses or otherwise sell, convey, or transfer the Property to a third party for a use other than any of the Permitted Uses during the Term, City, or City’s successors or assigns, shall provide written notice to CFX of such (“Sale Notice”) and in such event, CFX shall have the right of first refusal and shall have ninety (90) days from CFX’s receipt of the Sale Notice to deliver to City a Reversion Notice.”

It is understood and agreed that nothing contained herein shall be construed to release or discharge any other portion of real property conveyed to the City pursuant to the Deed not otherwise identified herein, from the terms of the Restriction, and any other restrictions and easements contained in the Deed shall remain and continue in full force and effect.

2. **Release from Easement Agreement.** CFX hereby releases and discharges that portion of the Property located within the Future Hospital Property from the terms and conditions of the Easement Agreement by this reference. It is understood and agreed that nothing contained herein shall be construed to release or discharge any other portion of Property from the terms of the Easement Agreement, and any other restrictions and easements contained in the Easement Agreement shall remain and continue in full force and effect.

3. **Effective Date.** The effective date of this Release shall be the date upon which the last of the parties hereto executes this Release (“Effective Date”).

**IN WITNESS WHEREOF**, CFX and the City have caused this Release to be executed in the manner and form sufficient to bind it as of the Effective Date.

[SIGNATURE PAGE TO FOLLOW]

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**“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

STATE OF FLORIDA                    )  
COUNTY OF \_\_\_\_\_            )

The foregoing instrument was acknowledged before me by means of [ ] physical presence  
or [ ] online notarization on this \_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_  
\_\_\_\_\_, as Chairman of the Central Florida Expressway Authority, on behalf of the organization.  
He is personally known to me OR produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Signature of Notary Public - State of Florida  
Print Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**“CITY”**

**CITY OF APOPKA, FLORIDA**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Bryan Nelson, Mayor

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

Approved as to form and legality by legal  
counsel.

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Michael A. Rodriguez

STATE OF FLORIDA            )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ]  
online notarization on this \_\_\_\_ day of \_\_\_\_\_, 2021, by Bryan Nelson, as Mayor of the City of  
Apopka, Florida, on behalf of the organization. He is personally known to me OR produced \_\_\_\_\_  
\_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Signature of Notary Public - State of Florida  
Print Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**EXHIBIT "A"**  
**Legal Description of the Property**

**A PORTION OF PARCEL 63-117 - POND**

**A PORTION OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE S00°31'43"W ALONG THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20 FOR 1325.16 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF SAID SECTION 20; THENCE S89°49'06"W ALONG SAID NORTH LINE FOR 139.74 FEET FOR THE POINT OF BEGINNING; SAID POINT ALSO BEING A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 7469.44 FEET, A CHORD DISTANCE OF 382.43 FEET AND A CHORD BEARING OF S47°58'03"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 02°56'02", FOR 382.47 FEET TO THE POINT OF TANGENCY; THENCE S49°26'04"W FOR 386.97 FEET; THENCE N40°33'56"W FOR 91.38 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE RUN ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE THE FOLLOWING TWO COURSES; THENCE N17°47'49"E FOR 229.99 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 924.93 FEET, A CHORD DISTANCE OF 240.91 FEET AND A CHORD BEARING OF N25°16'48"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 14°57'58", FOR 241.60 FEET TO A POINT ON AFORESAID NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 20; THENCE N89°49'06"E FOR 464.28 FEET TO THE POINT OF BEGINNING.**

**CONTAINING 3.302 ACRES, MORE OR LESS.**

**AND**

**PARCEL 63-125 - POND**

**A PORTION OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE SOUTHWEST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°37'58"E ALONG THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20 FOR 1524.03 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE N17°47'49"E ALONG SAID RIGHT OF WAY LINE FOR 994.64 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE N17°47'49"E FOR 193.02 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 984.93 FEET, A CHORD DISTANCE OF 218.42 FEET AND A CHORD BEARING OF N24°09'46"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°43'55", FOR 218.87 FEET TO THE NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE RUN S89°49'06"W ALONG SAID NORTH LINE FOR 27.10 FEET; THENCE DEPARTING SAID NORTH LINE RUN S54°55'51"W FOR 163.12 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 894.93 FEET, A CHORD DISTANCE OF 178.84 FEET AND A CHORD BEARING OF S49°11'47"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 11°28'08", FOR 179.14 FEET; THENCE S40°33'56"E FOR 226.92 FEET TO THE POINT OF BEGINNING.**

**CONTAINING 0.979 ACRES, MORE OR LESS.**

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**EXHIBIT "B"**  
**Future Hospital Property**

## Description

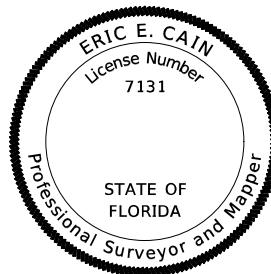
A portion of Section 20, Township 21 South, Range 28 East, Orange County, Florida, also being a portion of land described in Document Number 20180046889, and Document Number 20180459286, in the Public Records of Orange County, Florida being more particularly described as follows:

Commence at the Southeast corner of the Southeast One Quarter of the Northwest One Quarter of Section 20, Township 21 South, Range 28 East, Orange County, Florida; thence South 89°38'00" West, a distance of 1051.68 feet along the South line of said Southeast One Quarter of the Northwest One Quarter, to the POINT OF BEGINNING, said point being on the East right of way line of County Road No. 437A as shown on the Orlando Orange County Expressway Authority, Western Beltway, right of way map for State Road No. 429, Section 75320-6460-604; thence South 17°47'58" West, a distance of 162.98 feet, along said East right of way line to a point on a non-tangent curve concave Westerly, having a radius of 1029.93 feet, a central angle of 09°05'51" and a chord bearing and distance of North 03°44'55" West, 163.36 feet, said point being on the Easterly right of way line of the County Road 437A Re-alignment as shown on said Orlando Orange County Expressway Authority right of way map; thence from a tangent bearing North 00°48'00" East, Northerly, a distance of 163.53 feet, along the arc of said curve and along said Easterly right of way line to a point on the West right of way line of County Road No. 437A as shown on said Orlando Orange County Expressway Authority right of way map; thence North 17°47'58" East, a distance of 986.35 feet, along said West right of way line to a point on the Southerly line of a Parcel described in Document Number 20180459286 as recorded in the Public Records of Orange County, Florida; thence North 40°34'55" West, a distance of 226.64 feet along said Southerly line to a point on a non-tangent curve concave Southeasterly, having a radius of 894.93 feet and a central angle of 00°33'47" and a chord bearing and distance of North 43°44'30" East, 8.79 feet, said point also being a point on the Easterly right of way of aforesaid County Road 437A Re-alignment; thence from a tangent bearing of North 43°27'37" East, Northeasterly along the arc of said curve and along said Easterly right of way line, a distance of 8.79 feet; thence departing said Easterly right of way line South 43°07'00" East, a distance of 68.39 feet to a point of curvature of a curve concave Northeasterly, having a radius of 342.50 feet and a central angle of 47°03'49" and a chord bearing and distance of North 66°38'55" West, 273.49 feet; thence Southeasterly, a distance of 281.34 feet along the arc of said curve; thence departing said curve North 89°49'10" East, a distance of 116.21 feet to a point on the Southeasterly line of aforesaid Parcel described in Document Number 20180459286; thence South 49°24'26" West, a distance of 220.44 feet along said Southeasterly line to a point on the Southerly line of said Parcel; thence North 40°34'55" West, a distance of 91.39 feet along said Southerly line to a point on the Westerly right of way line of aforesaid County Road No. 437A; thence South 17°47'58" West, a distance of 938.38 feet along said Westerly right of way line to the Point of Beginning.

Containing 2.04 acres, more or less.

### NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA BEING SOUTH 89°38'00" WEST.
2. THIS SKETCH AND LEGAL DESCRIPTION OR COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



**PREPARED FOR:**  
NEWKIRK ENGINEERING  
CITY OF APOPKA

THIS DOCUMENT HAS BEEN DIGITALLY  
SIGNED AND SEALED BY:

Eric E Cain  
Digitally signed by  
Eric E Cain  
Date: 2021.01.28  
15:35:04 -05'00'

ERIC E. CAIN  
FLORIDA PROFESSIONAL SURVEYOR &  
MAPPER LS 7131

**THIS IS NOT A SURVEY**

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED. THE SIGNATURE MUST BE VERIFIED ON THE ELECTRONIC DOCUMENT.



ECHO UES, INC.  
CERTIFICATION OF AUTHORIZATION 8184  
400 STATE ROAD 434, SUITE 1024  
OVIDO, FLORIDA 32765  
888.778.ECHO | [www.echoues.com](http://www.echoues.com)

DATE: 01/28/2021

PROJECT NUMBER: 20-379

OFFICE: DH

CHECKED: EC

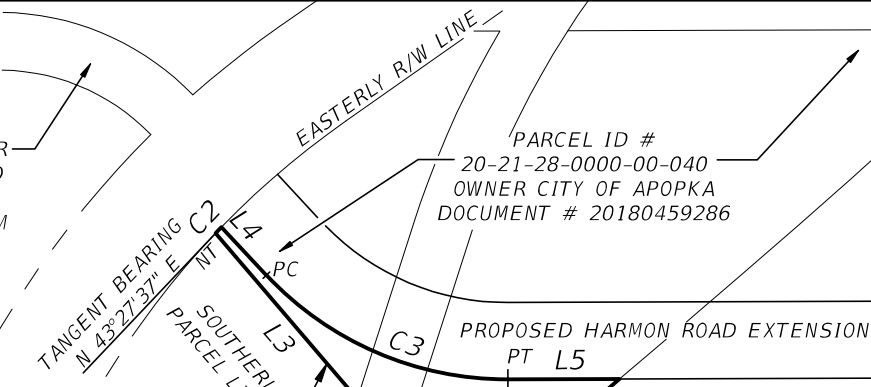
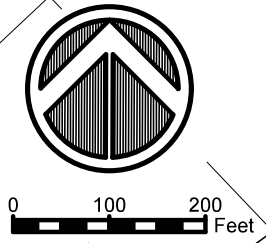
SCALE:  
1" = 200'

SHEET 01 OF 03

# Sketch

HARMON ROAD  
60' RIGHT OF WAY PER  
MAITLAND BOULEVARD  
EXTENSION STATE  
ROAD 429/414 SYSTEM  
INTERCHANGE,  
PROJECT NO. 428-200

PARCEL ID #  
20-21-28-0000-00-040  
OWNER CITY OF APOPKA  
DOCUMENT # 20180459286

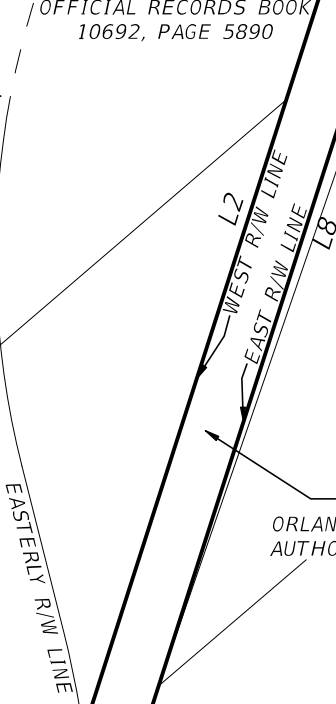


PARCEL ID #  
20-21-28-0000-00-044  
OWNER ADVENTIST HEALTH  
SYSTEM/SUNBELT INC  
OFFICIAL RECORDS BOOK  
10692, PAGE 5890

PARCEL ID #  
20-21-28-0000-00-046  
OWNER ADVENTIST HEALTH  
SYSTEM/SUNBELT INC  
OFFICIAL RECORDS BOOK  
10692, PAGE 5890

PARCEL ID #  
20-21-28-0000-00-047  
OWNER ADVENTIST HEALTH  
SYSTEM/SUNBELT INC

COUNTY ROAD 437A RE-ALIGNED  
RIGHT OF WAY VARIES PER  
AUTHORITY - ORANGE COUNTY EXPRESSWAY  
BELTWAY, STATE ROAD 429,  
PROJECT NO. 75320-6460-604



COUNTY ROAD 437A  
60' RIGHT OF WAY PER  
ORLANDO - ORANGE COUNTY EXPRESSWAY  
AUTHORITY RIGHT OF WAY MAP, WESTERN  
BELTWAY, STATE ROAD 429,  
PROJECT NO. 75320-6460-604

POINT OF COMMENCEMENT  
SOUTHEAST CORNER OF THE  
SE 1/4 OF THE NW 1/4 OF  
SECTION 20-21-28

S 89°38'00" W 1051.68  
SOUTH LINE OF THE SE 1/4 OF THE NW 1/4

C1  
NT  
TANGENT BEARING  
N 00°48'00" E  
POINT OF BEGINNING

ABBREVIATIONS

- ID = IDENTIFICATION
- NO. = NUMBER
- NT = NON-TANGENT
- PC = POINT OF CURVATURE
- PT = POINT OF TANGENCY
- R/W = RIGHT OF WAY

SEE SHEET 3 OF 3 FOR LINE AND CURVE TABLES



ECHO UES, INC.  
CERTIFICATION OF AUTHORIZATION 8184  
400 STATE ROAD 434, SUITE 1024  
OVIEDO, FLORIDA 32765  
888.778.ECHO | [www.echoues.com](http://www.echoues.com)

DATE: 01/28/2021  
PROJECT NUMBER: 20-379  
OFFICE: DH  
CHECKED: EC

SCALE:  
1" = 200'  
SHEET 02 OF 03



# Curve and Line Tables

<i>Line Table</i>		
<i>Line #</i>	<i>Direction</i>	<i>Length</i>
L1	S 17° 47' 58" W	162.98
L2	N 17° 47' 58" E	986.35
L3	N 40° 34' 55" W	226.64
L4	S 43° 07' 00" E	68.39
L5	N 89° 49' 10" E	116.21
L6	S 49° 24' 26" W	220.44
L7	N 40° 34' 55" W	91.39
L8	S 17° 47' 58" W	938.38

<i>Curve Table</i>					
<i>Curve #</i>	<i>Radius</i>	<i>Delta</i>	<i>Arc Length</i>	<i>Chord Bearing</i>	<i>Chord Length</i>
C1	1029.93	009°05'51"	163.53	N 03°44'55" W	163.36
C2	894.93	000°33'47"	8.79	N 43°44'30" E	8.79
C3	342.50	047°03'49"	281.34	S 66°38'55" E	273.49

# ATTACHMENT "F"



Dewberry Engineers Inc.  
800 N. Magnolia Ave, Suite 1000  
Orlando, FL 32803

407.843.5120  
407.649.8664 fax  
www.dewberry.com

August 25, 2021

Mr. Glenn Pressimone, P.E.  
Chief of Infrastructure  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

**RE: PARTIAL RELEASE AND REESTABLISHMENT OF RESTRICTION AND PARTIAL  
RELEASE OF EASEMENT AND MAINTENANCE AGREEMENT**  
SR 429, Projects 429-604 and 429-200  
Parcels 63-117 Partial and 63-125 Partial

Dear Mr. Pressimone:

On behalf of Dewberry Engineers, Inc., as Consulting Engineer (the "Consulting Engineer") to the Central Florida Expressway Authority ("CFX") does here by certify as follows:

1. We have reviewed the limits of the parcels associated with the Harmon Road area shown in Exhibit "A" attached hereto. The SR 429 Projects 429-604 and 429-200 have been completed. In our opinion, based upon the foregoing, we certify that the partial release of the above referenced CFX Parcels from the term and conditions of the Easement Agreement for Expressway Facilities dated June 29, 2018, and recorded August 3, 2018, as Document Number 20180460203 in the Public Records of Orange County, Florida ("Easement Agreement") would not impede or restrict the current or future construction, operation or maintenance of the CFX Expressway System, and the easement interests reserved over the CFX Parcels are no longer essential for the current or future construction, operation or maintenance of the CFX Expressway System.
2. Furthermore, this certificate is being provided by the Consulting Engineer to CFX solely for the purposes of complying with Section 5.4 of CFX's Amended and Restated Master Bond Resolution and the requirements set forth in CFX's Manual and may not be relied on by any other person or party for any other purpose.

Sincerely,

R. Keith Jackson, P.E.  
Program Manager

Attachments

cc: Laura N Kelly, Esq. CFX (w/ enc.)

# MEMO ATTACHMENT "B"

***Prepared by and Return to:***

Laura L. Kelly  
Associate General Counsel  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807

For recording purposes

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

## **PARTIAL RELEASE AND REESTABLISHMENT OF RESTRICTION AND PARTIAL RELEASE OF EASEMENT AND MAINTENANCE AGREEMENT**

**THIS PARTIAL RELEASE AND REESTABLISHMENT OF RESTRICTION AND PARTIAL RELEASE OF EASEMENT AND MAINTENANCE AGREEMENT** (“Release”) is hereby made and entered into as of the Effective Date (hereinafter defined) by **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes (“CFX”), whose mailing address is 4974 ORL Tower Road, Orlando, Florida 32807, and the **CITY OF APOPKA, FLORIDA**, a municipality of the State of Florida, whose address is 120 East Main Street, Apopka, Florida 32703-5346 (“City”).

### **RECITALS:**

**WHEREAS**, CFX conveyed to the City that certain real property more particularly described in **Exhibit “A”** attached hereto and incorporated herein by reference (“Property”) pursuant to that certain Quit Claim Deed with Reservations and Easements dated June 29, 2018, and recorded August 2, 2018, as Document Number 20180459286 in the Public Records of Orange County, Florida (“Deed”); and

**WHEREAS**, the Deed included a restriction and reversionary clause on the Property restricting the use of the Property for use as public right-of-way, and in the event the Property is no longer used for City or County public right-of-way purposes, all right, title and interest automatically reverts back to CFX, at CFX’s option (collectively, the “Restriction”); and

**WHEREAS**, concurrent with the execution of the Deed, CFX and the City entered into that certain Easement Agreement for Expressway Facilities dated June 29, 2018, and recorded August 3, 2018, as Document Number 20180460203 in the Public Records of Orange County, Florida (“Easement Agreement”); and

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**WHEREAS**, the City desires to convey certain real property as more particularly described in **Exhibit “B”** attached hereto and incorporated herein by reference (“Future Hospital Property”), which includes a portion of the Property, to Adventist Health System/Sunbelt, Inc. (“Advent Health”) for the development, construction, use, and maintenance of a portion of the Property as a not-for-profit hospital; and

**WHEREAS**, in exchange for the conveyance of the Future Hospital Property from the City to Advent Health, Advent Health is conveying that certain real property more particularly described in **Exhibit “C”** to the City; and

**WHEREAS**, the City desires to use the remaining portion of the Property for the development, construction, use, and maintenance, of a fire station and ancillary facilities and infrastructure required for the development of a fire station; and

**WHEREAS**, the City is requesting, and CFX is agreeable to, the release of the Property from the Restriction, subject to the reestablishment of a revised restriction in accordance with the terms and conditions hereof; and

**WHEREAS**, the City is requesting, and CFX is agreeable to, the release of the Future Hospital Property from the terms of the Easement Agreement, subject to the terms and conditions hereof.

**WITNESSETH:**

**NOW, THEREFORE**, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which CFX hereby acknowledges, the CFX agrees:

1. **Incorporation.** The foregoing recitals are hereby incorporated into and made a part of this Notice.

2. **Release and Reestablishment of Restriction.** CFX hereby releases and discharges the Property from the Restriction by this reference, provided; however, as consideration for releasing and discharging Property from the Restriction, CFX and City agree and acknowledge that the Property shall be subject to the following use restriction and reversionary clause (“Use Restriction”):

City, and City’s successors and assigns, agree that the Property shall only be used for public purposes, including, without limitation, not-for-profit hospital and healthcare uses, public right-of-way, stormwater, fire station or other health and safety uses, pedestrian, or recreational uses (collectively, the “Permitted Uses”). The Permitted Uses shall not include any revenue generating uses without the express written consent of CFX. Further, the foregoing use restriction shall run with title to Property for a term of the lesser of ten (10) years from the Effective Date of this Release or the maximum number of years allowable

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

by law (“Term”). During the Term, if the Property ceases to be used for any of the Permitted Uses, CFX may elect to pursue any remedies available to the CFX in law or equity including, without limitation, specific performance, or for all right, title, and interest to the Property that is not used for one of the Permitted Uses to automatically revert back to CFX at no cost to CFX. In such event, CFX shall notify City in writing of its intent to exercise its right of reverter with respect to the CFX Property (“Reversion Notice”). Notwithstanding the foregoing, in the event City, or City’s successors or assigns, desires to cease operation of the Property for any of the Permitted Uses or otherwise sell, convey, or transfer the Property to a third party for a use other than any of the Permitted Uses during the Term, City, or City’s successors or assigns, shall provide written notice to CFX of such (“Sale Notice”) and in such event, CFX shall have the right of first refusal and shall have ninety (90) days from CFX’s receipt of the Sale Notice to deliver to City a Reversion Notice.”

It is understood and agreed that nothing contained herein shall be construed to release or discharge any other portion of real property conveyed to the City pursuant to the Deed not otherwise identified herein, from the terms of the Restriction, and any other restrictions and easements contained in the Deed shall remain and continue in full force and effect.

3. **Release from Easement Agreement.** CFX hereby releases and discharges that portion of the Property located within the Future Hospital Property from the terms and conditions of the Easement Agreement by this reference. It is understood and agreed that nothing contained herein shall be construed to release or discharge any other portion of Property from the terms of the Easement Agreement, and any other restrictions and easements contained in the Easement Agreement shall remain and continue in full force and effect.

4. **Use of Property for a Communications Tower.**

a. **Waiver of Use Restriction for Limited Purpose.** Notwithstanding the Use Restriction set forth above, CFX hereby agrees to waive CFX’s right to claim a reversionary interest in and to the Property for the limited purpose of granting to the City the right to use a portion of the Property, on the terms and conditions set forth in this Release, for the purpose operating and maintaining the City’s public safety radio communication tower and associated antennas, related cables, power generation and other support equipment, including the right of ingress and egress (“Limited Waiver”). It is expressly stipulated that this Release is for permissive use only and that CFX is not representing or warranting the condition or suitability of the Property for use as a public safety radio communication tower and associated antennas.

b. **Consideration for Limited Waiver.** If in the future the City decides to use the Property and adjacent property owned or to be owned in the future by the City, as a site for a public safety radio communication tower, the City may allow third-party carriers to co-locate on the tower and agrees to use reasonable efforts to secure Sublicensees (hereinafter defined) and maximize Sublicense Revenue (hereinafter defined). To the extent there is space available on the tower, CFX also reserves the right to market the Licensed Premises to third-party carriers. As

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

consideration for agreeing to provide the Limited Waiver of CFX's reversionary interest and for releasing the Future Hospital Property, any income received by the City for the use of the cellular tower, regardless of whether such cellular tower is located on the Property, Future Hospital Property, or adjacent real property now owned, or in the future to be owned by the City and as more particularly depicted on **Exhibit "D"** attached hereto and incorporated herein by reference (collectively, the "Licensed Property"), pursuant to a sublicense agreement(s) with a third party carrier shall be divided equally fifty percent (50%) to CFX and fifty percent (50%) to the City. Any sublicense agreement shall incorporate by reference the terms and conditions of this Release. At any time, CFX may request and Licensee shall provide an accounting of the Sublicense Revenue in such form and content as CFX may reasonably request. "Sublicensee" shall mean a third party to which Licensee has granted the right to use and occupancy of the Licensed Property, subject to the terms and conditions contained herein. "Sublicensee" means a third party to which Licensee has granted the right to use and occupancy of the Licensed Property, subject to the terms and conditions contained herein. "Sublicense Revenue" shall mean the total amount of monthly sublicense fees, including all forms of payments, with any escalations thereto, paid to City by all Sublicensee(s) using the Licensed Property under the sublicense(s) by CFX and City, as modified, renewed, or assigned. For clarity, Sublicense Revenue otherwise includes all revenue received by Licensee for charges imposed by City on a Sublicensee, whether one-time, monthly, or otherwise, and regardless of how such charges are characterized, if the sole or primary consideration to the Sublicensee in return for payment of the charge or charges is the right to use and occupy the Licensed Premises.

c. Audit.

i. "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 Limited Waiver, any sublicense, any improvement on the Licensed Property, rent due or collected, and other documents relating to use of the Licensed Property.

ii. CFX has 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 Records of the City or any sublicensee. If CFX requests access to or review of any Records and the City or a sublicensee refuses such access or review, or delays such access or review for over ten (10) business days, the City or the sublicensee, as applicable, shall be in default. The City and the sublicensees shall preserve all Records for the entire term of this Release or sublicense, as applicable, and for a period of five (5) years after the termination of the Limited Waiver or sublicense. The obligations in this paragraph shall survive the expiration or termination of this Release and continue in full force and effect.

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

5. **Term of this Limited Waiver.** The initial term of this Limited Waiver begins upon the Effective Date and will remain in effect for a period of twenty (20) years. The term of this Limited Waiver shall automatically be extended for two (2) successive ten-year renewals.

6. **Notices.** Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered, transmitted electronically or within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

CFX: CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: Executive Director

With a copy to: CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: General Counsel

CITY: CITY OF APOPKA  
Attn: Mayor  
120 East Main Street  
Apopka, Florida 32703-5346

With a copy to: CITY OF APOPKA  
Attn: City Attorney  
120 East Main Street  
Apopka, Florida 32703-5346

or to such other address as either party hereto shall from time to time designate to the other party by notice in writing as herein provided. The attorneys for the parties set forth herein may deliver and receive notices on behalf of their clients.

7. **Default.** In the event either of the Parties breaches any warranty or representation contained in this Agreement or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements, or obligations to be performed by said party under the terms and provisions of this Agreement, the other party, in its sole discretion, and after thirty (30) days prior written notice and opportunity to cure, shall be entitled to: (i) exercise any and all rights and remedies available to said party at law and in equity, including, without

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

limitation, the right of specific performance, or (ii) terminate this Release, whereupon the Release and the Limited Waiver shall be deemed null and void and of no further force and effect, and no party hereto shall have any further rights, obligations, or liability hereunder. Upon any such termination, this Release and the Limited Waiver and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect.

8. **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 Release 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 Release shall not be binding upon any of the Parties hereto unless such amendment is in writing and executed by both Parties. Wherever under the terms and provisions of this Release 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 Release may be executed in multiple counterparts, including by electronic (including digital) signature in compliance with Chapter 668, Florida Statutes, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. The headings inserted at the beginning of each paragraph of this Release are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph. City and CFX do hereby agree that such documents as may be legally necessary or otherwise appropriate to carry out the terms of this Release shall be executed and delivered by each party at or prior to Closing. This Release shall be interpreted under the laws of the State of Florida. The Parties hereto agree that the exclusive venue and jurisdiction for any legal action authorized hereunder shall be in the courts of Orange County, Florida. TIME IS OF THE ESSENCE OF THIS RELEASE AND EACH AND EVERY PROVISION HEREOF.

9. **Successors and Assigns.** This Release shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns.

10. **Survival of Provisions.** All representations and warranties set forth in this Release shall survive the Closing and shall survive the execution or delivery of any and all deeds and other documents at any time executed or delivered under, pursuant to, or by reason of this Release, and shall survive the payment of all monies made under, pursuant to, or by reason of this Release.

11. **Severability.** This Release is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules, and regulations. If any provision of this Release or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Release and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

12. **Effective Date.** The effective date of this Release shall be the date upon which the last of the parties hereto executes this Release ("Effective Date").



Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**IN WITNESS WHEREOF**, CFX and the City have caused this Release to be executed in the manner and form sufficient to bind it as of the Effective Date.

[SIGNATURE PAGE TO FOLLOW]

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**“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

STATE OF FLORIDA                    )  
COUNTY OF \_\_\_\_\_            )

The foregoing instrument was acknowledged before me by means of [ ] physical presence  
or [ ] online notarization on this \_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_  
\_\_\_\_\_, as Chairman of the Central Florida Expressway Authority, on behalf of the organization.  
He is personally known to me OR produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Signature of Notary Public - State of Florida  
Print Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**“CITY”**

**CITY OF APOPKA, FLORIDA**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Bryan Nelson, Mayor

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

Approved as to form and legality by legal  
counsel.

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Michael A. Rodriguez

STATE OF FLORIDA                    )  
COUNTY OF \_\_\_\_\_            )

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization on this \_\_\_\_ day of \_\_\_\_\_, 2021, by Bryan Nelson, as Mayor of the City of Apopka, Florida, on behalf of the organization. He is personally known to me OR produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Signature of Notary Public - State of Florida  
Print Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**EXHIBIT "A"**  
**Legal Description of the Property**

**A PORTION OF PARCEL 63-117 - POND**

**A PORTION OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE S00°31'43"W ALONG THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20 FOR 1325.16 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF SAID SECTION 20; THENCE S89°49'06"W ALONG SAID NORTH LINE FOR 139.74 FEET FOR THE POINT OF BEGINNING; SAID POINT ALSO BEING A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 7469.44 FEET, A CHORD DISTANCE OF 382.43 FEET AND A CHORD BEARING OF S47°58'03"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 02°56'02", FOR 382.47 FEET TO THE POINT OF TANGENCY; THENCE S49°26'04"W FOR 386.97 FEET; THENCE N40°33'56"W FOR 91.38 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE RUN ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE THE FOLLOWING TWO COURSES; THENCE N17°47'49"E FOR 229.99 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 924.93 FEET, A CHORD DISTANCE OF 240.91 FEET AND A CHORD BEARING OF N25°16'48"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 14°57'58", FOR 241.60 FEET TO A POINT ON AFORESAID NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 20; THENCE N89°49'06"E FOR 464.28 FEET TO THE POINT OF BEGINNING.**

**CONTAINING 3.302 ACRES, MORE OR LESS.**

**AND**

**PARCEL 63-125 - POND**

**A PORTION OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCE AT A 6" BY 6" CONCRETE MONUMENT AT THE SOUTHWEST CORNER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE N89°37'58"E ALONG THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20 FOR 1524.03 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF COUNTY ROAD 437-A; THENCE N17°47'49"E ALONG SAID RIGHT OF WAY LINE FOR 994.64 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE N17°47'49"E FOR 193.02 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 984.93 FEET, A CHORD DISTANCE OF 218.42 FEET AND A CHORD BEARING OF N24°09'46"E; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°43'55", FOR 218.87 FEET TO THE NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 20; THENCE DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE RUN S89°49'06"W ALONG SAID NORTH LINE FOR 27.10 FEET; THENCE DEPARTING SAID NORTH LINE RUN S54°55'51"W FOR 163.12 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 894.93 FEET, A CHORD DISTANCE OF 178.84 FEET AND A CHORD BEARING OF S49°11'47"W; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 11°28'08", FOR 179.14 FEET; THENCE S40°33'56"E FOR 226.92 FEET TO THE POINT OF BEGINNING.**

**CONTAINING 0.979 ACRES, MORE OR LESS.**

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**EXHIBIT "B"**  
**Future Hospital Property**

# Description

## PARCEL A

A portion of Section 20, Township 21 South, Range 28 East, Orange County, Florida, also being a portion of land described in Document Number 20180459286, in the Public Records of Orange County, Florida being more particularly described as follows:

Commence at the Southeast corner of the Southeast One Quarter of the Northwest One Quarter of Section 20, Township 21 South, Range 28 East, Orange County, Florida; thence South 89°38'00" West, a distance of 1051.68 feet along the South line of said Southeast One Quarter of the Northwest One Quarter, to a point on the East right of way line of County Road No. 437A as shown on the Orlando Orange County Expressway Authority, Western Beltway, right of way map for State Road No. 429, Project Number 75320-6460-604; thence North 17°47'58" East, a distance of 938.38 feet, along said East right of way line to a point to be referred as Point "A" also being the POINT OF BEGINNING; thence continuing along said East right of way line North 17°47'58" East, a distance of 88.00 feet to a point on a non-tangent curve concave Northeasterly, having a radius of 342.50 feet and a central angle of 14°08'47" and a chord bearing and distance of South 83°06'26" East, 84.35 feet; thence from a tangent bearing of South 76°02'03" East, Northeasterly along the arc of said curve, a distance of 84.56 feet to the point of tangency; thence North 89°49'10" East, a distance of 116.21 feet to a point on the Southeasterly line of a Parcel described in Document Number 20180459286 as recorded in the Public Records of Orange County, Florida; thence South 49°24'26" West, a distance of 220.44 feet along said Southeasterly line to a point on the Southerly line of said Parcel; thence North 40°34'55" West, a distance of 91.39 feet along said Southerly line to aforesaid Point "A" also being a point on the East right of way line of aforesaid County Road No. 437A and the Point of Beginning.

Containing 17,830 square feet or 0.409 acres, more or less.

Together with:

(Continued on Sheet 2 of 3)

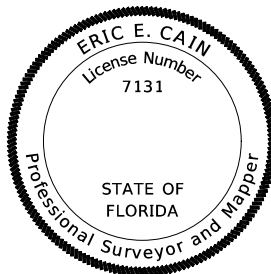
**PREPARED FOR:**  
NEWKIRK ENGINEERING  
CITY OF APOPKA

### NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA BEING SOUTH 89°38'00" WEST.
2. THIS SKETCH AND LEGAL DESCRIPTION OR COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

### SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE SKETCH OF DESCRIPTION OF THE ABOVE DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS RECENTLY DRAWN UNDER MY DIRECTION AND THAT IT MEETS THE STANDARDS OF PRACTICE FOR LAND SURVEYING CHAPTER 5J-17 REQUIREMENTS OF THE FLORIDA ADMINISTRATIVE CODE,



THIS DOCUMENT HAS BEEN DIGITALLY SIGNED AND SEALED BY:

**Eric E Cain**  
Digitally signed by Eric E Cain  
Date: 2021.10.14 08:07:46 -04'00'

ERIC E. CAIN  
FLORIDA PROFESSIONAL SURVEYOR & MAPPER LS 7131

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED. THE SIGNATURE MUST BE VERIFIED ON THE ELECTRONIC DOCUMENT.

REVISED: 10/14/2021



ECHO UES, INC.  
CERTIFICATION OF AUTHORIZATION 8184  
400 STATE ROAD 434, SUITE 1024  
OVIEDO, FLORIDA 32765  
888.778.ECHO | [www.echoues.com](http://www.echoues.com)

DATE: 08/20/2021  
PROJECT NUMBER: 20-379  
OFFICE: DH  
CHECKED: EC

SCALE:  
1" = 200'  
SHEET 01 OF 03

# Description

(Continued from Sheet 1 of 3)

## PARCEL B

Commencing at aforesaid Point "A", being a point on the East right of way line of aforesaid County Road No. 437A and also being a point on the Southerly line of a Parcel described in Document Number 20180459286 as recorded in the Public Records of Orange County, Florida; thence along said Southerly line North 40°34'55" West, a distance of 70.46 feet to the Point of Beginning; thence continuing along said Southerly line North 40°34'55" West, a distance of 226.64 feet to a point on a non-tangent curve concave Southeasterly, having a radius of 894.93 feet and a central angle of 00°33'47" and a chord bearing and distance of North 43°44'30" East, 8.79 feet, said point also being a point on the Easterly right of way of County Road 437A Re-alignment as shown on aforesaid Orlando Orange County Expressway Authority, Western Beltway right of way map; thence from a tangent bearing of North 43°27'37" East, Northeasterly along the arc of said curve and along said Easterly right of way line, a distance of 8.79 feet; thence departing said Easterly right of way line South 43°07'00" East, a distance of 68.39 feet to a point of curvature of a curve concave Northeasterly, having a radius of 342.50 feet and a central angle of 22°51'55" and a chord bearing and distance of South 54°32'58" West, 135.78 feet; thence Southeasterly, along the arc of said curve a distance of 136.68 feet to a point on the West right of way line of aforesaid County Road 437A; thence along said right of way line South 17°47'58" West, a distance of 52.31 feet to the Point of Beginning.

Containing 4,402 square feet or 0.101 acres, more or less.

Together totaling 22,232 square feet or 0.510 acres, more or less.

Line Table		
Line #	Direction	Length
L1	N 17°47'58" E	88.00'
L2	N 89°49'10" E	116.21'
L3	S 49°24'26" W	220.44'
L4	N 40°34'55" W	91.39'
L5	N 40°34'55" W	70.46'
L6	N 40°34'55" W	226.64'
L7	S 43°07'00" E	68.39'
L8	S 17°47'58" W	52.31'

Curve Table					
Curve #	Radius	Delta	Arc Length	Chord Bearing	Chord Length
C1	342.50'	14°08'47"	84.56'	S 83°06'26" E	84.35'
C2	894.93'	00°33'47"	8.79'	N 43°44'30" E	8.79'
C3	342.50'	22°51'55"	136.68'	S 54°32'58" E	135.78'

REVISED: 10/14/2021



ECHO UES, INC.  
CERTIFICATION OF AUTHORIZATION 8184  
400 STATE ROAD 434, SUITE 1024  
OVIEDO, FLORIDA 32765  
888.778.ECHO | [www.echoues.com](http://www.echoues.com)

DATE: 08/20/2021

PROJECT NUMBER: 20-379

OFFICE: DH

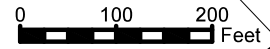
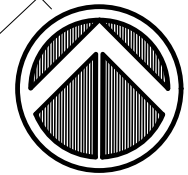
CHECKED: EC

SCALE:  
1" = 200'

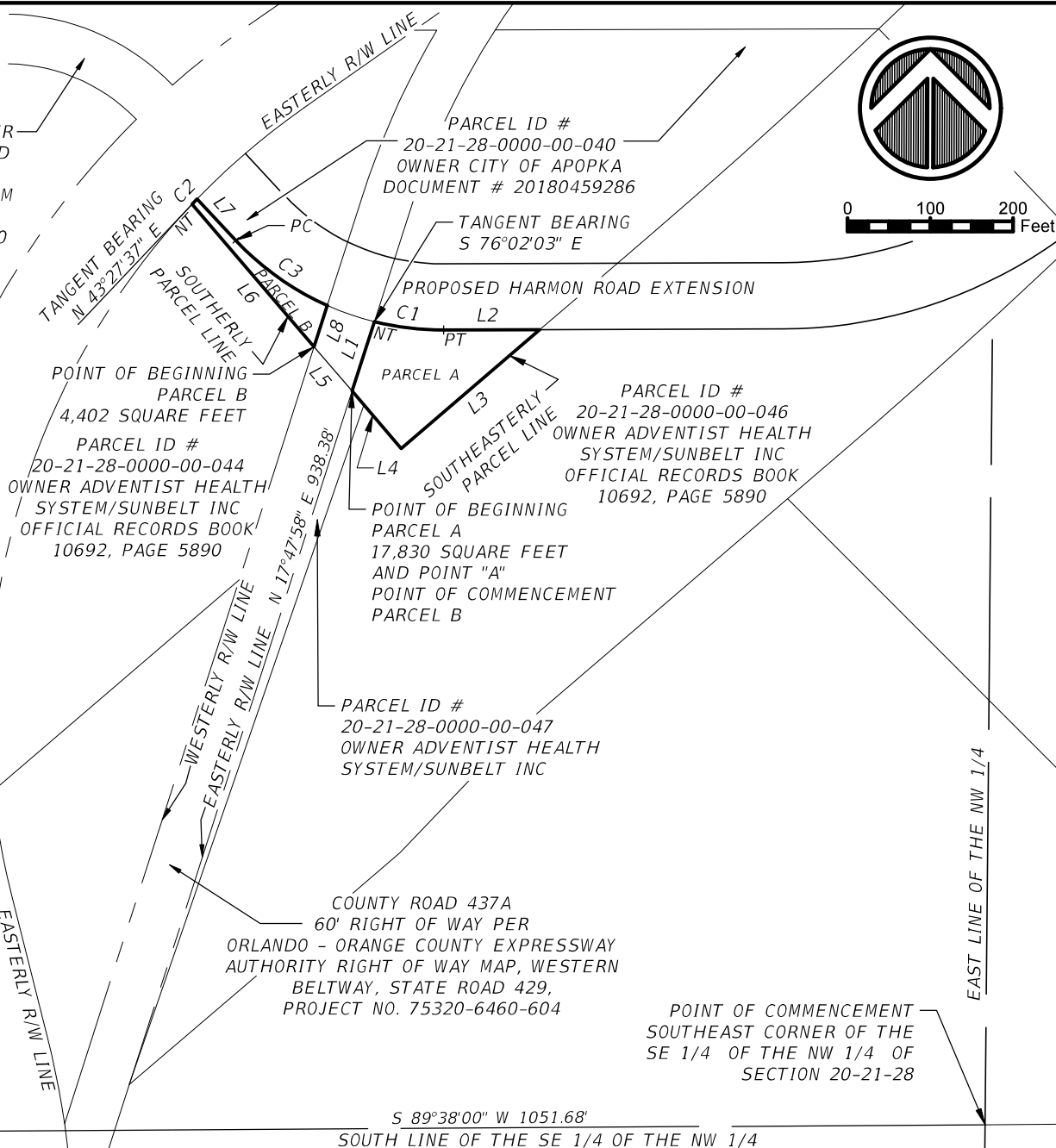
SHEET 02 OF 03

# Sketch

HARMON ROAD  
60' RIGHT OF WAY PER  
MAITLAND BOULEVARD  
EXTENSION STATE  
ROAD 429/414 SYSTEM  
INTERCHANGE,  
PROJECT NO. 428-200



COUNTY ROAD 437A RE-ALIGNED  
RIGHT OF WAY VARIES PER  
AUTHORITY - ORANGE COUNTY EXPRESSWAY  
BELTWAY, STATE ROAD 429,  
PROJECT NO. 75320-6460-604



POINT OF BEGINNING  
PARCEL B  
4,402 SQUARE FEET  
PARCEL ID #  
20-21-28-0000-00-044  
OWNER ADVENTIST HEALTH  
SYSTEM/SUNBELT INC  
OFFICIAL RECORDS BOOK  
10692, PAGE 5890

PARCEL ID #  
20-21-28-0000-00-040  
OWNER CITY OF APOPKA  
DOCUMENT # 20180459286

PARCEL ID #  
20-21-28-0000-00-046  
OWNER ADVENTIST HEALTH  
SYSTEM/SUNBELT INC  
OFFICIAL RECORDS BOOK  
10692, PAGE 5890

PARCEL ID #  
20-21-28-0000-00-047  
OWNER ADVENTIST HEALTH  
SYSTEM/SUNBELT INC

COUNTY ROAD 437A  
60' RIGHT OF WAY PER  
ORLANDO - ORANGE COUNTY EXPRESSWAY  
AUTHORITY RIGHT OF WAY MAP, WESTERN  
BELTWAY, STATE ROAD 429,  
PROJECT NO. 75320-6460-604

POINT OF COMMENCEMENT  
SOUTHEAST CORNER OF THE  
SE 1/4 OF THE NW 1/4 OF  
SECTION 20-21-28

S 89°38'00" W 1051.68'  
SOUTH LINE OF THE SE 1/4 OF THE NW 1/4

ABBREVIATIONS

- ID = IDENTIFICATION
- NO. = NUMBER
- NT = NON-TANGENT
- PC = POINT OF CURVATURE
- PT = POINT OF TANGENCY
- R/W = RIGHT OF WAY

REVISED: 10/14/2021

SEE SHEET 2 OF 3 FOR LINE AND CURVE TABLES

NOT A SURVEY



ECHO UES, INC.  
CERTIFICATION OF AUTHORIZATION 8184  
400 STATE ROAD 434, SUITE 1024  
OVIEDO, FLORIDA 32765  
888.778.ECHO | [www.echoues.com](http://www.echoues.com)

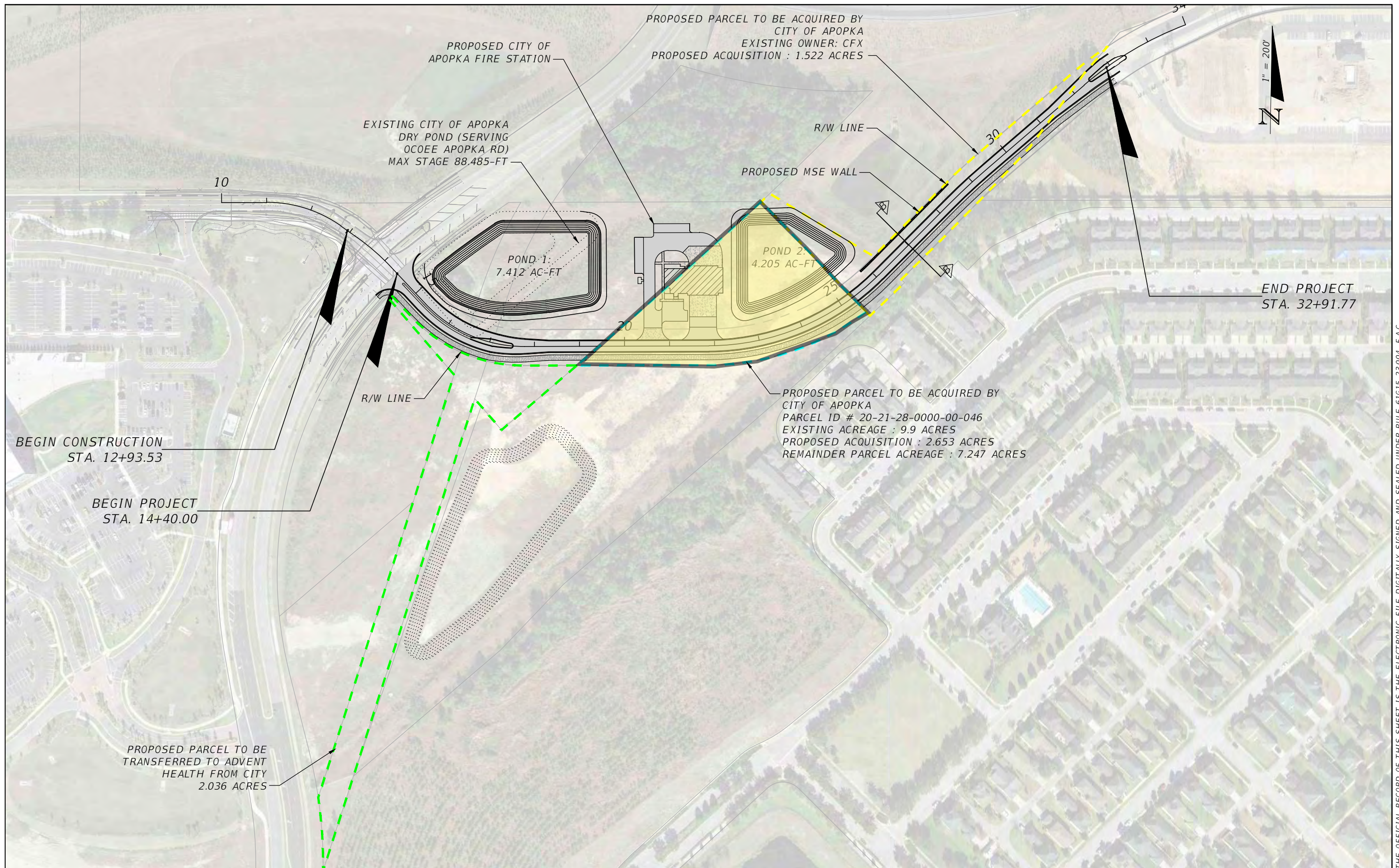
DATE: 08/20/2021  
PROJECT NUMBER: 20-379  
OFFICE: DH  
CHECKED: EC

SCALE:  
1" = 200'  
SHEET 03 OF 03



Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**EXHIBIT "C"**  
**Property Conveyed to the City from the Hospital**



THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

TYLER JEFFERY MALMBORG, P.E.  
P.E. LICENSE NUMBER 75630  
NEWKIRK ENGINEERING, INC.  
1230 NORTH US-HIGHWAY 1, SUITE 3  
ORMOND BEACH, FL 32174  
CERTIFICATE OF AUTHORIZATION 30209



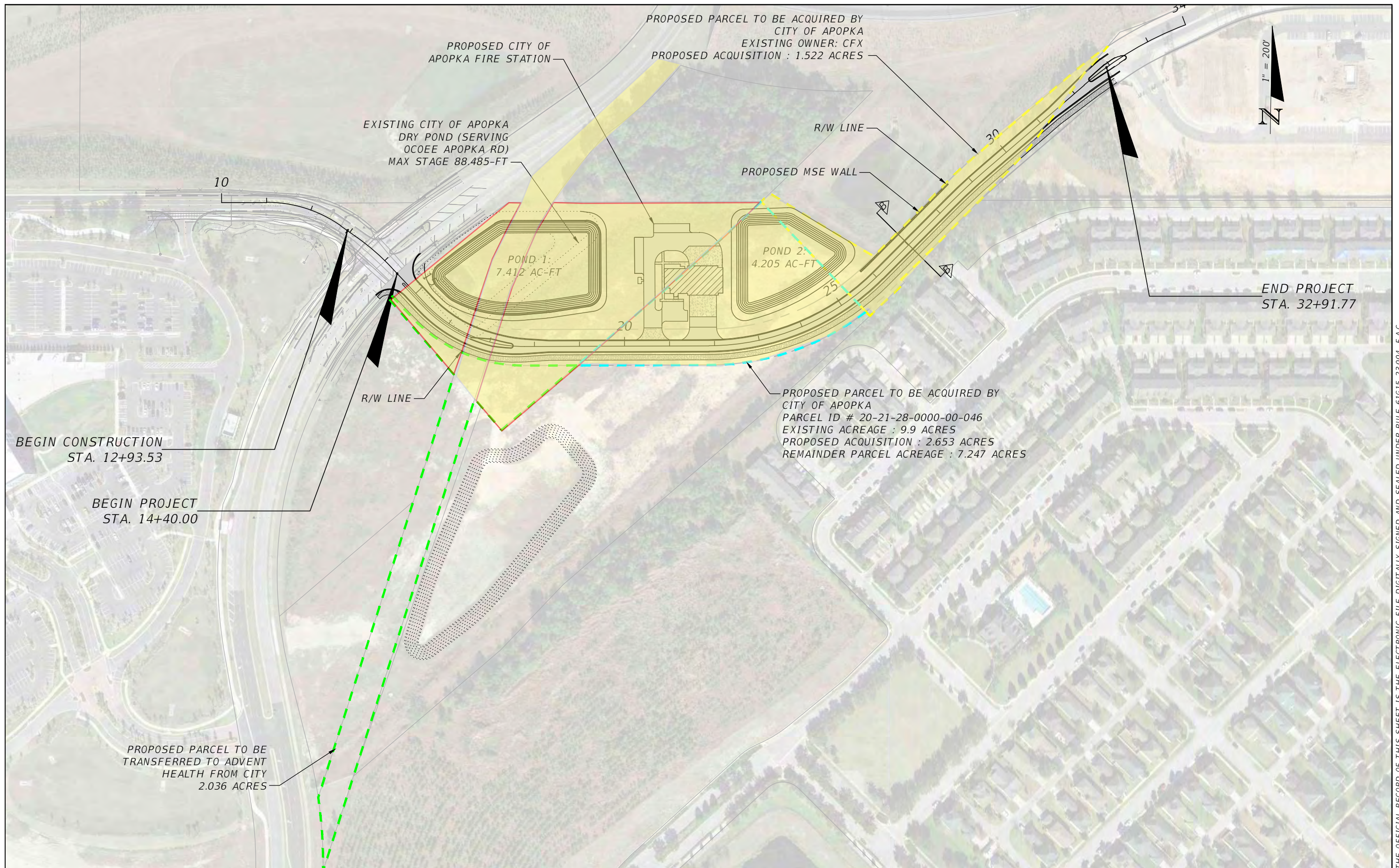
**CITY OF APOPKA**  
HARMON ROAD  
EXTENSION

**PLAN SHEET**

SHEET NO.  
**C-1**

Project Nos. 429-200 and 429-604  
Parcels 63-117 Pond and 63-125 Pond

**EXHIBIT "D"**  
**Licensed Property**



THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

TYLER JEFFERY MALMBORG, P.E.  
 P.E. LICENSE NUMBER 75630  
 NEWKIRK ENGINEERING, INC.  
 1230 NORTH US-HIGHWAY 1, SUITE 3  
 ORMOND BEACH, FL 32174  
 CERTIFICATE OF AUTHORIZATION 30209



**CITY OF APOPKA**  
 HARMON ROAD  
 EXTENSION

**PLAN SHEET**

SHEET NO.  
 C-1

**CONSENT AGENDA ITEM  
#13**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Diego “Woody” Rodriguez, General Counsel *WR*

DATE: December 2, 2021

SUBJECT: Right of Way Transfer and Continuing Maintenance Agreement Between the Central Florida Expressway Authority and City of Apopka, Florida (Harmon Road) Project Numbers: 429-200 and 429-604 Portions of Parcels 63-117 and 63-118

---

## BACKGROUND

Central Florida Expressway Authority’s predecessor in interest (now “CFX”) acquired various real properties for the construction of State Road 429 (SR 429) and associated facilities, including Parcel 63-118 (collectively, the “Expressway Facilities”). In the course of the construction of the Expressway Facilities and related improvements to Harmon Road, CFX acquired certain real property for the benefit of the local jurisdictions to realign local roadways. When the construction on the local roadway reconfigurations and the Expressway Facilities was complete, CFX retained fee simple ownership of portions of certain local roadways and real property (“CFX Parcels”) that were intended to be a part of City of Apopka’s (“City”) local road network.

On or about August 3, 2021, the City submitted correspondence to CFX requesting the conveyance of the CFX Parcels to the City.

In order to ensure all local road right of way and associated facilities are owned by the City and all right of way and associated facilities operated as a part of the Expressway System are owned and maintained by CFX, CFX and the City desire to enter into the proposed Right of Way Transfer and Continuing Maintenance Agreement with CFX and City (“Agreement”) to effectuate the transfer of certain ownership interests. In exchange for said transfer, the City will agree to undertake the continuing maintenance of the CFX Parcels.

A portion of the CFX Parcel is encumbered with limited access lines held by CFX running along the boundaries of the CFX Parcel (“Existing L/A Lines”). With the transfer of the CFX Parcel to the City, it is in the best interest of CFX to relocate and reestablish the location of the Existing L/A Lines to align with the boundary lines of the CFX Parcel in accordance with the terms of the Agreement.



The proposed Agreement was prepared and provided to the City for review and consideration. The City has reviewed the Agreement and agrees with its form. This Agreement is anticipated to be heard and approved by the City Commission prior to the CFX Board Meeting.

On August 25, 2021, the Right of Way Committee met and upon review of the information and presentation recommended that the Board approve the Agreement.

### **REQUEST**

Approval of the Resolution Declaring Property as Surplus Property Available for Sale, Authorizing the Transfer of Surplus Property with the City of Apopka, Florida and Release and Reestablishment of Limited Access Lines and the approval of the Right of Way Transfer and Continuing Maintenance Agreement with CFX and City in a form substantially similar to the attached Agreement, subject to the following: (1) separate notice to the local government in which the CFX Parcels and Existing L/A Lines are located is not required; (2) conveyance of the CFX Parcels will be via Quit Claim Deed, rather than Special Warranty Deed, subject to a deed restriction and right of reverter restricting the use of the CFX Parcels for public uses; (3) the Existing L/A Lines will not be released until CFX Parcels are conveyed to, and accepted by, the City; and (4) approval of the legal descriptions, deeds, maintenance functions, and maintenance responsibilities by CFX's General Engineering Consultant and any minor or clerical revisions approved by the General Counsel or designee.

### **ATTACHMENT**

- A. Memo dated August 18, 2021 to the Right of Way Committee with attachments.

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Right-of-Way Committee Members

FROM: Laura Newlin Kelly, Associate General Counsel *lnk*

DATE: August 18, 2021

SUBJECT: Right-of-Way Transfer and Continuing Maintenance Agreement Between the Central Florida Expressway Authority and City of Apopka, Florida (Harmon Road) Project Numbers 429-200 and 429-604 Portions of Parcels 63-117 and 63-118

---

BACKGROUND

Central Florida Expressway Authority's predecessor in interest (now "CFX") acquired various real properties for the construction of State Road (S.R.) 429 and associated facilities, including Parcel 63-118. Parcel 63-118 consisted of approximately 3.5 acres of real property and was acquired from John H. Talton Enterprises, Inc. et al. for \$210,000.00 plus costs and expenses, pursuant to that certain Stipulated Final Judgment, Case No. CI 98-2788 in the Circuit Court of the Ninth Judicial Circuit, Orange County, Florida entered February 2, 2001.

As part of the construction of S.R. 429 ("Expressway Facilities"), CFX relocated or realigned local roadways, constructed bridges over local roadways, widened local roadways, and constructed retention ponds to serve the local roadway network and to support CFX's Expressway System. As a result of the reconfiguration of the local roadways and substantial nature of the acquisition of the public right-of-way for the Expressway Facilities, when the construction on the local roadway reconfigurations and the Expressway Facilities was complete, CFX retained fee simple ownership of portions of certain local roadways and real property that were intended to be a part of the City of Apopka's ("City") local road network.

The City is currently designing, and intends to construct, improvements to Harmon Road and has requested CFX dedicate a portion of Parcel 63-118 ("CFX Parcel") more particularly identified on the map attached hereto as **Attachment "A"** ("Map") to the City to complete the improvements to Harmon Road. On or about August 3, 2021, the City made application to CFX requesting the conveyance of the CFX Parcel to the City. A copy of the City's request is attached hereto as **Attachment "B"**. In order to ensure all local road right-of-way and associated facilities are owned by the City and all right-of-way and associated facilities operated as a part of the Expressway System are owned and maintained by CFX, CFX and the City desire to enter into the proposed Right-of-Way Transfer and Continuing Maintenance Agreement to effectuate the transfer of the ownership interests. The proposed Right-of-Way Transfer and Continuing Maintenance Agreement is attached hereto as **Attachment "C"** ("Agreement").



Pursuant to the terms of the proposed Agreement, CFX agrees to transfer the CFX Parcel to the City for ownership and maintenance and the release and reestablishment of the limited access right-of-way lines along the CFX Parcel.

The conveying instrument will include a deed restriction and reverter in the event the City fails to utilize the CFX Parcel for public right-of-way or other public uses. In exchange for said transfer, the City will agree to undertake the continuing maintenance of the CFX Parcel.

A portion of the CFX Parcel is encumbered with limited access lines held by CFX running along the boundaries of the CFX Parcel ("Existing L/A Lines"). With the transfer of the CFX Parcel to the City, it is in the best interest of CFX to relocate and reestablish the location of the Existing L/A Lines to align with the boundary lines of the CFX Parcel in accordance with the terms of the Agreement.

The proposed Agreement will further memorialize and reiterate the maintenance obligations of CFX and the City with regard to local infrastructure and Expressway System infrastructure.

Pursuant to CFX's Property Acquisition, Disposition & Permitting Procedures Manual, CFX staff and CFX's General Engineering Consultant have examined the CFX Parcel and determined that the CFX Parcel is not needed to support existing Expressway Facilities. Accordingly, CFX's General Engineering Consultant has certified that the CFX Parcel is not essential for present or future construction, operation or maintenance of an Expressway Facility or for CFX purposes and that the disposition of the CFX Parcel would not impede or restrict the Expressway System. A copy of the certification is attached hereto as **Attachment "D"**.

The proposed Agreement was prepared and provided to the City for review and consideration. The City has reviewed the Agreement and agrees with its form, subject to confirmation of the exact legal descriptions and the technical portions of the Agreement. CFX's General Engineering Consultant has reviewed the legal descriptions, maintenance functions, and maintenance responsibilities.

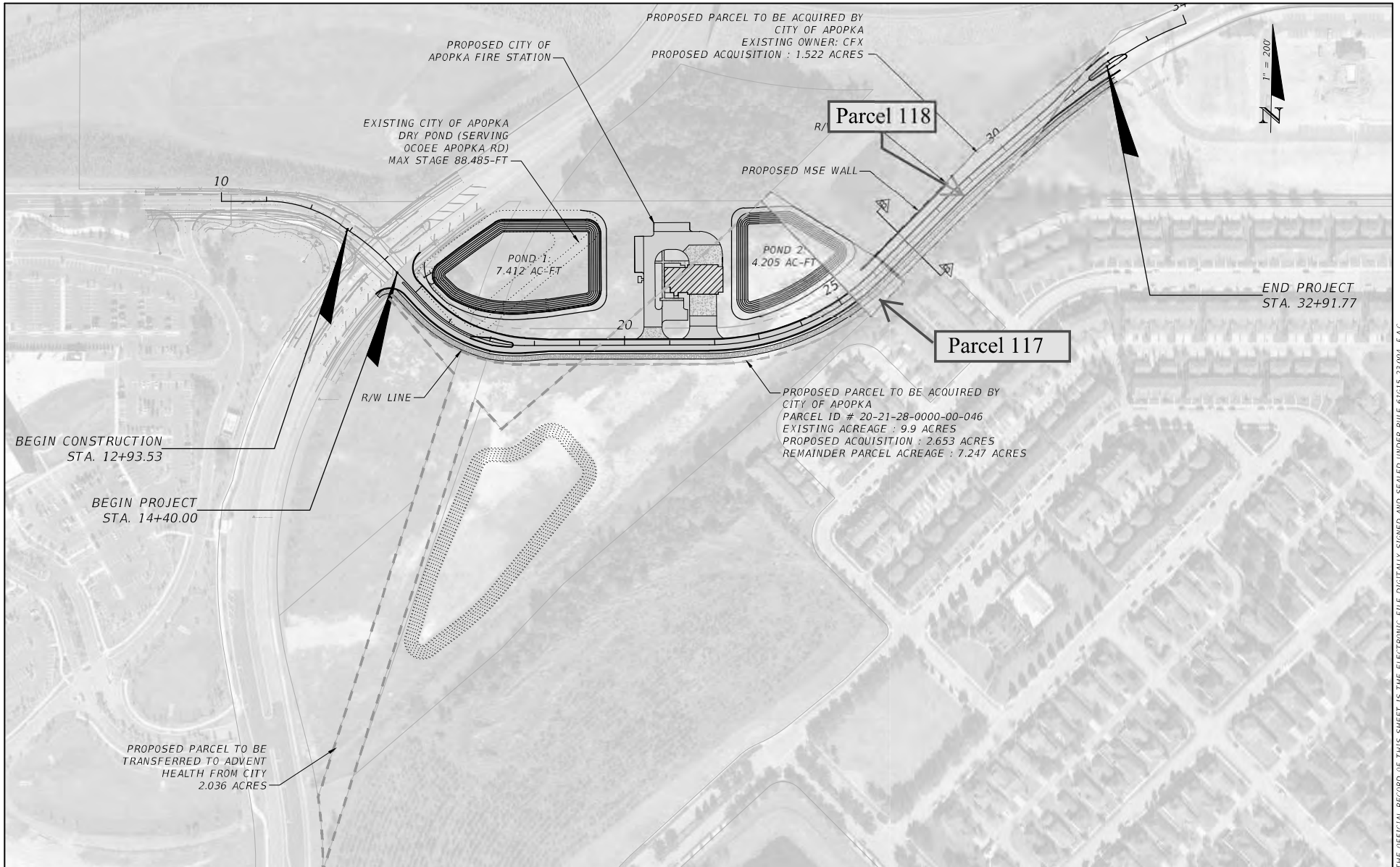
### **REQUEST**

A recommendation by the Right-of-Way Committee for CFX Board's approval of the Resolution Declaring Property as Surplus Property Available for Sale, Authorizing the Transfer of Surplus Property with the City of Apopka, Florida and Release and Reestablishment of Limited Access Lines and the Approval of the Right of Way Transfer and Continuing Maintenance Agreement with CFX and City in a form substantially similar to the attached Agreement, subject to the following: (1) separate notice to the local government in which the CFX Parcel and Existing L/A Lines are located is not required; (2) conveyance of the CFX Parcel will be via Quit Claim Deed, rather than Special Warranty Deed, subject to a deed restriction and right of reverter restricting the use of the CFX Parcel for public uses; (3) the Existing L/A Lines will not be released until CFX Parcel is conveyed to, and accepted by, the City; and (4) approval of the legal descriptions, deeds, maintenance functions, and maintenance responsibilities by CFX's General


Engineering Consultant and any minor or clerical revisions approved by the General Counsel or designee.

### **ATTACHMENTS**

- A. Map
- B. Application from the City of Apopka
- C. Right-of-Way Transfer and Continuing Maintenance Agreement
- D. Certificate from CFX's General Engineering Consultant
- E. Resolution Declaring Property as Surplus Property Available for Sale, Authorizing the Transfer of Surplus Property with City of Apopka, Florida and Release and Reestablishment of Limited Access Lines Pursuant to a Right of Way Transfer and Continuing Maintenance Agreement



THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

REVISIONS		REVISIONS		TYLER JEFFERY MALMBORG, P.E. P.E. LICENSE NUMBER 75630 NEWKIRK ENGINEERING, INC. 1230 NORTH US-HIGHWAY 1, SUITE 3 ORMOND BEACH, FL 32174 CERTIFICATE OF AUTHORIZATION 30209	 CITY OF APOPKA HARMON ROAD EXTENSION	ATTACHMENT "A"	SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION				C-1

Tyler Malmberg

2/19/2021 9:35:51 AM

C:\Projects\Harmon CADD\CADD\Roadway\PLANR002.dwg

ATTACHMENT "B"



120 E. Main St. - APOPKA, FLORIDA 32703-5346  
PHONE (407) 703-1700

August 3, 2021

Ms. Laura Kelley, Executive Director  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

RE: Road Right-of-Way and Property needed for the Harmon Road Extension

Dear Ms. Kelley,

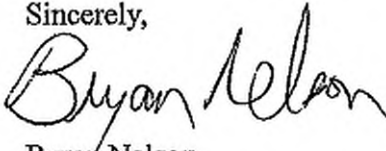
The City is tasked with ensuring that the necessary support infrastructure is in place, including fire stations, hospitals, and roadways, to support the growing population of the City of Apopka. To accomplish this task, the City has planned several infrastructure projects in the area of Harmon Road. The City's top priority for roadway construction is the Harmon Road Extension. Once completed, Harmon Road will extend from Binion Road to Marden Road and the SR 414 ramps creating a road network that will provide better local circulation and a clear, direct access to the AdventHealth Hospital ("AdventHealth") and the proposed new fire station.

This infrastructure project has been a high priority for the City from the time it was announced that a new hospital was being constructed on Ocoee Apopka Road at Harmon Road. Design phase for the Harmon Road Extension was funded in the current fiscal year and will be completed in about two months. The construction phase of the Harmon Road Extension is funded in City's fiscal year 2021/2022, and the City plans to advertise an RFP before the end of 2021. Further, the Apopka Fire Department was just awarded a legislative appropriation for the fire station construction, and the City is ready to commence construction of this vital infrastructure to support the needs of the residents of the Apopka so time is of the essence in getting our requests approved.

In order for the roadway project to be completed, additional right-of-way is needed. We are requesting the conveyance of 1.531 acres+/- right-of-way owned by the Central Florida Expressway System ("CFX") to the City. The requested right-of-way is depicted on the sketch and legal description in Attachment "A". It will be used only for public purposes related to the construction of the Harmon Road Extension and not sold or given to the private sector for private development.

The City and CFX have entered into many mutually beneficial agreements in the past and we hope to continue our collaborative relationship with this right-of-way conveyance. We respectfully ask for your consideration of this request, which will enable the construction of the Harmon Road Extension.

Sincerely,

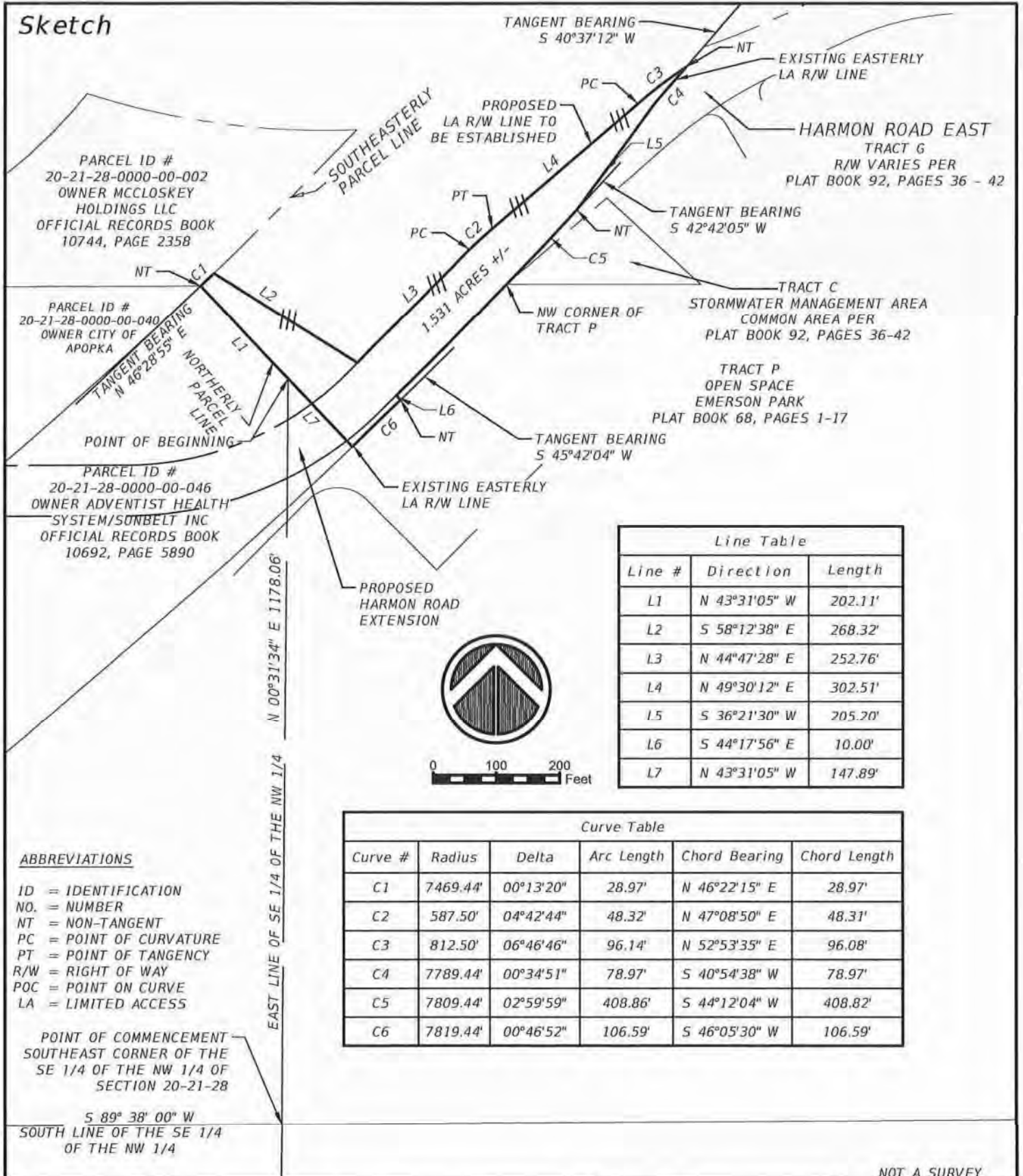
A handwritten signature in black ink that reads "Bryan Nelson". The signature is written in a cursive style with a large, prominent initial "B".

Bryan Nelson  
Mayor, City of Apopka

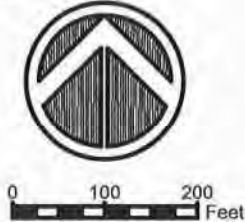
cc: Edward Bass, City of Apopka  
Michael A. Rodriguez, City of Apopka  
James Hitt, City of Apopka  
Woody Rodriguez, CFX  
Glenn Pressimone, CFX

## ATTACHMENT A

# Sketch



Line #	Direction	Length
L1	N 43°31'05" W	202.11'
L2	S 58°12'38" E	268.32'
L3	N 44°47'28" E	252.76'
L4	N 49°30'12" E	302.51'
L5	S 36°21'30" W	205.20'
L6	S 44°17'56" E	10.00'
L7	N 43°31'05" W	147.89'



Curve #	Radius	Delta	Arc Length	Chord Bearing	Chord Length
C1	7469.44'	00°13'20"	28.97'	N 46°22'15" E	28.97'
C2	587.50'	04°42'44"	48.32'	N 47°08'50" E	48.31'
C3	812.50'	06°46'46"	96.14'	N 52°53'35" E	96.08'
C4	7789.44'	00°34'51"	78.97'	S 40°54'38" W	78.97'
C5	7809.44'	02°59'59"	408.86'	S 44°12'04" W	408.82'
C6	7819.44'	00°46'52"	106.59'	S 46°05'30" W	106.59'

- ABBREVIATIONS**
- ID = IDENTIFICATION
  - NO. = NUMBER
  - NT = NON-TANGENT
  - PC = POINT OF CURVATURE
  - PT = POINT OF TANGENCY
  - R/W = RIGHT OF WAY
  - POC = POINT ON CURVE
  - LA = LIMITED ACCESS

NOT A SURVEY



ECHO UES, INC.  
 CERTIFICATION OF AUTHORIZATION 8184  
 400 STATE ROAD 434, SUITE 1024  
 OVIEDO, FLORIDA 32765  
 888.778.ECHO | [www.echoues.com](http://www.echoues.com)

DATE: 08/09/2021  
 PROJECT NUMBER: 20-379  
 OFFICE: DH  
 CHECKED: EC

SCALE:  
 1"=200'  
 SHEET 02 OF 02

# Description

A portion of Section 20, Township 21 South, Range 28 East, Orange County, Florida, being more particularly described as follows:

Commence at the Southeast corner of the Southeast One Quarter of the Northwest One Quarter of Section 20, Township 21 South, Range 28 East, Orange County, Florida; thence North 00°31'34" East, a distance of 1178.06 feet along the East line of said Southeast One Quarter of the Northwest One Quarter, to the POINT OF BEGINNING; said point being on the Northerly line of a parcel described in Official Records Book 10692, Page 5890, of the Public Records of Orange County, Florida; thence North 43°31'05" West, a distance of 202.11 feet along said Northerly line to a point on a non-tangent curve, concave Northwesterly, having a radius of 7469.44 feet, a central angle of 00°13'20" and a chord bearing and distance of North 46°22'15" East, 28.97 feet; said point being on the Southeasterly line of a parcel described in Official Records Book 10744, Page 2358 of the Public Records of Orange County, Florida; thence departing said Northerly line from a tangent bearing of North 46°28'55" East, Northeasterly along the arc of said curve and along said Southeasterly line, a distance of 28.97 feet; thence departing said Southeasterly line run along Proposed Limited Access Right of Way Line the following five courses and distances: South 58°12'38" East, a distance of 268.32 feet; thence North 44°47'28" East, a distance of 252.76 feet to the point of curvature of a curve, concave Southeasterly, having a radius of 587.50 feet, a central angle of 04°42'44", and a chord bearing and distance of North 47°08'50" East, 48.31 feet; thence Northeasterly along the arc of said curve, a distance of 48.32 feet to the point of tangency; thence departing said curve North 49°30'12" East, a distance of 302.51 feet to the point of curvature of a curve, concave Southeasterly, having a radius of 812.50 feet, a central angle of 06°46'46" and a chord bearing and distance of North 52°53'35" East, 96.08 feet; thence Northeasterly along the arc of said curve 96.14 feet to a point on the existing Easterly Limited Access right of way line of State Road 451 as shown on State Road 429/414 Systems Interchange Project No. 429/200 Right of Way Map; said point also being a point on a non-tangent curve, concave Northwesterly, having a radius of 7789.44 feet, a central angle of 00°34'51", and a chord bearing and distance of South 40°54'38" West, 78.97 feet; thence departing said Proposed Limited Access Right of Way Line from a tangent bearing of South 40°37'12" West, Southwesterly along the arc of said curve and along said Easterly Limited Access Right of Way Line, 78.97 feet; thence continuing along said Easterly Limited Access Right of Way Line the following four courses and distances: South 36°21'30" West, a distance of 205.20 feet to a point on a non-tangent curve, concave Northwesterly, having a radius of 7809.44 feet, a central angle of 02°59'59", and a chord bearing and distance of South 44°12'04" West, 408.82 feet; thence from a tangent bearing of South 42°42'05" West, Southwesterly along the arc of said curve a distance of 408.86 feet; thence South 44°17'56" East, a distance of 10.00 feet to a point on a non-tangent curve, concave Northwesterly, having a radius of 7819.44 feet, a central angle of 00°46'52", and a chord bearing and distance of South 46°05'30" West, 106.59 feet; thence from a tangent bearing of South 45°42'04" West, Southerly along the arc of said curve, a distance of 106.59 feet to a point on the aforesaid Northerly line of parcel described in Official Records Book 10692, Page 5890, of the Public Records of Orange County, Florida; thence departing said existing Limited Access Right of Way Line, North 43°31'05" West, a distance of 147.89 feet along said Northerly line to the Point of Beginning.

Containing 1.531 acres, more or less.

**PREPARED FOR:**  
**NEWKIRK ENGINEERING**  
**CITY OF APOPKA**

## SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE SKETCH OF DESCRIPTION OF THE ABOVE DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS RECENTLY DRAWN UNDER MY DIRECTION AND THAT IT MEETS THE STANDARDS OF PRACTICE FOR LAND SURVEYING CHAPTER 5J-17 REQUIREMENTS OF THE FLORIDA ADMINISTRATIVE CODE.

### NOTES:

- BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA BEING SOUTH 89°38'00" WEST.
- THIS SKETCH AND LEGAL DESCRIPTION OR COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



THIS DOCUMENT HAS BEEN DIGITALLY SIGNED AND SEALED BY:

Eric E Cain  
 Digitally signed by Eric E Cain  
 Date: 2021.08.09 10:50:50 -04'00'

ERIC E. CAIN  
 FLORIDA PROFESSIONAL SURVEYOR & MAPPER LS 7131

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED. THE SIGNATURE MUST BE VERIFIED ON THE ELECTRONIC DOCUMENT.



ECHO UES, INC.  
 CERTIFICATION OF AUTHORIZATION B184  
 400 STATE ROAD 434, SUITE 1024  
 OVIEDO, FLORIDA 32765  
 888.778.ECHO | [www.echoues.com](http://www.echoues.com)

DATE: 06/16/2021  
 PROJECT NUMBER: 20-379  
 OFFICE: DH  
 CHECKED: EC

SCALE:  
 1"=200'  
 SHEET 01 OF 02



**ATTACHMENT "C"**

Project Nos. 429-604 and 429-200  
Portion of Parcel 63-117 and 63-118

**RIGHT-OF-WAY TRANSFER AND CONTINUING MAINTENANCE AGREEMENT  
BETWEEN  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND CITY OF APOPKA, FLORIDA  
(Harmon Road)**

**THIS RIGHT-OF-WAY TRANSFER AND CONTINUING MAINTENANCE AGREEMENT** (“Agreement”) is made and entered into on the last date of execution below by and between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 (“CFX”) and **CITY OF APOPKA, FLORIDA**, a municipality of the State of Florida, whose address is 120 East Main Street, Apopka, Florida 32703-5346 (“City”). CFX and City are sometimes collectively referred to herein as the “Parties.”

**WITNESSETH:**

**WHEREAS**, pursuant to Section 348.753, Florida Statutes, CFX is empowered to construct, improve, maintain, and operate the Central Florida Expressway System (“Expressway System”) and, in connection therewith, to construct any extensions, additions or improvements to said system or appurtenant facilities, including all necessary approaches, roads, bridges, and avenues of access; and

**WHEREAS**, pursuant to Section 335.0415, Florida Statutes, “public roads may be transferred between jurisdictions . . . by mutual agreement;” and

**WHEREAS**, Section 163.01, Florida Statutes, authorizes both Parties to this Agreement to enter into Interlocal Agreements; and

**WHEREAS**, in the course of the construction of State Road 429, CFX acquired certain real property for the benefit of the local jurisdictions and constructed thereon certain roadways and other improvements to ensure a minimal disruption of traffic to the citizens and to provide for a smooth transition to the Expressway System, thus making both the Expressway System and the local road system compatible; and

**WHEREAS**, the construction of State Road 429 is completed and the City is designing and constructing improvements to Harmon Road adjacent to State Road 429, and both Parties desire to conclude the land conveyances to ensure that title to the real property necessary for all of City’s right-of-way and related facilities is vested in City, subject to certain rights retained by CFX; and

**WHEREAS**, concurrent with the conveyance of fee simple interest in the CFX Property (hereinafter defined), the Parties agree to release, relocate, and reestablish certain limited access lines in favor of CFX, and remove, relocate, or construct any fences, walls, or light poles within the limited access line in accordance with the terms and conditions hereof; and

**WHEREAS**, the Parties also desire to define the future and continuing maintenance responsibilities for the right-of-way and related facilities and to set responsibility therefore.

**NOW THEREFORE**, for and in consideration of the mutual agreements herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby expressly acknowledged, CFX and City agree as follows:

1. **Recital**. The above recitals are true and correct and form a material part of this Agreement and are incorporated herein by reference.

2. **Right-of-Way Maps**. CFX previously delivered to City a full and complete set of right-of-way maps consisting of S.R. 429 Project 429-604 and 429-200.

3. **CFX Conveyance**. CFX agrees to transfer, assign, and convey to City, and City agrees to accept by quit claim deed, all of CFX's right, title, and interest in and to the real property located in Orange County, Florida designated as a portion of CFX parcels 63-117 and 63-118, as more specifically described in **Exhibit "A"** attached hereto and incorporated herein by reference ("**CFX Property**"), subject to the covenants, reservations, conditions, restrictions, and easements of record. CFX and City agree that the quit claim deed to be executed and delivered under the provisions of this section shall be substantially in the form attached hereto as **Exhibit "B"** and incorporated herein by reference ("**CFX Deed**").

4. **Release of Limited Access Line by CFX**. Upon acceptance and recording of the CFX Deed by the City, CFX hereby agrees to execute a notice of release of the limited access rights and lines represented by the limited access lines described in **Exhibit "C"** attached hereto and incorporated herein by reference ("**Existing L/A Lines**"); provided, however, the Parties agree this release shall not impact any other limited access lines or rights and the remaining lines and rights shall remain in full force and effect. The Parties agree that the terms and conditions of the notice of release shall be substantially in the form attached hereto as **Exhibit "D"** and incorporated herein by reference ("**Release**"). The Parties agree and acknowledge that the limited access line shall be reestablished as more particularly depicted and established in the CFX Deed, which reestablishment shall occur upon the recording of the CFX Deed and the legal descriptions referenced therein ("**New L/A Lines**"). The Parties agree and acknowledge that the release is made without any warranty or representation by CFX and is being released to City "AS IS, WHERE IS, WITH ALL FAULTS," in such condition as the same may be on the Closing Date (hereinafter defined) and will not act to convey or restore any abutter's rights including, without limitation, any claims for air, light and view between any abutting property and CFX's remaining property. To the extent permitted under, and without waiving any of the provisions of, Section 768.28, Florida Statutes, City further agrees to release and discharge CFX from any and all past, present, and future claims or actions arising out of, or in any way connected with, the location or

relocation of the limited access line, including, without limitation, any claim for loss of access to any City's remaining property, business damages, severance damages, or any other damages.

5. **Removal and Replacement of Fence, Light Poles, and Walls.** At the Closing, City agrees to grant CFX a license to remove any existing fences, walls, light poles, or any other structures located within the CFX Property, if CFX elects to do so, and replace, relocate, reinstall, or construct a new fence, wall, or light poles, within the CFX Property. This license shall remain in effect for eighteen (18) months from the Closing Date. In the event CFX elects to exercise the rights set forth under this license, CFX shall be responsible, at no cost to City, for any and all costs and expenses associated with CFX's exercise of the license and the removal, relocation, reinstallation, or construction of any fences, walls, light poles, or other structures associated with the license, if any. This provision shall survive the Closing for a period of eighteen (18) months from the Closing Date.

6. **Future and Continuing Maintenance.** The Parties agree that it is necessary and desirable to define with specificity the locations for future and continuing maintenance, and the details of such maintenance responsibility applicable to the local roadways. The City agrees to perform, at its sole cost and expense, and accept responsibility for any and all continuing and future maintenance obligations and responsibility for the CFX Property and any local roadways constructed thereon as of the Closing Date.

7. **Consideration.** The consideration for the CFX Property to be transferred to City shall be the respective values attributed to the continuing and future obligations to maintain the CFX Property.

8. **Evidence of Title.** At any time before Closing, City, at its sole cost and expense, shall have the right to order a commitment from an agent for a policy of owner's title insurance ("**Commitment**") which shall be written on a title insurance company reasonably satisfactory and acceptable to the City.

9. **Survey.** City shall have the right, at any time before Closing, at its sole cost and expense, to have the CFX Property surveyed at its sole cost and expense ("**Survey**"). The surveyor shall provide certified legal descriptions and sketches of said descriptions and the legal descriptions will be included in the deed subject to the written approval of the Parties.

10. **Deed Restriction; Reverter.** The CFX Property conveyed to City shall only be utilized for public purposes. The Parties agree that the CFX Property shall have imposed thereon a use restriction consistent with the following ("**Use Restriction**"):

"By acceptance of this deed, City agrees that the CFX Property shall only be used for public purposes, including, without limitation, public right-of-way, stormwater, fire, health, and safety uses, and pedestrian uses (collectively, the "**Permitted Use**"). Further, the foregoing use restriction shall run with title to the CFX Property for a term of the lesser of forty (40) years after the date of recording of this deed or the maximum number of years allowable by law ("**Term**"). During the Term, if the CFX Property ceases to be used for a Permitted Use, CFX may elect to pursue any remedies available to the CFX in law or equity including,

without limitation, specific performance, or for all right, title, and interest to the CFX Property that is not used for a Permitted Use to automatically revert back to CFX at no cost to CFX. In such event, CFX shall notify City in writing of its intent to exercise its right of reverter with respect to the CFX Property (“**Reversion Notice**”). Notwithstanding the foregoing, in the event City desires to cease operation of the CFX Property for a Permitted Use or otherwise sell, convey, or transfer the CFX Property to a third party, City shall provide written notice to CFX of such (“**Sale Notice**”) and in such event, CFX shall have the right of first refusal and shall have ninety (90) days from CFX’s receipt of the Sale Notice to deliver to City a Reversion Notice.”

The conveyance provided herein is made by a governmental entity to a governmental entity and therefore excepted from the provisions of Section 689.18, Florida Statutes, and excluded from the application of the statutory rules against perpetuities as set forth in Section 689.225(2), Florida Statutes.

11. **Closing Date and Location.** The closing of the conveyances contemplated under this Agreement (“**Closing**”) shall be held on or before thirty (30) days after the Effective Date (hereinafter defined) or such earlier date selected by CFX upon not less than five (5) days’ prior written notice to City (“**Closing Date**”), at the offices of CFX, or CFX’s attorney, or any other place which is mutually acceptable to the Parties. The Parties agree that the Closing may occur virtually or via mail away or courier services. The Closing Date is subject to an option to extend that may be exercised with written approval from the City Manager and the Executive Director of CFX, as applicable.

12. **Conveyance of Title.** CFX shall execute and deliver to City the required CFX Deed, as described above.

13. **Closing Documents and FIRPTA Affidavit.** At Closing, CFX, as the owner of the CFX Property (“**Owner**”) shall sign a closing statement, if applicable, and an affidavit that Owner is not a foreign person for purposes of the Foreign Investment in Real Property Tax Act (FIRPTA), as revised by the Deficit Reduction Act of 1984 and as same may be amended from time to time (which certificates shall include Owner’s taxpayer identification numbers and address or a withholding certificate from the Internal Revenue Service stating that Owner is exempt from withholding tax on the consideration exchanged under FIRPTA) and such other documents as are necessary to complete the transaction. In the event City elects to obtain a Commitment, CFX shall execute an owner’s affidavit including matters referenced in Section 627.7842(b) and (c), Florida Statutes.

14. **Closing Costs.** City shall pay any and all costs and expenses associated with, or arising from the conveyance of the CFX Property to the City, including, without limitation, the following: (i) all real property transfer and transaction taxes and levies relating to the purchase or sale of the Property, if any, including, without limitation, the documentary stamps which shall be affixed to the CFX Deed, (ii) any costs or expenses associated with the Commitment, title policy issued therefor, or the Survey, (iii) the cost of recording the CFX Deed, and (iv) preparation and recordation of any instruments necessary to correct title, if applicable. Unless otherwise agreed upon by CFX, the City shall prepare, at City’s sole expense and expense, all documents required

for the closing. Other than the aforementioned document preparation costs, each party shall pay its own attorneys' fees and costs.

15. **Recording.** City, at its sole cost and expense, agrees to record the CFX Deed no later than thirty (30) days after delivery of the original CFX Deed to City. City agrees to deliver to CFX a copy of the recorded CFX Deed. CFX agrees to records, at its sole cost and expense, the Release no later than thirty (30) days after delivery of the recorded CFX Deed to CFX.

16. **As-Is Conveyance.** City hereby agrees, acknowledges and understands that the CFX Property is being conveyed to City "AS IS, WHERE IS, WITH ALL FAULTS," in such condition as the same may be on the Closing Date, without any representations or warranties by CFX as to any condition of the CFX Property, including, without limitation, surface and subsurface environmental conditions, whether latent or patent. CFX makes no guarantee, warranty, or representation, express or implied, as to the quality, character, or condition of the CFX Property, or any part thereof, or to the fitness of the CFX Property, or any part thereof, for any use or purpose, or any representation as to the nonexistence of any hazardous substances. Neither party shall have any claim against the other, in law or in equity, based upon the condition of the CFX Property, or the failure of the CFX Property to meet any standards. In no event shall CFX be liable for any incidental, special, exemplary, or consequential damage. In the event that any hazardous substances are discovered on, at, or under the CFX Property, neither party shall maintain any action or assert any claim against the other, its successors and their respective members, employees, and agents arising out of or relating to any such hazardous substances. The provisions of this Section shall survive the Closing. (CFX Manual, Sec. 5-6.09) City has read and understands the provisions of this Section and acknowledges and agrees that except as expressly set forth in this Agreement, it is acquiring the CFX Property "**AS-IS, WHERE IS AND WITH ALL FAULTS**" and that CFX has disclaimed herein any and all warranties, express or implied.

17. **Notices.** Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered, transmitted electronically or within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

CFX: CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: Executive Director

With a copy to: CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: General Counsel

CITY: CITY OF APOPKA  
Attn: Mayor  
120 East Main Street  
Apopka, Florida 32703-5346

With a copy to: CITY OF APOPKA  
Attn: City Attorney  
120 East Main Street  
Apopka, Florida 32703-5346

or to such other address as either party hereto shall from time to time designate to the other party by notice in writing as herein provided. The attorneys for the parties set forth herein may deliver and receive notices on behalf of their clients.

18. **Default.** In the event either of the Parties breaches any warranty or representation contained in this Agreement or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements, or obligations to be performed by said party under the terms and provisions of this Agreement, the other party, in its sole discretion, and after thirty (30) days prior written notice and opportunity to cure, shall be entitled to: (i) exercise any and all rights and remedies available to said party at law and in equity, including, without limitation, the right of specific performance, or (ii) terminate this Agreement, whereupon the Agreement shall be deemed null and void and of no further force and effect, and no party hereto shall have any further rights, obligations, or liability hereunder. Upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect.

19. **General Provisions.** No failure of either party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof. This Agreement contains the entire agreement of the Parties hereto, and no representations, inducements, promises, or agreements, oral or otherwise, between the Parties not embodied herein shall be of any force or effect. Any amendment to this Agreement shall not be binding upon any of the Parties hereto unless such amendment is in writing and executed by both Parties. Wherever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday, or legal holiday, such time for performance shall be extended to the next business day. This Agreement may be executed in multiple counterparts, including by electronic (including digital) signature in compliance with Chapter 668, Florida Statutes, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. The headings inserted at the beginning of each paragraph of this Agreement are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph. City and CFX do hereby agree that such documents as may be legally necessary or otherwise appropriate to carry out the terms of this Agreement shall be executed and delivered by each party at or prior to Closing. This Agreement shall be interpreted under the laws of the State of Florida. The Parties hereto agree that the exclusive venue and jurisdiction for any legal action authorized hereunder shall be in the courts of Orange County,

Florida. TIME IS OF THE ESSENCE OF THIS AGREEMENT AND EACH AND EVERY PROVISION HEREOF.

20. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns.

21. **Survival of Provisions.** All representations and warranties set forth in this Agreement shall survive the Closing and shall survive the execution or delivery of any and all deeds and other documents at any time executed or delivered under, pursuant to, or by reason of this Agreement, and shall survive the payment of all monies made under, pursuant to, or by reason of this Agreement.

22. **Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules, and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

23. **Effective Date.** This Agreement shall be and become effective on the date that it is signed and executed by the last to sign of CFX and City (“**Effective Date**”).

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed in a manner and form sufficient to bind them on the date set forth herein below.

[ SIGNATURES TO FOLLOW ]

**“CITY”**

**CITY OF APOPKA**

By: \_\_\_\_\_  
Bryan Nelson, Mayor

Date: \_\_\_\_\_

Attest:

Approved as to form and legality by legal  
counsel.

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Michael A. Rodriquez

[ADDITIONAL SIGNATURE PAGE TO FOLLOW]



“CFX”

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

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

**LIST OF EXHIBITS**

**Exhibit “A” - Legal Description of the CFX Property**

**Exhibit “B” - CFX Deed**

**Exhibit “C” – Existing L/A Lines**

**Exhibit “D” - Release**

**EXHIBIT "A"**  
**Legal Description of the CFX Property**

# Description

A portion of Section 20, Township 21 South, Range 28 East, Orange County, Florida, being more particularly described as follows:

Commence at the Southeast corner of the Southeast One Quarter of the Northwest One Quarter of Section 20, Township 21 South, Range 28 East, Orange County, Florida; thence North 00°31'34" East, a distance of 1178.06 feet along the East line of said Southeast One Quarter of the Northwest One Quarter, to the POINT OF BEGINNING; said point being on the Northerly line of a parcel described in Official Records Book 10692, Page 5890, of the Public Records of Orange County, Florida; thence North 43°31'05" West, a distance of 202.11 feet along said Northerly line to a point on a non-tangent curve, concave Northwesterly, having a radius of 7469.44 feet, a central angle of 00°13'20" and a chord bearing and distance of North 46°22'15" East, 28.97 feet; said point being on the Southeasterly line of a parcel described in Official Records Book 10744, Page 2358 of the Public Records of Orange County, Florida; thence departing said Northerly line from a tangent bearing of North 46°28'55" East, Northeasterly along the arc of said curve and along said Southeasterly line, a distance of 28.97 feet; thence departing said Southeasterly line South 58°12'38" East, a distance of 268.32 feet; thence North 44°47'28" East, a distance of 252.76 feet to the point of curvature of a curve, concave Southeasterly, having a radius of 587.50 feet, a central angle of 04°42'44", and a chord bearing and distance of North 47°08'50" East, 48.31 feet; thence Northeasterly along the arc of said curve, a distance of 48.32 feet to the point of tangency; thence departing said curve North 49°30'12" East, a distance of 302.51 feet to the point of curvature of a curve, concave Southeasterly, having a radius of 812.50 feet, a central angle of 06°46'46" and a chord bearing and distance of North 52°53'35" East, 96.08 feet; thence Northeasterly along the arc of said curve 96.14 feet to a point on the existing Easterly Limited Access right of way line of State Road 451 as shown on State Road 429/414 Systems Interchange Project No. 429/200 Right of Way Map; said point also being a point on a non-tangent curve, concave Northwesterly, having a radius of 7789.44 feet, a central angle of 00°34'51", and a chord bearing and distance of South 40°54'38" West, 78.97 feet; thence from a tangent bearing of South 40°37'12" West, Southwesterly along the arc of said curve and along said Easterly Limited Access Right of Way Line, 78.97 feet; thence continuing along said Easterly Limited Access Right of Way Line the following four courses and distances: South 36°21'30" West, a distance of 205.20 feet to a point on a non-tangent curve, concave Northwesterly, having a radius of 7809.44 feet, a central angle of 02°59'59", and a chord bearing and distance of South 44°12'04" West, 408.82 feet; thence from a tangent bearing of South 42°42'05" West, Southwesterly along the arc of said curve a distance of 408.86 feet; thence South 44°17'56" East, a distance of 10.00 feet to a point on a non-tangent curve, concave Northwesterly, having a radius of 7819.44 feet, a central angle of 00°46'52", and a chord bearing and distance of South 46°05'30" West, 106.59 feet; thence from a tangent bearing of South 45°42'04" West, Southerly along the arc of said curve, a distance of 106.59 feet to a point on the aforesaid Northerly line of parcel described in Official Records Book 10692, Page 5890, of the Public Records of Orange County, Florida; thence departing said existing Limited Access Right of Way Line, North 43°31'05" West, a distance of 147.89 feet along said Northerly line to the Point of Beginning.

Containing 1.531 acres, more or less.

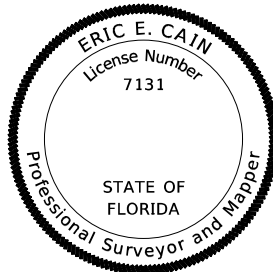
**PREPARED FOR:**  
NEWKIRK ENGINEERING  
CITY OF APOPKA

## SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE SKETCH OF DESCRIPTION OF THE ABOVE DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS RECENTLY DRAWN UNDER MY DIRECTION AND THAT IT MEETS THE STANDARDS OF PRACTICE FOR LAND SURVEYING CHAPTER 5J-17 REQUIREMENTS OF THE FLORIDA ADMINISTRATIVE CODE.

**NOTES:**

- BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA BEING SOUTH 89°38'00" WEST.
- THIS SKETCH AND LEGAL DESCRIPTION OR COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



THIS DOCUMENT HAS BEEN DIGITALLY SIGNED AND SEALED BY:

**Eric E Cain**  
Digitally signed by Eric E Cain  
Date: 2021.08.17 13:41:50 -04'00'

ERIC E. CAIN  
FLORIDA PROFESSIONAL SURVEYOR & MAPPER LS 7131

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED. THE SIGNATURE MUST BE VERIFIED ON THE ELECTRONIC DOCUMENT.



ECHO UES, INC.  
CERTIFICATION OF AUTHORIZATION 8184  
400 STATE ROAD 434, SUITE 1024  
OVIDO, FLORIDA 32765  
888.778.ECHO | [www.echoues.com](http://www.echoues.com)

DATE: 08/17/2021  
PROJECT NUMBER: 20-379  
OFFICE: DH  
CHECKED: EC

SCALE:  
1"=200'  
SHEET 01 OF 03

# Description

Part A  
Reserving unto Grantor all rights of Ingress, Egress, Light, Air and View to, From or Across any property adjoining the following described line:

Commence at the Southeast corner of the Southeast One Quarter of the Northwest One Quarter of Section 20, Township 21 South, Range 28 East, Orange County, Florida; thence North  $00^{\circ}31'34''$  East, a distance of 1178.06 feet along the East line of said Southeast One Quarter of the Northwest One Quarter, said point being on the Northerly line of a parcel described in Official Records Book 10692, Page 5890, of the Public Records of Orange County, Florida; thence North  $43^{\circ}31'05''$  West, a distance of 202.11 feet along said Northerly line to a point on a non-tangent curve, concave Northwesterly, having a radius of 7469.44 feet, a central angle of  $00^{\circ}13'20''$  and a chord bearing and distance of North  $46^{\circ}22'15''$  East, 28.97 feet; said point being on the Southeasterly line of a parcel described in Official Records Book 10744, Page 2358 of the Public Records of Orange County, Florida; thence departing said Northerly line from a tangent bearing of North  $46^{\circ}28'55''$  East, Northeasterly along the arc of said curve and along said Southeasterly line, a distance of 28.97 feet, to the POINT OF BEGINNING; thence departing said Southeasterly line the following five courses and distances: South  $58^{\circ}12'38''$  East, a distance of 268.32 feet; thence North  $44^{\circ}47'28''$  East, a distance of 252.76 feet to the point of curvature of a curve, concave Southeasterly, having a radius of 587.50 feet, a central angle of  $04^{\circ}42'44''$ , and a chord bearing and distance of North  $47^{\circ}08'50''$  East, 48.31 feet; thence Northeasterly along the arc of said curve, a distance of 48.32 feet to the point of tangency; thence departing said curve North  $49^{\circ}30'12''$  East, a distance of 302.51 feet to the point of curvature of a curve, concave Southeasterly, having a radius of 812.50 feet, a central angle of  $06^{\circ}46'46''$  and a chord bearing and distance of North  $52^{\circ}53'35''$  East, 96.08 feet; thence Northeasterly along the arc of said curve 96.14 feet to the Point of Termination.

Limited Access Rights only along a line without area.



ECHO UES, INC.  
CERTIFICATION OF AUTHORIZATION 8184  
400 STATE ROAD 434, SUITE 1024  
OVIEDO, FLORIDA 32765  
888.778.ECHO | [www.echoues.com](http://www.echoues.com)

DATE: 08/17/2021

PROJECT NUMBER: 20-379

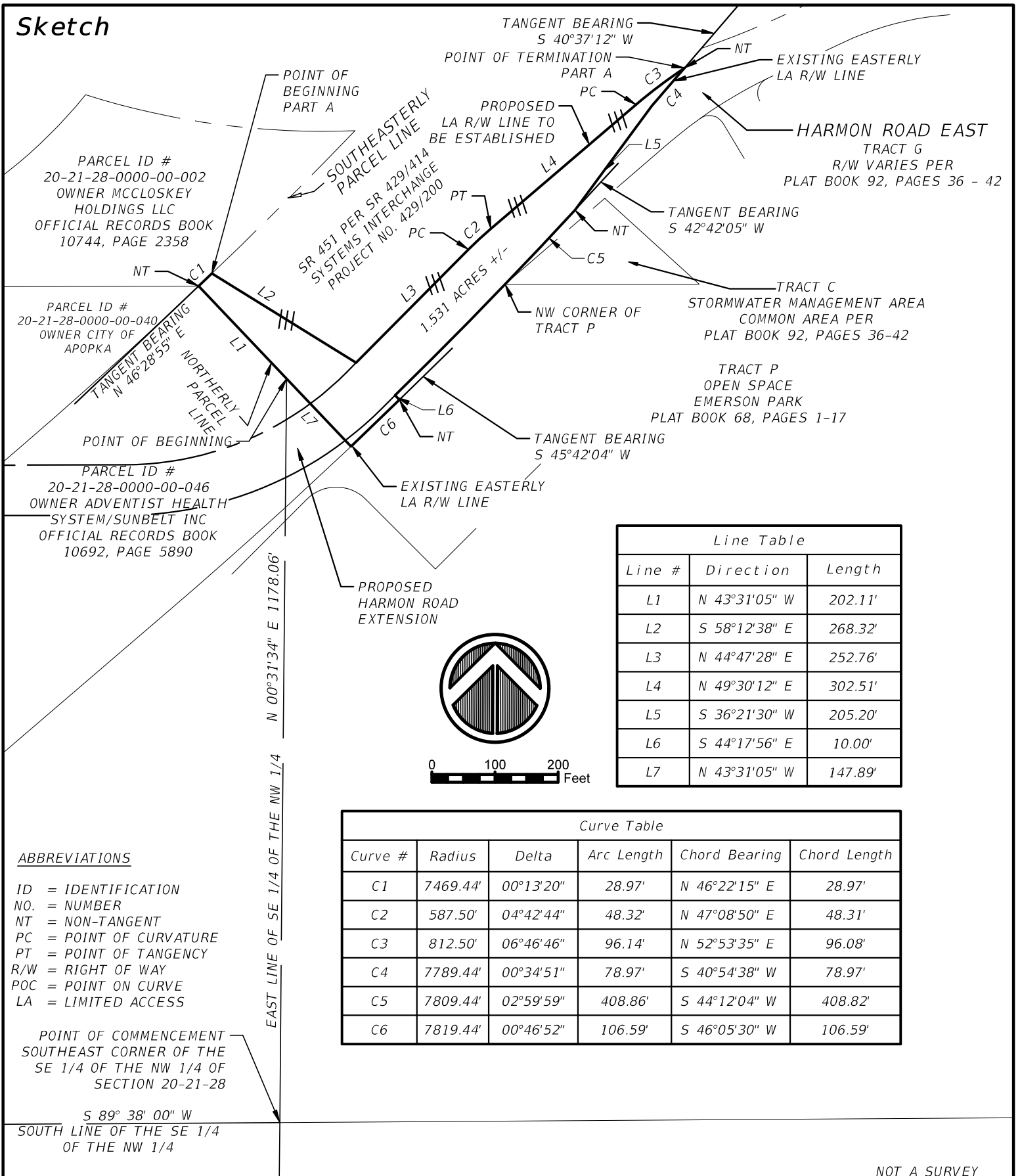
OFFICE: DH

CHECKED: EC

SCALE:  
1"=200'

SHEET 02 OF 03

# Sketch



PARCEL ID #  
20-21-28-0000-00-002  
OWNER MCCLOSKEY  
HOLDINGS LLC  
OFFICIAL RECORDS BOOK  
10744, PAGE 2358

PARCEL ID #  
20-21-28-0000-00-040  
OWNER CITY OF  
APOPKA

PARCEL ID #  
20-21-28-0000-00-046  
OWNER ADVENTIST HEALTH  
SYSTEM/SUNBELT INC  
OFFICIAL RECORDS BOOK  
10692, PAGE 5890

EAST LINE OF SE 1/4 OF THE NW 1/4  
N 00°31'34" E 1178.06'

Line #	Direction	Length
L1	N 43°31'05" W	202.11'
L2	S 58°12'38" E	268.32'
L3	N 44°47'28" E	252.76'
L4	N 49°30'12" E	302.51'
L5	S 36°21'30" W	205.20'
L6	S 44°17'56" E	10.00'
L7	N 43°31'05" W	147.89'

Curve #	Radius	Delta	Arc Length	Chord Bearing	Chord Length
C1	7469.44'	00°13'20"	28.97'	N 46°22'15" E	28.97'
C2	587.50'	04°42'44"	48.32'	N 47°08'50" E	48.31'
C3	812.50'	06°46'46"	96.14'	N 52°53'35" E	96.08'
C4	7789.44'	00°34'51"	78.97'	S 40°54'38" W	78.97'
C5	7809.44'	02°59'59"	408.86'	S 44°12'04" W	408.82'
C6	7819.44'	00°46'52"	106.59'	S 46°05'30" W	106.59'

- ABBREVIATIONS**
- ID = IDENTIFICATION
  - NO. = NUMBER
  - NT = NON-TANGENT
  - PC = POINT OF CURVATURE
  - PT = POINT OF TANGENCY
  - R/W = RIGHT OF WAY
  - POC = POINT ON CURVE
  - LA = LIMITED ACCESS

POINT OF COMMENCEMENT  
SOUTHEAST CORNER OF THE  
SE 1/4 OF THE NW 1/4 OF  
SECTION 20-21-28  
  
S 89° 38' 00" W  
SOUTH LINE OF THE SE 1/4  
OF THE NW 1/4



ECHO UES, INC.  
CERTIFICATION OF AUTHORIZATION 8184  
400 STATE ROAD 434, SUITE 1024  
OVIDO, FLORIDA 32765  
888.778.ECHO | www.echoues.com

DATE: 08/17/2021  
PROJECT NUMBER: 20-379  
OFFICE: DH  
CHECKED: EC

NOT A SURVEY  
SCALE:  
1"=200'  
SHEET 03 OF 03

**EXHIBIT "B"**  
**CFX Deed**

**Prepared By:**

Laura L. Kelly, Esquire  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

Reserved for Recording

Project Nos. 429-604 and 429-200  
Portion of Parcel 63-117 and 63-118

This deed is exempt from Florida documentary stamp tax under Department of Revenue Rules 12B-4.002(4)(a), 12B-4.014(10), F.A.C., and Section 201.02(6), Florida Statutes.

**QUIT CLAIM DEED**

**THIS QUIT CLAIM DEED**, dated as of the date of execution below, by **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 ("**Grantor**"), and **CITY OF APOPKA, FLORIDA**, a municipality of the State of Florida, whose address is 120 East Main Street, Apopka, Florida 32703-5346 ("**Grantee**").

**WITNESSETH**, that the Grantor, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other valuable considerations, the receipt and sufficiency whereof is hereby acknowledged, does hereby remise, release, and forever quit-claim unto the said Grantee, all the right, title, interest, claim, and demand which the Grantor has in and to the following described real property, situate, lying and being in Orange County, Florida, more particularly described as follows ("**Property**"):

**SEE ATTACHED EXHIBIT "A"**

**TO HAVE AND TO HOLD** the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining and all the estate, right, title, interest, lien, equity,

and claim whatsoever of the Grantor, either in law or equity, to the only proper use, benefit, and behoove of the Grantee forever.

**SUBJECT TO** the covenants, conditions, restrictions, reservations, and easements which are set forth below:

- a) Grantor reserves unto itself, its successors and assigns, all rights of ingress, egress, light, air, and view to, from, or across any State Road (S.R.) 429 right-of-way property which may otherwise accrue to any portion of the Property abutting said right-of-way. Grantee has no rights of ingress, egress, or access to S.R. 429 from the Property, nor does Grantee have any rights of light, air or view from S.R. 429 associated with the Property. Grantor is not conveying or restoring any other abutters' rights, including, without limitation, any claims for ingress, egress, air, light and view between the Property being conveyed, any abutting property, S.R. 429 and any other remaining property owned by Grantor.
- b) Grantor reserves unto itself, its successors and assigns, all rights of ingress, egress, light, air, and view.
- c) By acceptance of this deed, Grantee expressly agrees for itself, and its successors and assigns, to prevent any use of the Property which would interfere with S.R. 429 or otherwise constitute a hazard for S.R. 429 or any related system or structure.
- d) By acceptance of this deed, Grantee acknowledges that portions of the Property may have been acquired via eminent domain and are subject to Section 73.013, Florida Statutes.
- e) By acceptance of this deed, Grantee expressly agrees for itself, and its successors and assigns, that in the event the Grantee no longer uses the Property (or any part thereof) for public purposes, including, without limitation, public right-of-way, stormwater, fire, health, and safety uses, and pedestrian uses (collectively, the "Permitted Use"), then all right, title, and interest to the Property that is not used for a Permitted Use shall automatically revert back to Grantor, at Grantor's option and at no cost to Grantor. Further, the foregoing use restriction shall run with title to the Property for a term of the lesser of forty (40) years after the date of recording of this deed or the maximum number of years allowable by law ("Term"). During the Term, if the Property ceases to be used for a Permitted Use, Grantor may elect to pursue any remedies available to the Grantor in law or equity including, without limitation, specific performance, or for all right, title, and interest to the Property that is not used for a Permitted Use to automatically revert back to Grantor at no cost to Grantor. In such event, Grantor shall notify Grantee in writing of its intent to exercise its right of reverter with respect to the Property ("Reversion Notice"). Notwithstanding the foregoing, in the event Grantee desires to cease operation of the Property for a Permitted Use or otherwise sell, convey, or transfer the Property to a third party, Grantee shall provide written notice to Grantor of such ("Sale Notice") and in such event, Grantor shall have the right of first refusal

and shall have ninety (90) days from Grantor's receipt of the Sale Notice to deliver to Grantee a Reversion Notice.

- f) The conveyance provided herein is made by a governmental entity to a governmental entity and therefore excepted from the provisions of Section 689.18, Florida Statutes, and excluded from the application of the statutory rules against perpetuities as set forth in Section 689.225(2), Florida Statutes.
- g) Easements, covenants, restrictions, agreements, conditions, limitations, reservations and matters of record, if any, provided; however, this reference shall not operate to reimpose the same.
- h) Ad valorem real property taxes and assessments, if applicable, for the year 2021 and subsequent years.

The preparer of this deed was neither furnished with, nor requested to review, an abstract of title for the above described Property and therefore expresses no opinion as to the condition of title.

**IN WITNESS WHEREOF**, the said Grantor has caused these presents to be signed in its name by its duly authorized representative.

Signed, sealed, and delivered  
in the presence of:

**“GRANTOR”**

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Buddy Dyer, its Chairman

\_\_\_\_\_  
Print Name: \_\_\_\_\_

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





**EXHIBIT "C"**  
**Existing L/A Lines**

# Description

Release of a portion of the Limited Access rights along former State Road 451 as shown on State Road 429/414 Systems Interchange Project No. 429/200 Right of Way Map; and lying in Section 20, Township 21 South, Range 28 East, Orange County, Florida, being more particularly described as follows:

Commence at the Southeast corner of the Southeast One Quarter of the Northwest One Quarter of Section 20, Township 21 South, Range 28 East, Orange County, Florida; thence North 00°31'34" East, a distance of 1178.06 feet along the East line of said Southeast One Quarter of the Northwest One Quarter, to a point on the Northerly line of a parcel described in Official Records Book 10692, Page 5890, of the Public Records of Orange County, Florida; thence South 43°31'05" West, a distance of 147.89 feet along said Northerly line to a point on a non-tangent curve, concave Northwesterly, having a radius of 7819.44 feet, a central angle of 00°46'52" and a chord bearing and distance of North 46°05'30" East, 106.59 feet, being a point on the Existing Easterly Limited Access right of way line of State Road 451 as shown on State Road 429/414 Systems Interchange Project No. 429/200 Right of Way Map, said point also being the POINT OF BEGINNING; thence along said Easterly Limited Access right of way line the following five (5) courses and distances: from a tangent bearing of North 46°28'55" East, Northeasterly along the arc of said curve a distance of 106.59 feet; thence departing said curve North 44°17'56" West, a distance of 10.00 feet to a point on a non-tangent curve concave Northwesterly, having a radius of 7809.44 feet, a central angle of 02°59'59" and a chord bearing and distance of North 44°12'04" East, 408.82 feet; thence from a tangent bearing of North 45°42'04" East, Northeasterly along the arc of said curve a distance of 408.86 feet; thence departing said curve North 36°21'30" East, a distance of 205.20 feet to a point on a non-tangent curve, concave Northwesterly, having a radius of 7789.44 feet, a central angle of 00°34'51" and a chord bearing and distance of North 40°54'38" East, 78.97 feet; thence from a tangent bearing of North 41°12'03" East, Northeasterly along said curve a distance of 78.97 feet to a Point of Termination.

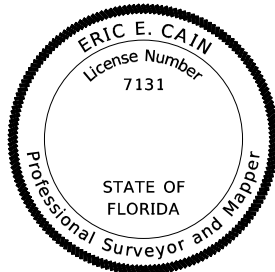
**PREPARED FOR:**  
NEWKIRK ENGINEERING  
CITY OF APOPKA

### SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE SKETCH OF DESCRIPTION OF THE ABOVE DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS RECENTLY DRAWN UNDER MY DIRECTION AND THAT IT MEETS THE STANDARDS OF PRACTICE FOR LAND SURVEYING CHAPTER 5J-17 REQUIREMENTS OF THE FLORIDA ADMINISTRATIVE CODE.

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA BEING SOUTH 89°38'00" WEST.
2. THIS SKETCH AND LEGAL DESCRIPTION OR COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



THIS DOCUMENT HAS BEEN DIGITALLY SIGNED AND SEALED BY:

**Eric E Cain**  
Digitally signed by Eric E Cain  
Date: 2021.08.17 13:44:55 -04'00'

ERIC E. CAIN  
FLORIDA PROFESSIONAL SURVEYOR & MAPPER LS 7131

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED. THE SIGNATURE MUST BE VERIFIED ON THE ELECTRONIC DOCUMENT.



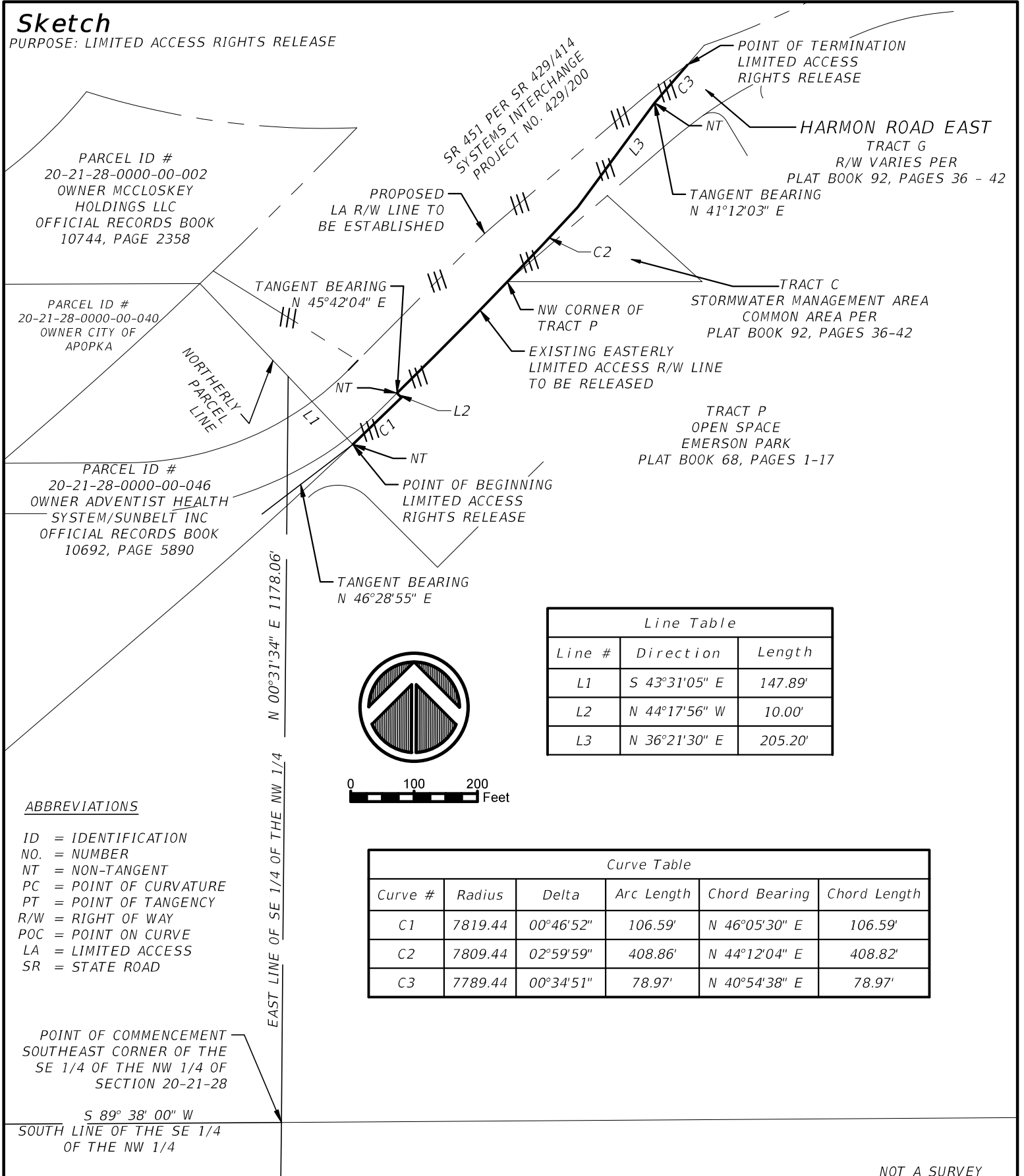
ECHO UES, INC.  
CERTIFICATION OF AUTHORIZATION 8184  
400 STATE ROAD 434, SUITE 1024  
OVIDO, FLORIDA 32765  
888.778.ECHO | [www.echoues.com](http://www.echoues.com)

DATE: 08/17/2021
PROJECT NUMBER: 20-379
OFFICE: DH
CHECKED: EC

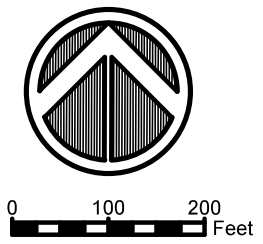
SCALE: 1"=200'
SHEET 01 OF 02

# Sketch

PURPOSE: LIMITED ACCESS RIGHTS RELEASE



Line #	Direction	Length
L1	S 43°31'05" E	147.89'
L2	N 44°17'56" W	10.00'
L3	N 36°21'30" E	205.20'



- ABBREVIATIONS**
- ID = IDENTIFICATION
  - NO. = NUMBER
  - NT = NON-TANGENT
  - PC = POINT OF CURVATURE
  - PT = POINT OF TANGENCY
  - R/W = RIGHT OF WAY
  - POC = POINT ON CURVE
  - LA = LIMITED ACCESS
  - SR = STATE ROAD

Curve #	Radius	Delta	Arc Length	Chord Bearing	Chord Length
C1	7819.44	00°46'52"	106.59'	N 46°05'30" E	106.59'
C2	7809.44	02°59'59"	408.86'	N 44°12'04" E	408.82'
C3	7789.44	00°34'51"	78.97'	N 40°54'38" E	78.97'

NOT A SURVEY

	ECHO UES, INC. CERTIFICATION OF AUTHORIZATION 8184 400 STATE ROAD 434, SUITE 1024 OVIEDO, FLORIDA 32765 888.778.ECHO   www.echoues.com	DATE: 08/17/2021	SCALE: 1"=200'
		PROJECT NUMBER: 20-379	SHEET 02 OF 02
		OFFICE: DH	
		CHECKED: EC	

**EXHIBIT "D"**  
**Release**

***Prepared by and Return to:***

Laura L. Kelly  
Associate General Counsel  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807

For recording purposes

Project Nos. 429-604 and 429-200  
Portion of Parcel 63-117 and 63-118

**NOTICE OF PARTIAL RELEASE OF LIMITED ACCESS LINE**

**THIS NOTICE OF PARTIAL RELEASE OF LIMITED ACCESS LINES** ("Notice") is hereby executed the \_\_\_\_\_ day of \_\_\_\_\_ 2021 by CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a public corporation and an agency of the State of Florida ("CFX"), whose mailing address is 4974 ORL Tower Road, Orlando, Florida 32807.

**RECITALS:**

**WHEREAS**, CFX is the owner and holder of a limited access lines running along the boundary of Parcels 63-117 and 63-118, as more particularly described as Limited Access Right of Way Parcels \_\_\_\_\_ as acquired pursuant to that certain \_\_\_\_\_ ("Existing Limited Access Lines"); and

**WHEREAS**, Orange County has conveyed to CFX new limited access lines also along the west side of Harmon Road as established in a Quit Claim Deed from CFX to the County dated \_\_\_\_\_ and recorded \_\_\_\_\_ as Document number \_\_\_\_\_; and

**WHEREAS**, CFX is desirous of releasing a portion of the Existing Limited Access Lines along Harmon Road more particularly described on **Exhibit "A"** attached hereto and incorporated herein by reference.

**WITNESSETH:**

**NOW, THEREFORE**, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which CFX hereby acknowledges, the CFX agrees:

1. **Incorporation.** The foregoing recitals are hereby incorporated into and made a part of this Notice.

2. **Release.** CFX hereby releases and terminates the portion of the Existing Limited Access Lines represented by the limited access lines more particularly set forth on **Exhibit "A"** attached hereto and incorporated herein by this reference. It is understood and agreed that nothing contained herein shall be construed to release, discharge or convey any other portion of the limited access lines, the remainder of which shall remain and continue in full force and effect.

**IN WITNESS WHEREOF**, CFX has caused this instrument to be executed in the manner and form sufficient to bind it as of the day and year first above written.

[SIGNATURE PAGE TO FOLLOW]

Signed, sealed, and delivered  
in the presence of:

“CFX”

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Buddy Dyer, its Chairman

\_\_\_\_\_  
Print Name: \_\_\_\_\_

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

STATE OF FLORIDA                    )  
COUNTY OF \_\_\_\_\_        )

The foregoing instrument was acknowledged before me by means of [ ] physical presence  
or [ ] online notarization on this \_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_  
\_\_\_\_\_, as Chairman of the Central Florida Expressway Authority, on behalf of the organization.  
He is personally known to me OR produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Signature of Notary Public - State of Florida  
Print Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**ATTACHMENT "D"**



Dewberry Engineers Inc. | 407.843.5120  
800 N. Magnolia Ave, Suite 1000 | 407.649.8664 fax  
Orlando, FL 32803 | www.dewberry.com

August 25, 2021

Mr. Glenn Pressimone, P.E.  
Chief of Infrastructure  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

**RE: DEDICATION OF PROPERTY**  
SR 429, Project 429-604 and 429-200  
CFX to City of Apopka - Parcels 63-117 Partial and 63-118 Partial

Dear Mr. Pressimone:

On behalf of Dewberry Engineers, Inc., as Consulting Engineer (the "Consulting Engineer") to the Central Florida Expressway Authority ("CFX") does here by certify as follows:

1. We have reviewed the limits of the parcels associated with the Harmon Road area shown in Exhibit "A" attached hereto. The SR 429 Projects 429-604 and 429-200 are completed. In our opinion, based upon the foregoing, we certify that CFX Parcels listed above are no longer essential for the current or future construction, operation or maintenance of the CFX Expressway System and the transfer of the subject parcels to Orange County would not impede or restrict the current or future construction, operation or maintenance of the CFX Expressway System.
2. The release of and reestablishment of the Limited Access lines in parcels 63-117 and 63-as referenced in Exhibit "A" is required and would not materially affect or interfere with the present or future construction, use, operation, repair or maintenance of the Expressway Facilities, or otherwise impair traffic operations or maintenance of any portion of the Expressway System. The reestablishment of the Limited Access Lines is shown in the transfer documents.
3. Furthermore, this certificate is being provided by the Consulting Engineer to CFX solely for the purposes of complying with Section 5.4 of CFX's Amended and Restated Master Bond Resolution and the requirements set forth in CFX's Manual and may not be relied on by any other person or party for any other purpose.

Sincerely,

R. Keith Jackson, P.E.  
Program Manager

Attachments

cc: Laura N Kelly, Esq. CFX (w/ enc.)



# ATTACHMENT "E"

Resolution No. 2021-\_\_\_\_\_  
Project Nos. 429-604 and 429-200  
Portion of Parcel 63-117 and 63-118

## **A RESOLUTION OF THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY DECLARING PROPERTY AS SURPLUS PROPERTY AVAILABLE FOR SALE, AUTHORIZING THE TRANSFER OF SURPLUS PROPERTY WITH CITY OF APOPKA, FLORIDA, AND RELEASE AND REESTABLISHMENT OF LIMITED ACCESS LINES**

**WHEREAS**, the Central Florida Expressway (“CFX”), is empowered by Chapter 348, Part V, Florida Statutes, to acquire, hold, construct, improve, maintain, and operate the Central Florida Expressway System (the “Expressway Facilities”), and is further authorized to sell, lease, transfer or otherwise dispose of any property or interest therein at any time acquired by CFX; and

**WHEREAS**, CFX has adopted that certain Policy Regarding the Disposition of Excess Lands, section 5-6.01, *et. seq.*, of CFX’s Property Acquisition, Disposition & Permitting Procedures Manual (referred to herein as the “Row Manual”), which Row Manual provides for the disposal of real property unnecessary or unsuitable for CFX’s use; and

**WHEREAS**, pursuant to the Row Manual, “Excess Property” is “[r]eal property, of any monetary value, located outside of the current operating Right of Way limits of CFX not currently needed to support existing Expressway Facilities as determined by staff;” and

**WHEREAS**, pursuant to the Row Manual, where Excess Property is not essential for present or future construction, operation or maintenance of the Expressway Facilities or for CFX purposes, the CFX Board may declare such Excess Property to be “Surplus Property” through the adoption of a resolution and direct that the Surplus Property be sold; and

**WHEREAS**, section 5-1.01 of the Row Manual allows CFX to waive the procedures in a particular circumstance where deemed to be in the best interest of CFX and the public, provided that such waiver is not in conflict with state or federal law; and

**WHEREAS**, CFX has adopted that certain Policy Regarding the Release of Limited Access Lines, Part 7 of the Row Manual, which provides for the release of limited access rights of CFX upon determination that the release would not result in the negative effects to CFX’s Expressway System; and

**WHEREAS**, CFX staff and its General Engineering Consultant has examined the Expressway Facilities for State Road (“S.R.”) 429 and determined that the real property referred

to as portions of Parcels 63-117 and 63-118, as more particularly described in **Exhibit “A”** attached hereto and incorporated herein by reference (“CFX Parcels”) is not needed to support existing Expressway Facilities; and

**WHEREAS**, CFX's General Engineering Consultant has certified that the CFX Parcels are not essential for present or future construction, operation or maintenance of the Expressway Facilities or for CFX purposes and that the disposition of the CFX Parcels would not impede or restrict the Expressway System; and

**WHEREAS**, CFX’s Right of Way Committee has determined that it is in the best interest of CFX and the public to designate the CFX Parcels as Excess Property; and

**WHEREAS**, in light of the foregoing circumstances, CFX’s Right of Way Committee has recommended that the CFX Board adopt a resolution declaring the CFX Parcels to be Surplus Property; and

**WHEREAS**, City of Apopka, Florida, a municipality of the State of Florida (“City”), has requested a donation of the CFX Parcels from CFX to the City for public right-of-way purposes; and

**WHEREAS**, CFX’s Right of Way Committee has determined that the transfer of the CFX Parcels to the City for public right-of-way, in exchange for the City’s assumption of the continuing maintenance obligations associated with the CFX Parcels in accordance with the terms of the Right-of-way Transfer and Continuing Maintenance Agreement (“Agreement”) would be in the best interest of CFX and the public; and

**WHEREAS**, portions of the CFX Parcels are encumbered with limited access lines held by CFX as more particularly identified in **Exhibit “B”** attached hereto and incorporated herein by reference (“Existing L/A Lines”); and

**WHEREAS**, it is in the best interest of CFX to relocate and reestablish the location of the Existing L/A Lines in accordance with the terms of the Agreement; and

**WHEREAS**, CFX's General Engineering Consultant has certified that the release of the Existing L/A Lines will not (1) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of the Expressway Facilities; (2) otherwise impair traffic operations or maintenance of any portion of the Expressway Facilities; or (3) otherwise be prohibited or in conflict with any laws, regulations, requirements, covenants, or agreements binding upon CFX, provided that the limited access lines are re-established in the deed to the City prior to the release of the Existing L/A Lines; and

**WHEREAS**, CFX’s Right of Way Committee has recommended that the CFX Parcels be donated to the City for public purposes, in accordance with CFX's Row Manual, except for the

following conditions or modifications: (1) separate notice to the local government in which the CFX Parcels and Existing L/A Lines are located is not required; (2) conveyance will be via Quit Claim Deed, rather than Special Warranty Deed, subject to a deed restriction and right of reverter restricting the use of the CFX Parcels for public right-of-way, and (3) that the Existing L/A Lines will be released and re-established as set forth in the Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AS FOLLOWS:**

1. CFX hereby declares that the real property identified in **Exhibit “A”** attached hereto is not essential for present or future construction, operation or maintenance of the Expressway Facilities or essential for CFX purposes and is Excess Property.

2. CFX hereby finds that it is in the best interest of CFX and the public to declare the CFX Parcels as Surplus Property, and CFX hereby declares the CFX Parcels as Surplus Property available for sale.

3. CFX hereby finds that it is in the interest of both CFX and the public to transfer the CFX Parcels to the City for public right-of-way in exchange for the City’s assumption of the continuing maintenance obligations associated with the CFX Parcels in accordance with the terms of the Agreement.

4. Accordingly, CFX hereby declares that the CFX Parcels may be transferred to the City for public purposes, in accordance with CFX's Row Manual, except for the following conditions or modifications: (1) separate notice to the local government in which the CFX Parcels are located is not required; and (2) conveyance will be via Quit Claim Deed, rather than Special Warranty Deed, subject to a deed restriction and right of reverter restricting the use of the Parcel for public right-of-way.

5. CFX hereby declares that after the limited access lines are re-established in the deed to the City, the release of the Existing L/A Lines identified in **Exhibit “B”** will not (1) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of the Expressway Facilities, (2) otherwise impair traffic operations or maintenance of any portion of the Expressway Facilities; or (3) otherwise be prohibited or in conflict with any laws, regulations, requirements, covenants, or agreements binding upon CFX.

6. CFX declares it is in the public interest to re-establish the locations of the limited access lines as set forth in the Agreement and then release the Existing L/A Lines, subject to compliance with the requirements of the Row Manual.

7. Accordingly, CFX hereby declares that the Existing L/A Lines may be released in accordance with the Row Manual, subject to the following conditions or modifications: (1) separate notice to the local government in which the Existing L/A Lines is located is not required;

and (2) the Existing L/A Lines will not be released until the limited access lines are re-established in CFX's favor upon the recording of the deed to the City in accordance with the terms of the Agreement.

8. This Resolution shall take effect immediately upon adoption by the CFX governing Board.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Buddy Dyer, Chairman

ATTEST: \_\_\_\_\_  
Regla ("Mimi") Lamaute  
Board Services Coordinator

Approved as to form and legality for the  
exclusive use and reliance of CFX.

\_\_\_\_\_  
Diego "Woody" Rodriguez  
General Counsel

**Exhibit "A"**

**Description**

A portion of Section 20, Township 21 South, Range 28 East, Orange County, Florida, being more particularly described as follows:

Commence at the Southeast corner of the Southeast One Quarter of the Northwest One Quarter of Section 20, Township 21 South, Range 28 East, Orange County, Florida; thence North 00°31'34" East, a distance of 1178.06 feet along the East line of said Southeast One Quarter of the Northwest One Quarter, to the POINT OF BEGINNING; said point being on the Northerly line of a parcel described in Official Records Book 10692, Page 5890, of the Public Records of Orange County, Florida; thence North 43°31'05" West, a distance of 202.11 feet along said Northerly line to a point on a non-tangent curve, concave Northwesterly, having a radius of 7469.44 feet, a central angle of 00°13'20" and a chord bearing and distance of North 46°22'15" East, 28.97 feet; said point being on the Southeasterly line of a parcel described in Official Records Book 10744, Page 2358 of the Public Records of Orange County, Florida; thence departing said Northerly line from a tangent bearing of North 46°28'55" East, Northeasterly along the arc of said curve and along said Southeasterly line, a distance of 28.97 feet; thence departing said Southeasterly line South 58°12'38" East, a distance of 268.32 feet; thence North 44°47'28" East, a distance of 252.76 feet to the point of curvature of a curve, concave Southeasterly, having a radius of 587.50 feet, a central angle of 04°42'44", and a chord bearing and distance of North 47°08'50" East, 48.31 feet; thence Northeasterly along the arc of said curve, a distance of 48.32 feet to the point of tangency; thence departing said curve North 49°30'12" East, a distance of 302.51 feet to the point of curvature of a curve, concave Southeasterly, having a radius of 812.50 feet, a central angle of 06°46'46" and a chord bearing and distance of North 52°53'35" East, 96.08 feet; thence Northeasterly along the arc of said curve 96.14 feet to a point on the existing Easterly Limited Access right of way line of State Road 451 as shown on State Road 429/414 Systems Interchange Project No. 429/200 Right of Way Map; said point also being a point on a non-tangent curve, concave Northwesterly, having a radius of 7789.44 feet, a central angle of 00°34'51", and a chord bearing and distance of South 40°54'38" West, 78.97 feet; thence from a tangent bearing of South 40°37'12" West, Southwesterly along the arc of said curve and along said Easterly Limited Access Right of Way Line, 78.97 feet; thence continuing along said Easterly Limited Access Right of Way Line the following four courses and distances: South 36°21'30" West, a distance of 205.20 feet to a point on a non-tangent curve, concave Northwesterly, having a radius of 7809.44 feet, a central angle of 02°59'59", and a chord bearing and distance of South 44°12'04" West, 408.82 feet; thence from a tangent bearing of South 42°42'05" West, Southwesterly along the arc of said curve a distance of 408.86 feet; thence South 44°17'56" East, a distance of 10.00 feet to a point on a non-tangent curve, concave Northwesterly, having a radius of 7819.44 feet, a central angle of 00°46'52", and a chord bearing and distance of South 46°05'30" West, 106.59 feet; thence from a tangent bearing of South 45°42'04" West, Southerly along the arc of said curve, a distance of 106.59 feet to a point on the aforesaid Northerly line of parcel described in Official Records Book 10692, Page 5890, of the Public Records of Orange County, Florida; thence departing said existing Limited Access Right of Way Line, North 43°31'05" West, a distance of 147.89 feet along said Northerly line to the Point of Beginning.

Containing 1.531 acres, more or less.

**PREPARED FOR:**  
NEWKIRK ENGINEERING  
CITY OF APOPKA

**SURVEYOR'S CERTIFICATION**

I HEREBY CERTIFY THAT THE SKETCH OF DESCRIPTION OF THE ABOVE DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS RECENTLY DRAWN UNDER MY DIRECTION AND THAT IT MEETS THE STANDARDS OF PRACTICE FOR LAND SURVEYING CHAPTER 5J-17 REQUIREMENTS OF THE FLORIDA ADMINISTRATIVE CODE.

**NOTES:**

1. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA BEING SOUTH 89°38'00" WEST.
2. THIS SKETCH AND LEGAL DESCRIPTION OR COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



THIS DOCUMENT HAS BEEN DIGITALLY SIGNED AND SEALED BY:

**Eric E Cain**  
Digitally signed by Eric E Cain  
Date: 2021.08.17  
13:41:50 -04'00'

ERIC E. CAIN  
FLORIDA PROFESSIONAL SURVEYOR & MAPPER LS 7131

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED. THE SIGNATURE MUST BE VERIFIED ON THE ELECTRONIC DOCUMENT.



ECHO UES, INC.  
CERTIFICATION OF AUTHORIZATION 8184  
400 STATE ROAD 434, SUITE 1024  
OVIDO, FLORIDA 32765  
888.778.ECHO | www.echoues.com

DATE: 08/17/2021  
PROJECT NUMBER: 20-379  
OFFICE: DH  
CHECKED: EC

SCALE:  
1"=200'  
SHEET 01 OF 03

# Description

Part A  
Reserving unto Grantor all rights of Ingress, Egress, Light, Air and View to, From or Across any property adjoining the following described line:

Commence at the Southeast corner of the Southeast One Quarter of the Northwest One Quarter of Section 20, Township 21 South, Range 28 East, Orange County, Florida; thence North 00°31'34" East, a distance of 1178.06 feet along the East line of said Southeast One Quarter of the Northwest One Quarter, said point being on the Northerly line of a parcel described in Official Records Book 10692, Page 5890, of the Public Records of Orange County, Florida; thence North 43°31'05" West, a distance of 202.11 feet along said Northerly line to a point on a non-tangent curve, concave Northwesterly, having a radius of 7469.44 feet, a central angle of 00°13'20" and a chord bearing and distance of North 46°22'15" East, 28.97 feet; said point being on the Southeasterly line of a parcel described in Official Records Book 10744, Page 2358 of the Public Records of Orange County, Florida; thence departing said Northerly line from a tangent bearing of North 46°28'55" East, Northeasterly along the arc of said curve and along said Southeasterly line, a distance of 28.97 feet, to the POINT OF BEGINNING; thence departing said Southeasterly line the following five courses and distances: South 58°12'38" East, a distance of 268.32 feet; thence North 44°47'28" East, a distance of 252.76 feet to the point of curvature of a curve, concave Southeasterly, having a radius of 587.50 feet, a central angle of 04°42'44", and a chord bearing and distance of North 47°08'50" East, 48.31 feet; thence Northeasterly along the arc of said curve, a distance of 48.32 feet to the point of tangency; thence departing said curve North 49°30'12" East, a distance of 302.51 feet to the point of curvature of a curve, concave Southeasterly, having a radius of 812.50 feet, a central angle of 06°46'46" and a chord bearing and distance of North 52°53'35" East, 96.08 feet; thence Northeasterly along the arc of said curve 96.14 feet to the Point of Termination.

Limited Access Rights only along a line without area.

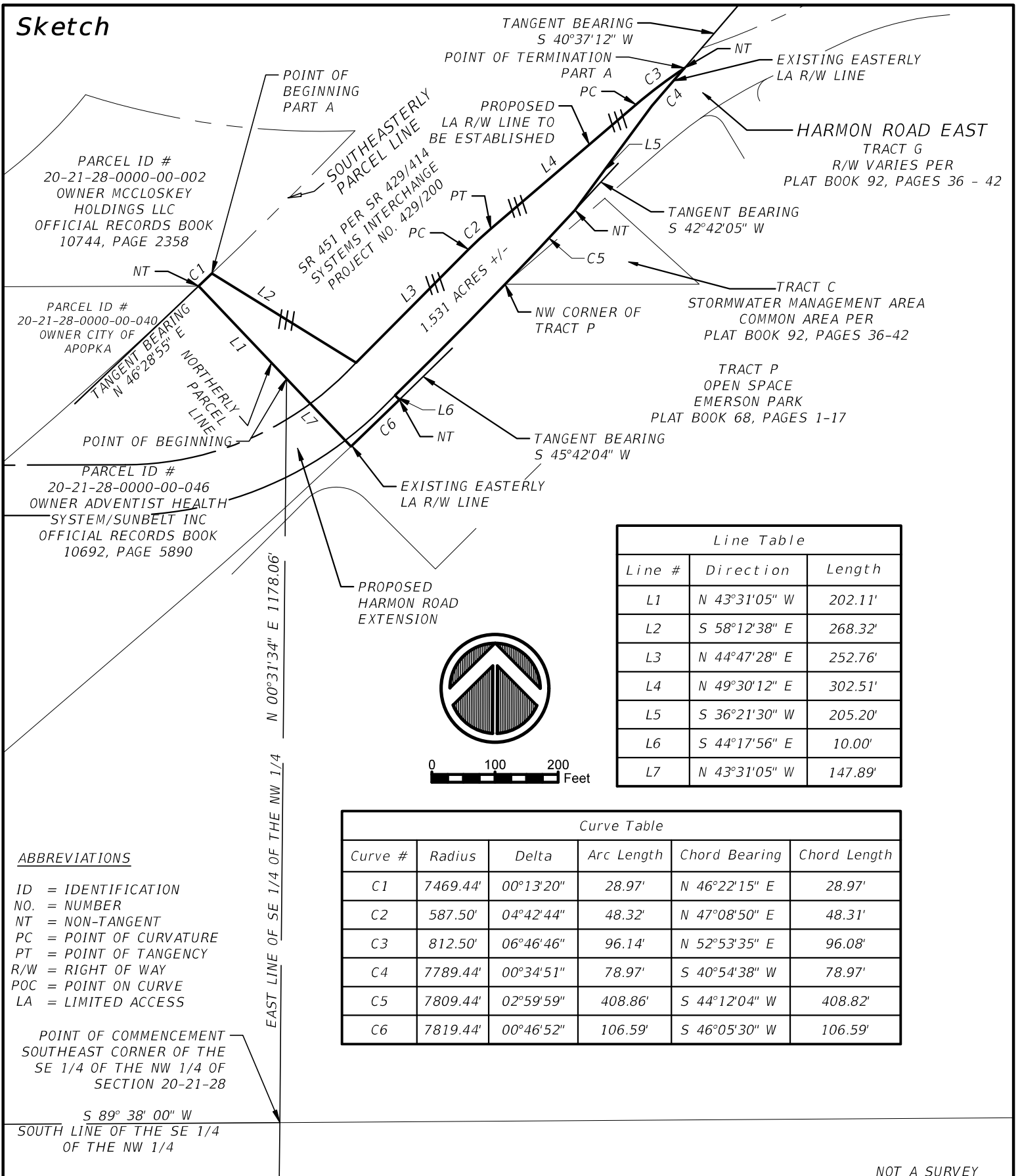


ECHO UES, INC.  
CERTIFICATION OF AUTHORIZATION 8184  
400 STATE ROAD 434, SUITE 1024  
OVIDO, FLORIDA 32765  
888.778.ECHO | [www.echoues.com](http://www.echoues.com)

DATE: 08/17/2021  
PROJECT NUMBER: 20-379  
OFFICE: DH  
CHECKED: EC

SCALE:  
1"=200'  
SHEET 02 OF 03

# Sketch



PARCEL ID #  
20-21-28-0000-00-002  
OWNER MCCLOSKEY  
HOLDINGS LLC  
OFFICIAL RECORDS BOOK  
10744, PAGE 2358

PARCEL ID #  
20-21-28-0000-00-040  
OWNER CITY OF  
APOPKA

PARCEL ID #  
20-21-28-0000-00-046  
OWNER ADVENTIST HEALTH  
SYSTEM/SUNBELT INC  
OFFICIAL RECORDS BOOK  
10692, PAGE 5890

EAST LINE OF SE 1/4 OF THE NW 1/4 N 00°31'34" E 1178.06'

SOUTHEASTERLY  
PARCEL LINE  
SR 451 PER SR 429/414  
SYSTEMS INTERCHANGE  
PROJECT NO. 429/200

HARMON ROAD EAST  
TRACT G  
R/W VARIES PER  
PLAT BOOK 92, PAGES 36 - 42

TRACT C  
STORMWATER MANAGEMENT AREA  
COMMON AREA PER  
PLAT BOOK 92, PAGES 36-42

TRACT P  
OPEN SPACE  
EMERSON PARK  
PLAT BOOK 68, PAGES 1-17

Line #	Direction	Length
L1	N 43°31'05" W	202.11'
L2	S 58°12'38" E	268.32'
L3	N 44°47'28" E	252.76'
L4	N 49°30'12" E	302.51'
L5	S 36°21'30" W	205.20'
L6	S 44°17'56" E	10.00'
L7	N 43°31'05" W	147.89'

Curve #	Radius	Delta	Arc Length	Chord Bearing	Chord Length
C1	7469.44'	00°13'20"	28.97'	N 46°22'15" E	28.97'
C2	587.50'	04°42'44"	48.32'	N 47°08'50" E	48.31'
C3	812.50'	06°46'46"	96.14'	N 52°53'35" E	96.08'
C4	7789.44'	00°34'51"	78.97'	S 40°54'38" W	78.97'
C5	7809.44'	02°59'59"	408.86'	S 44°12'04" W	408.82'
C6	7819.44'	00°46'52"	106.59'	S 46°05'30" W	106.59'

- ABBREVIATIONS**
- ID = IDENTIFICATION
  - NO. = NUMBER
  - NT = NON-TANGENT
  - PC = POINT OF CURVATURE
  - PT = POINT OF TANGENCY
  - R/W = RIGHT OF WAY
  - POC = POINT ON CURVE
  - LA = LIMITED ACCESS

POINT OF COMMENCEMENT  
SOUTHEAST CORNER OF THE  
SE 1/4 OF THE NW 1/4 OF  
SECTION 20-21-28  
  
S 89° 38' 00" W  
SOUTH LINE OF THE SE 1/4  
OF THE NW 1/4



ECHO UES, INC.  
CERTIFICATION OF AUTHORIZATION 8184  
400 STATE ROAD 434, SUITE 1024  
OVIDO, FLORIDA 32765  
888.778.ECHO | [www.echoues.com](http://www.echoues.com)

DATE: 08/17/2021  
PROJECT NUMBER: 20-379  
OFFICE: DH  
CHECKED: EC

NOT A SURVEY  
SCALE:  
1"=200'  
SHEET 03 OF 03

Description

Release of a portion of the Limited Access rights along former State Road 451 as shown on State Road 429/414 Systems Interchange Project No. 429/200 Right of Way Map; and lying in Section 20, Township 21 South, Range 28 East, Orange County, Florida, being more particularly described as follows:

Commence at the Southeast corner of the Southeast One Quarter of the Northwest One Quarter of Section 20, Township 21 South, Range 28 East, Orange County, Florida; thence North 00°31'34" East, a distance of 1178.06 feet along the East line of said Southeast One Quarter of the Northwest One Quarter, to a point on the Northerly line of a parcel described in Official Records Book 10692, Page 5890, of the Public Records of Orange County, Florida; thence South 43°31'05" West, a distance of 147.89 feet along said Northerly line to a point on a non-tangent curve, concave Northwesterly, having a radius of 7819.44 feet, a central angle of 00°46'52" and a chord bearing and distance of North 46°05'30" East, 106.59 feet, being a point on the Existing Easterly Limited Access right of way line of State Road 451 as shown on State Road 429/414 Systems Interchange Project No. 429/200 Right of Way Map, said point also being the POINT OF BEGINNING; thence along said Easterly Limited Access right of way line the following five (5) courses and distances: from a tangent bearing of North 46°28'55" East, Northeasterly along the arc of said curve a distance of 106.59 feet; thence departing said curve North 44°17'56" West, a distance of 10.00 feet to a point on a non-tangent curve concave Northwesterly, having a radius of 7809.44 feet, a central angle of 02°59'59" and a chord bearing and distance of North 44°12'04" East, 408.82 feet; thence from a tangent bearing of North 45°42'04" East, Northeasterly along the arc of said curve a distance of 408.86 feet; thence departing said curve North 36°21'30" East, a distance of 205.20 feet to a point on a non-tangent curve, concave Northwesterly, having a radius of 7789.44 feet, a central angle of 00°34'51" and a chord bearing and distance of North 40°54'38" East, 78.97 feet; thence from a tangent bearing of North 41°12'03" East, Northeasterly along said curve a distance of 78.97 feet to a Point of Termination.

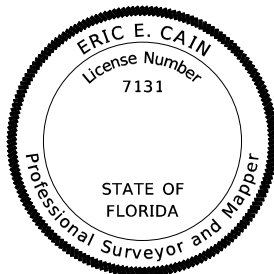
PREPARED FOR:
NEWKIRK ENGINEERING
CITY OF APOPKA

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE SKETCH OF DESCRIPTION OF THE ABOVE DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS RECENTLY DRAWN UNDER MY DIRECTION AND THAT IT MEETS THE STANDARDS OF PRACTICE FOR LAND SURVEYING CHAPTER 5J-17 REQUIREMENTS OF THE FLORIDA ADMINISTRATIVE CODE.

NOTES:

- 1. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA BEING SOUTH 89°38'00" WEST.
2. THIS SKETCH AND LEGAL DESCRIPTION OR COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



THIS DOCUMENT HAS BEEN DIGITALLY SIGNED AND SEALED BY:

Eric E Cain
Digitally signed by Eric E Cain
Date: 2021.08.17 13:44:55 -04'00'

ERIC E. CAIN
FLORIDA PROFESSIONAL SURVEYOR & MAPPER LS 7131

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED. THE SIGNATURE MUST BE VERIFIED ON THE ELECTRONIC DOCUMENT.



ECHO UES, INC.
CERTIFICATION OF AUTHORIZATION 8184
400 STATE ROAD 434, SUITE 1024
OVIEDO, FLORIDA 32765
888.778.ECHO | www.echoues.com

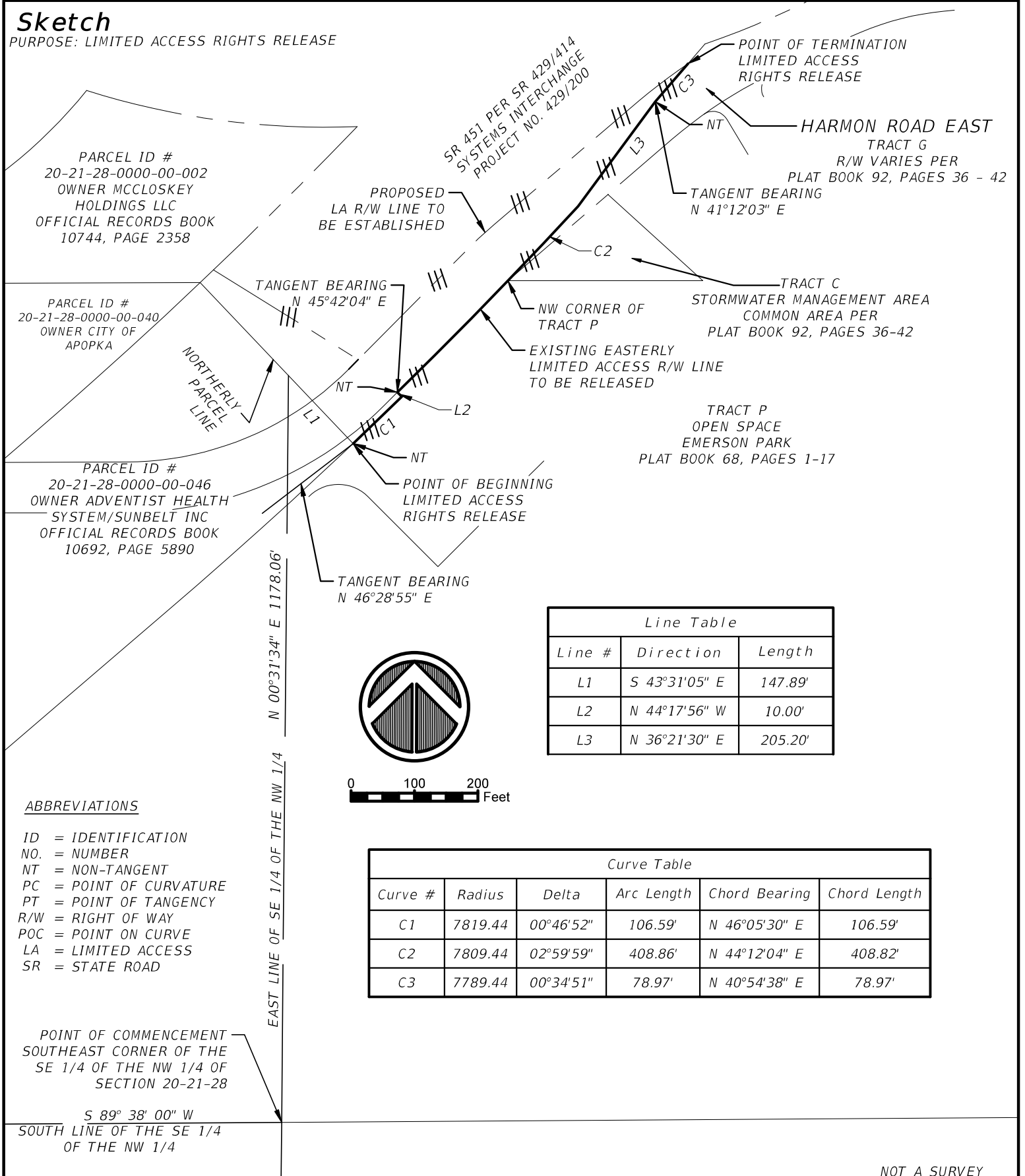
DATE: 08/17/2021
PROJECT NUMBER: 20-379
OFFICE: DH
CHECKED: EC

SCALE: 1"=200'
SHEET 01 OF 02

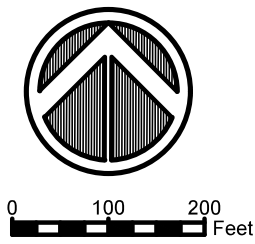


# Sketch

PURPOSE: LIMITED ACCESS RIGHTS RELEASE



Line #	Direction	Length
L1	S 43°31'05" E	147.89'
L2	N 44°17'56" W	10.00'
L3	N 36°21'30" E	205.20'



Curve #	Radius	Delta	Arc Length	Chord Bearing	Chord Length
C1	7819.44	00°46'52"	106.59'	N 46°05'30" E	106.59'
C2	7809.44	02°59'59"	408.86'	N 44°12'04" E	408.82'
C3	7789.44	00°34'51"	78.97'	N 40°54'38" E	78.97'

- ABBREVIATIONS**
- ID = IDENTIFICATION
  - NO. = NUMBER
  - NT = NON-TANGENT
  - PC = POINT OF CURVATURE
  - PT = POINT OF TANGENCY
  - R/W = RIGHT OF WAY
  - POC = POINT ON CURVE
  - LA = LIMITED ACCESS
  - SR = STATE ROAD

NOT A SURVEY

	ECHO UES, INC. CERTIFICATION OF AUTHORIZATION 8184 400 STATE ROAD 434, SUITE 1024 OVIEDO, FLORIDA 32765 888.778.ECHO   www.echoues.com	DATE: 08/17/2021	SCALE: 1"=200'
		PROJECT NUMBER: 20-379	SHEET 02 OF 02
		OFFICE: DH	
		CHECKED: EC	

**CONSENT AGENDA ITEM  
#14**

**MEMORANDUM**

TO: CFX Board Members *WR*

FROM: Diego “Woody” Rodriguez, General Counsel

DATE: December 2, 2021

SUBJECT: Relocation of Drainage Easement between the Central Florida Expressway Authority, City of Apopka, Florida, and DHIC-Oakpoint, LLC  
Project: State Road 429  
Parcel: 63-810

---

**BACKGROUND**

The Central Florida Expressway Authority’s predecessor in interest (now “CFX”) acquired a permanent drainage easement (“Existing Drainage Easement”) over real property owned by the predecessor in title to DHIC-Oakpoint, LLC (“DHIC”).

DHIC desires to relocate, at its sole cost and expense, the location of the Existing Drainage Easement in accordance with the terms and conditions of the proposed Relocation of Drainage Easement (“Proposed Easement”). The relocation of the easement also crosses a portion of property owned by the City of Apopka (“City”). CFX will execute a release of a portion of the Existing Drainage Easement upon CFX’s inspection and acceptance of the drainage facilities in accordance with the terms of the Proposed Easement.

On December 2, 2021, the Right of Way Committee met and upon review of the information and presentation, recommended that the Board approve the Proposed Easement.

**REQUEST**

Approval of the Relocation of Drainage Easement between CFX, City and DHIC subject to any minor or clerical revisions approved by the General Engineering Consultant, General Counsel or designee.

**ATTACHMENT**

- A. Memo Dated November 18, 2021 to the Right of Way Committee with attachments.

**MEMORANDUM**

TO: CFX Right of Way Committee Members

FROM: Laura Newlin Kelly, Associate General Counsel *LWK*

DATE: November 18, 2021

SUBJECT: Relocation of Drainage Easement between the Central Florida Expressway Authority, City of Apopka, Florida, and DHIC-Oakpoint, LLC  
Project No : State Road 429  
Parcel: 63-810

---

**BACKGROUND**

The Central Florida Expressway Authority's predecessor in interest, Orlando-Orange County Expressway Authority (now "CFX"), acquired a permanent drainage easement ("Existing Drainage Easement") over real property owned by the predecessor in title to DHIC-Oakpoint, LLC ("DHIC"). The Existing Drainage Easement is depicted in the map attached hereto as **Attachment "A"** ("Map of Easements"). In order to develop the real property encumbered by the Existing Drainage Easement, DHIC desires to relocate, at its sole cost and expense, the location of the Existing Drainage Easement in accordance with the terms and conditions of the proposed Relocation of Drainage Easement attached hereto as **Attachment "B"** ("Agreement").

Pursuant to the terms of the Agreement, the City and DHIC agree to grant to CFX a perpetual non-exclusive drainage easement over, across and upon portions of the real property owned by City and CFX as more particularly depicted on the Map of Easements ("Relocated Easement Area"). In exchange and in consideration for agreeing to relocate the easement, DHIC will, at no cost or expense to CFX, design, permit, excavate and construct the drainage facilities necessary for CFX's use and enjoyment of the relocated drainage easement in accordance with the terms of the Agreement. Upon CFX's inspection and acceptance of the drainage facilities in the relocated easement, CFX will execute a release of a portion of the Existing Drainage Easement.

Pursuant to CFX's Property Acquisition, Disposition & Permitting Procedures Manual ("Policy"), CFX staff and CFX's General Engineering Consultant ("GEC") have examined the proposed Relocated Easement Area and determined that the relocation of a portion of the Existing Drainage Easement would not (1) impede or restrict the operation of the Expressway System; (2) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of any portion of the Expressway System; or (3) otherwise impair traffic operations or public safety. A copy of the certification is attached hereto as **Attachment "C"**.

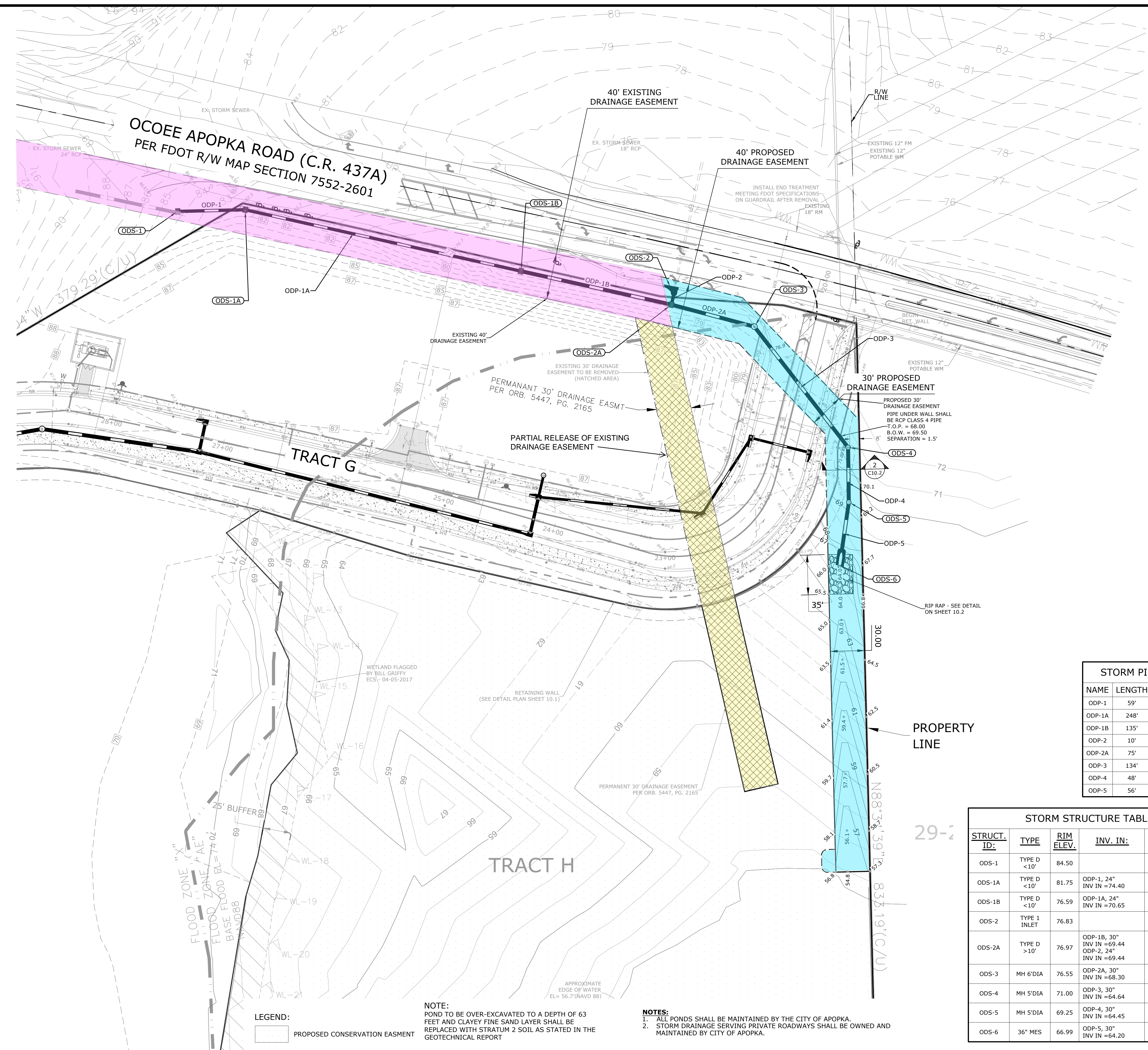
The proposed Agreement was prepared and provided to DHIC and the City for review and consideration. The City and DHIC have reviewed the Agreement and agrees with its form. GEC has reviewed the proposed location, maintenance functions, and maintenance responsibilities set forth in the Agreement.

### **REQUEST**

A recommendation by the Right of Way Committee for CFX Board's approval of the Agreement Between CFX, DHIC and the City in a form substantially similar to the attached Agreement, subject to any minor or clerical modifications or revisions approved by the GEC, General Counsel or designee.

### **ATTACHMENTS**

- A. Map of Easements
- B. Relocation of Drainage Easement
- C. Certificate from CFX's General Engineering Consultant



**STORM PIPE TABLE**

NAME	LENGTH	SIZE	SLOPE
ODP-1	59'	24"	3.40%
ODP-1A	248'	24"	1.51%
ODP-1B	135'	30"	0.89%
ODP-2	10'	24"	10.05%
ODP-2A	75'	30"	1.51%
ODP-3	134'	30"	2.73%
ODP-4	48'	30"	0.39%
ODP-5	56'	30"	0.45%

**STORM STRUCTURE TABLE**

STRUCT. ID:	TYPE	RIM ELEV.	INV. IN:	INV. OUT:
ODS-1	TYPE D <10'	84.50		ODP-1, 24" INV OUT = 76.42
ODS-1A	TYPE D <10'	81.75	ODP-1A, 24" INV IN = 74.40	ODP-1A, 24" INV OUT = 74.40
ODS-1B	TYPE D <10'	76.59	ODP-1A, 24" INV IN = 70.65	ODP-1B, 30" INV OUT = 70.65
ODS-2	TYPE 1 INLET	76.83		ODP-2, 24" INV OUT = 70.49
ODS-2A	TYPE D >10'	76.97	ODP-1B, 30" INV IN = 69.44 ODP-2, 24" INV IN = 69.44	ODP-2A, 30" INV OUT = 69.44
ODS-3	MH 6'DIA	76.55	ODP-2A, 30" INV IN = 68.30	ODP-3, 30" INV OUT = 68.30
ODS-4	MH 5'DIA	71.00	ODP-3, 30" INV IN = 64.64	ODP-4, 30" INV OUT = 64.64
ODS-5	MH 5'DIA	69.25	ODP-4, 30" INV IN = 64.45	ODP-5, 30" INV OUT = 64.45
ODS-6	36" MES	66.99	ODP-5, 30" INV IN = 64.20	

**NOTE:**  
 1. POND TO BE OVER-EXCAVATED TO A DEPTH OF 63 FEET AND CLAYEY FINE SAND LAYER SHALL BE REPLACED WITH STRATUM 2 SOIL AS STATED IN THE GEOTECHNICAL REPORT

**NOTES:**  
 1. ALL PONDS SHALL BE MAINTAINED BY THE CITY OF APOPKA.  
 2. STORM DRAINAGE SERVING PRIVATE ROADWAYS SHALL BE OWNED AND MAINTAINED BY CITY OF APOPKA.

**LEGEND:**  
 [Symbol] PROPOSED CONSERVATION EASEMENT

**EVANS ENGINEERING, INC.**  
 CIVIL ENGINEERING LAND PLANNING PERMITTING SERVICES  
 719 IRMA AVENUE  
 ORLANDO, FLORIDA 32803  
 (407) 872-1515  
 www.evansenginc.com  
 CERTIFICATE OF AUTHORIZATION NO. 0006788

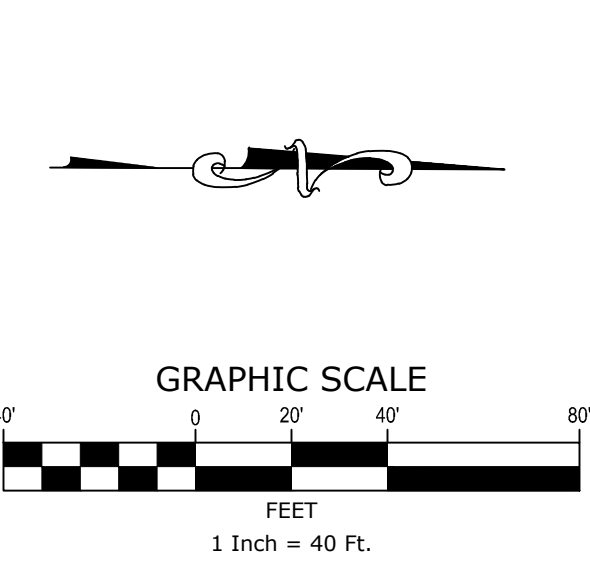
**EVANS ENGINEERING, INC.**  
 CERTIFICATE OF AUTHORIZATION NO. 6788  
 No. 46586  
 STATE OF FLORIDA  
 PROFESSIONAL ENGINEER  
 DAVID EVANS  
 FLORIDA P.E. NO. 46586  
 DATE:

**OAK POINTE - NORTH**  
 FOR THOMPSON HILLS ESTATES, LLC  
 FINAL DEVELOPMENT PLAN (NORTH)  
 CITY OF APOPKA, FLORIDA  
 PAVING, GRADING, AND DRAINAGE PLAN

**REVISIONS**

DATE	NO.	DETAIL	BY

DRAWN BY: CA DATE: AUG, 2019  
 CHECKED BY: DLE JOB #: 25801



SHEET #:  
 80  
 OF SHEETS 26

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED BOUND AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.  
 J:\0825\25801 - Oak Pointe\Drawings\Plan\North\DXB\BIS\25801\_City Exhibit-Final North Sheet 8 PFD Plot: 2021-09-09 AM 08:18:31 Printed on: Sep 13, 2021 - 10:20am by Taylor Burke

## MEMO ATTACHMENT "B"

This document was prepared by:  
Laura L. Kelly  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

Project State Road 429  
Parcels 63-810

### **RELOCATION OF DRAINAGE EASEMENT**

**THIS RELOCATION OF DRAINAGE EASEMENT** (“Agreement”) is made and entered into as of the Effective Date (hereinafter defined) by and between **DHIC-OAKPOINT, LLC**, a Delaware limited liability company, whose address is 1341 Horton Circle, Arlington, Texas 76011 (“Owner”), the **CITY OF APOPKA, FLORIDA**, a municipality organized and existing under the laws of the State of Florida, whose address is 120 E. Main Street, Apopka, FL 32703 (“City”) 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, whose address is 4974 ORL Tower Road, Orlando, Florida 32801-4414 (“CFX”). CFX, Owner, and the City are referred to herein sometimes as a “Party” or the “Parties”.

### RECITALS

**WHEREAS**, CFX was created pursuant to Part III, Chapter 348, Florida Statutes (“CFX Act”) to, among other things, construct, improve, maintain and operate a limited access toll road known as the Central Florida Expressway System, as defined in the CFX Act, and was granted all powers necessary and convenient to conduct its business, including the power to contract with other public agencies; and

**WHEREAS**, CFX’s predecessor in interest, Orange/Orange County Expressway Authority, and David Rubright, a/k/a Warren David Rubright, et. al. (collectively, “Rubright”) entered into that certain Stipulated Order of Taking dated March 27, 1998 for Case No. CI 98-1634 in the Circuit Court of the Ninth Judicial Circuit, Orange County, Florida (“Order of Taking”), whereby CFX’s predecessor in interest acquired a permanent drainage easement over the real property owned by Rubright identified as Parcel 63-810 and more particularly defined in **Exhibit “A”** attached hereto (“Existing Drainage Easement”); and

**WHEREAS**, City is a successor in interest to Rubright pursuant to that certain Special Warranty Deed recorded on January 8, 2020 as Instrument No. 20200067939 in the Public Records of Orange County, Florida; and

**WHEREAS**, Owner is a successor in interest to Rubright pursuant to that certain Special Warranty Deed recorded on June 29, 2021 as Instrument No. 20210395034 in the Public Records of Orange County, Florida; and

**WHEREAS**, in order for Owner to develop the real property encumbered by the Existing Drainage Easement, Owner desires to relocate, at its sole cost and expense, the location of the Existing Drainage Easement in accordance with the terms and conditions set forth herein; and

**WHEREAS**, CFX is agreeable to relocating the Existing Drainage Easement, at no cost

or expense to CFX, in accordance with the terms and conditions herein, provided CFX obtains the same or similar easement rights as set forth in the Order of Taking; and

**WHEREAS**, the Parties are desirous of relocating the Existing Drainage Easement and establishing a new stormwater drainage easement in accordance with the terms and conditions more specifically provided herein.

**NOW THEREFORE**, for and in consideration of the premises hereof, the mutual covenants herein contained and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Recitals**. The foregoing recitals are true and correct and are incorporated herein by this reference.

2. **Owner's Grant of the Drainage Easement**. Owner does hereby grant, bargain, sell, release, convey, and confirm unto CFX a non-exclusive perpetual easement ("Owner Drainage Easement") in, upon, over, through, and across the real property more particularly described in **Exhibit "B"** attached hereto and incorporated herein by reference ("Owner Drainage Easement Area"), for the purpose of providing stormwater drainage, discharge, conveyance, runoff, detention, and retention for the Central Florida Expressway System (collectively, the "**Owner Drainage Facilities**"), subject to any and all applicable permits and other governmental requirements. The grant of the Owner Drainage Easement to CFX shall include all incidental rights reasonably necessary for the use and enjoyment of the Owner Drainage Easement for its intended purposes, including, without limitation, the right to access the Owner Drainage Facilities over any of Owner's adjacent property located within 25 feet of the Owner Drainage Easement Area to maintain, repair and replace the Owner Drainage Facilities.

3. **City's Grant of the Drainage Easement**. City does hereby grant, bargain, sell, release, convey, and confirm unto CFX a non-exclusive perpetual easement ("City Drainage Easement") in, upon, over, through, and across the real property more particularly described in **Exhibit "C"** attached hereto and incorporated herein by reference ("City Drainage Easement Area"), for the purpose of providing stormwater drainage, discharge, conveyance, runoff, detention, and retention for the Central Florida Expressway System (collectively, the "**City Drainage Facilities**", together with the Owner Drainage Facilities, the "**Drainage Facilities**"), subject to any and all applicable permits and other governmental requirements. The grant of the City Drainage Easement to CFX shall include all incidental rights reasonably necessary for the use and enjoyment of the City Drainage Easement for its intended purposes, including, without limitation, the right to access the City Drainage Facilities.

4. **Construction of Drainage Facilities**. Owner shall, at its sole cost and expense, be responsible for the excavation and construction of the Drainage Facilities. Owner shall perform all construction and excavation in good order and repair in substantial accordance with the plans and specifications attached hereto as **Exhibit "D"** and incorporated herein by reference ("Drainage Plans"), any and all applicable governmental permits, approvals, development orders, and other consents and authorizations of governmental authorities required for construction of the Drainage Facilities, any and all laws, ordinance, rules, requirements, policies, and standards governing the design, installation and construction of stormwater drainage improvements, and the terms and



conditions of this Agreement. Owner shall complete the construction and excavation of the Drainage Facilities no later than two (2) years after the Effective Date. Owner shall notify CFX in writing ten (10) business days before the commencement of construction and excavation of the Drainage Facilities and shall coordinate with the CFX throughout the construction of the Drainage Facilities in order to avoid or minimize any potential service disruptions, impairment or impediment to the stormwater drainage system of the Central Florida Expressway System. Owner shall notify CFX in writing of the completion of the Drainage Facilities (“Completion Notice”). Within ten (10) business days of receipt of the Completion Notice, CFX shall have the right, but not the obligation, to review and inspect the Drainage Facilities to ensure the Drainage Facilities have been constructed in substantial accordance with the Drainage Plans. In the event CFX elects to conduct an independent inspection of the Drainage Facilities, CFX shall notify Owner within five (5) days of such independent inspection of any deficiencies in work on the Drainage Facilities. Owner shall take any and all actions reasonably necessary to correct the deficiencies to the reasonable satisfaction of CFX. Within thirty (30) days of the completion of construction or correction of deficiencies, if any, of the Drainage Facilities, Owner shall provide CFX an as-built survey of the Drainage Facilities. Upon receipt of the as-built survey and written notice from CFX that the as-built survey is acceptable, CFX shall be deemed to have accepted the Drainage Facilities.

5. **City’s Grant of Temporary Construction Easement.** City hereby grants to Owner, a temporary, non-exclusive, easement for vehicular and pedestrian ingress and egress (the “Temporary Construction Easement”) over, under, and through those portions of the City Drainage Easement Area, together with the right to construct thereon the Drainage Facilities and such other infrastructure and improvements as shall be necessary or appropriate to carry out the purpose of this Agreement. The Easement shall automatically expire without further action on the part of City and Owner on the earlier of: (i) CFX’s acceptance of the Drainage Facilities; or (ii) two (2) years after the Effective Date.

6. **Release of Existing Drainage Easement.** Upon acceptance of the Drainage Facilities by CFX, CFX agrees to execute a release of the Existing Drainage Easement in substantially the form attached hereto as **Exhibit “E”** and incorporated herein by reference (“Release”). Owner shall, at its sole cost and expense, record the Release in the Public Records of Orange County, Florida.

7. **Compliance with all Legal Rules.** Owner shall, at its sole expense, comply with all present and future valid and applicable laws, ordinances, and regulations of the federal government and its agencies, the State of Florida, and Orange County.

8. **Notices.** All notices, demands, approvals, requests, and other communication required or permitted hereunder shall be in writing and shall be deemed to be delivered and received upon the earlier of (i) actual receipt; (ii) the next business day following its deposit with a reputable overnight courier or (iii) the third (3<sup>rd</sup>) day following its deposit in a regularly maintained receptacle for the United States Mail, as registered or certified mail, return receipt requested, postage fully prepaid, addressed to the addressee as its address is set forth below, or at such other address as such addressee may have specified by notice delivered in accordance with this paragraph and actually received by the addressee

CFX: Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: Executive Director  
Telephone: (407) 690-5000  
Facsimile: (407) 690-5011

With a copy to: Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: General Counsel  
Telephone: (407) 690-5000

If to City: City of Apopka  
Attn: City Administrator  
120 E. Main Street  
Apopka, Florida 32703

Owner: DHIC-Oakpoint, LLC  
Attn: National Counsel  
1341 Horton Circle  
Arlington, Texas 76011

With a copy to: DHI Communities  
Attn: Michael J. Mulhall  
834 Highland Avenue  
Orlando, FL 32803  
Telephone: (407) 310-6601

With a copy to: Lowndes, Drosdick, Doster, Kantor & Reed, P.A.  
Attn: Jonathan P. Huels, Esq.  
215 N. Eola Drive  
Orlando, FL 32801  
Telephone: (407) 843-4600

9. **Default.** In the event any of the Parties breach any warranty or representation contained in this Agreement or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by said part under the terms and provisions of this Agreement, the other Parties, in their sole discretion, and after thirty (30) days prior written notice and opportunity to cure, shall be entitled to exercise any and all rights and remedies available to said party at law and in equity, including, without limitation, the right of specific performance.

10. **Inspector General.** The Parties agree to comply with Section 20.055(5), Florida Statutes, and agree to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. The Parties agree to incorporate the obligation to

comply with Section 20.055(5) in all subcontracts such Party enters into in connection with the Drainage Facilities.

11. **Miscellaneous Provisions.**

a. No Other Parties. This Agreement is solely for the benefit of the Parties, and no rights are intended, nor shall any rights accrue, to any third party unless expressly provided in this Agreement.

b. Binding Effect. This Agreement shall be binding on the Parties, and upon all entities operating for or on behalf of the Parties pursuant to this Agreement. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns.

c. Governing Law; Venue. The Florida law shall govern the validity, enforcement and interpretation of this Agreement, and the Parties agree that venue for any action arising hereunder shall lie in Orange County, Florida

d. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties and shall not be changed, altered, or modified, except by an instrument in writing signed by the Parties.

e. Non-Waiver. The failure of any Party to insist upon any other Parties' compliance with its obligations under this Agreement in any one or more instances shall not operate to release such other Party from its duty to comply with such obligations in all other instances.

f. Recording. Owner shall, at its sole cost and expense, cause this Agreement to be recorded in the Public Records of Orange County, Florida.

g. Amendments. The rights hereby granted, created and declared shall be perpetual in duration and may not be changed, amended, modified, canceled or terminated other than as expressly provided herein, except by an instrument in writing, executed by the then owners of the benefited property and all mortgagees of any portion thereof.

h. Covenants Running with the Property. The easements, covenants, agreements and conditions contained or expressed herein shall not be personal (except as otherwise expressly provided herein) but shall run with the land and shall be binding upon and inure to the benefit of the owners of all portions of the benefited property and the easement area, their mortgagees, any purchaser at a foreclosure sale, each of the successors and assigns of all such parties, as well as the tenants, agents, licenses, guests and invitees of each of them.

i. Time. Time is of the essence of this Agreement.

j. Legal Construction and Headings. 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. The headings inserted at the beginning of each paragraph are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph.

k. Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If

any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

l. Electronic Signatures and Counterparts. To facilitate execution, the Parties agree that this Agreement may be executed and transmitted by electronic (including digital) signature in compliance with Chapter 668, Florida Statutes, to the other Parties and that the executed electronic or digital shall be binding and enforceable as an original. This Agreement may also be executed in as many counterparts as may be required and it shall not be necessary that the signature of, or on behalf of, each Party, or that the signatures of all persons required to bind any Party, appear on each counterpart; it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the persons required to bind any Party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single agreement.

m. Effect on Order of Taking. Except as modified herein, the Order of Taking remains in full force and effect.

n. Effective Date. The effective date of this Agreement shall be the date upon which the CFX governing board has approved this Agreement and the last of the Parties executes this Agreement (“Effective Date”).

*[SIGNATURE PAGES TO FOLLOW]*

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed in a manner and form sufficient to bind them on the date set forth herein below.

Signed, sealed, and delivered  
in the presence of:

**“CFX”**

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Buddy Dyer, Chairman

\_\_\_\_\_  
Print Name: \_\_\_\_\_

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

STATE OF FLORIDA                    )  
COUNTY OF \_\_\_\_\_        )

The foregoing instrument was acknowledged before me by means of [ ] physical presence  
or [ ] online notarization on this \_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_  
\_\_\_\_\_, as Chairman of the Central Florida Expressway Authority, on behalf of the organization.  
He is personally known to me OR produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Signature of Notary Public - State of Florida  
Print Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Signed, sealed, and delivered  
in the presence of:

**“OWNER”**

**DHIC-OAKPOINT, LLC**, a Delaware  
limited liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF FLORIDA                    )  
COUNTY OF \_\_\_\_\_            )

The foregoing instrument was acknowledged before me by means of [ ] physical presence  
or [ ] online notarization on this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_  
\_\_\_\_\_, as \_\_\_\_\_ of DHIC-Oakpoint, LLC, on behalf of the organization. He  
is personally known to me OR produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Signature of Notary Public - State of Florida

Print Name: \_\_\_\_\_

Commission No.: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**CITY OF APOPKA**

By: \_\_\_\_\_  
Bryan Nelson, Mayor

**ATTEST:**

\_\_\_\_\_  
Susan Bone, City Clerk

**Approved as to Form:**

\_\_\_\_\_  
Michael A. Rodriguez, City Attorney

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ of City of Apopka, Florida, a municipal corporation of the State of Florida, on behalf of the City of Apopka. He/she appeared by (*check one*)  physical appearance or  online notarization, and (*check one*)  is personally known to me or  has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_  
Commission Number: \_\_\_\_\_

EXHIBIT "A"

OR Bk 5447 Pg 2174  
Orange Co FL 1998-0120140  
Recorded - Martha D. Haynie

**ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
STATE ROAD 429  
SECTION 75320-6460-604/605**

**PARCEL 63-810**

**PERMANENT DRAINAGE EASEMENT**

**LEGAL DESCRIPTION**

A portion of the Northwest one-quarter of Section 29, Township 21 South, Range 28 East, Orange County, Florida, more particularly described as follows:

Commence at the Southwest corner of the Northwest 1/4 of said Section 29; thence N.89°01'51"E. along the South line of said Northwest 1/4 for 238.71 feet; thence N.29°52'11"W. for 63.47 feet to the Southeasterly right-of-way line of County Road 437-A (Ocoee-Apopka Road); thence N.11°58'46"E. along said right-of-way line for 524.60 feet to the POINT OF BEGINNING; thence continue N.11°58'46"E. along said right-of-way line for 553.09 feet to the point of curvature of a curve concave Easterly, having a radius of 5699.58 feet; thence Northerly along the arc of said curve, through a central angle of 00°37'17", for 61.82 feet; thence N.76°58'46"E. for 457.20 feet; thence S.13°01'14"E. for 30.00 feet; thence S.76°58'46"W. for 427.21 feet to a point on a curve concave Easterly having a radius of 5659.58 feet and a chord bearing of S.12°13'08"W.; thence Southerly along the arc of said curve, through a central angle of 00°28'44", for 47.30 feet to the point of tangency; thence S.11°58'46"W. for 597.75 feet; thence N.29°52'11"W. for 59.95 feet to the POINT OF BEGINNING.

Containing 0.883 acres, more or less.

January 7, 1998

SHEET 4 OF 4



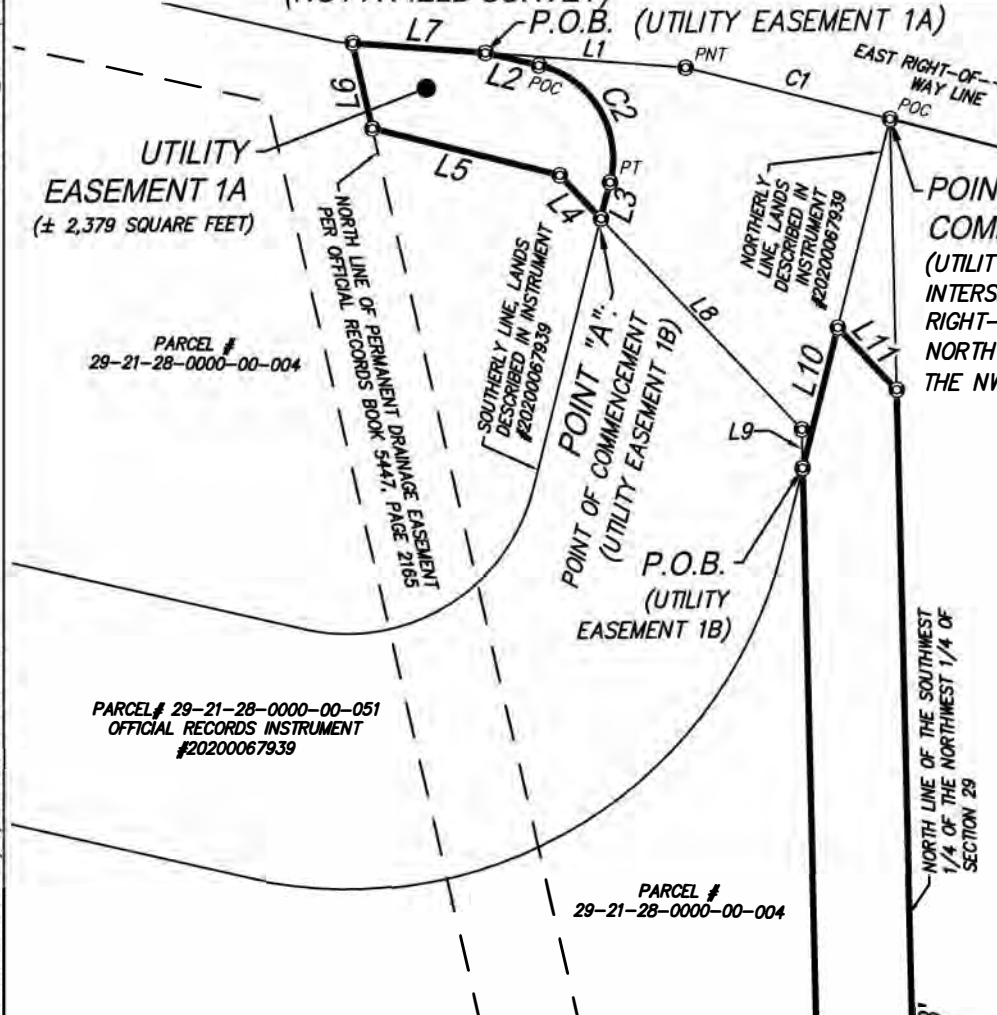


# SKETCH FOR DESCRIPTION

(NOT A FIELD SURVEY)

EXHIBIT " B " SHEET 01 OF 02

OCOE APOPKA ROAD  
COUNTY ROAD 437A  
(A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY  
PER FLORIDA DEPARTMENT OF TRANSPORTATION  
RIGHT-OF-WAY MAP, SECTION 75520-2601)



POINT OF COMMENCEMENT  
(UTILITY EASEMENT 1A)  
INTERSECTION OF EAST RIGHT-OF-WAY LINE AND THE NORTH LINE OF THE SW 1/4 OF THE NW 1/4 OF SECTION 29

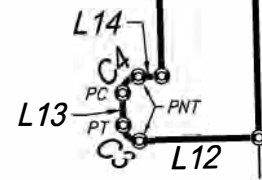
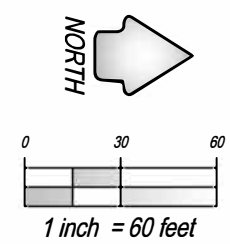
LINE TABLE		
LINE TAG	BEARING	DISTANCE
L1	S04°13'20"W	62.63'
L2	N13°11'04"E	17.12'
L3	S75°56'18"E	11.64'
L4	S46°20'51"W	18.63'
L5	S14°03'42"W	60.28'
L6	S76°58'46"W	27.32'
L7	N04°13'20"E	41.54'
L8	N46°20'51"E	90.81'
L9	N88°35'02"E	12.09'
L10	N75°56'18"W	45.10'
L11	N46°20'51"E	26.67'
L12	S01°13'09"E	37.33'
L13	S88°56'28"W	10.00'
L14	N01°19'18"W	7.20'

CURVE TABLE					
CURVE TAG	RADIUS	CENTRAL ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	5699.58'	00°39'42"	65.82'	S14°03'04"W	65.82'
C2	30.00'	90°47'28"	47.54'	N58°39'58"E	42.72'
C3	5.00'	90°00'00"	7.85'	S43°56'28"W	7.07'
C4	5.00'	90°00'00"	7.85'	N46°03'32"W	7.07'

- LEGEND:**
- LB = LICENSED BUSINESS
  - P.O.B. = POINT OF BEGINNING
  - POC = POINT ON CURVE
  - PC = POINT OF CURVATURE
  - PT = POINT OF TANGENCY
  - PNT = POINT OF NON-TANGENCY
  - L# = REFERENCE TO LINE TABLE
  - C# = REFERENCE TO CURVE TABLE
  - ⊙ = CHANGE IN DIRECTION

PARCEL # 29-21-28-0000-00-003  
INSTRUMENT #20000332876

UTILITY EASEMENT 1B  
(± 12,283 SQUARE FEET)



JOB S20186.0000  
SEE SHEET 1 FOR LEGAL DESCRIPTION

CFB
CLYMER  
FARNER  
BARLEY

4450 NE 83RD ROAD - WILDWOOD, FL 34785  
(352) 748-3126 LB4709

DRAWING NAME: S:\SURVEY\NEW SURVEY\ORANGE\OKAPPOINTE NORTH (OR HORTON)\DWG\OKAPPOINTE NORTH\_SURFSKETCH\_L1E1A&1B.DWG - SHEET 2 9/24/2021 5:11 PM BY: TIRACZ PDF 6.5 x 11 : \_FBLPSM (255-Black).ctb

# SKETCH FOR DESCRIPTION (NOT A FIELD SURVEY)

EXHIBIT "C"  
SHEET 01 OF 01

## UTILITY EASEMENT 2

A PORTION OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

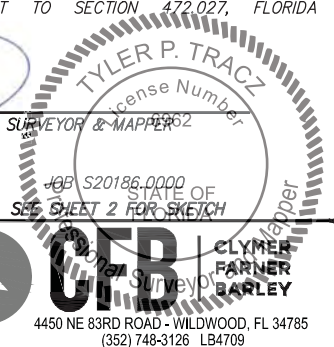
COMMENCE AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF OCOEE APOPKA ROAD (COUNTY ROAD 437A, PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP, SECTION 75520-2601) AND THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 29, BEING A POINT ON A 5699.58 FOOT RADIUS CURVE, CONCAVE TO THE EAST, BEING SUBTENDED BY A CHORD BEARING OF SOUTH 14°03'04" WEST AND A CHORD LENGTH OF 65.82 FEET; THENCE ALONG SAID EAST RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES AND DISTANCES: 1) RUN SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°39'42", AN ARC DISTANCE OF 65.82 FEET TO A POINT OF NON-TANGENCY; 2) THENCE RUN SOUTH 04°13'20" WEST, A DISTANCE OF 32.20 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID EAST RIGHT-OF-WAY LINE, RUN NORTH 46°20'51" EAST, A DISTANCE OF 115.38 FEET TO A POINT ON THE NORTHERLY LINE OF THE LANDS DESCRIBED IN INSTRUMENT #20200067939 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN SOUTH 75°56'18" EAST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 45.10 FEET; THENCE DEPARTING SAID NORTHERLY LINE, RUN SOUTH 88°35'02" WEST, A DISTANCE OF 12.09 FEET; THENCE RUN SOUTH 46°20'51" WEST, A DISTANCE OF 90.81 FEET TO A POINT ON THE SOUTHERLY LINE OF THE AFORESAID LANDS DESCRIBED IN INSTRUMENT #20200067939; THENCE ALONG SAID SOUTHERLY LINE THE FOLLOWING THREE (3) COURSES AND DISTANCES: 1) RUN NORTH 75°56'18" WEST, A DISTANCE OF 11.64 FEET TO A POINT OF CURVATURE OF A 30.00 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHEAST, BEING SUBTENDED BY A CHORD BEARING OF SOUTH 58°39'58" WEST AND A CHORD LENGTH OF 42.72 FEET; 2) THENCE RUN SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°47'28", AN ARC DISTANCE OF 47.54 FEET TO A POINT OF NON-TANGENCY; 3) THENCE RUN SOUTH 13°11'04" WEST, A DISTANCE OF 17.12 FEET TO A POINT ON THE AFORESAID EAST RIGHT-OF-WAY LINE OF OCOEE APOPKA ROAD; THENCE DEPARTING SAID SOUTHERLY LINE, RUN NORTH 04°13'20" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 30.43 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 3,109 SQUARE FEET, MORE OR LESS.

I HEREBY CERTIFY THIS SKETCH OF DESCRIPTION IS IN ACCORDANCE WITH THE STANDARDS OF PRACTICE AS REQUIRED BY CHAPTER 5J17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027, FLORIDA STATUTES.



TYLER P. TRACZ FLORIDA LICENSED SURVEYOR & MAPPER  
FLORIDA REGISTRATION NO. 6962



## GENERAL NOTES:

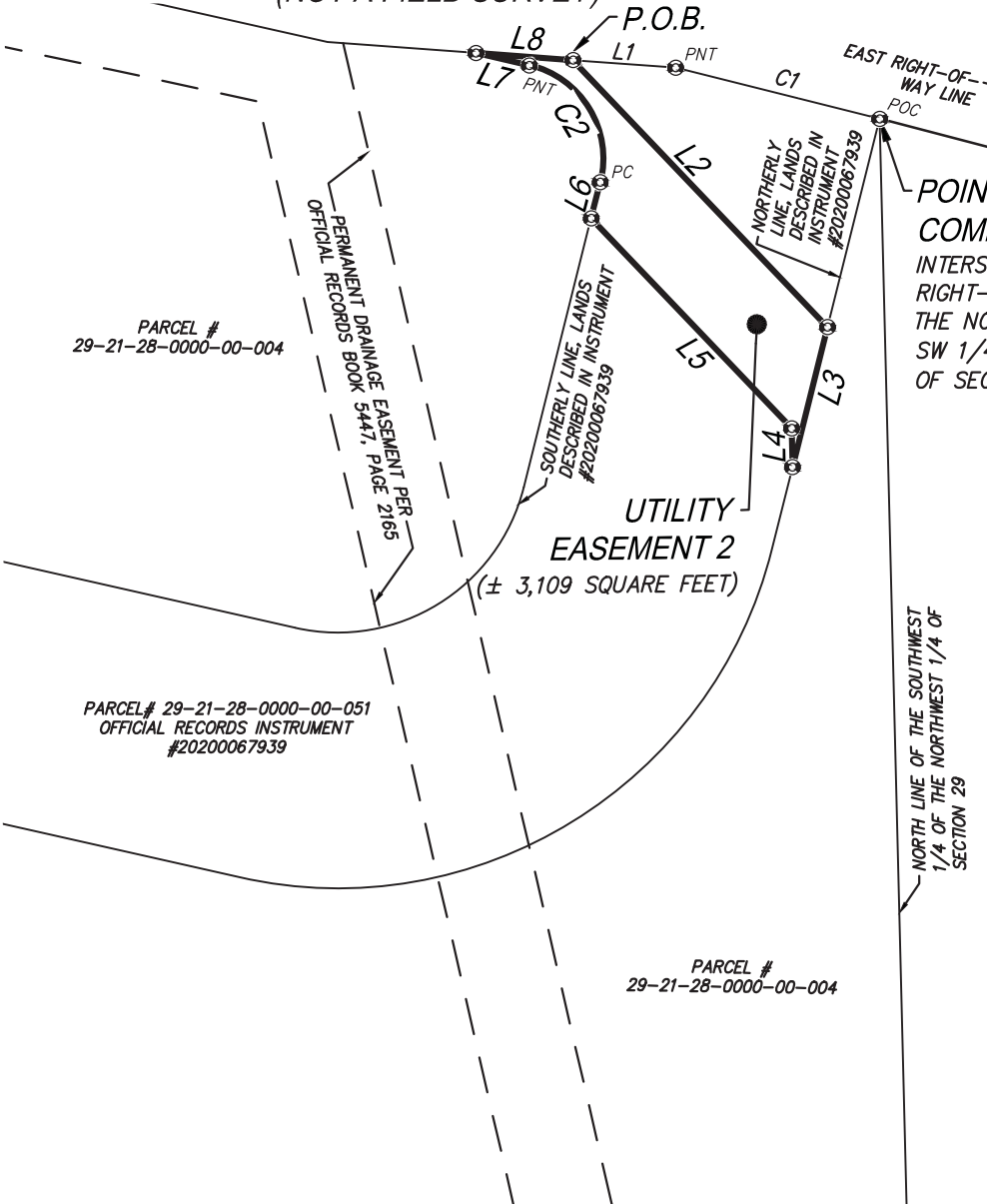
1. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. THIS SKETCH PREPARED FOR DESCRIPTION PURPOSES ONLY AND DOES NOT REPRESENT A FIELD SURVEY.
3. BEARINGS ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NORTH AMERICAN DATUM OF 1983 WITH 2011 ADJUSTMENT. AS A REFERENCE FOR THIS SKETCH, THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST HAS A BEARING OF NORTH 88°34'39" EAST.

DRAWING NAME: S:\SURVEY\NEW SURVEY\ORANGE\OAKPOINTE NORTH (DR HORTON)\DWG\OAKPOINTE NORTH SURSKETCH\_LUE2.DWG - SHEET 2 9/24/2021 5:19 PM BY: TIRACZ PDF 8.5 x 11 : \_FB.PSM (255 Black).ctb

# SKETCH FOR DESCRIPTION (NOT A FIELD SURVEY)

EXHIBIT " C "  
SHEET 01 OF 02

**OCOEE APOPKA ROAD**  
COUNTY ROAD 437A  
(A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY  
PER FLORIDA DEPARTMENT OF TRANSPORTATION  
RIGHT-OF-WAY MAP, SECTION 75520-2601



**POINT OF COMMENCEMENT**  
INTERSECTION OF EAST RIGHT-OF-WAY LINE AND THE NORTH LINE OF THE SW 1/4 OF THE NW 1/4 OF SECTION 29

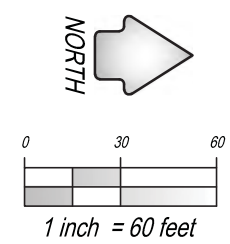
LINE TABLE		
LINE TAG	BEARING	DISTANCE
L1	S04°13'20"W	32.20'
L2	N46°20'51"E	115.38'
L3	S75°56'18"E	45.10'
L4	S88°35'02"W	12.09'
L5	S46°20'51"W	90.81'
L6	N75°56'18"W	11.64'
L7	S13°11'04"W	17.12'
L8	N04°13'20"E	30.43'

CURVE TABLE					
CURVE TAG	RADIUS	CENTRAL ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	5699.58'	00°39'42"	65.82'	S14°03'04"W	65.82'
C2	30.00'	90°47'28"	47.54'	S58°39'58"W	42.72'

PARCEL #  
29-21-28-0000-00-003  
INSTRUMENT #20000332876

### LEGEND:

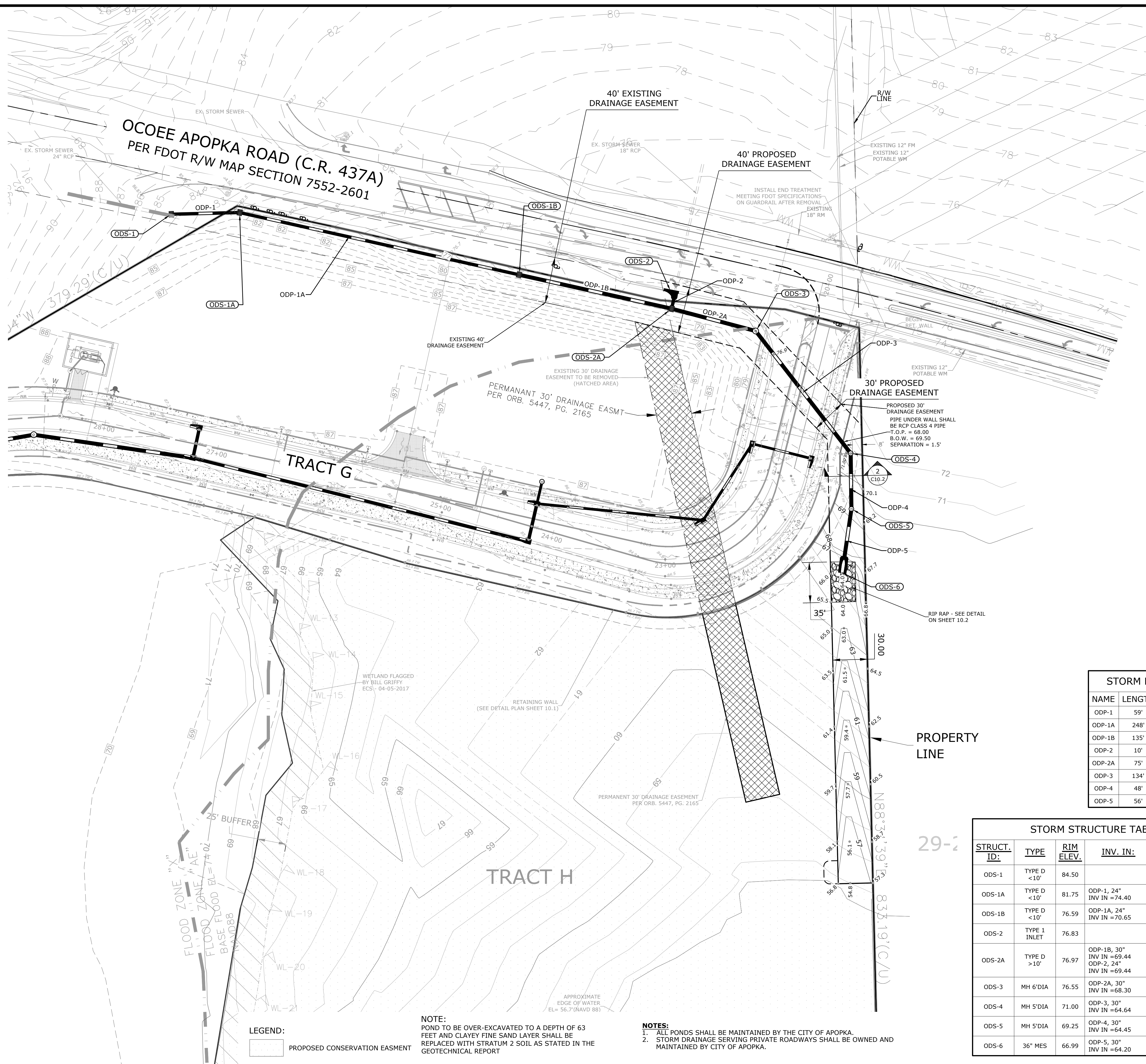
- LB = LICENSED BUSINESS
- ### = REFERENCE TO CONTROL TABLE
- P.O.B. = POINT OF BEGINNING
- POC = POINT ON CURVE
- PC = POINT OF CURVATURE
- PT = POINT OF TANGENCY
- PNT = POINT OF NON-TANGENCY
- L# = REFERENCE TO LINE TABLE
- C# = REFERENCE TO CURVE TABLE
- ⊙ = CHANGE IN DIRECTION



JOB S20186.0000  
SEE SHEET 1 FOR LEGAL DESCRIPTION

CFB
CLYMER  
FARNER  
BARLEY

4450 NE 83RD ROAD - WILDWOOD, FL 34785  
(352) 748-3126 LB4709



**EVANS ENGINEERING, INC.**  
 CIVIL ENGINEERING LAND PLANNING PERMITTING SERVICES  
 719 IRMA AVENUE  
 ORLANDO, FLORIDA 32803  
 (407) 872-1515  
 www.evansenginc.com  
 CERTIFICATE OF AUTHORIZATION NO. 0006788

EVANS ENGINEERING, INC.  
 CERTIFICATE OF AUTHORIZATION NO. 6788  
 No. 46586  
 STATE OF FLORIDA  
 PROFESSIONAL ENGINEER  
 DAVID EVANS  
 FLORIDA P.E. NO. 46586  
 DATE:

**OAK POINTE - NORTH**  
 FOR THOMPSON HILLS ESTATES, LLC  
 FINAL DEVELOPMENT PLAN (NORTH)  
 CITY OF APOPKA, FLORIDA  
 PAVING, GRADING, AND DRAINAGE PLAN

DATE	NO.	DETAIL	BY

DRAWN BY: CA DATE: AUG, 2019  
 CHECKED BY: DLE JOB #: 25801

GRAPHIC SCALE  
 0 20 40  
 FEET  
 1 Inch = 40 FT.

SHEET #:  
 80  
 OF SHEETS 26

**STORM PIPE TABLE**

NAME	LENGTH	SIZE	SLOPE
ODP-1	59'	24"	3.40%
ODP-1A	248'	24"	1.51%
ODP-1B	135'	30"	0.89%
ODP-2	10'	24"	10.05%
ODP-2A	75'	30"	1.51%
ODP-3	134'	30"	2.73%
ODP-4	48'	30"	0.39%
ODP-5	56'	30"	0.45%

**STORM STRUCTURE TABLE**

STRUCT. ID.	TYPE	RIM ELEV.	INV. IN.	INV. OUT.
ODS-1	TYPE D <10'	84.50		ODP-1, 24" INV OUT = 76.42
ODS-1A	TYPE D <10'	81.75	ODP-1A, 24" INV IN = 74.40	ODP-1A, 24" INV OUT = 74.40
ODS-1B	TYPE D <10'	76.59	ODP-1A, 24" INV IN = 70.65	ODP-1B, 30" INV OUT = 70.65
ODS-2	TYPE 1 INLET	76.83		ODP-2, 24" INV OUT = 70.49
ODS-2A	TYPE D >10'	76.97	ODP-1B, 30" INV IN = 69.44 ODP-2, 24" INV IN = 69.44	ODP-2A, 30" INV OUT = 69.44
ODS-3	MH 6'DIA	76.55	ODP-2A, 30" INV IN = 68.30	ODP-3, 30" INV OUT = 68.30
ODS-4	MH 5'DIA	71.00	ODP-3, 30" INV IN = 64.64	ODP-4, 30" INV OUT = 64.64
ODS-5	MH 5'DIA	69.25	ODP-4, 30" INV IN = 64.45	ODP-5, 30" INV OUT = 64.45
ODS-6	36" MES	66.99	ODP-5, 30" INV IN = 64.20	

**LEGEND:**  
 PROPOSED CONSERVATION EASEMENT

**NOTE:**  
 1. POND TO BE OVER-EXCAVATED TO A DEPTH OF 63 FEET AND CLAYEY FINE SAND LAYER SHALL BE REPLACED WITH STRATUM 2 SOIL AS STATED IN THE GEOTECHNICAL REPORT

**NOTES:**  
 1. ALL PONDS SHALL BE MAINTAINED BY THE CITY OF APOPKA.  
 2. STORM DRAINAGE SERVING PRIVATE ROADWAYS SHALL BE OWNED AND MAINTAINED BY CITY OF APOPKA.

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED BOUND AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES

## **EXHIBIT "E"**

This document was prepared by:  
Laura L. Kelly  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

Project State Road 429  
Parcels 63-810

### **PARTIAL RELEASE OF EASEMENT**

**THIS PARTIAL RELEASE OF EASEMENT** (“Release”) is executed as the \_\_\_\_\_ day of \_\_\_\_\_, 2021 by **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32801-4414 (“CFX”).

### **RECITALS**

**WHEREAS**, CFX was created pursuant to Part III, Chapter 348, Florida Statutes (“CFX Act”) to, among other things, construct, improve, maintain and operate a limited access toll road known as the Central Florida Expressway System, as defined in the CFX Act, and was granted all powers necessary and convenient to conduct its business, including the power to contract with other public agencies; and

**WHEREAS**, CFX’s predecessor in interest, Orange/Orange County Expressway Authority, and David Rubright, a/k/a Warren David Rubright, et. al. (collectively, “Rubright”) entered into that certain Stipulated Order of Taking dated March 27, 1998 for Case No. CI 98-1634 in the Circuit Court of the Ninth Judicial Circuit, Orange County, Florida (“Order of Taking”), whereby CFX’s predecessor in interest acquired a permanent drainage easement over the real property owned by Rubright identified as Parcel 63-810 and more particularly defined in **Exhibit “A”** attached hereto (“Existing Drainage Easement”); and

**WHEREAS**, DHIC-Oakpoint, LLC, a Delaware limited liability company (“Owner”), is a successor in interest to Rubright pursuant to that certain Special Warranty Deed recorded on June 29, 2021 as Instrument No. 20210395034 in the Public Records of Orange County, Florida; and

**WHEREAS**, CFX and Owner entered into that certain Relocation of Drainage Easement dated effective \_\_\_\_\_ and recorded on \_\_\_\_\_ in Official Records Book \_\_\_\_\_ at Pages \_\_\_\_\_ of the Public Records of Orange County, Florida, (the “Relocation Agreement”) setting forth the terms and conditions for the relocation of the Existing Drainage Easement to an area more specifically defined in the Relocation Agreement (“Relocated Easement”); and

**WHEREAS**, Owner has been requested to release a certain portion of the lands encumbered by the Existing Drainage Easement from the Order of Taking, and CFX is willing to release said portion in accordance with the terms hereof and the Relocation Agreement.

**NOW, THEREFORE, WITNESSETH**, that CFX, for and in consideration of One and No/100 Dollar (\$1.00) and of other good and valuable considerations, receipt of which is hereby acknowledged, has

released and discharged and by these presents does release and discharge all of the right, title, interest, claim and demand which said CFX has under and by virtue of the above-described Existing Drainage Easement in and to, but only in and to, the following-described land in Orange County, Florida, to wit:

The portion of the Easement located within Tax Parcel ID:  
\_\_\_\_\_ in Orange County, Florida, as depicted and described  
within the attached Exhibit "A," incorporated herein by reference.

Provided, always, nevertheless, that nothing herein contained shall in anyway or manner impair, alter or diminish the rights, purpose, effect, encumbrance or provisions of the Order of Taking on that portion of the remaining lands described in the Order of Taking and not hereby being released therefrom.

**IN WITNESS WHEREOF**, CFX has caused this Release to be signed in its name by its proper representative on the date set forth below.

*[SIGNATURE PAGE ON THE FOLLOWING PAGE]*

Signed, sealed, and delivered  
in the presence of:

“CFX”

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Buddy Dyer, Chairman

\_\_\_\_\_  
Print Name: \_\_\_\_\_

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

STATE OF FLORIDA                    )  
COUNTY OF \_\_\_\_\_            )

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ]  
online notarization on this \_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as  
Chairman of the Central Florida Expressway Authority, on behalf of the organization. He is personally  
known to me OR produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Signature of Notary Public - State of Florida  
Print Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



# MEMO ATTACHMENT "C"



Dewberry Engineers Inc. | 407.843.5120  
800 N. Magnolia Ave, Suite 1000 | 407.649.8664 fax  
Orlando, FL 32803 | www.dewberry.com

November 15, 2021

Mr. Glenn Pressimone, P.E.  
Chief of Infrastructure  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

**RE: Oak Point North**  
SR 429, Projects 604 and 429-200A  
CFX Parcel – 63-810

Dear Mr. Pressimone:

On behalf of Dewberry Engineers, Inc., as Consulting Engineer (the “Consulting Engineer”) to the Central Florida Expressway Authority (“CFX”) does here by certify as follows:

1. We have reviewed the proposed drainage outfall plans and calculations associated with the release and relocation a portion of the existing perpetual drainage easement (CFX Parcel 63-810) located along CR 437A that drains to Lake Carter as more particularly depicted in Exhibit “A” enclosed herewith. We have determined the relocation of the perpetual drainage easement is an acceptable revision. Therefore, we certify that the release and relocation of the existing portion of the perpetual drainage easement CFX Parcel 63-810 to the proposed location shown on Exhibit “A” with the Utility Easements 1A, 1B and 2 will not (1) impede or restrict the operation of the CFX Expressway System; (2) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of any portion of the Expressway System; or (3) otherwise impair traffic operations or public safety.
2. Furthermore, this certificate is being provided by the Consulting Engineer to CFX solely for the purposes of complying with Section 5.4 of CFX’s Amended and Restated Master Bond Resolution and the requirements set forth in CFX’s Manual and may not be relied on by any other person or party for any other purpose.

Sincerely,

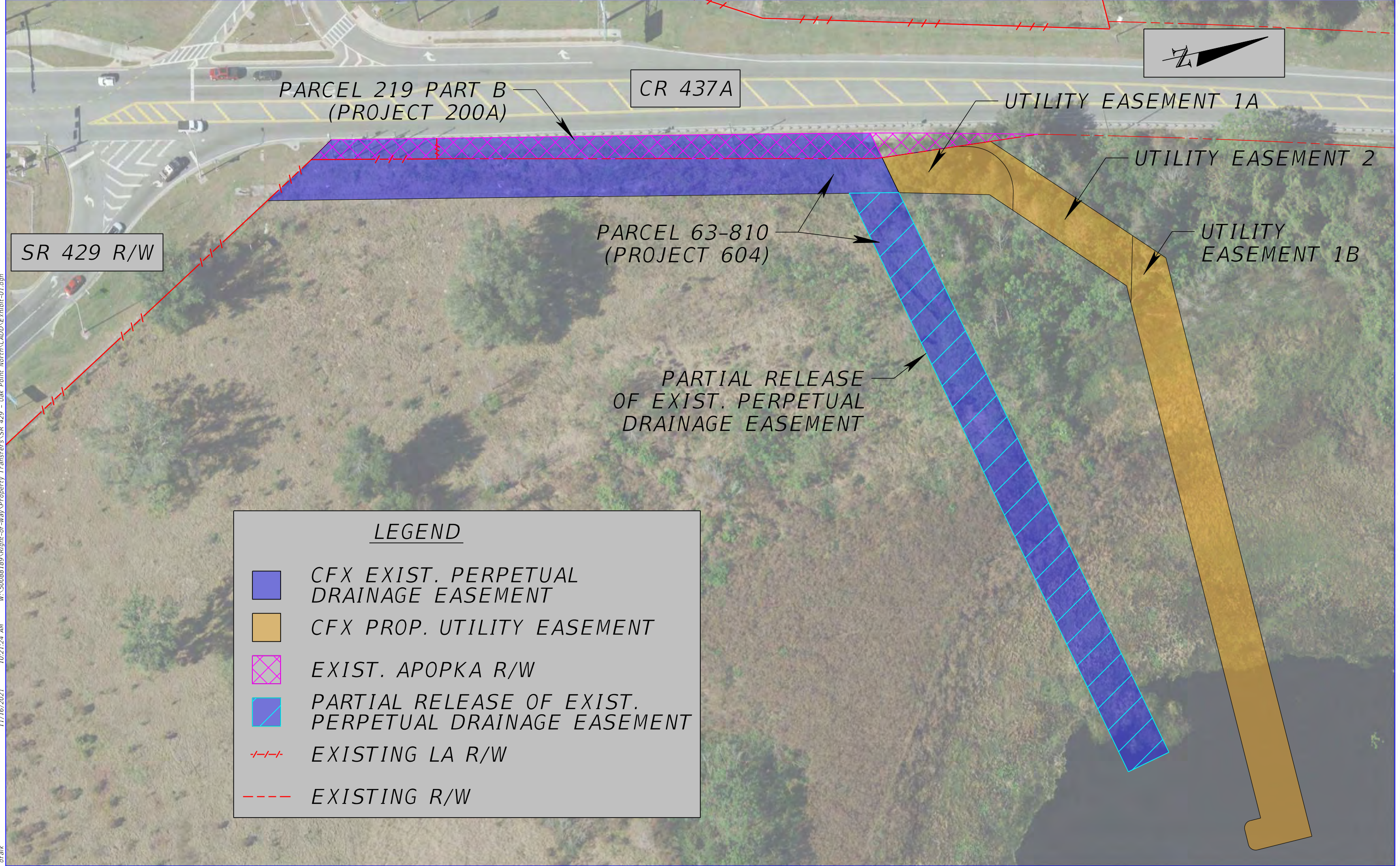
A handwritten signature in blue ink that reads "R. Keith Jackson".

R. Keith Jackson, P.E.  
Program Manager

Attachments

cc: Laura N. Kelly, Esq. CFX (w/ enc.)

W:\50088189\Right-of-way\Property Transfers\SR 429 - Oak Point North\CADD\Exhibit-01.dgn 10:21:24 AM 11/16/2021 dfalk



LEGEND

- CFX EXIST. PERPETUAL DRAINAGE EASEMENT
- CFX PROP. UTILITY EASEMENT
- EXIST. APOPKA R/W
- PARTIAL RELEASE OF EXIST. PERPETUAL DRAINAGE EASEMENT
- EXISTING LA R/W
- EXISTING R/W

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

--	--

SR 429 / CR 437A Drainage Easement	
ROAD NO.	PROJECT NO.
SR 429	604 & 200A



*PERPETUAL EASEMENT  
EXHIBIT "A"*

SHEET NO.	
-----------	--

**CONSENT AGENDA ITEM  
#15**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members *WR*

FROM: Diego "Woody" Rodriguez, General Counsel

DATE: December 2, 2021

SUBJECT: Real Estate Purchase Agreement Between the Central Florida Expressway Authority and Farmland Reserve, Inc.  
Project Number 528-757

---

## BACKGROUND

Farmland Reserve, Inc. ("Owner") owns approximately 17.13 acres of real property located adjacent to State Road 528 ("Property"). CFX desires to acquire the Property for potential future improvements to State Road 528. An appraisal of the Property was prepared by The Appraisal Group of Central Florida, Inc. with a total appraised value of the Property in the amount of \$94,300.00.

Pursuant to the terms of the proposed Agreement, the purchase price for the Property is \$94,300.00 and the closing will occur within ninety (90) days of the effective date of the Agreement, provided all conditions to closing have been satisfied.

On December 2, 2021, the Right of Way Committee met and upon review of the information and presentation recommended that the Board approve the Agreement.

## REQUEST

Approval of the Real Estate Purchase Agreement between CFX and the Owner subject to any minor or clerical revisions approved by the General Counsel or designee.

## ATTACHMENT

- A. Memo Dated November 18, 2021 to the Right of Way Committee with attachments.

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**MEMORANDUM**

TO: CFX Right of Way Committee Members

FROM: Laura Newlin Kelly, Associate General Counsel *LNK*

DATE: November 18, 2021

SUBJECT: Real Estate Purchase Agreement Between the Central Florida Expressway Authority and Farmland Reserve, Inc.  
Project No: 528-757

---

**BACKGROUND**

Farmland Reserve, Inc. ("Owner") owns approximately 17.13 acres of real property located adjacent to State Road 528 ("Property"). A map of the Property is attached hereto as **Attachment "A"**. CFX desires to acquire the Property for potential future improvements to State Road 528. An appraisal was prepared by The Appraisal Group of Central Florida, Inc. with a total appraised value of the Property in the amount of \$94,300.00. CFX and the Owner have negotiated the proposed Real Estate Purchase Agreement to memorialize the sale of the Property to CFX ("Agreement"). A copy of the proposed Agreement is attached hereto as **Attachment "B"**. Pursuant to the terms of the proposed Agreement, the purchase price for the Property is \$94,300.00 and the closing will occur within ninety (90) days of the effective date of the Agreement, provided all conditions to closing have been satisfied.

Pursuant to Section 5-4.032 of CFX's Property Acquisition, Disposition & Permitting Procedures Manual ("Manual"), CFX staff is required to obtain a review appraisal for all real properties acquired by CFX. Because of the minimal value of the Property and the expected cost associated with a review appraisal, staff is requesting a waiver of the requirement to obtain a review appraisal in accordance with Section 5-1.01 of the Manual.

**REQUEST**

A recommendation by the Right of Way Committee for CFX Board's approval of the Real Estate Purchase Agreement between CFX and the Owner in a form substantially similar to the attached Agreement, subject to the following: (1) waiver of the requirement for a review appraisal; and (2) approval of the legal descriptions and deed by CFX's General Engineering Consultant and any minor or clerical revisions approved by the General Counsel or designee.

**ATTACHMENTS**

- A. Map of the Property
- B. Real Estate Purchase Agreement

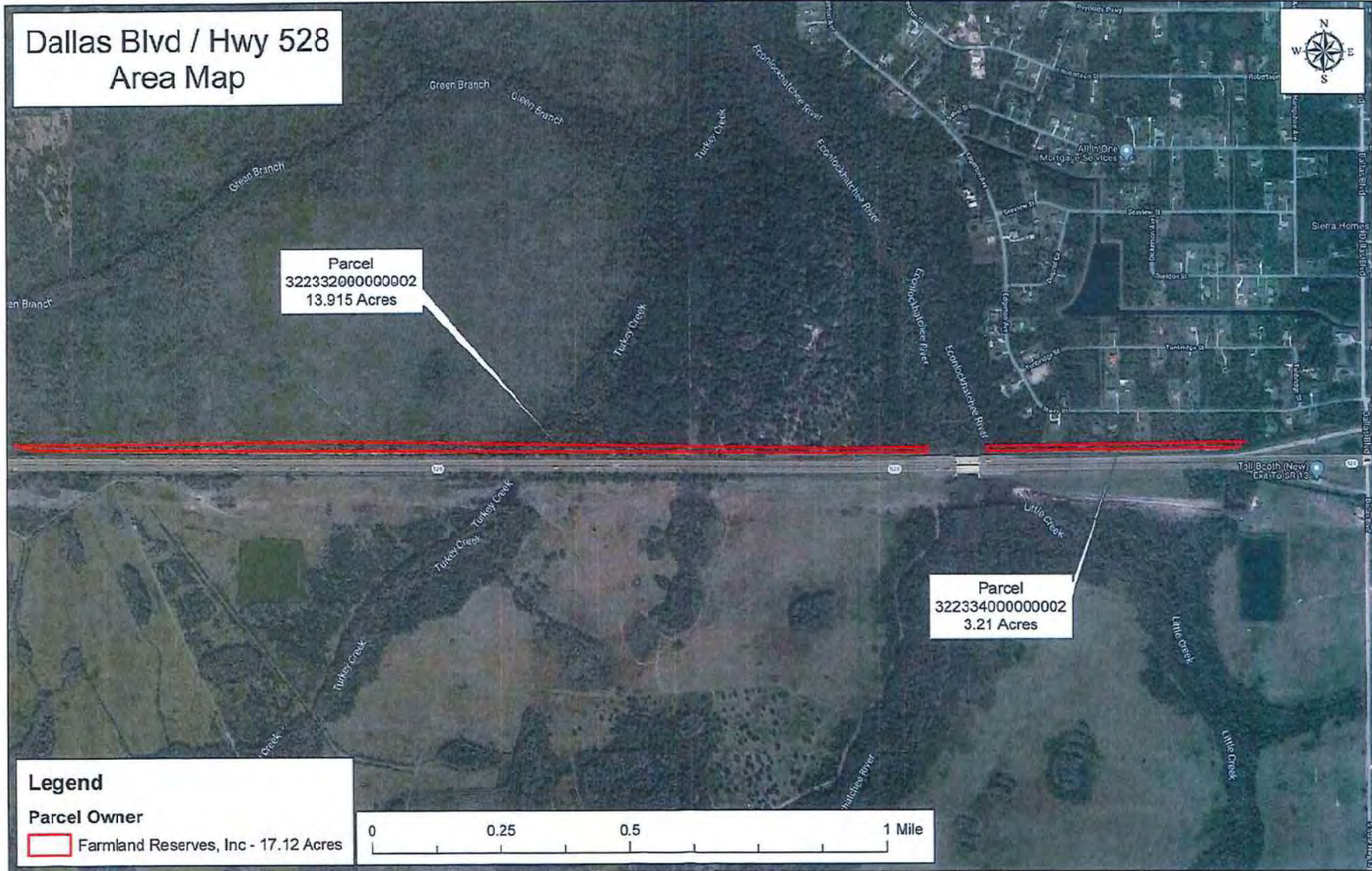
4974 ORL TOWER RD. ORLANDO, FL 32807 | PHONE: (407) 690-5000 | FAX: (407) 690-5011

WWW.CFXWAY.COM



MEMO ATTACHMENT "A"

4/6/24



## MEMO ATTACHMENT "B"

### REAL ESTATE PURCHASE AGREEMENT

(Orange County Parcel Nos. 34-23-32-0000-00-002 and 32-23-32-0000-00-002)

**THIS REAL ESTATE PURCHASE AGREEMENT** ("Agreement") is made and entered into as of the Effective Date (as hereinafter defined), by and between **FARMLAND RESERVE, INC.**, a Utah not for profit corporation, whose address is 79 S. Main Street, Suite 1000, Salt Lake City, Utah 84111 ("**Seller**"), 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, whose address is 4974 ORL Tower Road, Orlando, Florida 32801-4414 ("**Purchaser**").

#### WITNESSETH:

**WHEREAS**, Seller is the fee simple owner of that certain real property located within Orange County, Florida consisting of Orange County Parcel Identification Numbers 34-23-32-0000-00-002 and 32-23-32-0000-00-002, which comprises approximately 3.21 and 13.92 gross acres, respectively, as more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "**Property**"). The parties acknowledge and agree that Exhibit "A" contains only a graphic depiction of the Property and shall be replaced prior to the expiration of the Inspection Period (hereinafter defined) with the actual metes and bounds legal description to be mutually agreed upon by the parties as contained on the Survey (hereinafter defined); and

**WHEREAS**, pursuant to Section 348.753, Florida Statutes, Purchaser is empowered to construct, improve, maintain, and operate the Central Florida Expressway System ("**Expressway System**") and, in connection therewith, to construct any extensions, additions or improvements to said system or appurtenant facilities, including all necessary approaches, roads, bridges, and avenues of access; and

**WHEREAS**, Purchaser has identified the Property as necessary right-of-way for the future construction and maintenance of right-of-way improvements for State Road 528, together with all related appurtenances on the Property (collectively, "**Purchaser's Intended Use**"); and

**WHEREAS**, pursuant to Section 348.754, Florida Statutes, Purchaser is empowered to take the Property through eminent domain; and

**WHEREAS**, in lieu of such a taking by Purchaser, Seller desires to sell and convey the Property to Purchaser, and Purchaser desires to acquire from Seller the Property in accordance with the terms and conditions set forth herein.

**NOW, THEREFORE**, for and in consideration of the premises, the payment of Ten and No/100 Dollars (\$10.00) in hand paid by Purchaser to Seller, the mutual covenants and agreements herein set forth, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged by the parties hereto, the parties hereto do hereby covenant and agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

2. **Agreement to Buy and Sell.** Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller the Property in the manner and upon the terms and conditions set forth in this Agreement.

3. **The Property.** For purposes of this Agreement the term "Property" shall also include all of Seller's right, title and interest in, to and under: (i) all tenements, hereditaments and appurtenances relating thereto or associated therewith, (ii) all improvements, buildings and fixtures, if any, situated thereon, (iii) any permits, approvals, authorizations and licenses relating to or affecting the Property, (iv) all right, title and interest of Seller in and to any street, road, alley or avenue adjoining such Property, and (v) all of Seller's right, title and interest in any strip, hiatus, gore, gap or boundary adjustment area adjoining or affecting such Property. Purchaser acknowledges and agrees that nothing contained herein shall be deemed to create an obligation of Seller to convey, transfer or assign specific entitlements or trips to Purchaser or for the benefit of the Property, and that Seller makes no representation or warranty whatsoever regarding the properties and interests described in this clause (notwithstanding the inclusion of those properties and interests in the definition of "Property").

4. **Purchase Price and Method of Payment.** The purchase price to be paid by Purchaser to Seller for the Property ("**Purchase Price**") shall be **NINETY-FOUR THOUSAND THREE HUNDRED and NO/100 DOLLARS (\$94,300.00)**. The Purchase Price shall be paid by Purchaser to Seller at the Closing (as hereinafter defined) by wire transfer of immediately available funds, subject to appropriate credits, adjustments and prorations as hereinbelow provided. The amount of the Purchase Price is fixed and will not be adjusted based on the gross area contained within the Property or on any other variable.

5. **Survey and Title Matters.**

(a) **Survey.** Unless otherwise waived by Purchaser in writing, Purchaser shall, within thirty (30) days after the Effective Date, at its cost, obtain a new current boundary survey of the Property (the "**Survey**") prepared by a registered surveyor, licensed in the State of Florida (the "**Surveyor**"). The Survey: (i) shall contain a metes and bounds legal description of the Property substantially consistent in all material respects of the graphic depiction of the Property set forth in **Exhibit "A"** attached hereto to be mutually agreed upon by the parties; (ii) shall be certified to Seller, Purchaser, Title Company (as defined below); and (iii) shall be in form and content which shall enable the Title Company to delete the standard survey exception and to issue a survey endorsement to the Title Policy (as defined below). The Surveyor's seal shall be affixed to the Survey.

(b) **Title Insurance.** Unless otherwise waived by Purchaser in writing, within fifteen (15) days after the Effective Date, Seller shall obtain, at Seller's expense, a current title insurance commitment and a copy of all exceptions referred to therein (the "**Title Commitment**") from First American Title Insurance Company, Old Republic National Title Insurance Company, or Fidelity National Title Insurance Company (the "**Title Company**") issued by Burr & Forman ("**Title Agent**"). The Title Commitment shall irrevocably obligate the Title Company to issue an



ALTA owner's title insurance policy approved for issuance in the State of Florida in the amount of the Purchase Price (the "**Title Policy**"), which Title Policy shall insure Purchaser's fee simple title to the Property, together with any appurtenant easements. The Title Commitment will initially be based on the graphic depiction of the Property as set forth in **Exhibit "A"** attached hereto. Within fifteen (15) days after the parties have approved the legal description contained on the Survey, Seller shall issue an endorsement to the Title Commitment based on the Survey legal description whereupon Purchaser shall have the rights set forth in subparagraph (c) below with respect to any new matters contained on said endorsement.

(c) **Title and Survey Objection.** Within thirty (30) days after the receipt of the later to be received of the Survey or the Title Commitment, Purchaser shall provide Seller with notice of any matters set forth in the Title Commitment or Survey which are unacceptable to Purchaser, which matters shall be referred to herein as "**Title Defects**". Any matters set forth in the Title Commitment or Survey to which Purchaser does not timely object shall be referred to collectively herein as the "**Permitted Exceptions**". Seller, at its election, shall have thirty (30) days after receipt of the aforesaid notice from Purchaser (the "**Seller's Cure Period**") within which to use commercially reasonable efforts to cure such Title Defects to the reasonable satisfaction of Purchaser and the Title Company. Seller may elect in its sole discretion whether Seller will attempt to cure any Title Defects. In the event Seller fails or refuses to cure any Title Defect(s) within Seller's Cure Period, then Purchaser may at its option by delivering written notice thereof to Seller within seven (7) days after expiration of the Cure Period (i) terminate this Agreement, whereupon the Agreement shall be deemed null and void and of no further force and effect, and no party hereto shall have any further rights, obligations or liability hereunder (other than any rights, obligations, and liabilities to survive a termination as provided in this Agreement); or (ii) accept title to the Property subject to such Title Defect(s) and without reduction of the Purchase Price. It is specifically understood and agreed that, without limitation, Purchaser hereby objects to and will require the removal, correction or deletion of (i) all standard exceptions set forth in the Title Commitment except for taxes for the year of closing and thereafter which are not yet due and payable (subject to a specific reading of the Survey as to any survey exceptions required by the Title Company), (ii) any gap, overlap, boundary dispute, hiatus or encroachment identified on the Survey which affects the Property and (iii) all mortgages, monetary liens or similar encumbrances. Further, it is understood and agreed that Purchaser hereby objects to any financial obligation related to a property owner's association, including declarations, covenants and restrictions. Notwithstanding the foregoing, if Purchaser declines to obtain a Survey, the Permitted Exceptions will include following standard exceptions: (i) easements, or claims of easements, not shown by the public records; and (ii) encroachments, overlaps, boundary line disputes, and other matters that would be disclosed by an accurate survey and inspection. At Closing, Seller shall provide the Title Company with such customary affidavits or other documents as are necessary to enable the Title Company to remove the standard exceptions from the Title Policy pursuant to Section 627.7842, Florida Statutes.

(d) **No Additional Encumbrances.** From and after the Effective Date, Seller shall not, without obtaining Purchaser's prior written consent in each instance, create, incur, or consent to any easement, restriction, right-of-way, reservation, mortgage, lien, pledge, encumbrance, lease, license, occupancy agreement or legal or equitable interest, which in any way affects the Property or any portion thereof (except those called for in this Agreement) other than those of record as of the Effective Date and those that will be satisfied by Seller and released of

record at Closing. Not more than ten (10) days prior to Closing, Seller shall cause the Title Company to update by endorsement the Title Commitment to a date within twenty (20) days of the date of Closing (the "**Update Endorsement**"), which endorsement, together with legible copies of any additional matters identified therein, shall be delivered to Purchaser. If the Update Endorsement includes any additional requirements in Schedule B-Section I, Seller must satisfy the same prior to Closing at Seller's sole cost and expense to the extent those additional requirements result from Seller's deliberate actions. If such additional requirements do not result from Seller's deliberate actions, then Seller shall have no obligation to satisfy them, but if Seller fails or refuses to do so, Purchaser shall have the same rights as are provided above in subsection (c) relating to Seller's failure or refusal to remedy Title Defects. If the Update Endorsement includes any exceptions in Schedule B-Section II that are not already Permitted Exceptions, Seller must take all actions reasonably necessary to delete the same prior to the Closing to the extent those additional exceptions result from Seller's deliberate actions. If such additional exceptions do not result from Seller's deliberate actions, then Seller shall have no obligation to remove them, but if Seller fails or refuses to do so, Purchaser shall have the same rights as are provided above in subsection (c) relating to Seller's failure or refusal to remedy Title Defects; provided, however, Seller shall not be required to expend unreasonable amounts of money or commence any legal proceeding in order to cause such deletion. Seller's failure to satisfy said requirements and/or delete said exceptions shall be a default under the Agreement by Seller.

#### 6. **Inspection Period.**

(a) Purchaser shall have sixty (60) days after the Effective Date (the "**Inspection Period**"), to determine, in Purchaser's sole and absolute discretion, that the Property is suitable and satisfactory for Purchaser's Intended Use. During the Inspection Period, Purchaser may, in Purchaser's sole discretion and at Purchaser's expense, subject to the conditions and requirements of this Agreement, perform any and all Inspections (as more particularly defined below) Purchaser desires to perform, including but not necessarily limited to the following: (i) having the Property tested, surveyed and inspected to determine if the Property contains any Hazardous Substances, wastes, materials, pollutants or contaminants and obtaining a hazardous waste report prepared by a registered engineer, which report shall be satisfactory to Purchaser in its sole discretion; (ii) having the Property tested, surveyed and inspected to determine if the Property contains any endangered or threatened species of animal life or endangered, threatened or commercially exploited plants on or under it, including, without limitation, any jurisdictional wetlands, such that any state or federal agency, department or commission would disallow the use of the Property as intended by Purchaser or require Purchaser to relocate any such species, plants or wetlands, and obtaining an endangered species and habitat report, satisfactory to Purchaser in its sole discretion; and (iii) investigating the physical and economic feasibility of developing the Property for Purchaser's Intended Use, including without limitation investigation of all applicable building, zoning, environmental and other codes, ordinances, statutes, rules and regulations affecting the Property, stormwater management, zoning and development standards, impact and development fees, drainage conditions, soils, other environmental factors, sewer and water utility capacity and availability factors, and any other factors whatsoever considered appropriate by Purchaser in its sole and absolute discretion.

As used herein, "**Hazardous Substances**" shall mean and include all hazardous and toxic substances, wastes or materials, any pollutants or contaminants (including, without

limitation, asbestos and raw materials which include hazardous components), or other similar substances, or materials which are included under or regulated by any local, state or federal law, rule or regulation pertaining to environmental regulation, contamination or clean-up, including, without limitation, "CERCLA", "RCRA", or state superlien or environmental clean-up statutes (all such laws, rules and regulations being referred to collectively as "**Environmental Laws**").

(b) In the event Purchaser determines, in its sole discretion, which may be exercised for any reason or no reason at all, that it is not desirable or feasible to develop the Property for Purchaser's Intended Use or that it is not satisfied as to any other matter set forth in Section 6(a) above, or any other matter(s) which Purchaser deems relevant, then in such event Purchaser may, in Purchaser's sole discretion, elect to terminate this Agreement by furnishing written notice thereof to Seller prior to the expiration of the Inspection Period and in such event the parties hereto shall thereafter be relieved of all rights and obligations hereunder except for those rights and obligations which expressly survive a termination of this Agreement. In the event Purchaser fails to notify Seller in writing within the Inspection Period that Purchaser is satisfied, in Purchaser's sole discretion, with Purchaser's inspections of the Property and that Purchaser intends to proceed with the purchase of the Property, this Agreement shall automatically terminate and be null and void and neither party shall have any further liability or obligation hereunder except as otherwise provided herein. If Purchaser terminates this Agreement for any reason, all plans, correspondence, surveys, drawings, reports, audits, and other materials obtained by or on behalf of Purchaser with respect to the Property shall be delivered to Seller, without cost to Seller, and become Seller's property. In such event Purchaser makes no warranties or representations whatsoever concerning the plans, correspondence, surveys, drawings, reports, audits, and other materials delivered to Seller by the Purchaser, and Seller assumes all risk of relying thereon. Except as otherwise required pursuant to Chapter 119, Florida Statutes, Purchaser shall not disclose the results of any inspections, investigations, and inquiries to any persons other than Purchaser's advisors, lender, and Seller.

(c) Delivery of Information Relating to Property. Within three (3) business days after the Effective Date, Seller shall deliver to Purchaser copies of any studies, documents, investigations, or materials in Seller's possession (collectively, the "**Seller's Due Diligence Materials**"). All of Seller's Due Diligence Materials may be used by Purchaser in such manner as it desires; provided, however, Seller makes no warranties or representations whatsoever concerning Seller's Due Diligence Materials, and Purchaser assumes all risk of relying thereon.

(d) Access to Property. Purchaser shall at all times before Closing have the right of going upon the Property with its agents and engineers as needed to inspect, examine, survey, appraise and otherwise undertake those actions which Purchaser, in its sole discretion, deems necessary or desirable to determine the suitability of the Property for Purchaser's Intended Use. Said privilege shall include, without limitation, the right to perform appraisals, make surveys, soils tests, borings, percolation tests, compaction tests, environmental tests and tests to obtain any other information relating to the surface, subsurface and topographic conditions of the Property, all of the foregoing (hereinafter collectively referred to as the "**Inspections**") to be performed at Purchaser's expense and subject to the conditions and requirements of this Agreement. Purchaser covenants and agrees that such activities shall not cause any harm to Seller or the Property and that the Property shall be restored to substantially the same condition as existed immediately prior to Purchaser's inspection activities pursuant to this Section 6, in the event Purchaser does not

acquire same. Within the limits of Section 768.28, Florida Statutes, Purchaser shall at all times indemnify, save harmless and defend Seller from and against any and all claims, liabilities, losses, costs, lawsuits, disputes, damages, liens, fines, penalties, and expenses (including reasonable attorneys' fees whether incurred at or before the trial level or in any appellate proceedings) which Seller may suffer, sustain or incur by reason of the exercise of Purchaser's right under this Section 6, including, without limitation, any damage to the Property or to any person or other real or personal property, and including the filing of any mechanics' or other statutory or common law lien or claims against the Property or any part thereof. This provision shall survive Closing or earlier termination of this Agreement. Any entry on the Property made by or on behalf of Purchaser (or its employees, agents, representatives, or other persons acting on behalf of or at the request of Purchaser) shall be at the sole risk of Purchaser. Purchaser shall pay for all work and inspections performed on or in connection with the Property and shall not permit the assertion of any lien against the Property (or any portion thereof).

7. **Conditions Precedent to Purchaser's Obligation to Close.** Purchaser's obligation to purchase the Property shall be expressly conditioned upon the fulfillment of each of the following conditions precedent (collectively, the "**Conditions to Close**") on or before the date or dates hereinafter specifically provided and in no event later than the date of Closing:

(a) The representations, warranties and covenants of Seller contained in this Agreement shall be true and correct as of the Closing Date (hereinafter defined) in all material respects.

(b) Seller shall have performed and complied with all covenants and agreements contained herein which are to be performed and complied with by Seller at or prior to the Closing.

(c) Seller, at Seller's expense, shall have obtained the Title Commitment from the Title Company in the full amount of the Purchase Price, subject only to the Permitted Exceptions.

(d) The Property shall not have been materially affected by any legislative or regulatory change, or any flood, accident or other materially adverse event that would prevent or prohibit Purchaser's Intended Use.

(e) Purchaser may at any time or times on or before Closing, at its election, subject to restrictions of law, waive any of the foregoing conditions to its obligations hereunder and the consummation of such sale, but any such waiver shall be effective only if contained in writing signed by Purchaser and delivered to Seller.

(f) In the event any of the foregoing conditions or other express conditions precedent to Closing contained in this Agreement are not fulfilled or waived by Purchaser prior to the date of Closing, Purchaser may elect, as its sole and exclusive remedy, to: (i) terminate this Agreement, or (ii) waive any outstanding Conditions to Close and proceed to close and acquire the Property without adjustment to the Purchaser Price.

**8. Closing Date and Closing Procedures and Requirements.**

(a) Closing Date. The closing (the “**Closing**”) shall occur on the date that is thirty (30) days after the expiration of the Inspection Period (“**Closing Date**”). The Closing shall occur at the offices of the Title Agent (“**Closing Agent**”), or any other place and time which is mutually agreed to in advance in writing by all the parties. Notwithstanding the foregoing, the Closing may occur in escrow by mail, electronic transmission, and/or overnight courier. The Closing Agent shall prepare all documents for Closing and act as escrow agent. Purchaser hereby waives any objection to Closing Agent’s representation of Seller in the preparation of this Agreement or in any future dispute or legal proceeding arising out of this Agreement.

(b) Conveyance of Title. At the Closing, Seller shall execute and deliver to Purchaser a Special Warranty Deed conveying fee simple title to the Property to Purchaser, free and clear of all liens, special assessments, easements, reservations, restrictions and encumbrances whatsoever, excepting only the Permitted Exceptions (“**Deed**”). In the event any mortgage, lien or other encumbrance encumbers the Property at Closing and is not paid and satisfied by Seller prior to Closing, excepting only the Permitted Exceptions, such mortgage, lien or other encumbrance shall, at Purchaser’s election, be satisfied and paid with the proceeds of the Purchase Price. Seller and Purchaser agree that such documents, resolutions, certificates of good standing and certificates of authority as may be necessary to carry out the terms of this Agreement shall be executed and/or delivered by such parties at the time of Closing, including, without limitation, an owner’s affidavit in form sufficient to enable the Title Company to delete all standard title exceptions other than survey exceptions from the Title Policy pursuant to Section 627.7842, Florida Statutes, and a certificate duly executed by Seller certifying that Seller is not a foreign person for purposes of the Foreign Investment in Real Property Tax Act (FIRPTA), as revised by the Deficit Reduction Act of 1984 and as may be amended from time to time.

(c) Disclosure Affidavit. At the Closing, Seller shall execute an affidavit disclosing each person or entity having a legal or beneficial interest in the Property as required under Section 286.23, Florida Statutes, as it may be amended from time to time. Such disclosure shall be made in the form of **Exhibit “B”** attached hereto and incorporated herein by this reference. Seller shall make such disclosure under oath, subject to the penalties for perjury. Seller waives the notice provision of Section 286.23(2), Florida Statutes and warrants that both affidavits shall disclose those persons or entities holding less than five (5%) percent of the beneficial interest of the disclosing entity.

(d) Prorating of Taxes and Assessments. All real property ad valorem taxes, general and special assessments and charges applicable to the Property shall be prorated as of the Closing Date between Seller and Purchaser, but specifically excluding all assessments assessed by any property owner’s association, which if any will be paid in full by Seller on or before the Closing Date. Prior to Closing, Seller shall deliver to Purchaser an estoppel letter from each and any property owner’s association confirming the amount of all outstanding assessments, fees and charges due for the Property as of the Closing Date. Delivery of such tax payment to Orange County along with a copy of the Deed and a request to Orange County Tax Collector to remove the Property from the tax roll at Closing shall be the responsibility of the Closing Agent and shall occur at Closing. If the real property ad valorem taxes, general assessments and charges applicable to the Property are not available at Closing, then they shall be estimated based upon the most recent

information available. If the Closing occurs in November or December Seller shall be responsible for the entire year's tax liability.

(e) Special Assessments. Seller shall be at Closing charged an amount equal to the most recent estimate by the public body of any special assessment for public improvement that are, as of Closing, pending liens.

(f) Closing Costs. Seller shall pay the following Closing costs: (i) all real property transfer and transaction taxes and levies relating to the purchase or sale of the Property, if any, including, without limitation, the documentary stamps which shall be affixed to the Deed, (ii) the title insurance premium for the Title Commitment and Title Policy equal to the Purchase Price to be issued by Title Agent, (iii) the cost of recording the Deed, (iv) preparation and recordation of any instruments necessary to correct title, and (v) all of the real estate sales commissions set forth herein, if applicable. The Closing Agent shall prepare, at Seller's sole expense, all Closing documents. Other than the aforementioned document preparation costs, each party shall pay its own attorneys' fees and costs. Purchaser shall pay for all costs and expenses incurred with respect to the Survey and to Purchaser's inspections of the Property.

**9. Warranties and Representations of Seller.** To induce Purchaser to enter into this Agreement and to purchase the Property, Seller, in addition to the other representations and warranties expressly set forth herein, makes the following representations and warranties, each of which is being made as of the Effective Date:

(a) There will be no tenant(s) remaining on the Property as of the Closing Date.

(b) To Seller's actual knowledge, without investigation, there are no actions, suits or proceedings of any kind or nature whatsoever, legal or equitable, affecting the Property or any portion or portions thereof in any court or before or by any federal, state, county or municipal department, commission, board, bureau, or agency or other governmental instrumentality.

(c) Seller is a not for profit corporation duly organized and validly existing under the laws of the State of Utah and registered to do business in the State of Florida; Seller has taken all the necessary action under its organizational documents and the individual(s) executing this Agreement has the full right, power and authority to enter into and deliver this Agreement and to consummate the purchase and sale of the Property in accordance herewith and to perform all covenants and agreements of Seller hereunder

(d) Seller has made no commitments to any governmental authority (other than Purchaser), utility company, church or other religious body, or any homeowners association, property owners association or to any other organization, group, or individual, relating to the Property which would impose an obligation upon Purchaser or its successors or assigns to make any contribution or dedications of money or land or to construct, install, or maintain any improvements of a public or private nature on or off the Property.

(e) Seller has granted to no person or legal entity other than Purchaser any right or option whatsoever to acquire the Property or any portion or portions thereof or any interest or interests therein.

(f) That the execution and delivery of this Agreement and the consummation of the transaction contemplated herein shall not and do not constitute a violation or breach by Seller of any provision of any agreement or other instrument to which Seller is a party, nor result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against Seller.

(g) Seller is a United States resident, not a foreign person (as such terms are defined in the Internal Revenue Code and Income Tax Regulations), for purposes of U.S. income taxation, and no withholding of sale proceeds is required with respect to Seller's interest in the Property under Section 1445(a) of the Internal Revenue Code.

(h) In the event that changes occur as to any information, documents or exhibits referred to in the subparagraphs of this Section 9, or in any other part of this Agreement, of which Seller has knowledge, Seller will immediately disclose same to Purchaser when first available to Seller; and in the event of any change which may be deemed by Purchaser in its sole discretion to be materially adverse, Purchaser may, at its election and as its sole and exclusive remedy, terminate this Agreement. For purposes of this Agreement, whenever the phrase "to Seller's knowledge," or the "knowledge" of Seller or words of similar import are used, they shall be deemed to refer to facts within the actual knowledge of Don Whyte and no others without duty of inquiry or investigation whatsoever. Purchaser acknowledges that Don Whyte is named above solely for the purpose of defining the scope of Seller's knowledge and not for the purpose of imposing any liability on or creating any duties running from Don Whyte.

(i) SELLER MAKES NO WARRANTIES OR REPRESENTATIONS RELATING TO THE PROPERTY, ITS OPERATIONS, THE COST OR FEASIBILITY OF DEVELOPING OR USING THE PROPERTY, OR OTHER MATTERS EXCEPT THE WARRANTIES AND REPRESENTATIONS THAT ARE EXPRESSLY STATED IN THIS AGREEMENT. SELLER DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS, AND GUARANTIES; AND PURCHASER AGREES NO OTHER WARRANTIES, REPRESENTATIONS, OR GUARANTIES FROM SELLER SHALL BE IMPLIED. EXCEPT AS THIS AGREEMENT EXPRESSLY PROVIDES OTHERWISE, PURCHASER AGREES TO RECEIVE THE PROPERTY AS IS, WHERE IS, AND SUBJECT TO ALL FAULTS AND DEFECTS.

**10. Warranties and Representations of Purchaser.** To induce Seller to enter into this Agreement, Purchaser, in addition to the other representations and warranties set forth herein, makes the following representations and warranties, each of which is being made as of the Effective Date and the date of Closing, is material and is being relied upon by Seller and shall survive Closing hereunder for a period of twelve (12) months:

(a) That Purchaser has the full right, power, and authority to enter into and deliver this Agreement and to consummate the purchase and sale of the Property in accordance herewith and to perform all covenants and agreements of Purchaser hereunder.

(b) That to the best of Purchaser's actual knowledge without investigation or inquiry, the execution and delivery of this Agreement and the consummation of the transactions contemplated herein shall not and do not constitute a violation or breach by Purchaser of any

provision of any agreement or other instrument to which Purchaser is a party or to which Purchaser may be subject although not a party, nor result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against Purchaser.

(c) That each and every one of the foregoing representations and warranties is true and correct as of the Effective Date, will remain true and correct throughout the term of this Agreement, and will be true and correct as of the Closing Date.

(d) That in the event that changes occur as to any of the foregoing representations and warranties of Purchaser contained in this Section 10, or in any other part of this Agreement, of which Purchaser has knowledge, Purchaser will immediately disclose same to Seller when first available to Purchaser.

**11. Seller's Affirmative Covenants.** In addition to the other covenants and undertakings set forth herein, Seller makes the following affirmative covenants, each of which shall survive Closing hereunder:

(a) From and after the Effective Date and until physical possession of the Property has been delivered to Purchaser, Seller will keep and maintain all of the Property in the same condition in which Seller has heretofore maintained the Property.

(b) At Closing, Seller shall transfer, assign, and convey to Purchaser, without warranty or representation whatsoever, all of Seller's right, title and interest in and to all utilities and utility commitments which service or pertain in any manner to the Property, including, without limitation, any water or sewer connections which have been allocated in any manner to the Property or to Seller as owner of the Property and Seller's position on any waiting list relating to any such water or sewer connections.

(c) From and after the Effective Date, Seller shall not offer to sell the Property, or any portion thereof, to any other person or entity, nor enter into any verbal or written agreement, understanding, or contract relating to the sale of the Property.

(d) Except as otherwise expressly contemplated herein, from and after the Effective Date, Seller shall not encumber or create any liens on the Property.

**12. Purchaser's Affirmative Covenants.** In addition to the other covenants and undertakings set forth herein, Purchaser affirmatively covenants that Purchaser shall take such other actions and perform such other obligations as are required or contemplated hereunder including, without limitation, all obligations pertaining to satisfaction of any contingencies of this Agreement or conditions precedent to performance by Purchaser of its obligations hereunder.

**13. Defaults.**

(a) Default by Seller. In the event Seller fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by Seller under the terms and provisions of this Agreement, or in the event that Seller fails to timely close the transaction contemplated herein, Purchaser, in Purchaser's sole discretion, shall be entitled to, as Purchaser's sole and exclusive remedy, to elect either to: (i) enforce specific



performance of this Agreement against Seller; or (ii) terminate this Agreement. Upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect, except as otherwise provided herein.

(b) Default by Purchaser. In the event Purchaser fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by Purchaser under the terms and provisions of this Agreement, or in the event that Purchaser fails to timely close the transaction contemplated hereby, Seller's sole and exclusive remedy for any such default shall be, upon giving written notice to Purchaser as herein provided, to terminate this Agreement, whereupon this Agreement and all rights and obligations created hereby shall automatically terminate and be null and void and of no further force or effect whatsoever, except as otherwise provided herein.

(c) Survival. The provisions of this Section 13 shall expressly survive Closing.

(d) Indemnification. Notwithstanding the foregoing, the limitations on the remedies available to Seller for Purchaser's default shall not apply to Seller's remedies and Purchaser's liability arising from Purchaser's covenants under this Agreement to indemnify and defend Seller. All such indemnification covenants on the part of Purchaser shall continue in full force and effect and shall not be waived, affected, or limited by the limitations imposed above on Seller's remedies for Purchaser's default.

**14. Possession of Property.** Seller shall deliver to Purchaser full and exclusive possession of the Property on the Closing Date.

**15. Condemnation.** In the event the Property or any portion or portions thereof shall be taken or condemned or be the subject of a bona fide threat of condemnation by any Governmental Authority or entity, other than Purchaser, prior to the Closing Date, Purchaser shall have the option of either (i) terminating this Agreement by giving written notice thereof to Seller, whereupon this Agreement and all rights and obligations created hereunder shall be null and void and of no further force or effect except as this Agreement provides otherwise, or (ii) requiring Seller to convey the remaining portion or portions of the Property to Purchaser pursuant to the terms and provisions hereof and to transfer and assign to Purchaser at the Closing all of the right, title and interest of Seller in and to any award made or to be made by reason of such condemnation. Seller and Purchaser hereby further agree that Purchaser shall have the right to participate in all negotiations with any such Governmental Authority relating to the Property or to the compensation to be paid for any portion or portions thereof condemned by such Governmental Authority or other entity.

**16. Broker.**

(a) Seller hereby represents and warrants to Purchaser that Seller has not engaged or dealt with any agent, broker or finder in regard to this Agreement or to the sale and purchase of the Property contemplated hereby. Seller hereby indemnifies Purchaser and agrees to hold Purchaser free and harmless from and against any and all liability, loss, cost, damage and expense, including but not limited to attorneys' and paralegals' fees and costs, whether suit be brought or not, and whether at trial, both prior to and on appeal, or incurred in any mediation,

arbitration, administrative or bankruptcy proceeding, which Purchaser shall ever suffer or incur because of any claim by any agent, broker or finder engaged by Seller, whether or not meritorious, for any fee, commission or other compensation with respect to this Agreement or to the sale and purchase of the Property contemplated hereby. Seller agrees to retain legal counsel to defend Purchaser against any claim brought by an agent, broker or finder claiming to have been engaged by Seller. If Seller refuses to retain legal counsel to defend Purchaser, Seller shall be liable for all attorneys' and paralegals' fees and costs, whether suit be brought or not, and whether at trial, both prior to and on appeal, or incurred in any mediation, arbitration, administrative or bankruptcy proceeding, incurred by Purchaser in its defense and to pursue Purchaser's rights to be indemnified by Seller.

(b) Purchaser hereby represents and warrants to Seller that Purchaser has not engaged or dealt with any agent, broker or finder in regard to this Agreement or to the sale and purchase of the Property contemplated hereby. Within the limits of Section 768.28, Florida Statutes, Purchaser hereby indemnifies Seller and agrees to hold Seller free and harmless from and against any and all liability, loss, cost, damage and expense, including but not limited to attorneys' and paralegals' fees and costs, whether suit be brought or not, and whether at trial, both prior to and on appeal, or incurred in any mediation, arbitration, administrative or bankruptcy proceeding, which Seller shall ever suffer or incur because of any claim by any agent, broker or finder engaged by Purchaser, whether or not meritorious, for any fee, commission or other compensation with respect to this Agreement or to the sale and purchase of the Property contemplated hereby. Purchaser agrees to retain legal counsel to defend Seller against any claim brought by an agent, broker or finder claiming to have been engaged by Purchaser. If Purchaser refuses to retain legal counsel to defend Seller, Purchaser shall be liable for all attorneys' and paralegals' fees and costs, whether suit be brought or not, and whether at trial, both prior to and on appeal, or incurred in any mediation, arbitration, administrative or bankruptcy proceeding, incurred by Seller in its defense and to pursue Seller's rights to be indemnified by Purchaser.

**17. Notices.** Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given (i) one day after depositing with a nationally recognized overnight courier service, (ii) on the day of hand delivery (provided such delivery occurs prior to 5:00 pm, local Orlando, Florida time), or (iii) via email when transmitted provided that such email is transmitted prior to 5:00 pm, local Orlando, Florida time, to the address listed below or to such other address as either party may from time to time designate by written notice in accordance with this paragraph:

Purchaser: Central Florida Expressway Authority  
Attn: Executive Director  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: Executive Director

Copy to: Central Florida Expressway Authority  
Attn: General Counsel  
4974 ORL Tower Road  
Orlando, Florida 32807  
Email: Woody.Rodriguez@cfxway.com

Seller: Farmland Reserve, Inc.  
Attn: Rex Burgener  
79 S. Main Street, Suite 1000  
Salt Lake City, Utah 84111  
Email: rburgener@farmlandreserve.org

Copy to: James R. Pratt, Esquire  
Burr & Forman  
200 S. Orange Avenue, 8th floor  
Orlando, Florida 32801  
Email: jpratt@burr.com

The attorneys for the parties set forth herein may deliver and receive notices on behalf of their clients.

**18. General Provisions.**

(a) 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.

(b) 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.

(c) The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns. Time is of the essence of this Agreement. Neither this Agreement, nor any right or obligation of any party arising under this Agreement, may be assigned or delegated without the written consent of all parties.

(d) Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included. Wherever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday, or holiday, such time for performance shall be extended to the next business day. For purposes of this Agreement, "holiday" shall mean federal holidays as defined in 5 U.S.C. 6103. Further, for purposes of this Agreement, "business day" shall mean a week day (Monday through Friday) that is not also a holiday. Except as otherwise set forth herein, the last day of any period of time described herein shall be deemed to end at 11:59 p.m. local time in Orange County, Florida.

(e) The headings inserted at the beginning of each paragraph are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph.

(f) Seller and Purchaser do hereby covenant and agree that such documents as may be legally necessary or otherwise appropriate to carry out the terms of this Agreement shall be executed and delivered by each party at the Closing.

(g) This Agreement shall be interpreted under the laws of the State of Florida, with venue for any action, suit, or proceeding brought to recover any sum due under, or to enforce compliance with, this Agreement shall lie in the court of competent jurisdiction in and for Orange County, Florida; each party hereby specifically consents to the exclusive personal jurisdiction and exclusive venue of such court.

(h) All of the parties to this Agreement have participated fully in the negotiation and preparation hereof; this Agreement shall not be construed more strongly for or against any party regardless of which party is deemed to have drafted the Agreement.

(i) Nothing contained in this Agreement shall be construed to create a partnership or joint venture between the parties or their successors in interest. Except as otherwise set forth herein, no person other than the parties shall have any rights or privileges under this Agreement, whether as a third-party beneficiary or otherwise.

**19. Survival of Provisions.** No covenants or obligations (including indemnities, representations and warranties) set forth in this Agreement shall survive termination or Closing hereunder unless expressly stated herein to the contrary. All survival periods shall be indefinitely unless otherwise expressly stated herein.

**20. Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

**21. Attorneys' Fees.** In the event of any dispute hereunder or of any action to interpret or enforce this Agreement, any provision hereof or any matter arising herefrom, the predominantly prevailing party shall be entitled to recover its reasonable costs, fees and expenses, including, but not limited to, witness fees, expert fees, consultant fees, attorney, paralegal and legal assistant fees, costs and expenses and other professional fees, costs and expenses whether suit be brought or not, and whether in settlement, in any declaratory action, in mediation, arbitration, bankruptcy or administrative proceeding, or at trial or on appeal and including costs of collection. Notwithstanding the foregoing, nothing contained herein shall be construed or interpreted (a) to alter, amend, or waive the Purchaser's sovereign immunity of the State of Florida, or its agencies, or any defenses thereto, beyond the waiver provided in Section 768.28, Florida Statutes; or (b) as the consent of the Purchaser to be sued.

**22. Counterparts and Electronic Signatures.** This Agreement may be executed in two or more counterpart copies, including digital and electronic signatures, each of which shall be deemed to constitute one original document. The parties may execute different counterparts of this agreement, and, if they do so, the signatures pages from the different counterparts may be

combined to provide one integrated document and taken together shall constitute one and the same instrument.

23. **Amendment to Agreement.** Any amendment to this Agreement shall not be binding upon any of the parties hereto unless such amendment is in writing and executed by the parties hereto. Purchaser does hereby confer upon the Executive Director or Executive Director's designee, the authority, without further approval from the Purchaser, to finalize the form of all agreements, amendments, easements, contracts, documents necessary to close the transaction contemplated herein, including, without limitation, closing documents, any documents necessary to address title issues, escrow agreements, letters of credit, agreements and similar documents set forth in this Agreement, and the Purchaser's signature of those agreements, amendments, easements, contracts and similar documents is hereby authorized.

24. **Effective Date.** When used herein, the term "**Effective Date**" or the phrase "the date hereof" or "the date of this Agreement" shall mean the last date that either Purchaser or Seller execute this Agreement.

25. **Recording of Agreement Prohibited.** Any attempt to record this Agreement or any memorandum hereof or any reference hereto by Purchaser, Seller, or any agent or representative of Purchaser or Seller, shall, at the sole option of the other party, render this Agreement null and void.

26. **Seller's Right to Cure.** Notwithstanding any contrary provision of this Agreement Seller shall not be deemed (a) in default of any covenant or obligation hereunder, (b) to have given a false, incorrect, or misleading representation or warranty hereunder, (c) or otherwise to have violated the terms of this Agreement, (all of the foregoing events of default being referred to in this Section as a "Default") unless Purchaser first notifies Seller in writing of the Default and Seller fails within thirty (30) days after receipt of that notice to cure the Default (a cure including without limitation, if applicable, effecting the changes necessary to render a warranty or representation correct).

27. **Further Assurances.** Seller and Purchaser will, without additional consideration, sign, acknowledge, and deliver any other documents and take any other action necessary or appropriate, and reasonably requested by the other, to carry out the intent and purpose of this Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, Purchaser and Seller have caused this Agreement to be executed as of the dates set forth below.

WITNESSES:

“SELLER”

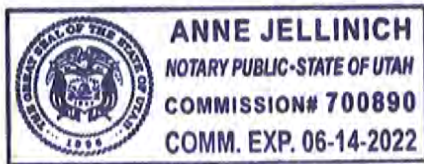
FARMLAND RESERVE, INC.  
a Utah not for profit corporation

[Signature]  
Print Name: David H. Armstrong  
[Signature]  
Print Name: Diane Lunt

By: [Signature]  
Print Name: Rex Burgener  
Title: Vice President, Land  
RB

STATE OF Utah  
COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization on this 12<sup>th</sup> day of November, 2021, by Rex Burgener, as Vice President of Farmland Reserve, Inc., on behalf of the organization. He/she is personally known to me OR produced \_\_\_\_\_ as identification.



[Signature]  
Notary Public  
Printed Name: Anne Jellinich  
Commission No.: 700890  
My Commission Expires: 6-14-22

[SEE FOLLOWING PAGE FOR PURCHASER’S SIGNATURE]

[Signature]  
11/10/2021

Signed, sealed, and delivered  
in the presence of:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Regla ("Mimi") Lamaute  
Recording Clerk

**"PURCHASER"**

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

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

STATE OF FLORIDA     )  
COUNTY OF ORANGE    )

The foregoing instrument was acknowledged before me by means of [ ] physical presence  
or [ ] online notarization on this \_\_\_\_ day of \_\_\_\_\_, 2021, by Buddy Dyer, as Chairman of  
the Central Florida Expressway Authority, on behalf of the organization. He is personally known  
to me OR produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Signature of Notary Public - State of Florida  
Print Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**EXHIBIT "A"**

**DEPICTION OF PROPERTY**

*[see attached]*



# Dallas Blvd / Hwy 528 Area Map



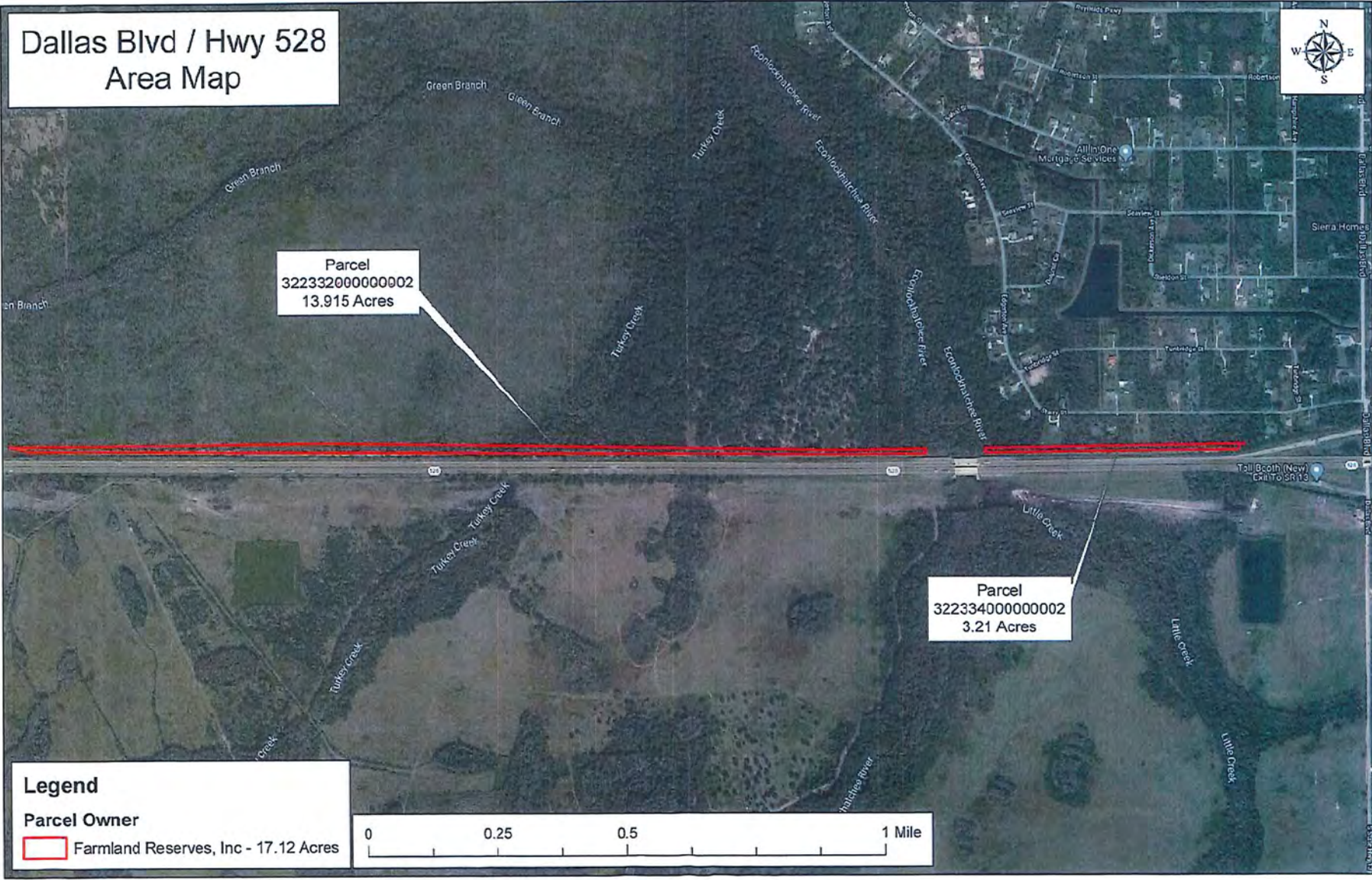
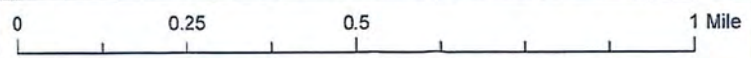
Parcel  
322332000000002  
13.915 Acres

Parcel  
322334000000002  
3.21 Acres

**Legend**

Parcel Owner

Farmland Reserves, Inc - 17.12 Acres



**EXHIBIT "B"**

**DISCLOSURE OF INTERESTS IN REAL PROPERTY**

TO: Central Florida Expressway Authority  
Attn: Executive Director  
4974 ORL Tower Road  
Orlando, Florida 32807

FROM: Farmland Reserve, Inc. a Utah not for profit corporation, the "Seller"

SUBJECT: Purchaser of Orange County Parcel Identification Numbers 34-23-32-0000-00-002 and 32-23-32-0000-00-002

Please be advised that the undersigned, after diligent search and inquiry, hereby states under oath, and subject to the penalties for perjury, that the name and address of each person having a legal or beneficial interest in the Property is as follows:

**Name**

**Address**

(Note: Any person identified above who is an employee or elected official of the Central Florida Expressway Authority must be identified as such.)

I swear and affirm that the information furnished herein is accurate as of the date hereof, and I agree to promptly disclose any changes in the information contained herein, or any errors in such information.

This disclosure is made under oath, and I understand that I am subject to penalties for perjury for any false information contained herein.

This disclosure is made pursuant to Section 286.23, Florida Statutes, in connection with a conveyance of the Property to the Central Florida Expressway Authority.

*[Signature on following page]*

**WITNESSES:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**“SELLER”**

**FARMLAND RESERVE, INC.**

a Utah not for profit corporation

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization on this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ of Farmland Reserve, Inc., on behalf of the organization. He/she is personally known to me OR produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

Printed Name: \_\_\_\_\_

Commission No.: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**CONSENT AGENDA ITEM**

**#16**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Diego "Woody" Rodriguez, General Counsel *WR*

DATE: December 2, 2021

SUBJECT: Easement and Maintenance Agreement between the Central Florida Expressway Authority and Orange County, Florida  
Project: State Road 408  
Parcels: 1-227 Partial, 1-251 Partial, 1-252 (aka 8093), Pond 12 and 1-226, 1-228 Partial, 1-247 Partial (aka 8093A), Pond 1

---

## BACKGROUND

The Central Florida Expressway Authority's predecessor in interest (now "CFX"), acquired certain real parcels for the design, construction and operation, and subsequent widening, of State Road ("SR") 408. As part of the original design, CFX previously constructed a bridge for the Econlockhatchee Trail over SR 408 ("Existing Bridge Improvements"). Orange County ("County") is currently designing and constructing an expansion of the Econlockhatchee Trail that will cross SR 408 at the location adjacent to the Existing Bridge Improvements. The Existing Bridge Improvements and the expansion contemplated by Orange County are depicted in the map attached to the ROW Memo as Memo Attachment "A".

To construct their expansion, the County has requested certain easements over parcels owned by CFX (collectively, the "Easement Areas"). The proposed Easement and Maintenance Agreement ("Agreement") contains the terms and conditions of those easements. County will, at no cost or expense to CFX, be responsible for the maintenance, repair and replacement of the Easement Areas, and any and all improvements constructed by the County.

On December 2, 2021, the Right of Way Committee met and upon review of the information and presentation recommended that the Board approve the Agreement.

## REQUEST

Approval of the Easement and Maintenance Agreement between CFX and Orange County subject to the approval of the legal descriptions and deed by CFX's General Engineering Consultant and any minor or clerical revisions approved by the General Counsel or designee.

## ATTACHMENT

- A. Memo Dated November 18, 2021 to the Right of Way Committee with attachments.

**MEMORANDUM**

TO: CFX Right of Way Committee Members *LNK*

FROM: Laura Newlin Kelly, Associate General Counsel

DATE: November 18, 2021

SUBJECT: Easement and Maintenance Agreement between the Central Florida Expressway Authority and Orange County, Florida  
Project No: State Road 408  
Parcels: 1-227 Partial, 1-251 Partial, 1-252 (aka 8093), Pond 12 and 1-226, 1-228 Partial, 1-247 Partial, (aka 8093A), Pond 1

---

**BACKGROUND**

The Central Florida Expressway Authority's predecessor in interest (now "CFX"), acquired those certain real properties known as Parcels 1-227 Partial, 1-251 Partial, 1-252 (aka 8093), Pond 12 and 1-226, 1-228 Partial, 1-247 Partial, (aka 8093A), Pond 1 (collectively, the "CFX Parcels") hereto for the design, construction and operation, and subsequent widening, of State Road ("SR") 408. CFX previously constructed a bridge for the Econlockhatchee Trail over SR 408 ("Existing Bridge Improvements"). Orange County ("County") is currently designing and constructing an expansion of the Econlockhatchee Trail known as Orange County Capital Improvement Project No. 5024 that will cross SR 408 at the location adjacent to the Existing Bridge Improvements as more particularly depicted on **Attachment "A"** attached hereto ("Bridge Improvements").

County has requested an easement over a portion of the CFX Parcels (collectively, the "Easement Areas") for the purpose of designing, constructing, operating, repairing and replacing the Bridge Improvements in accordance with the terms and conditions of the proposed Easement and Maintenance Agreement. A copy of the Easement and Maintenance Agreement is attached hereto as **Attachment "B"** ("Agreement"). Pursuant to the terms of the Agreement, CFX agrees to grant to the County perpetual non-exclusive slope easements, drainage easements and certain air rights easements over, across and upon portions of the CFX Parcels. In exchange and as consideration for granting the easement, County will, at no cost or expense to CFX, be responsible for the maintenance, repair and replacement of the Easement Areas, and any and all improvements constructed by the County within the Easement Areas, including, without limitation, the Bridge Improvements.

Pursuant to CFX's Property Acquisition, Disposition & Permitting Procedures Manual ("Policy"), CFX staff and CFX's General Engineering Consultant ("GEC") have examined the proposed Easement Areas and determined that the grant of the easements would not (1) impede or restrict the operation of the Expressway System; (2) materially affect or interfere with the present

or future construction, use, operation, repair or maintenance of any portion of the Expressway System; or (3) otherwise impair traffic operations or public safety. A copy of the certification is attached hereto as **Attachment “C”**.

The proposed Agreement was prepared and provided to the County for review and consideration. County has reviewed the Agreement and agrees with its form. GEC has reviewed the proposed location, maintenance functions, and maintenance responsibilities set forth in the Agreement.

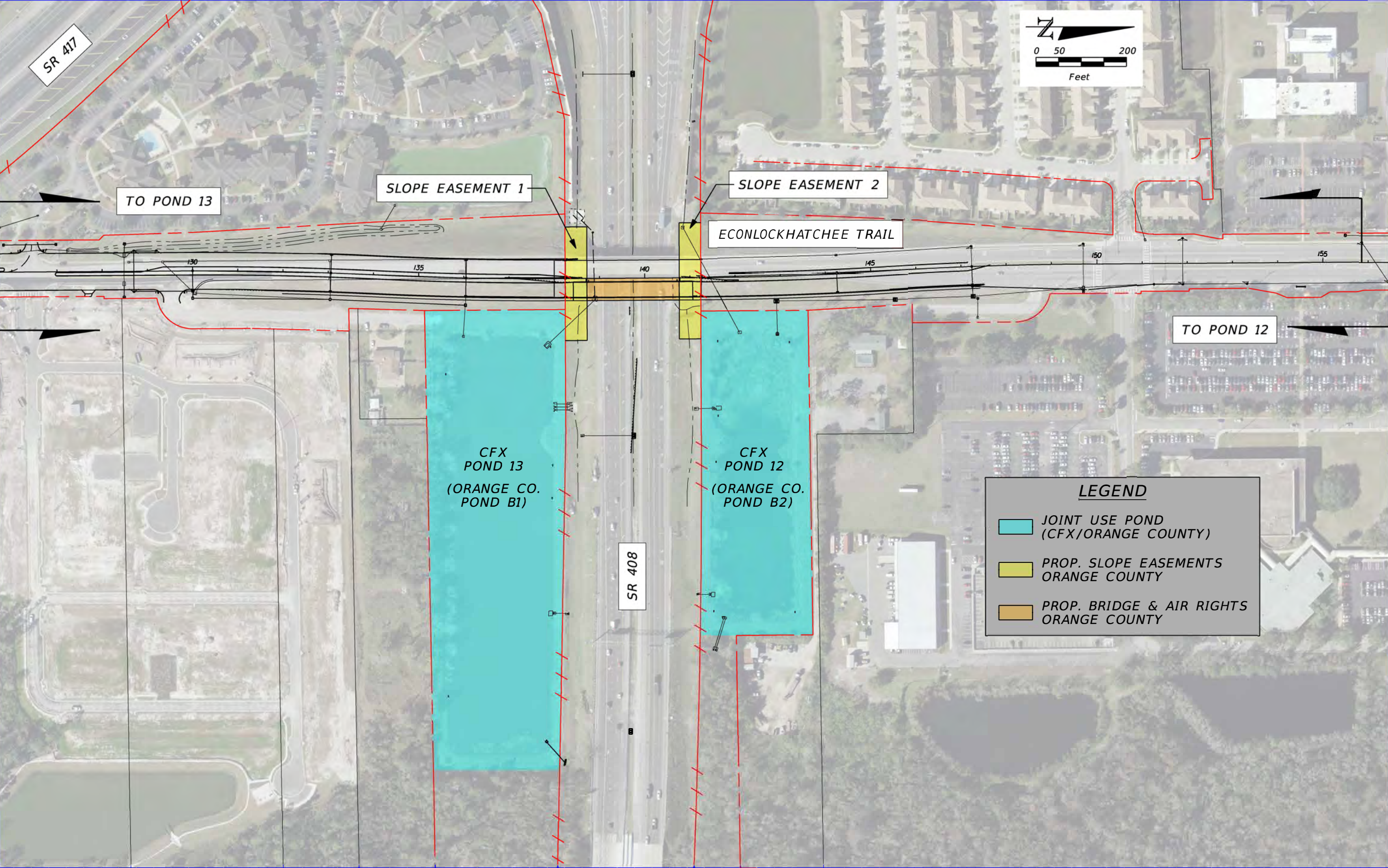
### **REQUEST**

A recommendation by the Right of Way Committee for CFX Board’s approval of the Agreement Between CFX and County in a form substantially similar to the attached Agreement, subject to any minor or clerical modifications or revisions approved by the GEC, General Counsel or designee.

### **ATTACHMENTS**

- A. Map of the Bridge Improvements and Easement Areas
- B. Easement and Maintenance Agreement
- C. Certificate from CFX’s General Engineering Consultant

W:\50088189\Maintenance\Adjacent Development Reviews\OCPW Econ Trail\Draft Final Plans\Econ Bridge Exhibit\DSGARD01\3.dgn  
 11/15/2021 7:04:59 PM  
 dfalk



REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

--

ECON TRAIL (ORANGE CO.) OVER SR 408	
ROAD NO.	PROJECT NO.
SR 408	



MEMO ATTACHMENT "A"  
ECON TRAIL BRIDGE

SHEET NO.
-----------



## MEMO ATTACHMENT "B"

This document was prepared by:  
Laura L. Kelly  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

Project: State Road 408  
Parcels: 1-227 Partial, 1-251 Partial, 1-252 (aka 8093), Pond 12 and 1-226, 1-228 Partial, 1-247 Partial, (aka 8093A), Pond 1

### EASEMENT AND MAINTENANCE AGREEMENT

**THIS EASEMENT AND MAINTENANCE AGREEMENT** (hereinafter, the "Agreement") is made and entered as of the Effective Date (hereinafter defined), by and between **ORANGE COUNTY**, a charter county and political subdivision of the State of Florida, whose address is P. O. Box 1393, Orlando, Florida 32802-1393 ("County"), and **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 ("CFX"). County and CFX are sometimes collectively referred to herein as the "Parties."

#### **WITNESSETH:**

**WHEREAS**, pursuant to Section 348.753, Florida Statutes, CFX is empowered to construct, improve, maintain, and operate the Central Florida Expressway System ("Expressway System") and, in connection therewith, to construct any extensions, additions or improvements to said system or appurtenant facilities, including all necessary approaches, roads, bridges, and avenues of access; and

**WHEREAS**, pursuant to Section 125.01 and Chapter 336, Florida Statutes, County is empowered to provide and maintain arterial and other roads encompassing the county road system for the benefit of its citizens; and

**WHEREAS**, Section 163.01, Florida Statutes, authorizes both Parties to this Agreement to enter into Interlocal Agreements; and

**WHEREAS**, County is designing and constructing an expansion of Econlockhatchee Trail known as Orange County Capital Improvements Project ("CIP") No. 5024 that will cross State Road ("S.R.") 408 at the location more particularly depicted on Exhibit "A" attached hereto and incorporated herein by reference ("Bridge Improvements"); and

**WHEREAS**, CFX is the owner in fee simple of that certain real property located in Orange County, Florida more particularly described in Exhibits "B", "C" and "D" attached hereto and incorporated herein by reference (collectively, the "CFX Property"); and.

**WHEREAS**, in order to proceed with the design, permitting and construction of the Bridge Improvements, County has requested, and CFX is agreeable to, the grant of certain easements over, across and upon portions of the CFX Property in accordance with the terms and conditions hereof; and

**WHEREAS**, CFX and County have agreed to the establishment of the easements as set forth herein and the establishment of the maintenance obligations relating thereto and have further agreed to other matters contained herein.

**NOW THEREFORE**, in consideration of mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and CFX hereby covenant and agree to and with each other as follows:

1. **Recitals.** That the foregoing recitals are true and correct and are incorporated herein by this reference.

2. **Bridge Improvements.**

a. **Air Rights Easement.** CFX hereby grants, bargains, sells, releases, conveys and confirms unto County, a perpetual, non-exclusive air rights easement in, upon, over, through, and across the real property more particularly described in **Exhibit “B”** attached hereto and incorporated herein by reference (“Air Rights Easement Area”) for the purpose of designing, constructing, installing, maintaining, operating, repairing and replacing the Bridge Improvements (“Air Rights Easement”) all in accordance with and as shown on the Bridge Plans (hereinafter defined) for the Bridge Improvements. The grant of the Air Rights Easement shall grant the County the privilege, but not the obligation, to enter upon the Air Rights Easement Area for the purpose of designing, constructing, maintaining, operating and repairing the Bridge Improvements, together with all incidental rights reasonably necessary for the use and enjoyment of the Air Rights Easement for its intended purposes. The right to use the Air Rights Easement and Bridge Improvements may be extended by County to its customers, employees, and contractors. Notwithstanding the foregoing, all maintenance, construction or repairs performed by the County on the Bridge Improvements shall be performed in a manner that would not otherwise damage, disrupt, impede or impair the safety or operation of the Central Florida Expressway System and shall be in accordance with the provisions hereof.

b. **Project Managers.** Each of the Parties shall designate an authorized representative to oversee and manage the planning, design, construction and development of the Bridge Improvements (individually, the “**Project Manager**,” collectively, the “**Project Managers**”). County hereby designates its Manager of the Highway Construction Division of the Public Works Department, as its Project Manager (the “County PM”). CFX hereby designates Will Hawthorn, as the Project Manager (the “CFX PM”). Either of the Parties may elect to substitute their respective Project Manager by notice to the other Party in accordance with Section 11 hereof.

c. **Design of Bridge Improvements.** County, at its sole cost and expense, through a professional design firm, has prepared construction plans, specifications, and drawings, and amendments thereto, including a maintenance of traffic plan and any other documentation reasonably required to specify the size, character and design of the Bridge Improvements in the Air Rights Easement and has provided such to CFX for CFX’s review, and CFX has provided written comments and objections to County detailing any revisions, corrections, or value engineering as reasonably required by CFX. County will address such and provide signed and sealed plans (“Bridge Plans”) to CFX. In no event shall County be permitted to commence construction of the Bridge Improvements without the prior written approval of CFX. Notwithstanding the foregoing, in the event the County needs to modify or revise the Bridge Plans prior to or during construction of the Bridge Improvements, County shall provide the revised or modified Bridge Plans to CFX for CFX’s review and approval. Within thirty (30) days of receipt of any such revised Bridge Plans, CFX will review the revised Bridge Plans and provide any written comments and objections to County detailing any revisions, corrections, or value engineering as reasonably required by CFX. County will address such and provide signed and sealed revised Bridge Plans to CFX prior to commencing or continuing construction on the Bridge Improvements.

c. **Permitting of the Bridge Improvements.** Prior to the commencement of construction, the County shall, at its sole cost and expense, be responsible for securing any and all permits from the applicable governing jurisdiction for the design, construction, repair and replacement of the Bridge Improvements in accordance with Bridge Plans.

d. **Construction of the Bridge Improvements.** County shall, at its sole cost and expense, be responsible for the construction and inspection of the Bridge Improvements in accordance with the approved Bridge Plans. County shall perform all construction in good order and repair in accordance with the Bridge Plans and all applicable permits and other governmental requirements. County shall notify CFX in writing ten (10) business days before the commencement of construction and shall coordinate with the CFX PM throughout the construction of the Bridge Improvements in order to avoid or minimize any potential service disruptions to the Central Florida Expressway System. County understands and acknowledges that in no event shall traffic on, or safe operation of, any portion of the Central Florida Expressway Authority be impacted, impaired, or modified without the express written consent of CFX. County shall notify CFX in writing of the completion of the Bridge Improvements (“Completion Notice”). Within (10) business days of receipt of the Completion Notice, CFX shall have the right, but not the obligation, to review and inspect the Bridge Improvements to ensure substantial completion with the Bridge Plans. In the event CFX elects to conduct an independent inspection of the Bridge Improvements, CFX shall notify County of any deficiencies in work on the Bridge Improvements. County shall take any and all actions reasonably necessary to correct the deficiencies to the reasonable satisfaction of CFX. County shall comply with any and all laws, ordinance, rules, requirements, policies, and standards governing the design, installation and construction of improvements within the right-of-way owed by CFX.

3. **Slope Easement.** CFX hereby grants, bargains, sells, releases, conveys and confirms unto County, a perpetual, non-exclusive slope easement (“Slope Easement”) in, upon, over, through, and across the real property more particularly described in **Exhibit “C”** attached hereto and incorporated herein by reference (“Slope Easement Area”) for the purpose of providing the lateral and subjacent support and a side-slope to support the Bridge Improvements. The grant of the Slope Easement to County shall include all incidental rights reasonably necessary for the use and enjoyment of the Slope Easement for its intended purposes. This Slope Easement shall grant the County the privilege, but not the obligation, to enter upon the Slope Easement Area for the purpose of maintaining, operating and repairing said side slope, together with the rights, easements, privileges and appurtenances in or to said Slope Easement Area which may be required for construction of the Bridge Improvements in accordance with the Bridge Plans. The Slope Easement shall be used for the purpose of constructing, repairing, replacing, operating and maintaining from time to time the Bridge Improvements provided the Bridge Improvements within the Slope Easement Area can coexist with CFX’s use and enjoyment of the Central Florida Expressway System.

4. **Drainage Easement.** CFX does hereby grant, bargain, sell, release, convey, and confirm unto County a non-exclusive perpetual easement (“Drainage Easement”) in, upon, over, through, and across the real property more particularly described in **Exhibit “D”** attached hereto and incorporated herein by reference (“Drainage Easement Area”), for the purpose of providing stormwater drainage, discharge, conveyance, runoff, detention, and retention for the Bridge Improvements (collectively, the “Drainage Facilities”), subject to any and all applicable permits and other governmental requirements. The grant of the Drainage Easement to County shall include all incidental rights reasonably necessary for the use and enjoyment of the Drainage Easement for its intended purposes; provided, however, County shall not be entitled to design, engineer, permit, construct, or modify the Drainage Facilities without the express written consent of CFX. Notwithstanding the foregoing, County and CFX agree and acknowledge the existing Drainage Facilities were designed, permitted, and constructed to accommodate approximately 2.45 acre feet of stormwater capacity in Pond 12 and 1.32 acre feet of stormwater capacity in Pond 13 for the stormwater drainage needs for the improvements related to Econlockhatchee Trail (collectively, “Permitted Capacity”) in accordance with St. Johns River Water Management District Permit Number 4-095-20358-18. In the event County elects to expand or modify Econlockhatchee Trail or needs additional stormwater capacity beyond the Permitted Capacity is required in the Drainage Facilities for the future improvements, County shall be responsible, at its sole cost or expense, for identifying, permitting, securing real property and constructing drainage improvements for any additional stormwater capacity exceeding the Permitting Capacity.

5. **Maintenance of the Easement Areas.** County and CFX, each at their sole cost and expense, accept responsibility for any and all continuing and future maintenance obligations and responsibility for the Air Rights Easement Area, Slope Easement Area, and Drainage Easement Area (collectively, the “**Easement Areas**”) as more particularly delineated in **Exhibit “E”** attached hereto and incorporated herein by reference. The party responsible for any such maintenance or repairs as outlined in **Exhibit “E”** (“**Responsible Party**”) shall, at its sole cost and expense, maintain, repair and replace, to the extent necessary, the Easement Areas, the Bridge Improvements and the Drainage Facilities and keep the same in good order and state of repair and in accordance with all applicable permits and other governmental requirements and at no cost to the other Party. In the event either of the Parties disturbs or damages the Bridge Improvements, Drainage Facilities, or Central Florida Expressway System, or any other areas within the Easement Areas restricting the use of the Bridge Improvements Drainage Facilities, or Central Florida Expressway System (“**Impacted Facilities**”), that Party shall, at its sole cost and expense, repair and replace the Impacted Facilities and any other disturbed areas in the Easement Areas to the reasonable satisfaction of the other Party. In the event any required repair and/or maintenance hereunder is not performed the Responsible Party, as applicable, in accordance with the foregoing standards, the other Party may deliver a notice to the Responsible Party, as applicable, setting forth the maintenance deficiencies, whereupon the Responsible Party, as applicable, shall have a period of fifteen (15) days to remedy the deficiencies, or forty-eight (48) hours, in case of emergency. In the event the deficiencies are not remedied in a commercially reasonable fashion within such fifteen (15) day period, or within such forty-eight (48) hour period in case of emergency, the other Party shall have the right to undertake all reasonably necessary maintenance and repair itself and recover from the Responsible Party, as applicable, the reasonable and actual, third party out-of-pocket fees, costs and expenses incurred in connection therewith. For avoidance of doubt, County shall have no obligations relative to any bridge or bridge improvements existing as of the Effective Date of this Agreement; whenever County maintenance obligations are stated, they shall be as to the new Bridge Improvements only.

6. **Permits for Maintenance.** County shall obtain any and all permits from CFX as may be reasonably necessary to perform the maintenance, repair, and replacement of the improvements within the Easement Areas. CFX shall not unreasonably condition, withhold, or deny the issuance of the permits for the maintenance, repair and replacement of the improvements within the Easement Areas and shall reasonably endeavor to issue permits to County within ten (10) business days upon receipt of an application from the County that has been deemed substantially complete by CFX. The foregoing notwithstanding, in the case of an emergency, County may perform necessary work or repairs without prior issuance by CFX of a permit but will notify CFX as soon as practicable upon the County learning of the need for such work or repairs within the Easement Areas in order to coordinate any work or repairs needed to the Central Florida Expressway System or any potential maintenance of traffic impacts.

7. **Future CFX Improvements.** Notwithstanding anything herein to the contrary, as a part of the specific consideration bargained and exchanged for the grant of the Air Rights Easement and Slope Easement, the Parties agree that in the event CFX is required to relocate or reconfigure all or any portion of Bridge Improvements or any portion of the Easement Areas as a result of the expansion, extension or reconfiguration of State Road 408 or any portion of the Central Florida Expressway System (“**Future CFX Improvements**”), County shall be liable, at its sole cost and expense for (a) relocating or reconfiguring any portion of the Easement Areas or Bridge Improvements that conflicts with, interferes with, impacts, impedes, or impairs CFX’s right to construct the Future CFX Improvements (“**Potential Impacts**”), or if mutually agreed upon with CFX, County may reimburse CFX for addressing any such Potential Impacts, and (b) any additional costs and expenses CFX incurs for the design and construction of the Future CFX Improvements as a result of the grant of the Air Rights Easement and Slope Easement. In the event CFX anticipates that any portion of the Bridge Improvements will impact, impede, or impair the construction, operation or maintenance of the Future CFX Improvements, or in the event CFX will incur or reasonably believes it will incur said additional cost(s) and expense(s) associated with the Future CFX Improvements

as a result of the grant of the Air Rights Easement and Slope Easement, then CFX in good faith, shall provide written notice to County of the Potential Impacts or said additional cost(s) and expense(s). Said additional cost(s) and expense(s) shall consist of those costs and expenses above and beyond the costs and expenses of the activities to be performed by CFX and attributable solely to the existence of the Bridge Improvements, including the slope, area within the Easement Areas. CFX and County shall cooperate and work in good faith to identify the Potential Impacts to the CFX Future Improvements within ninety (90) days of CFX notifying County of any such Potential Impacts, and to establish a reasonable timeline for the design, permitting, relocation or reconfiguration of the Bridge Improvements; provided, however, County understands and agrees that any such timeline for addressing the Potential Impacts shall not interfere with the design or construction schedule for the CFX Future Improvements.

8. **Reserved Rights of CFX.** Notwithstanding anything contained herein, all rights not granted to County herein are reserved to CFX. Notwithstanding anything herein to the contrary, CFX hereby expressly reserves the right to construct, install, maintain, repair, replace, add to, expand and modify S.R. 408, the Drainage Facilities, the Central Florida Expressway Authority, and any other improvements and appurtenant improvements thereto or in addition thereof that CFX deems appropriate, at its reasonable discretion.

9. **Non-Disturbance of Easement Rights.** Except as otherwise provided in this Agreement, the Parties hereto agree not to build, construct, or place any buildings, structures, barriers, and fill or other hindrances in the Easement Areas other than the intended facility, Bridge Improvements or Drainage Facilities, and not to in any way materially modify or change the lands encumbered by the foregoing easements in a manner that would disturb or interfere with the safe and proper construction, operation, or maintenance of the Central Florida Expressway System.

10. **Termination of Easements.** County may, at its option, remove the materials comprising the Bridge Improvements installed and maintained by County with one hundred eighty (180) days prior written notice to CFX, in which event, County shall return the Easement Areas to their original state as they existed prior to the Effective Date of this Agreement and shall execute and record a written termination of easement in the Public Records of Orange County, Florida. In the event of damage to or destruction of all or a portion of the Easement Areas or surrounding areas owned by CFX due to such removal, County, at its sole cost and expense, shall return the Easement Areas and surrounding areas owned by CFX and replace any improvements located on the Easement Areas and surrounding areas owned by CFX to the condition as they existed immediately prior to such damage or destruction by County and to the reasonable satisfaction of CFX. If the Bridge Improvements are replaced, the provisions of this Agreement shall remain in full force and effect, including County's obligation to maintain said Bridge Improvements.

11. **Compliance with all Legal Rules.** CFX shall, at its sole expense, comply with all present and future valid and applicable laws, ordinances, and regulations of the federal government and its agencies, the State of Florida, and Orange County, unless otherwise agreed between the County and CFX.

12. **Notices.** All notices, demands, approvals, requests, and other communication required or permitted hereunder shall be in writing and shall be deemed to be delivered and received upon the earlier of (i) actual receipt; (ii) the next business day following its deposit with a reputable overnight courier or (iii) the third (3<sup>rd</sup>) day following its deposit in a regularly maintained receptacle for the United States Mail, as registered or certified mail, return receipt requested, postage fully prepaid, addressed to the addressee as its address is set forth below, or at such other address as such addressee may have specified by notice delivered in accordance with this paragraph and actually received by the addressee.

County: Orange County Real Estate Management Division  
P.O. Box 1393  
Orlando, Florida 32802-1393  
Attn: Manager  
Telephone: (407) 836-7070

With a copy to: Orange County Public Works  
4200 S. John Young Parkway  
Orlando, Florida 32839  
Attn: County Engineer  
Telephone: (407) 836-7900

CFX: Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: Executive Director  
Telephone: (407) 690-5000  
Facsimile: (407) 690-5011

With a copy to: Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: General Counsel  
Telephone: (407) 690-5000

13. **Default.** In the event either of the Parties breaches any warranty or representation contained in this Agreement or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by said part under the terms and provisions of this Agreement, the other party, in its sole discretion, and after thirty (30) days prior written notice and opportunity to cure, shall be entitled to: (i) exercise any and all rights and remedies available to said party at law and in equity, including, without limitation, the right of specific performance, or (ii) terminate this Agreement, whereupon the Agreement shall be deemed null and void and of no further force and effect, and no party hereto shall have any further rights, obligations or liability hereunder. Upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect.

14. **Inspector General.** The Parties agree to comply with Section 20.055(5), Florida Statutes, and agree to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. The Parties agree to incorporate the obligation to comply with Section 20.055(5) in all subcontracts such Party enters into in connection with the Bridge Improvements or Drainage Facilities.

15. **Miscellaneous Provisions.**

a. No Other Parties. This Agreement is solely for the benefit of the Parties, and no rights are intended, nor shall any rights accrue, to any third party unless expressly provided in this Agreement.

b. Binding Effect. This Agreement shall be binding on the Parties, and upon all entities operating for or on behalf of the Parties pursuant to this Agreement. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns.

c. Governing Law; Venue. The Florida law shall govern the validity, enforcement and interpretation of this Agreement, and the Parties agree that venue for any action arising hereunder shall lie in Orange County, Florida

d. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties and shall not be changed, altered, or modified, except by an instrument in writing signed by the Parties.

e. Counterparts. This Agreement may be executed in one or more counterparts, including electronic, digital or facsimile copies, each of which shall constitute an original, but all taken together shall constitute one and the same Agreement.

f. Effective Date. The effective date of this Agreement shall be effective upon which the last of the Parties hereto executes this Agreement (“Effective Date”).

g. Non-Waiver. The failure of any party to insist upon the other party’s compliance with its obligations under this Agreement in any one or more instances shall not operate to release such other party from its duty to comply with such obligations in all other instances.

h. Recording. County shall, at its sole cost and expense, cause this Agreement to be recorded in the Public Records of Orange County, Florida.

i. Amendments. The rights hereby granted, created and declared shall be perpetual in duration and may not be changed, amended, modified, canceled or terminated other than as expressly provided herein, except by an instrument in writing, executed by the then owners of the benefited property and all mortgagees of any portion thereof.

j. Covenants Running with the Property. The easements, covenants, agreements and conditions contained or expressed herein shall not be personal (except as otherwise expressly provided herein) but shall run with the land and shall be binding upon and inure to the benefit of the owners of all portions of the benefited property and the easement area, their mortgagees, any purchaser at a foreclosure sale, each of the successors and assigns of all such parties, as well as the tenants, agents, licenses, guests and invitees of each of them.

k. Time. Time is of the essence of this Agreement.

l. Legal Construction and Headings. 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. The headings inserted at the beginning of each paragraph are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph.

m. Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

[SIGNATURE PAGES TO FOLLOW]



**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be duly executed as of the date and year last written below.

(Official Seal)

**“COUNTY”**

**ORANGE COUNTY, FLORIDA**

By: Board of County Commissioners

BY: \_\_\_\_\_  
Jerry L. Demings  
Orange County Mayor

DATE: \_\_\_\_\_

ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

BY: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Printed Name

[ADDITIONAL SIGNATURE PAGE TO FOLLOW]

Signed, sealed, and delivered  
in the presence of:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Regla (“Mimi”) Lamaute  
Recording Clerk

“CFX”

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

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

STATE OF FLORIDA            )  
COUNTY OF \_\_\_\_\_ )

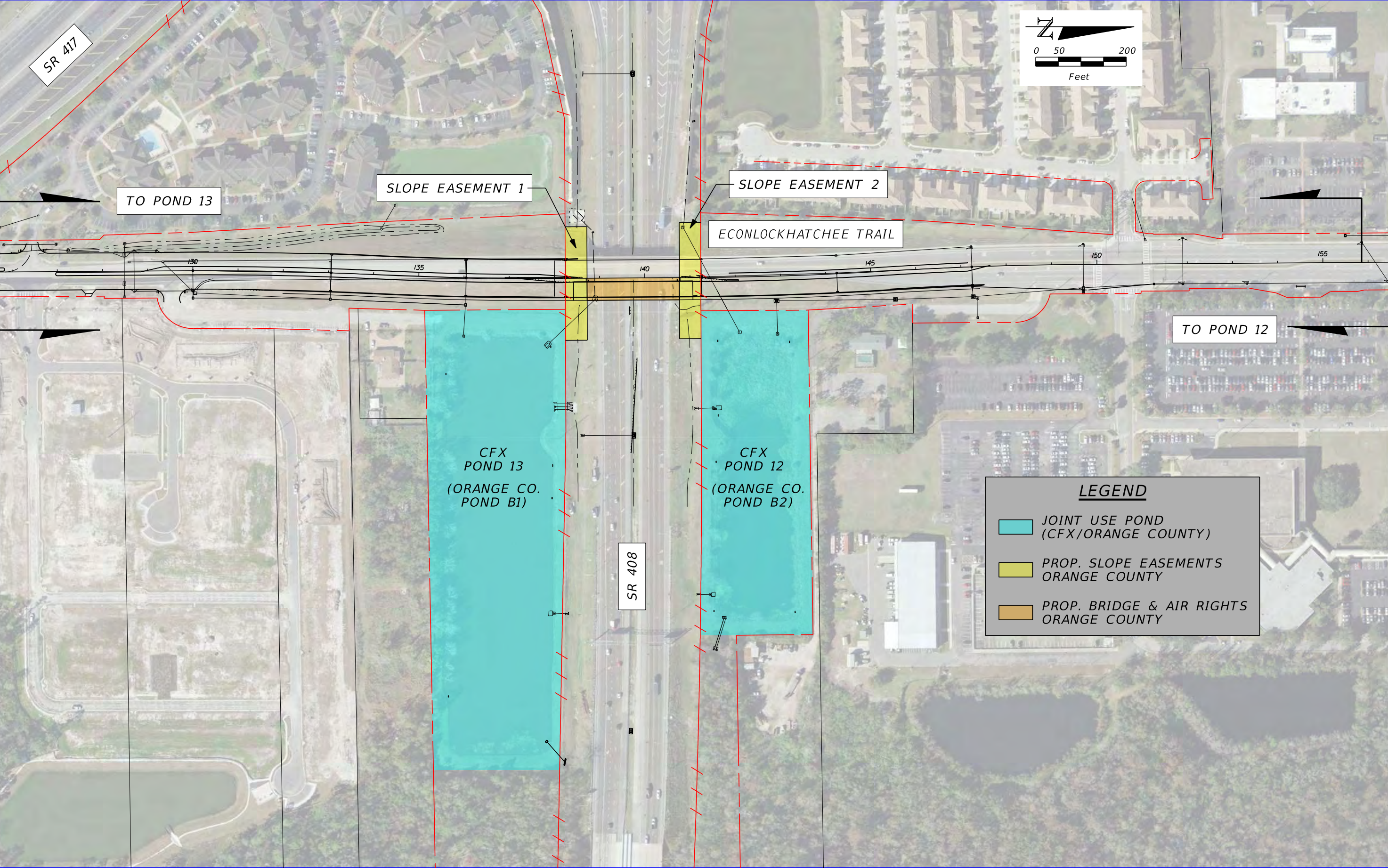
The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ]  
online notarization on this \_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as  
Chairman of the Central Florida Expressway Authority, on behalf of the organization. He is personally  
known to me OR produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Signature of Notary Public - State of Florida  
Print Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**EXHIBIT "A"**  
**Bridge Improvements**

W:\50088189\Maintenance\Adjacent\_Development\_Reviews\OCPIW\_Econ\_Trail\Draft\_Final\_Plans\Econ\_Bridge\_Exhibit\DSG\RD01\3.dgn  
 11/15/2021 7:04:59 PM  
 dfalk



REVISIONS	
DATE	DESCRIPTION

--	--

ECON TRAIL (ORANGE CO.) OVER SR 408	
ROAD NO.	PROJECT NO.
SR 408	



**ECON TRAIL BRIDGE EXHIBIT**  
**A**

SHEET NO.

**EXHIBIT "B"**  
**Air Rights Easement**

# SKETCH & DESCRIPTION

PROJECT: Econlockhatchee Trail Air Rights Easement  
SURVEY PROJECT NUMBER: 8799  
SECTION 30  
TOWNSHIP 22 SOUTH  
RANGE 31 EAST  
DRAWN BY: JFM

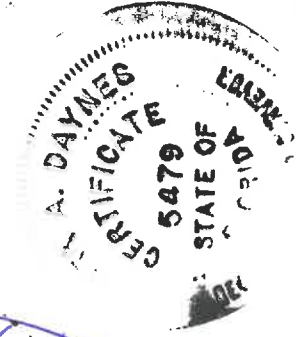
## DESCRIPTION:

A parcel of land lying within the Northeast 1/4 of Section 30, Township 22 South, Range 31 East, Orange County, Florida being more particularly described as follows:

Commence at the Southwest corner of the Northeast 1/4 of said Section 30; Thence North 00°24'07" West, along the West line of the Northeast 1/4 of said Section 30, a distance of 193.15 feet; Thence departing said West line N89°35'53" East, a distance of 23.00 feet to the **POINT OF BEGINNING**; Thence North 00°24'07" West, a distance of 204.00 feet; Thence North 89°35'53" East, a distance of 49.00 feet; Thence South 00°24'07" East, a distance of 204.00 feet; Thence South 89°35'53" West a distance of 49.00 feet to the **POINT OF BEGINNING**.

Containing 9,996 Square Feet or 0.229 Acres, MORE or LESS.

SPACE ABOVE RESERVED FOR RECORDING INFORMATION



*Mark A. Daynes*

Mark A. Daynes,  
REGISTERED LAND SURVEYOR AND MAPPER  
STATE OF FLORIDA LICENSE NO. 5479  
DATE: 10/19/2021

I HEREBY AFFIRM THAT THIS SKETCH REPRESENTED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SKETCH HAS BEEN PREPARED IN ACCORDANCE WITH THE STANDARDS SET FORTH IN CHAPTER 5J-17, F.A.C., PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES. NOT VALID UNLESS IT BEARS THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

## LEGEND

- = CHANGE IN DIRECTION, NO POINT SET
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- R.O.W. = RIGHT OF WAY
- STA = STATION
- SECT. = SECTION
- EB = EAST BOUND
- WB = WEST BOUND
- CONST. = CONSTRUCTION LINE
- CL = CENTER LINE
- NOS = NUMBERS
- LA = LIMITED ACCESS
- SR = STATE ROAD

## Surveyors Notes:

1. This is not a Boundary Survey.
2. Bearings based on the West line of the NE 1/4 of Section 30, Township 22 South, Range 31 East, Orange County, Florida being N00°24'07"W.
3. Stationing data is referenced from construction plans for Econlockhatchee Trail CIP NO: 5024 and was prepared by URS corporation.



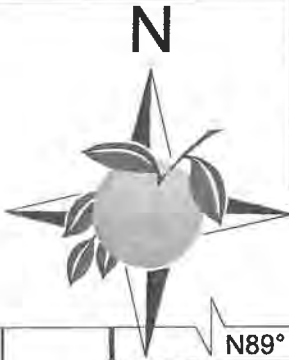
ORANGE COUNTY PUBLIC WORKS  
ENGINEERING DIVISION  
SURVEY SECTION

SHEET 1 of 2

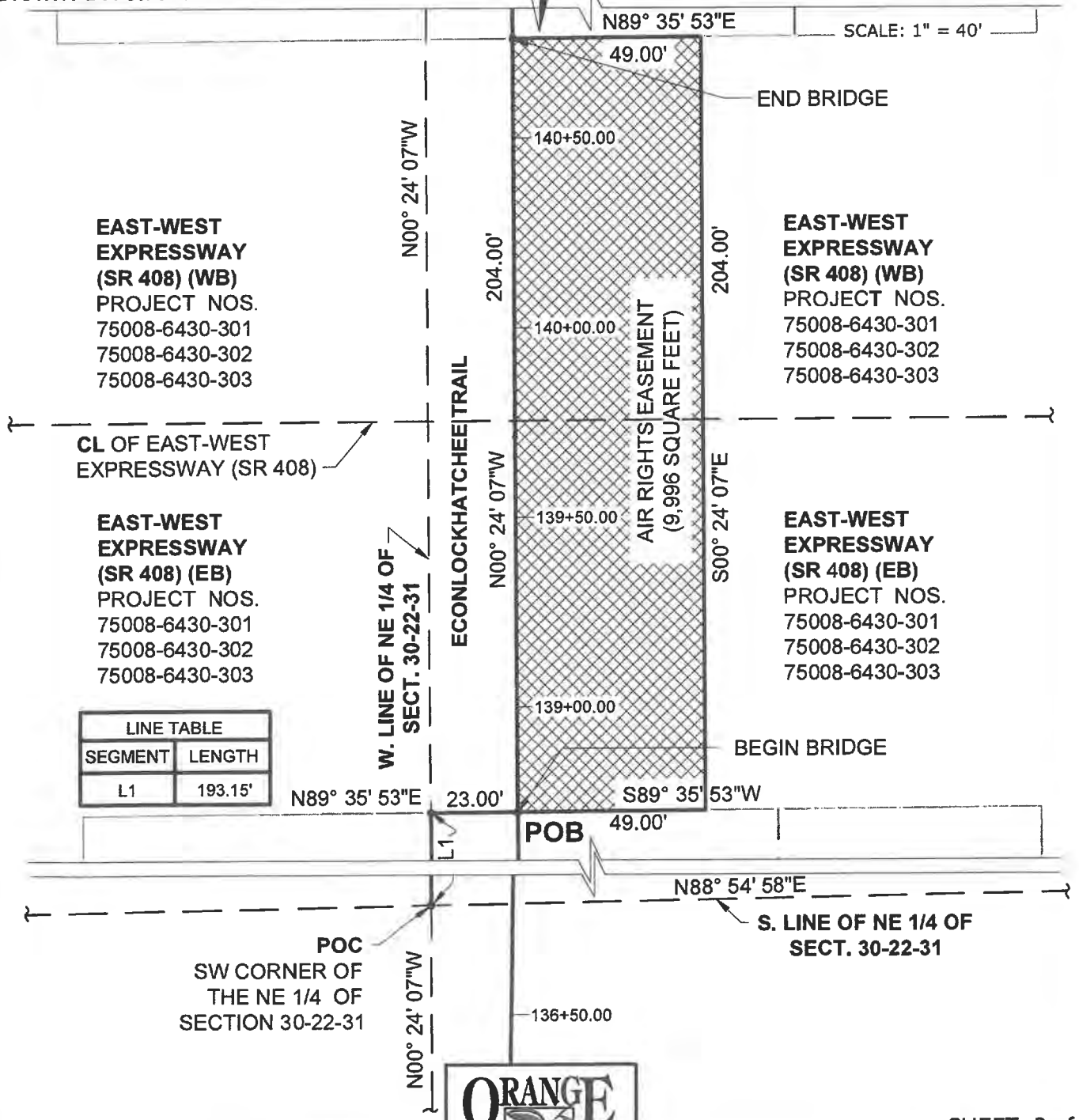
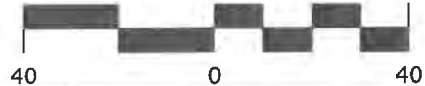
4200 S. JOHN YOUNG PARKWAY  
ORLANDO, FLORIDA 32839-9205  
407-836-7908

# SKETCH & DESCRIPTION

PROJECT: Econlockhatchee Trail Air Rights Easement  
 SURVEY PROJECT NUMBER: 8799  
 SECTION 30  
 TOWNSHIP 22 SOUTH  
 RANGE 31 EAST  
 DRAWN BY: J.F.M.



SPACE ABOVE RESERVED FOR RECORDING INFORMATION



**EAST-WEST EXPRESSWAY (SR 408) (WB)**  
 PROJECT NOS.  
 75008-6430-301  
 75008-6430-302  
 75008-6430-303

**EAST-WEST EXPRESSWAY (SR 408) (WB)**  
 PROJECT NOS.  
 75008-6430-301  
 75008-6430-302  
 75008-6430-303

**EAST-WEST EXPRESSWAY (SR 408) (EB)**  
 PROJECT NOS.  
 75008-6430-301  
 75008-6430-302  
 75008-6430-303

**EAST-WEST EXPRESSWAY (SR 408) (EB)**  
 PROJECT NOS.  
 75008-6430-301  
 75008-6430-302  
 75008-6430-303

LINE TABLE	
SEGMENT	LENGTH
L1	193.15'



**EXHIBIT "C"**  
**Slope Easement**



# SKETCH & DESCRIPTION

PROJECT: Econlockhatchee Trail Slope Easement 2  
SURVEY PROJECT NUMBER: 8799  
SECTION 30  
TOWNSHIP 22 SOUTH  
RANGE 31 EAST  
DRAWN BY: JFM

## DESCRIPTION:

A parcel of land lying within the North half of Section 30, Township 22 South, Range 31 East, Orange County, Florida being more particularly described as follows:

Commence at the Southwest corner of the Northeast 1/4 of said Section 30; Thence North 00°24'07" West, along the West line of the Northeast 1/4 of said Section 30, a distance of 397.15 feet to the **POINT OF BEGINNING**; Thence departing said West line, South 89°35'53" West, a distance of 96.83 feet; Thence North 00°24'07" West, a distance of 47.57 feet to a point along the North Limited Access Right of Way line of the East-West Expressway (SR 408); Thence North 89°35'53" East, along said North Right of Way line, a distance of 193.64 feet to a point on the intersection of the existing East Right of Way line of Econlockhatchee Trail with the North Limited Access Right of Way line of the East-West Expressway (SR 408) Project Nos. 75008-6430-301, 75008-6430-302, and 75008-6430-303; Thence North 89°35'53" East, a distance of 63.19 feet; Thence South 00°24'07" East, a distance of 47.57 feet; Thence South 89°35'53" West, a distance of 160.00 feet to the **POINT OF BEGINNING**.

Containing 12,217 Square Feet or 0.280 Acres, MORE or LESS.

SPACE ABOVE RESERVED FOR RECORDING INFORMATION



*Mark A. Daynes*

Mark A. Daynes,  
REGISTERED LAND SURVEYOR AND MAPPER  
STATE OF FLORIDA LICENSE NO. 5479  
DATE: 10/19/2021

I HEREBY AFFIRM THAT THIS SKETCH REPRESENTED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SKETCH HAS BEEN PREPARED IN ACCORDANCE WITH THE STANDARDS SET FORTH IN CHAPTER 5J-17, F.A.C., PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES. NOT VALID UNLESS IT BEARS THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

## LEGEND

- = CHANGE IN DIRECTION, NO POINT SET
- /// = LIMITED ACCESS RIGHT OF WAY
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- R.O.W. = RIGHT OF WAY
- STA = STATION
- SECT. = SECTION
- EB = EAST BOUND
- WB = WEST BOUND
- CONST. = CONSTRUCTION LINE
- CL = CENTER LINE
- NOS = NUMBERS
- LA = LIMITED ACCESS
- PC = POINT OF CURVATURE
- SR = STATE ROAD

## Surveyors Notes:

1. This is not a Boundary Survey.
2. Bearings based on the West line of the NE 1/4 of Section 30, Township 22 South, Range 31 East, Orange County, Florida being N00°24'07"W.
3. Stationing data is referenced from construction plans for Econlockhatchee Trail CIP NO: 5024 and was prepared by URS corporation.

SHEET 1 of 2

ORANGE COUNTY PUBLIC WORKS  
ENGINEERING DIVISION  
SURVEY SECTION



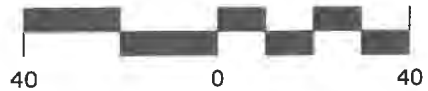
4200 S. JOHN YOUNG PARKWAY  
ORLANDO, FLORIDA 32839-9205  
407-836-7908

# SKETCH & DESCRIPTION

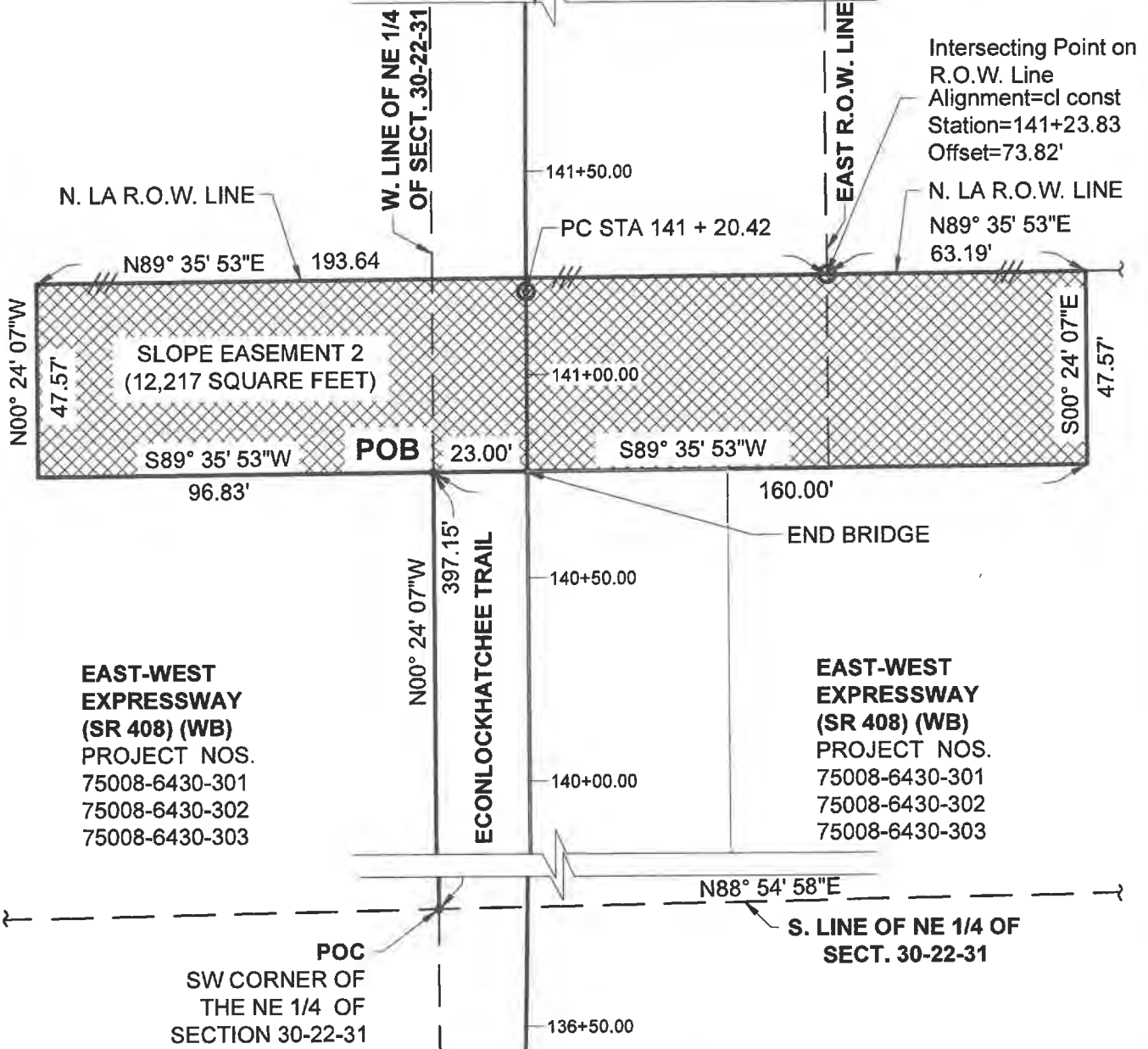
PROJECT: Econlockhatchee Trail Slope Easement 2  
 SURVEY PROJECT NUMBER: 8799  
 SECTION 30  
 TOWNSHIP 22 SOUTH  
 RANGE 31 EAST  
 DRAWN BY: J.F.M.



SPACE ABOVE RESERVED FOR RECORDING INFORMATION



SCALE: 1" = 40'



SHEET 2 of 2

ORANGE COUNTY PUBLIC WORKS  
 ENGINEERING DIVISION  
 SURVEY SECTION

4200 S. JOHN YOUNG PARKWAY  
 ORLANDO, FLORIDA 32839-9205  
 407-836-7908

# SKETCH & DESCRIPTION

PROJECT: Econlockhatchee Trail Slope Easement 1  
SURVEY PROJECT NUMBER: 8799  
SECTION 30  
TOWNSHIP 22 SOUTH  
RANGE 31 EAST  
DRAWN BY: JFM

SPACE ABOVE RESERVED FOR RECORDING INFORMATION

## DESCRIPTION:

A parcel of land lying within the North Half of Section 30, Township 22 South, Range 31 East, Orange County, Florida being more particularly described as follows:

Commence at the Southwest corner of the Northeast 1/4 of said Section 30; Thence North 00°24'07" West, along the West line of the Northeast 1/4 of said Section 30, a distance of 144.80 feet to the **POINT OF BEGINNING**; Thence departing said West line, along the South Limited Access Right of Way line of the East-West Expressway (SR 408), South 89°35'53" West, a distance of 91.29 feet; Thence North 00°24'07" West, a distance of 48.35 feet; Thence North 89°35'53" East, a distance of 251.30 feet; Thence South 00°24'07" East, a distance of 48.35 feet to a point on the South Limited Access Right of Way line of the East-West Expressway (SR 408) Project Nos. 75008-6430-301, 75008-6430-302, and 75008-6430-303; Thence South 89°35'53" West, a distance of 68.72 feet to a point on the intersection of the existing east Right of Way line of Econlockhatchee Trail with said South Limited Access Right of Way line of the East-West Expressway (SR 408); Thence South 89°35'53" West, a distance of 91.29 feet to the **POINT OF BEGINNING**.

Containing 12,150 Square Feet or 0.279 Acres, MORE or LESS.



*Mark A. Daynes*

Mark A. Daynes,  
REGISTERED LAND SURVEYOR AND MAPPER  
STATE OF FLORIDA LICENSE NO. 5479  
DATE: 10/19/2021

I HEREBY AFFIRM THAT THIS SKETCH REPRESENTED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SKETCH HAS BEEN PREPARED IN ACCORDANCE WITH THE STANDARDS SET FORTH IN CHAPTER 5J-17, F.A.C., PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES. NOT VALID UNLESS IT BEARS THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

## LEGEND

- = CHANGE IN DIRECTION, NO POINT SET
- /// = LIMITED ACCESS RIGHT OF WAY
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- R.O.W. = RIGHT OF WAY
- STA = STATION
- SECT. = SECTION
- EB = EAST BOUND
- WB = WEST BOUND
- CONST. = CONSTRUCTION LINE
- CL = CENTER LINE
- NOS = NUMBERS
- LA = LIMITED ACCESS
- PT = POINT OF TANGENCY
- SR = STATE ROAD

## Surveyors Notes:

1. This is not a Boundary Survey.
2. Bearings based on the West line of the NE 1/4 of Section 30, Township 22 South, Range 31 East, Orange County, Florida being N00°24'07"W.
3. Stationing data is referenced from construction plans for Econlockhatchee Trail CIP NO: 5024 and was prepared by URS corporation.

SHEET 1 of 2

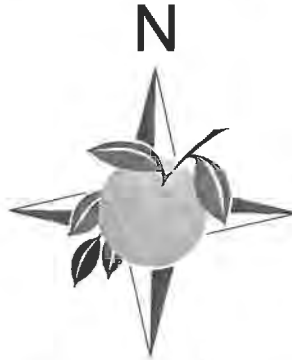
ORANGE COUNTY PUBLIC WORKS  
ENGINEERING DIVISION  
SURVEY SECTION



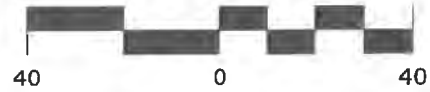
4200 S. JOHN YOUNG PARKWAY  
ORLANDO, FLORIDA 32839-9205  
407-836-7908

# SKETCH & DESCRIPTION

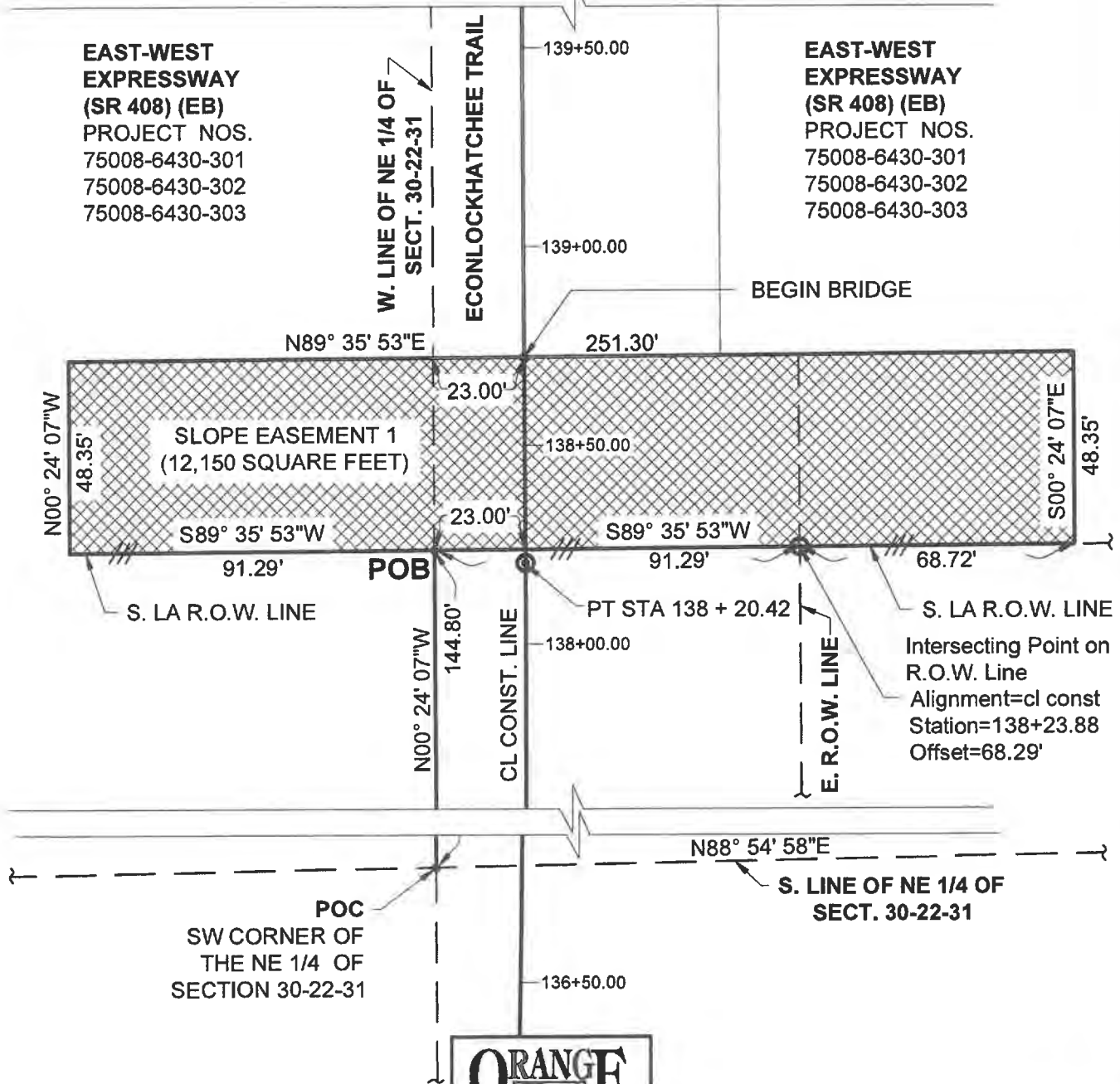
PROJECT: Econlockhatchee Trail Slope Easement 1  
 SURVEY PROJECT NUMBER: 8799  
 SECTION 30  
 TOWNSHIP 22 SOUTH  
 RANGE 31 EAST  
 DRAWN BY: J.F.M.



SPACE ABOVE RESERVED FOR RECORDING INFORMATION



SCALE: 1" = 40'



**EXHIBIT "D"**  
**Drainage Easement**

# SKETCH & DESCRIPTION

PROJECT: Econlockhatchee Trail  
SURVEY PROJECT NUMBER: 8799  
SECTION 30  
TOWNSHIP 22 SOUTH  
RANGE 31 EAST  
DRAWN BY: JFM  
SCALE: 1"=200'  
DATE: 11/15/2021  
SCHEDULE "A"  
PARCEL: 8093

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 22 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 30; THENCE NORTH 00°24'07" WEST, ALONG THE WEST LINE THEREOF, A DISTANCE OF 445.12 FEET; THENCE DEPARTING SAID WEST LINE, NORTH 89°46'36" EAST, A DISTANCE OF 96.82 FEET TO THE INTERSECTION OF THE EXISTING EAST RIGHT OF WAY LINE OF ECONLOCKHATCHEE TRAIL WITH THE NORTH LIMITED ACCESS RIGHT OF WAY LINE OF THE EAST -WEST EXPRESSWAY (STATE ROAD 408) PROJECT NOS. 75008-6430-301, 75008-6430-302 AND 75008-6430-303 AND THE POINT OF BEGINNING; THENCE NORTH 00°24'07" WEST, ALONG SAID EXISTING EAST RIGHT OF WAY LINE OF ECONLOCKHATCHEE TRAIL A DISTANCE OF 237.03 FEET; THENCE DEPARTING SAID EAST RIGHT OF WAY LINE OF ECONLOCKHATCHEE TRAIL, NORTH 89°07'37" EAST, ALONG SAID NORTH RIGHT OF WAY OF THE EAST-WEST EXPRESSWAY, A DISTANCE OF 717.82 FEET; THENCE SOUTH 00°23'57" EAST, ALONG SAID NORTH RIGHT OF WAY OF THE EAST-WEST EXPRESSWAY, A DISTANCE OF 169.34 FEET THENCE DEPARTING SAID NORTH RIGHT OF WAY LINE, CONTINUE SOUTH 00°23'57" EAST, A DISTANCE OF 80.25 FEET TO A POINT ON THE EXISTING NORTH LIMITED ACCESS RIGHT OF WAY OF SAID EAST-WEST EXPRESS WAY, SAID POINT BEING ON A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 23068.31 FEET; THENCE FROM A TANGENT BEARING OF SOUTH 89°06'05" EAST, ALONG THE ARC OF SAID CURVE WESTERLY, A DISTANCE OF 451.80 FEET THROUGH A CENTRAL ANGLE OF 01°07'20" TO THE POINT OF TANGENCY THEREOF; THENCE CONTINUE ALONG SAID NORTH LIMITED ACCESS RIGHT OF WAY LINE, SOUTH 89°46'36" WEST, A DISTANCE OF 266.03 FEET TO THE POINT OF BEGINNING.

CONTAINING 3.988 ACRES (173,725 SQUARE FEET), MORE OR LESS.

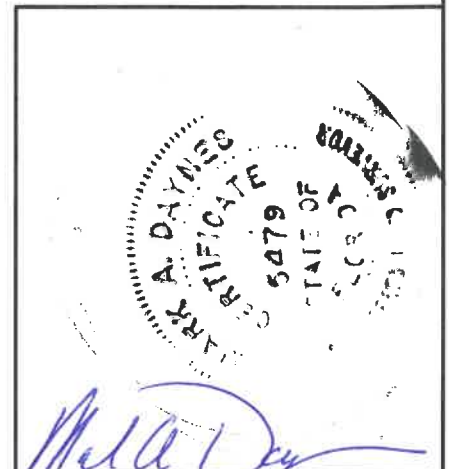
THIS IS NOT A BOUNDARY SURVEY, NOR HAS ANY FIELD WORK BEEN PERFORMED IN ACCORDANCE WITH 5J-17, FLORIDA ADMINISTRATIVE CODE FOR PREPARATION OF THIS DRAWING.



ORANGE COUNTY PUBLIC WORKS  
ENGINEERING DIVISION  
SURVEY SECTION

SHEET 1 of 2

4200 S. JOHN YOUNG PARKWAY  
ORLANDO, FLORIDA 32839-9205  
407-836-7908

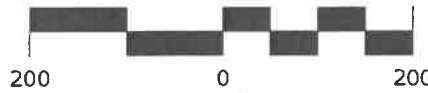


Mark A. Daynes,  
REGISTERED LAND SURVEYOR AND  
MAPPER  
STATE OF FLORIDA LICENSE  
NO. 5479  
DATE: 11/15/2021

I HEREBY AFFIRM THAT THIS SKETCH REPRESENTED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY HAS BEEN PREPARED IN ACCORDANCE WITH THE STANDARDS SET FORTH IN CHAPTER 5J-17, F.A.C., PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES. NOT VALID UNLESS IT BEARS THE ORIGINAL SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

# SKETCH & DESCRIPTION

PROJECT: Econlockhatchee Trail  
 SURVEY PROJECT NUMBER: 8799  
 SECTION 30  
 TOWNSHIP 22 SOUTH  
 RANGE 31 EAST  
 DRAWN BY: JFM  
 SCALE: 1"=200'  
 DATE: 11/15/2021  
 SCHEDULE "A"  
 PARCEL: 8093



SW 1/4  
 SEC 30

NW 1/4  
 SEC 30

**POC**  
 SW CORNER  
 NE 1/4,  
 SEC 30  
 NO POINT  
 FND  
 (CALCULATED)

L1 = N89°46'36"E 96.82'(C)  
 L2 = S00°23'57"E 80.25'(C)

ECONLOCKHATCHEE TRAIL

N00°24'07"W  
 445.12'(C)

**POB**  
 STA 141+23.83  
 73.82' RT(C)

WEST LINE NE 1/4, SEC 30

SE 1/4  
 SEC 30

SOUTH LINE NE 1/4, SEC 30

8093  
 3.988 ACRES  
 (173,725 SF)

EXISTING  
 EAST R/W  
 LINE

EXISTING NORTH R/W  
 LINE AS SHOWN ON THE  
 EAST-WEST EXPRESSWAY  
 (SR 408) MAPS PROJECT  
 NOS. 75008-6430-301,  
 75008-6430-302 &  
 75008-6430-303

NE 1/4  
 SEC 30

## LEGEND

- (C) = CALCULATED
- CB= CHORD BEARING
- DB= DEED BOOK
- (F) = FIELD
- FND = FOUND
- LA = LIMITED ACCESS
- L = LENGTH
- NO = NUMBER
- OR = OFFICIAL RECORDS
- PG = PAGE
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- PL = PROPERTY LINE
- PT = POINT OF TANGENCY
- R = RADIUS
- RGE = RANGE
- RT = RIGHT
- R/W = RIGHT OF WAY
- SEC = SECTION
- SF = SQUARE FEET
- SR = STATE ROAD
- STA = STATION
- TWP = TOWNSHIP
- Δ = DELTA (CENTRAL ANGLE)

EAST-WEST EXPRESSWAY  
 SR 408

PROJECT NO.'S  
 75008-6430-301  
 75008-6430-302  
 75008-6430-303

Δ = 01°07'20"  
 R = 23068.31'(C)  
 L = 451.80'(C)  
 CB = N89°39'44"W

TB = S89°06'05"E

S00°23'57"E  
 169.34'  
 (C)

FLORIDA POWER CORP  
 BLANKET EASEMENT  
 DB 977, PG 516  
 (UNABLE TO PLOT)

ABBREVIATED  
 PARENT TRACT  
 LINE

## TOWNSHIP 22 SOUTH, RANGE 31 EAST

### NOTE:

1. BEARINGS ARE BASED ON THE WEST LINE OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 22, SOUTH, RANGE 31 EAST ORANGE COUNTY, FLORIDA, AS HAVING AN ASSUMED BEARING OF NORTH 00°24'07" WEST.
2. THIS SKETCH OF DESCRIPTION AND LEGAL DESCRIPTION WAS PROVIDED BY URS CORPORATION ORLANDO, FLORIDA DATED 06/30/2010.
3. THERE MAY BE OTHER RECORDED DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY THAT ARE NOT SHOWN ON THIS SKETCH OF DESCRIPTION.

NORTH SEGMENT R/W MAP SHEETS 3 & 5  
 SOUTH SEGMENT R/W MAP SHEETS 4 & 13  
 THIS IS NOT A BOUNDARY SURVEY, NOR HAS ANY FIELD WORK BEEN PERFORMED IN ACCORDANCE WITH 5J-17, FLORIDA ADMINISTRATIVE CODE FOR PREPARATION OF THIS DRAWING.

ORANGE COUNTY PUBLIC WORKS  
 ENGINEERING DIVISION  
 SURVEY SECTION



SHEET 2 of 2

4200 S. JOHN YOUNG PARKWAY  
 ORLANDO, FLORIDA 32839-9205  
 407-836-7908

# SKETCH & DESCRIPTION

PROJECT: Econlockhatchee Trail  
SURVEY PROJECT NUMBER: 8799  
SECTION 30  
TOWNSHIP 22 SOUTH  
RANGE 31 EAST  
DRAWN BY: JFM  
SCALE: 1"=200'  
DATE:11/15/2021  
SCHEDULE "A"  
PARCEL: 8093A

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE  
SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 22 SOUTH, RANGE 31  
EAST, ORANGE COUNTY, FLORIDA AND BEING MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHEAST  
1/4 OF SAID SECTION 30; THENCE SOUTH 00°24'07" EAST, ALONG  
THE WEST LINE THEREOF, A DISTANCE OF 167.41 FEET; THENCE  
DEPARTING SAID WEST LINE, NORTH 88°54'59" EAST, A DISTANCE  
OF 91.30 FEET TO THE INTERSECTION OF THE EXISTING EAST  
RIGHT OF WAY LINE OF ECONLOCKHATCHEE TRAIL WITH THE  
EXISTING SOUTH RIGHT OF WAY LINE OF THE EAST-WEST  
EXPRESSWAY (STATE ROAD 408 ) PROJECT NOS. 75008-6430-301,  
75008-6430-302 AND 75008- 6430-303 AND THE POINT OF  
BEGINNING; THENCE NORTH 00°24'07" WEST ALONG SAID  
EXISTING EAST RIGHT OF WAY LINE OF ECONLOCKHATCHEE  
TRAIL A DISTANCE OF 311.16 FEET TO THE SOUTH LIMITED  
ACCESS RIGHT OF WAY LINE OF THE EAST-WEST EXPRESSWAY;  
THENCE DEPARTING SAID EAST RIGHT OF WAY LINE OF  
ECONLOCKHATCHEE TRAIL, NORTH 89°46'36" EAST, ALONG SAID  
SOUTH LIMITED ACCESS RIGHT OF WAY, A DISTANCE OF 270.62  
FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE  
SOUTHERLY, HAVING A RADIUS OF 22768.31 FEET; THENCE  
EASTERLY ALONG THE ARC OF SAID CURVE AND SOUTH LIMITED  
ACCESS RIGHT OF WAY, A DISTANCE OF 629.49 FEET THROUGH A  
CENTRAL ANGLE OF 01°35'03"; THENCE DEPARTING SAID SOUTH  
LIMITED ACCESS RIGHT OF WAY, SOUTH 00°24'07" EAST, A  
DISTANCE OF 288.95 FEET TO A POINT ON THE SOUTH RIGHT OF  
WAY OF THE AFOREMENTIONED EAST-WEST EXPRESSWAY;  
THENCE SOUTH 88°54'59" WEST, ALONG SAID SOUTH RIGHT OF  
WAY LINE OF THE EAST-WEST EXPRESSWAY, A DISTANCE OF  
900.06 FEET TO THE POINT OF BEGINNING.

CONTAINING 6.248 ACRES (272,140 SQUARE FEET), MORE OR  
LESS.

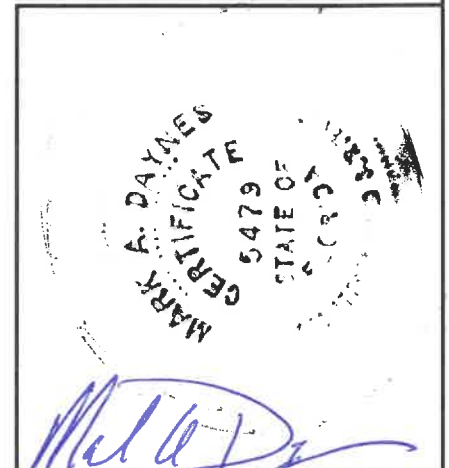
THIS IS NOT A BOUNDARY SURVEY, NOR HAS ANY  
FIELD WORK BEEN PERFORMED IN ACCORDANCE  
WITH 5J-17, FLORIDA ADMINISTRATIVE CODE FOR  
PREPARATION OF THIS DRAWING.



SHEET 1 of 2

ORANGE COUNTY PUBLIC WORKS  
ENGINEERING DIVISION  
SURVEY SECTION

4200 S. JOHN YOUNG PARKWAY  
ORLANDO, FLORIDA 32839-9205  
407-836-7908



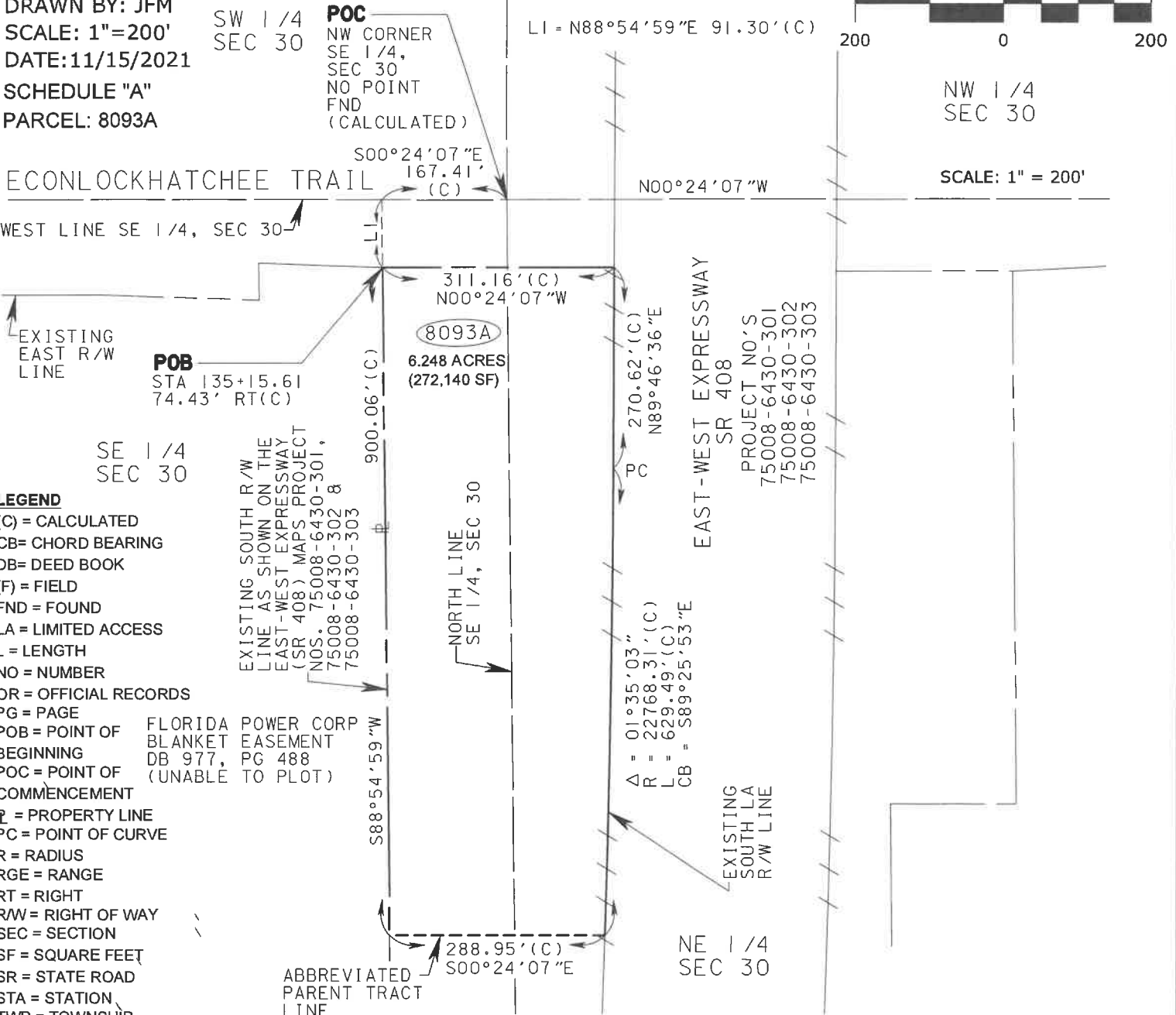
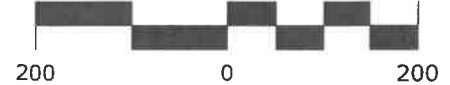
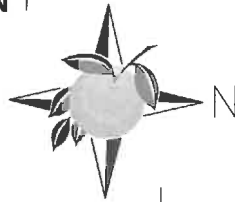
Mark A. Daynes,  
REGISTERED LAND SURVEYOR AND  
MAPPER  
STATE OF FLORIDA LICENSE  
NO. 5479  
DATE: 11/15/2021

I HEREBY AFFIRM THAT THIS SKETCH  
REPRESENTED HEREON IS TRUE  
AND CORRECT TO THE BEST OF MY  
KNOWLEDGE AND BELIEF. THIS  
SURVEY HAS BEEN PREPARED IN  
ACCORDANCE WITH THE STANDARDS  
SET FORTH IN CHAPTER 5J-17, F.A.C.,  
PURSUANT TO CHAPTER 472 OF THE  
FLORIDA STATUTES. NOT VALID  
UNLESS IT BEARS THE ORIGINAL  
SIGNATURE AND SEAL OF A FLORIDA  
LICENSED SURVEYOR AND MAPPER.



# SKETCH & DESCRIPTION

PROJECT: Econlockhatchee Trail  
 SURVEY PROJECT NUMBER: 8799  
 SECTION 30  
 TOWNSHIP 22 SOUTH  
 RANGE 31 EAST  
 DRAWN BY: JFM  
 SCALE: 1"=200'  
 DATE: 11/15/2021  
 SCHEDULE "A"  
 PARCEL: 8093A



- LEGEND**
- (C) = CALCULATED
  - CB= CHORD BEARING
  - DB= DEED BOOK
  - (F) = FIELD
  - FND = FOUND
  - LA = LIMITED ACCESS
  - L = LENGTH
  - NO = NUMBER
  - OR = OFFICIAL RECORDS
  - PG = PAGE
  - POB = POINT OF BEGINNING
  - POC = POINT OF COMMENCEMENT
  - PL = PROPERTY LINE
  - PC = POINT OF CURVE
  - R = RADIUS
  - RGE = RANGE
  - RT = RIGHT
  - R/W = RIGHT OF WAY
  - SEC = SECTION
  - SF = SQUARE FEET
  - SR = STATE ROAD
  - STA = STATION
  - TWP = TOWNSHIP
  - Δ = DELTA (CENTRAL ANGLE)

**NOTE:**

1. BEARINGS ARE BASED ON THE WEST LINE OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 22, SOUTH, RANGE 31 EAST ORANGE COUNTY, FLORIDA, AS HAVING AN ASSUMED BEARING OF NORTH 00°24'07" WEST.
2. THIS SKETCH OF DESCRIPTION AND LEGAL DESCRIPTION WAS PROVIDED BY URS CORPORATION ORLANDO, FLORIDA DATED 06/30/2010.
3. THERE MAY BE OTHER RECORDED DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY THAT ARE NOT SHOWN ON THIS SKETCH OF DESCRIPTION.

SOUTH SEGMENT R/W MAP SHEETS 3 & 12  
 THIS IS NOT A BOUNDARY SURVEY, NOR HAS ANY FIELD WORK BEEN PERFORMED IN ACCORDANCE WITH 5J-7, FLORIDA ADMINISTRATIVE CODE FOR PREPARATION OF THIS DRAWING.

## TOWNSHIP 22 SOUTH, RANGE 31 EAST

SHEET 2 of 2

ORANGE COUNTY PUBLIC WORKS  
 ENGINEERING DIVISION  
 SURVEY SECTION



4200 S. JOHN YOUNG PARKWAY  
 ORLANDO, FLORIDA 32839-9205  
 407-836-7908

**EXHIBIT "E"**  
**Maintenance Responsibilities For Bridge Improvements**  
**Orange County CIP # 5024**

1. CFX Responsibility
  - A. Coatings for reinforced earth/retaining walls and end bents
  - B. Coatings for bridge beams, bridge piers and any associated bridge pier protection to include pier protection barrier within CFX right-of way
  - C. Coatings for bridge traffic railing from top of railing outside face to bottom of bridge deck
  - D. Bridge underdeck lighting
  - E. Mowing of embankments/sideslopes within CFX limited-access right-of-way fence
  - F. Removal of vegetation and graffiti from reinforced earth/retaining walls
  
2. Local Agency Responsibility (as to new Bridge Improvements)
  - A. Bridge structure per se, including bridge, bearing pads, joints, approach slabs, and fencing, etc.
  - B. Reinforced earth/retaining walls (excluding coatings) and associated embankment within CFX right-of-way
  - C. Embankments/sideslopes to CFX limited-access right-of-way fence
  - D. Pavement markings, fencing, guard rails, and bridge above deck lighting, as applicable
  - E. Local Road drainage structures and systems to CFX ponds
  - F. Cleaning/sweeping bridge and approach roadways
  - G. All other areas related to the Bridge Improvements not specifically identified above.

# MEMO ATTACHMENT "C"



Dewberry Engineers Inc. | 407.843.5120  
800 N. Magnolia Ave, Suite 1000 | 407.649.8664 fax  
Orlando, FL 32803 | www.dewberry.com

November 15, 2021

Mr. Glenn Pressimone, P.E.  
Chief of Infrastructure  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

**RE: Easement and Maintenance Agreement**

SR 408 – Econlockhatchee Trail Overpass  
CFX Parcels – Portion 1-227, Portion 1-251, 1-252 (aka 8093), Pond 12 and 1-226,  
Portion 1-228, Portion 1-247, (aka 8093A), Pond 13

Dear Mr. Pressimone:

Dewberry Engineers, Inc., as Consulting Engineer (the “Consulting Engineer”) to the Central Florida Expressway Authority (“CFX”), does here by certify as follows:

1. We have examined the proposed Easement and Maintenance Agreement between CFX and Orange County (“Agreement”) associated with the widening of the Econlockhatchee Trail which includes construction of a new bridge over State Road 408 east of the existing Econlockhatchee Trail bridge overpass. CFX owns and maintains the existing bridge. The new Econlockhatchee Trail bridge by Orange County and the grant of easements by CFX to Orange County as depicted on Exhibit “A” attached hereto and in accordance with the terms of the Agreement will not (1) impede or restrict the operation of the Expressway System; (2) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of any portion of the Expressway System; or (3) otherwise impair traffic operations or public safety.
2. The two storm water retention ponds (CFX SR 408 Pond 12 and CFX SR 408 Pond 13) described in Exhibit “A” attached hereto have sufficient capacity to permit the stormwater drainage from the expanded expressway and will not (1) impede or restrict the operation of the Expressway System; (2) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of any portion of the Expressway System; or (3) otherwise impair traffic operations or public safety.
3. Furthermore, this certificate is being provided by the Consulting Engineer to CFX solely for the purposes of complying with Section 5.4 of CFX’s Amended and Restated Master Bond Resolution and the requirements set forth in CFX’s Manual and may not be relied on by any other person or party for any other purpose.

Sincerely,

A handwritten signature in blue ink that reads "R. Keith Jackson".

R. Keith Jackson, P.E.  
Program Manager

Attachments

cc: Laura N. Kelly, Esq. CFX (w/ enc.)




**CONSENT AGENDA ITEM  
#17**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: November 29, 2021

SUBJECT: Approval of First Contract Renewal with Jorgensen Contract Services, LLC  
for Roadway and Bridge Maintenance Services – SR 408, SR 417, SR 528 and  
Goldenrod Road Extension  
Contract No. 001151


---

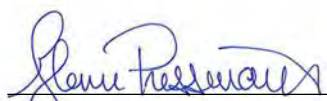
Board approval is requested for the first renewal of the referenced contract with Jorgensen Contract Services, LLC in the amount of \$3,750,000.00 for one year beginning on July 1, 2022 and ending June 30, 2023. The original contract was for five years with five one-year renewals.

The work to be performed includes roadway and bridge maintenance services.

Original Contract	\$17,483,700.00
Supplemental Agreement No. 1	\$ 300,000.00
Supplemental Agreement No. 2	\$ 247,467.00
Supplemental Agreement No. 3	\$ 0.00
Supplemental Agreement No. 4	\$ 0.00
First Renewal	<u>\$ 3,750,000.00</u>
Total	\$21,781,167.00

This contract is included in the OM&A Budget.

Reviewed by:   
\_\_\_\_\_  
Don Budnovich, PE  
Director of Maintenance

  
\_\_\_\_\_  
Glenn Pressimone, PE

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
CONTRACT RENEWAL NO. 1 AGREEMENT  
CONTRACT NO. 001151**

**THIS CONTRACT RENEWAL NO. 1 AGREEMENT** (“Renewal Agreement”), is made and entered into this 9th day of December 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and Jorgensen Contract Services, LLC., a Florida Limited Liability company, 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**, CFX and the Contractor entered into that certain Contract Agreement dated July 1, 2017, (collectively, the “Original Agreement”), with a Notice to Proceed date of July 1, 2017, whereby CFX retained the Contractor to perform roadway and bridge maintenance services on SR 408, SR 417, SR 528 and Goldenrod Road extension; 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 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 July 1, 2022 and end on June 30, 2023 (“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 **Exhibit “B”** of the Original Agreement, in an amount up to \$3,750,000.00 (“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.

**JORGENSEN CONTRACT SERVICES, 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: \_\_\_\_\_



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SUPPLEMENTAL AGREEMENT NO. 4

Contract Name: Roadway and Maintenance Services  
Contract No. 001151

This Supplemental Agreement No. 4 entered into this 10<sup>th</sup> day of May 2021, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and JORGENSEN CONTRACT SERVICES, L.L.C., (the "CONTRACTOR"), the same being supplementary to the Contract between the aforesaid, dated March 9, 2017, with a Notice to Proceed date of July 1, 2017, for roadway and maintenance services on SR 408, SR 417, SR 528, and the Goldenrod Road Extension and related tasks as may and related tasks as may from time to time be assigned to the CONTRACTOR by CFX.

1. With the construction of the widening of SR 417 from International Drive to SR 528, the Scope of Services within the construction zone will be reduced. Therefore, the monthly lump sum amount charged by the CONTRACTOR for maintenance services will be reduced as outlined below.

- For the remainder of FY 20-21 the monthly reductions are:

March 2021:	\$14,500.00
April 2021:	\$14,500.00
May 2021:	\$14,500.00
June 2021:	\$14,500.00
<b>Total</b>	<b>\$58,000.00</b>

- For FY 21-22 the monthly deductions are:

July 2021:	\$ 14,500.00
August 2021:	\$ 14,500.00
Sept. 2021:	\$ 29,000.00
October 2021:	\$ 58,000.00
Nov. 2021:	\$ 58,000.00
Dec. 2021:	\$ 58,000.00
Jan. 2022:	\$ 58,000.00
Feb. 2022:	\$ 58,000.00
March 2022:	\$ 58,000.00
April 2022:	\$ 58,000.00
May 2022:	\$ 58,000.00
June 2022:	\$ 58,000.00
<b>Total</b>	<b>\$580,000.00</b>

2. The total scope reduction of \$638,000.00 will be added to the Work Order Allowance. Supplemental Agreement No. 4 changes applies only to the initial term of the Contract.

3. During this construction phase the CONTRACTOR will not be responsible for fence line herbicide, mowing or mowing litter cycles within the limits of construction, as those services will be provided by the CFX Construction Contractors.
4. The CONTRACTOR will continue to be responsible for Incident Response, Debris Removal on the roadway and shoulders, Herbicide application along the roadside, guardrail and existing MSE Walls etc.
5. The CONTRACTOR hereby agrees to the reduction of Scope with no increase in the Contract amount and time.
6. CFX and CONTRACTOR agree that this Supplemental Agreement No. 4 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. 4; that acceptance of this Supplemental Agreement No. 4 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.

Contract Name: Roadway and Bridge Maintenance Services

Contract No. 001151

Amount of Changes to this document: \$0.00

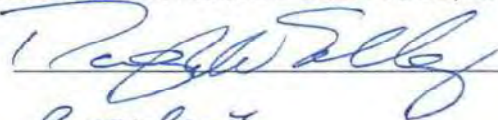
This Supplemental Agreement No. 4 entered into as of the day and year first written above.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

By:   
Aneth Williams, Director of Procurement

Date: 5/25/2021


**JORGENSEN CONTRACT SERVICES, L.L.C.**

By:   
Title: President

Attest:  (Seal)

Date: 5/19/21

Approved as to form and legality by legal counsel to the Central Florida Expressway Authority on this 25th day of May, 2021 for its exclusive use and reliance.

By:   
Diego "Woody" Rodriguez,  
General Counsel

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SUPPLEMENTAL AGREEMENT NO. 3

Contract Name: Roadway and Maintenance Services  
Contract No. 001151

This Supplemental Agreement No. 3 entered into this 11<sup>th</sup> day of June 2020, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”), and JORGENSEN CONTRACT SERVICES, LLC, (the “Contractor”), the same being supplementary to the Contract between the aforesaid, dated March 9, 2017, with a Notice to Proceed date of July 1, 2017, for roadway and maintenance services on SR 408, SR 417, SR 528, and the Goldenrod Road Extension and related tasks as may and related tasks as may from time to time be assigned to the CONTRACTOR by CFX.

1. With the addition of SR 538 (Poinciana Parkway) to the CFX system, CFX wishes to add miscellaneous maintenance infrastructure repair services to this Contract on an as-needed basis. A task work order will be used for any work requested and approved, and the work will be paid from the Contract work order allowance.
2. The Contractor hereby agrees to the changes with no increase in the Contract amount and time.
3. CFX and Contractor agree that this Supplemental Agreement No. 3 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. 3; that acceptance of this Supplemental Agreement No. 3 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.

Contract Name: Roadway and Bridge Maintenance Services

Contract No. 001151

Amount of Changes to this document: \$0.00

This Supplemental Agreement No. 3 entered into as of the day and year first written above.

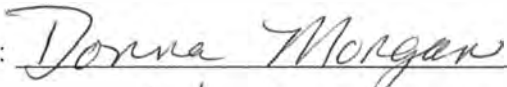
**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

By:   
Director of Procurement

Date: 6/18/2020

**JORGENSEN CONTRACT SERVICES, LLC**

By:   
Title: President

Attest:  (Seal)  
Date: 6/16/20

Approved as to form and execution, only.

**Diego "Woody" Rodriguez**  
Digitally signed by Diego "Woody" Rodriguez  
Date: 2020.06.18 08:11:05 -04'00'

General Counsel for CFX

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SUPPLEMENTAL AGREEMENT NO. 2**

2020 MAR 13 11:55

**Contract Name: Roadway and Maintenance Services  
Contract No. 001151**

This Supplemental Agreement No. 2 entered into this 13<sup>th</sup> day of February, 2020, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”), and JORGENSEN CONTRACT SERVICES, LLC, (the “Contractor”), the same being supplementary to the Contract between the aforesaid, dated March 9, 2017, with a Notice to Proceed date of July 1, 2017, for roadway and maintenance services on SR 408, SR 417, SR 528, and the Goldenrod Road Extension and related tasks as may and related tasks as may from time to time be assigned to the CONTRACTOR by CFX.

1. CFX desires to amend the Scope of Services to add additional sweeping cycles of SR 408 from Clarke Road to Econlockhatchee Trail and increase the work order allowance in a not to exceed amount of \$247,467.00 as shown below and no increase in the Contract time.
  - Additional Mainline Sweep ( Clarke Rd to Econlockhatchee Trail 2020): 24 cycles at \$3,836.25 each = \$92,070.
  - Additional Ramp Sweep ( Clarke Rd to Econlockhatchee Trail 2020): 12 cycles at \$3,324.75 each = \$39,897.
  - Work order allowance: \$115,500.00
2. The Contractor hereby agrees to the changes with an increase in the Contract amount of a not to exceed \$247,467.00 and no increase in the Contract time.
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.

Contract Name: Roadway and Bridge Maintenance Services

Contract No. 001151

Amount of Changes to this document: \$247,467.00

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: 3/9/2020

20 MAR 3 PM 4:58

**JORGENSEN CONTRACT SERVICES, LLC**

By:   
Title: President

Attest: Donna M. Morgan (Seal)  
Date: 3/2/2020



Approved as to form and execution, only.

  
General Counsel for CFX

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SUPPLEMENTAL AGREEMENT NO. 1

2017 DEC 21 AM 11:44

Contract Name: Roadway and Maintenance Services  
Contract No. 001151  
Supplemental Agreement No. 1

This Supplemental Agreement No. 1 entered into this 14<sup>th</sup> day of December, 2017, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and JORGENSEN CONTRACT SERVICES, LLC, (the "Contractor"), the same being supplementary to the Contract between the aforesaid, dated March 9, 2017, with a Notice to Proceed date of July 1, 2017, for roadway and maintenance services on S.R. 408, S.R. 417, S.R. 528, and Goldenrod Road Extension and related tasks as may from time to time be assigned to the CONTRACTOR by CFX.

1. CFX desires to amend the Scope of Services to add removal and disposal of approximately 265 trees downed during Hurricane Irma, and repairs to the CFX Right of Way fence also damaged from the Hurricane.
2. The Contractor hereby agrees to the changes with an increase in the Contract amount of a not to exceed \$300,000.00 and no increase in the Contract time. No work on this item can begin until the specific scope of work is agreed upon and written authorization to proceed is issued by CFX Director of Maintenance or designee.
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.



Contract Name: Roadway and Bridge Maintenance Services

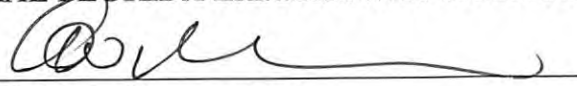
Contract No. 001151

Supplemental Agreement No.1

Amount of Changes to this document: \$300,000.00

This Supplemental Agreement No. 1 entered into as of the day and year first written above.


**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

By:   
Director of Procurement


2017 DEC 21 AM 11:44

Date: 1/3/2018

**JORGENSEN CONTRACT SERVICES, LLC**

By: 

Title: President

Attest:  (Seal)

Date: 12/19/17

REVIEWED AND APPROVED  
BY CFX LEGAL  


# **CONTRACT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
JORGENSEN CONTRACT SERVICES, LLC**

**ROADWAY AND BRIDGE MAINTENANCE SERVICES  
S.R. 408, S.R. 417, S.R. 528, AND GOLDENROD ROAD  
EXTENSION**

**CONTRACT NO. 001151**

**CONTRACT DATE: MARCH 9, 2017**

**CONTRACT AMOUNT: \$17,483,700.00**

**CONTRACT, SCOPE OF SERVICES, METHOD OF  
COMPENSATION, ADDENDA, SPECIFICATIONS,  
TECHNICAL PROPOSAL, PRICE PROPOSAL,  
PERFORMANCE AND PAYMENT BOND, AND FORMS**

**CONTRACT, SCOPE OF SERVICES, METHOD OF COMPENSATION,  
ADDENDA, SPECIFICATIONS, TECHNICAL PROPOSAL, PRICE PROPOSAL,  
PERFORMANCE AND PAYMENT BOND, AND FORMS**

**ROADWAY AND BRIDGE MAINTENANCE SERVICES  
S.R. 408, S.R. 417, S.R. 528, AND GOLDENROD ROAD EXTENSION**

**CONTRACT NO. 001151**

**MARCH 2017**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

## TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
C	CONTRACT	C-1 to C-23
	Addendum No. 1	
	Addendum No. 2	
	Addendum No. 3	
SS	SCOPE OF SERVICES	A-1 to A-23
	Maintenance Specifications	
MC	METHOD OF COMPENSATION	A-1 to B-2
TP	TECHNICAL PROPOSAL	TP-1 to TP-36
PP	PRICE PROPOSAL	D-1 to D-6E
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2
PPB	PERFORMANCE AND PAYMENT BOND	PPB-1 to PPB-5

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
ROADWAY AND BRIDGE MAINTENANCE SERVICES  
S.R. 408, S.R. 417, S.R. 528, AND GOLDENROD ROAD EXTENSION (S.R. 551)  
CONTRACT**

This Contract No. 001151 (the "Contract" as defined herein below), is made this 1<sup>st</sup> day of July, 2017, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called CFX and Jorgensen Contract Services, LLC, a Florida Limited Liability Company, registered and authorized to conduct business in the State of Florida, whose principal address is 2827 Parkway Street, Unit 4, Lakeland, FL 33811 and who is duly authorized 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 Authority 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 CFX, in order to comply with the 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 roadway and bridge maintenance services on S.R. 408, S.R. 417, S.R. 528, and Goldenrod Road Extension and related tasks as may from time to time be assigned to the CONTRACTOR by CFX; and,

**WHEREAS**, on or about December 5, 2016, CFX issued a Request for Proposals seeking qualified contractors to perform such tasks; and,

**WHEREAS**, CONTRACTOR was the successful one of four qualified firms that responded to the Request for Proposals and was ultimately selected;

**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 Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized

representatives of CFX, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include maintenance of, and administration and management services related to, S.R. 408, S.R. 417, S.R. 528, and Goldenrod Road Extension in Orange County, Florida as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

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.

The Contract Documents, in order of precedence, consist of:

- 1.1 The Contract,
- 1.2 The Addenda (if any), with those of later date having precedence over those of earlier date,
- 1.3 The Scope of Services (including Maintenance Specifications),
- 1.4 The Memorandum of Agreement,
- 1.5 The Method of Compensation,
- 1.6 The Technical Proposal submitted by CONTRACTOR, and
- 1.7 The Price Proposal submitted by CONTRACTOR,

(collectively, the "Contract Documents").

## **2. TERM AND NOTICE**

The initial term of the Contract will be five (5) years from the date first written above. There shall be five (5) renewal options of one (1) year each. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide the CONTRACTOR with written notice of its intent at least 120 days prior to the expiration of the initial 5-year Contract Term and renewals, if any.

CFX shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 120 days notice for convenience or 60 days with cure notice 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 will 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 hereinabove. CONTRACTOR will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONTRACTOR will not be paid for special, indirect, consequential, or undocumented termination 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 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 personnel or with sufficient materials to assure the prompt performance of the work items covered 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 in an acceptable manner, or if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of CFX, CFX will give notice in writing to the CONTRACTOR and CONTRACTOR's surety of such delay, neglect or default. 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.

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 and equipment on the sites where work is or was occurring, 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 and the surety shall be jointly and severally liable and 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 cancel and terminate this Contract in the event the CONTRACTOR or any employee, servant, or agent of the CONTRACTOR is indicted for any crime arising out of or in conjunction with any work being performed by the CONTRACTOR for or on behalf of CFX, without penalty. Such termination shall be deemed a termination for default.

CFX reserves the right to terminate or cancel this Contract in the event the CONTRACTOR shall be placed in either voluntary or involuntary bankruptcy or an assignment is made for the benefit of creditors. Such termination shall be deemed a termination for default.

### **3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES**

3.1 The Contract Amount for the five-year Contract term is \$17,483,700.00.

3.2 CFX agrees to pay CONTRACTOR for services performed in accordance with the Method of Compensation.

### **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 or 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 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.

## **5. DISADVANTAGED/MINORITY AND WOMEN'S 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 maximum opportunity to participate in the provision of the Services with respect to the operation and maintenance of the System. 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 Contract Date hereof 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.

## **6. CONTRACTOR INSURANCE AND PERFORMANCE AND PAYMENT BOND**

CONTRACTOR shall carry and keep in force during the period of this Contract, the required amount of coverage as stated below. All bonds and 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. All surety bonds shall be in a

form and issued by a surety company 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:

6.1 **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 Contract.

6.2 **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;

6.3 **Workers' Compensation Insurance** Coverage, including all coverage required under the laws of the state of Florida (as amended from time to time hereafter);

6.4 **Unemployment Insurance** Coverage in amounts and forms required by Florida law, as it may be amended from time to time hereafter.

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.

Compliance with these insurance requirements shall not relieve or limit the CONTRACTOR's liabilities and obligations under this Contract. Failure of CFX to demand such certificate or evidence of full compliance with these insurance requirements or failure of CFX to identify a deficiency from evidence provided will not be construed as a waiver of the CONTRACTOR's obligation to maintain such insurance.

The acceptance of delivery by CFX of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by CFX that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

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.

**6.5 Performance and Payment 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 annual amount of the Contract (Contract Amount/5 years). The initial term of the bond shall be from July 1, 2017 through June 30, 2018. The bond shall be renewed each year thereafter until the expiration of the Contract term. Each fully executed renewal bond shall be transmitted to CFX at least 15 days prior to the expiration of the bond in effect so there is no lapse in coverage. Failure to timely renew the bond may result in CFX giving notice of default to the CONTRACTOR as detailed in Article 2 above. 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 surety's resident agent's name, address, and telephone number shall be clearly stated on the face of the bond.

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 which might be returned to the CONTRACTOR from its payment of premium on the defaulting bond, will be borne by CFX.

## **7. CONTRACTOR RESPONSIBILITY**

7.1 CONTRACTOR shall take all reasonable precautions in the performance of the Services and shall cause its employees, agents and subcontractors to do the same. CONTRACTOR shall be solely responsible for the safety of, and shall provide protection to prevent damage, injury or loss to:

(i) all employees of CONTRACTOR and its subcontractors and other persons who would reasonably be expected to be affected by the performance of the Services;

(ii) other property of CONTRACTOR and its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible on or adjacent to the areas upon which services are performed;

7.2 CONTRACTOR shall comply, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible, with applicable laws, ordinances, rules, regulations, orders of public authorities, sound business practices, including without limitation:

- (i) those relating to the safety of persons and property and their protection from damage, injury or loss, and
- (ii) all workplace laws, regulations, and posting requirements, and
- (iii) 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.

7.3 CONTRACTOR shall be responsible for actual damage and loss that may occur with respect to any and all property located on or about any structures in any way involved in the provision of services by CONTRACTOR, whether such property is owned by CONTRACTOR, CFX, or any other person, to the extent such damage or loss shall have been caused or brought about by the negligent acts or omissions of CONTRACTOR or its employees, agents, officers or subcontractors or any other persons for whom CONTRACTOR may be legally or contractually responsible.

7.4 CONTRACTOR shall ensure that all of its activities and the activities of its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible are undertaken in a manner that will minimize the effect on surrounding property and the public.

7.5 CONTRACTOR shall immediately notify CFX of any material adverse change in CONTRACTOR's financial condition, business, prospects, affairs, or operations, or of such change of any partner, or of such change of any shareholder holding greater than a 10% interest in CONTRACTOR, or of the existence of any material impairment of rights or ability of CONTRACTOR to carry on as its business and operations are currently conducted.

7.6 CONTRACTOR shall not make any requirement of any employee, or enter into a non-competition agreement with any employee, whether oral or written, of any kind or nature, that would prohibit CONTRACTOR's employees from leaving CONTRACTOR's employ and taking employment with any successor of CONTRACTOR for CFX's roadway and bridge maintenance services.

7.7 CONTRACTOR and its subcontractors shall 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 a contract with CFX understands and will comply with subsection. 20.055(5), Florida Statutes.

## **8. 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 Program Manager, Project Manager and Superintendent (the "Key Personnel") 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 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, shall be submitted to CFX 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 Effective Date 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, whether Key Personnel or not, 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.

## **9. HOLD HARMLESS AND INDEMNIFICATION**

The CONTRACTOR shall indemnify, defend and hold harmless CFX, its 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:

9.1 violation of same by CONTRACTOR, its subcontractors, officers, agents or employees,

9.2 CFX's use or possession of the CONTRACTOR Property or CONTRACTOR Intellectual Property (as defined herein below),

9.3 CFX's full exercise of its rights under any license conveyed to it by CONTRACTOR,

9.4 CONTRACTOR's violation of the confidentiality and security requirements associated with CFX Property and CFX Intellectual Property (as defined herein below),

9.5 CONTRACTOR's failure to include terms in its subcontracts as required by this Contract,

9.6 CONTRACTOR's failure to ensure compliance with the requirements of the Contract by its employees, agents, officers, or subcontractors, or

9.7 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.

Contractor's liability per occurrence under this Indemnity provision shall not exceed the greater of: (a) one million dollars (\$1,000,000); (b) the total aggregate amount of insurance required; or (c) the total amount of the Contract, inclusive of amendments, extensions, renewals, and supplemental agreements thereto, for the entire term of the Contract.

The obligations in Section 9.0, Hold Harmless and Indemnification, shall survive the expiration or termination of this Contract and continue in full force and effect.

## **10. PUBLIC RECORDS**

Notwithstanding Section 11, entitled "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.

**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.**

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.

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. Failure by the CONTRACTOR to grant such public access shall be grounds for immediate unilateral cancellation of this Contract by CFX.

The obligations in Section 10.0, Public Records, shall survive the expiration or termination of this Contract and continue in full force and effect.

## **11. PRESS RELEASES**

The CONTRACTOR agrees that it shall make no statements, press releases or publicity releases concerning this Contract or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Contract, or any particulars thereof, during the period of the Contract, without first notifying CFX and securing its consent in writing, except as required by law. The CONTRACTOR 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 Contract, it being understood that, under Section 10.0 hereof, such data or information is the property of CFX.

## **12. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS**

CFX is and shall be and remain the sole owner of all rights, title, and interest in, to, and associated with all plans, documents, software in all forms, hardware, programs, procedures, specifications, drawings, brochures pamphlets, manuals, flyers, models, photographic or design images, negatives, videos and film, tapes, work product, information, data and other items (all whether in preliminary, draft, master, final, paper, electronic, or other form), along with the media on which they reside and with which they interface for function or aesthetics, that are generated or developed with respect to and in connection with this Contract and the performance thereof (collectively, the "CFX Property"). CFX's ownership of CFX Property includes without limitation all common law, statutory and other rights, title, and interest in, to, and associated with trademark, service mark, copyright, patent, trade secret, and publicity (collectively, the "CFX Intellectual Property"). CONTRACTOR, its employees, agents, officers, and subcontractors



acknowledge that E-PASS® is CFX's registered trademark name for CFX's electronic toll collection system, and comprises a portion of CFX Intellectual Property.

CONTRACTOR, its employees, agents, officers, and subcontractors may not use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR, its employees, agents, officers, and subcontractors' access to and/or use of CFX Property and CFX Intellectual Property is without any warranty or representation by CFX regarding same.

For all materials listed hereinabove that are not generated or developed under this Contract or performance hereof, but rather are brought in, provided, or installed by CONTRACTOR (collectively, the "CONTRACTOR Property"), and the intellectual property rights associated therewith (collectively, the "CONTRACTOR Intellectual Property"), CONTRACTOR (its employees, officers, agents, and subcontractors, which for purposes of this section shall collectively be referred to as "CONTRACTOR") warrants and represents the following:

12.1 CONTRACTOR was and is the sole owner of all right, title and interest in and to all CONTRACTOR Property and CONTRACTOR Intellectual Property; **OR**

12.2 CONTRACTOR has obtained, and was and is the sole holder of one or more freely assignable, transferable, non-exclusive licenses in and to the CONTRACTOR Property and CONTRACTOR Intellectual Property, as necessary to provide and install the CONTRACTOR Property and/or to assign or grant corresponding to CFX all licenses necessary for the full performance of this Contract; and that the CONTRACTOR is current and will remain current on all royalty payments due and payable under any license where CONTRACTOR is licensee; **AND**

12.3 CONTRACTOR has not conveyed, and will not convey, any assignment, security interest, exclusive license, or other right, title, or interest that would interfere in any way with CFX's use of the CONTRACTOR Property or any license granted to CFX for use of the CONTRACTOR Intellectual Property rights; **AND**

12.4 Subject to Chapter 119, Florida Statutes (Florida Public Records Act), CONTRACTOR shall maintain CFX Property and CFX Intellectual Property in strictest confidence and may not transfer, disclose, duplicate, or otherwise use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR shall not publish, copyright, trademark, service mark, patent, or claim trade secret, publicity, or other rights of any kind in any of the Property. In ensuring the confidentiality and security of CFX Property and CFX Intellectual Property, CONTRACTOR shall utilize the same standards of protection and confidentiality that CONTRACTOR uses to protect its own property and confidential information, but in no instance less than reasonable care plus the standards set forth anywhere in this Contract.

CONTRACTOR further warrants and represents that there are no pending, threatened, or anticipated Claims against CONTRACTOR, its employees, officers, agents, or subcontractors with respect to the CONTRACTOR Property or CONTRACTOR Intellectual Property.

The provisions of this Section shall survive the term of this Contract for the longer of:

12.5 The statute of limitations on any action arising out of either party's conduct relating to this section, whether such action may be brought by CFX, CONTRACTOR, or a third party; **or**

12.6 CFX's continued use (notwithstanding any temporary suspension of use) of any CONTRACTOR Property or CONTRACTOR Intellectual Property; **and**

12.7 Notwithstanding sections 12.5 and 12.6, the confidentiality and security provisions contained herein shall survive the term of this Contract for ten (10) years beyond 12.5 and 12.6.

### **13. 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.

### **14. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT**

CONTRACTOR warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted.

CONTRACTOR acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Ethics Policy. CONTRACTOR acknowledges that it has read the Ethics Policy and, to the extent applicable, CONTRACTOR will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

In the performance of the Contract, CONTRACTOR shall comply with all applicable local, state, and federal laws and regulations and obtain all permits necessary to provide the Contract services.

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.

The CONTRACTOR acknowledges that it has read CFX's Code of Ethics and the referenced statutes and to the extent applicable to the CONTRACTOR, agrees to abide with such policy.

#### **15. 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.

#### **16. 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.

A person or affiliate who has been placed on the Florida Department of Management Services 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.

#### **17. SUBLETTING AND ASSIGNMENT**

CFX has selected CONTRACTOR to perform the Services based upon characteristics and qualifications of CONTRACTOR and its employees. Therefore, CONTRACTOR shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONTRACTOR's right, title, or interest therein without the written consent of CFX, which may be withheld in CFX's sole and absolute discretion. Any attempt by CONTRACTOR to dispose of this Contract as described above, in part or in whole, without CFX's written consent shall be null and void and shall, at CFX's option, constitute a default under the Contract.

Notwithstanding the foregoing:

17.1 CONTRACTOR may assign its rights to receive payment under this Contract (except for an assignment made for the benefit of creditors) with CFX's prior written consent, which consent shall not be unreasonably withheld. CFX may assign all or any portion of its rights under this Contract without consent of or advance notice to CONTRACTOR; and

17.2 Subject to the right of CFX to review and approve or disapprove subcontracts, and subject to the compliance by CONTRACTOR with the provisions of this Contract with regard to Key Personnel, CONTRACTOR shall be entitled to subcontract some of the services hereunder to other entities, provided that all subcontracts:

(i) shall name CFX as a third party beneficiary and provide that the subcontract is assignable to CFX (or its successor in interest under the terms of this Contract) without the prior approval of the parties thereto, and that the assignment thereof shall be effective upon receipt by the subcontractor of written notice of the assignment from CFX. Upon such event, CFX shall be deemed to assume all rights and obligations of the CONTRACTOR under the subcontract, but only to the extent such rights and obligations accrue from and after the date of the assignment. Without limitation, all warranties and representations of subcontractor shall inure to the benefit of CFX, and

(ii) shall require the subcontractor to comply with all laws, as all may be revised, modified and supplemented from time to time, and must require the subcontractor to carry forms and amounts of insurance satisfactory to CFX in its sole discretion, and shall provide CFX with certificates of insurance upon request. CFX shall be listed as an additional insured on all such insurance policies, and copies of correct insurance certificates and policies shall be delivered to CFX upon request, and

(iii) shall require the subcontractor to join in any dispute resolution proceeding upon request of CFX, and

(iv) shall include the same or similar terms as are included in this Contract with respect to subcontractors, providing CFX with equal or greater protections than herein.

If, during the life of the Contract and any renewals hereof, 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 her/his 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 her/his 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 her/his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof. 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. REMEDIES**

In addition to any remedies otherwise available to CFX under law, upon an uncured default CFX shall have the right to appropriate or use any or all materials and equipment on the sites where work is or was occurring, 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, but not limited to, the costs of completing Contract performance shall be charged against the CONTRACTOR. If the expense of Contract completion exceeds the remaining sum which would have been payable under the balance of the Contract, CONTRACTOR shall be liable to CFX for the difference. On a Contract terminated for default, in no event shall CFX have any liability to the CONTRACTOR for expenses or profits related to unfinished work, or for CFX's use of any CONTRACTOR materials or equipment on the work sites, including without limitation the CONTRACTOR Property and CONTRACTOR Intellectual Property.

## **20. PREVAILING PARTY ATTORNEY'S FEES**

If any contested claim arises hereunder or relating to the Contract (or CONTRACTOR's work hereunder), and either party engages legal counsel, the prevailing party in such dispute, as "prevailing party" is hereinafter defined, shall be entitled to recover reasonable attorneys' fees and costs as defined herein, from the non-prevailing party.

In order for CONTRACTOR to be the prevailing party, 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 for purposes of this Contract.

For purposes of determining whether the judgment of 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 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 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), which for purposes of enforcing this section only shall be admissible into evidence.

The term "contested claim" or "claims" shall include "Claims" as defined in Section 9, as well as the initial written claim (s) submitted to CFX by CONTRACTOR (disputed by 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 CFX agrees or offers to pay prior to initiation of litigation, shall not be deemed contested claims for purposes of this provision. If 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 CONTRACTOR's claim(s).

Attorneys' 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 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 therefore, fees and costs shall accrue from the date of the first written claim submitted, regardless of whether the original or subsequent claim amount is ultimately used in determining if the judgment or award is at least eighty percent (80%) of the cumulative claims.

"Attorneys' fees" shall include but not be limited to fees and charges of attorneys, paralegals, legal assistants, attorneys' CONTRACTOR's, expert witnesses, court reporters, photocopying, telephone charges, travel expenses, or any other charges, fees, or expenses incurred through use of legal counsel, whether or not such fees are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial fees (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation, or administrative proceedings arising out of this Contract.

"Costs" shall include but not be limited to any filing fees, application fees, expert witnesses' fees, court reporters' fees, photocopying costs, telephone charges, travel expenses, or any other charges, fees, or expenses incurred whether or not legal counsel is retained, whether or not such costs are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial costs (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation or administrative proceeding arising out of this Contract.

As a condition precedent to filing a claim with any legal or administrative tribunal, CONTRACTOR shall have first submitted its claim (together with supporting documentation) to CFX, and CFX shall have had sixty (60) days thereafter within which to respond thereto.

The purpose of this provision is to discourage frivolous or overstated claims and, as a result thereof, CFX and CONTRACTOR agree that neither party shall avail itself of Section 768.79, Florida Statutes, or any other like statute or rule involving offers of settlement or offers of judgment, it being understood and agreed that the purpose of such statute or rule are being served by this provision.

Should this section be judged void, unenforceable or illegal, in whole or in substantial part, by a court of competent jurisdiction, this section shall be void in its entirety and each party shall bear its own attorneys' fees and costs.

## **21. OTHER SEVERABILITY**

If any section of this Contract, other than the immediately preceding Prevailing Party Attorneys' Fees section, 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.

## **22. GOVERNING LAW**

This Contract 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.

In consideration of the foregoing premises, CFX agrees to pay CONTRACTOR for work 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. The Contract Documents, together with and including all exhibits, comprise the entire Contract of the parties and supersedes and nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

## **25.0 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. The 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 this Contract, CFX may immediately and unilaterally terminate this Contract for cause.

## **26.0 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 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.

## **27.0 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). The obligations in this paragraph shall survive the expiration or termination of this Contract and continue in full force and effect.

## **28.0 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





Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807  
Attn: General Counsel

To CONTRACTOR: Jorgensen Contract Services, LLC  
2827 Parkway Street, Unit 4  
Lakeland, FL 33811  
Attn: John Mc Pherson

Jorgensen Contract Services, LLC  
3735 Buckeystown Pike, POBox 70  
Buckeystown, MD 21717  
Attn: Douglas W. Selby, President

09 JUN '17 PM12:27

### **32. 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:

32.1 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

32.2 Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and

32.3 Prohibition on non-competition agreements of CONTRACTOR's employees with respect to any successor of CONTRACTOR; and

32.4 Obligations upon expiration or termination of the Contract, as set forth in Section 33; and

32.5 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.

### **33. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT**

33.1 CONTRACTOR shall initiate settlement of all outstanding liabilities and claims arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of CFX.


IN WITNESS WHEREOF, the authorized signatures named below have 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 March 9, 2017.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By:   
Director of Procurement

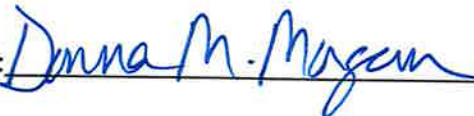
Print Name: Aneth Williams.

JORGENSEN CONTRACT SERVICES, LLC


By: 

Print Name: Douglas W. Selby

Title: President

ATTEST:  (Seal)

Approved as to form and execution, only.

  
General Counsel for CFX

09 JUN '17 PM 12:28

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**TO:** All Planholders of Record  
**FROM:** Aneth O. Williams, Director of Procurement  
**DATE:** December 9, 2016  
**SUBJECT:** Roadway and Bridge Maintenance Services S.R. 408, S.R. 417, S.R. 528, and Goldenrod Road Extension; RFP No. 001151 – Addendum No. 1

This Addendum forms a part of the Contract Documents and modifies the original bidding documents dated December 2016, as noted below. Acknowledge receipt of this Addendum in the space provided on the Proposal form. Failure to do so may subject the bidder to disqualification. This Addendum consists of 1 page.

## RESPONSE TO QUESTION RECEIVED

1. The following question was received from potential proposer of record. CFX's response follows the question.

**Q001: Are we required to submit a bid bond with our bid? If so, what would be the amount for the bid bond?**

**R:** No, a proposal bond is not required for this RFP. However, the awardee of the solicitation will have to furnish a Performance and Payment Bond in accordance with section 6.5 of the contract (page C-6 of the RFP).

END OF ADDENDUM NO. 1

**TO:** All Planholders of Record  
**FROM:** Aneth O. Williams, Director of Procurement  
**DATE:** January 5, 2017  
**SUBJECT:** Roadway and Bridge Maintenance Services S.R. 408, S.R. 417, S.R. 528, and Goldenrod Road Extension; RFP No. 001151 – Addendum No. 2

This Addendum forms a part of the Contract Documents and modifies the original bidding documents dated December 2016, as noted below. Acknowledge receipt of this Addendum in the space provided on the Proposal form. Failure to do so may subject the bidder to disqualification. This Addendum consists of 4 pages and the following attachments: MRP History and Out Parcel Mowing List.

**CHANGE TO INSTRUCTIONS/INFORMATION FOR PROPOSERS**

1. In subarticle 1.7.2, Responsiveness of Proposals, **delete** the language in the second paragraph in its entirety and **insert** the following new language in its place:

“In evaluating proposals, CFX will consider the qualifications of Proposers and whether or not the proposals comply with the prescribed requirements. Any of the following reasons are sufficient cause for disqualification of a Proposer and rejection of the Proposer’s submittal:

- (a) The submission of more than one proposal for the same work from an individual, firm, or corporation under the same or a different name.
- (b) Evidence that one Proposer has a financial interest in the firm of another Proposer for the same work.
- (c) Evidence of collusion among Proposers. CFX will not recognize a participant in such collusion as a proposer for any future work of CFX until CFX reinstates such participant as a qualified proposer.
- (d) Uncompleted and/or unacceptable work on other CFX projects that, in the judgment of CFX, could hinder or prevent the completion of the proposed work.
- (e) Failure to pay or satisfactorily settle all bills due for labor and material on other CFX contracts in force at the time of the Notice to Contractors.
- (f) Default under a previous CFX contract.

(g) Employment of unauthorized aliens on a previous CFX contract in violation of Section 274A (e) of the Immigration and Nationality Act.

(h) Falsification on any form required by CFX.

(i) The submission of a proposal that was not issued by CFX.”

2. In subarticle 2.6, Disadvantaged/Minority/Women Business Enterprise Participation, Page PSR-8, item (1), **delete** the language in the second to the last sentence in its entirety and **insert** the following new language in its place:

“Firms certified by the Florida Department of Transportation as a Disadvantaged Business Enterprise will be accepted.”

### **CHANGE TO SCOPE OF SERVICES**

3. In Attachment 3, Guardrail Repairs, insert the following new language at the end of article 2.5:

“Liquidated damages in the amount of \$100 per day per section will be assessed for each day that the Contractor fails to complete the repairs as specified within the time allowed.”

### **RESPONSES TO QUESTIONS RECEIVED**

4. The following questions were received from potential proposers of record. CFX’s response follows the questions.

**Q001: Would CFX be providing an asset inventory to bidders for this project?**

R: No

**Q002: Section 3.2.1 on page AT1-2 says the “Contractor shall mow selected parcels not part of routine roadside maintenance areas. ... These areas shall be mowed and edged bi-weekly.” Can CFX provide a list of the selected parcels, their size and locations covered under this requirement?**

R: See out parcel list attached to this addendum. See subarticle 3.2.1 in Attachment 1, Roadside and Slope Mowing.

**Q003: Section 8.5 on page AT1-6 says “Mow small areas (out parcels) outside of the fenced right-of-way that CFX owns and as identified in the Contract”. Can CFX provide a list of these parcels, their size and location covered under this requirement as well as the recommended frequency required for maintenance?**

R: See response to Q002.

**Q004: Goldenrod Rd. was maintained in the past more frequently than the mowing required on other CFX Roadways. Will the mowing frequency on Goldenrod Rd. be consistent with the other roadways?**

R: Goldenrod Road is on the out parcel list and, therefore, shall be mowed bi-weekly.

**Q005: On page PSR-12 of the RFP, in the "F. Presenting the Proposal" section, it states that the 15 page limit is exclusive of the project list that is required in the "C. Experience of Firm and Ability of Staff" section. Since it is not part of the counted pages, should the project list (where we give detailed project information) be included as part of an appendix with the resumes and other items listed in the "F. Presenting the Proposal" section?**

R: Material included in an Appendix and not within a specific evaluation criteria section should be clearly identified and marked as being requested information for a particular evaluation criteria section.

**Q006: Could CFX provide a history of automobile crashes on the system?**

R: Information is not immediately available.

**Q007: Could CFX provide a history of work quantity accomplishments?**

R: The question is unclear and too broad.

**Q008: Could CFX provide any existing inventory data??**

R: See response to Q001

**Q009: Page A-17, paragraph 4.7 indicates that CFX will provide the contractor with an office and storage facilities. Page PSR-11 requires that the Proposer "identify the office assigned responsibility for the project and its location. Proposer shall have an office and staff located within the Orange County Standard Metropolitan Statistical Area". Is it safe to assume that the Proposer need not "identify the office", and utilize only the facilities provided by CFX?**

R: CFX does not suggest or guarantee that the office space being provided to the Contractor will be sufficient to house the Contractor's total staff necessary to provide the services required by the Contract. If any portion of the Contractor's staff is housed outside the space being provided then that location shall be identified. If all staff is housed in the space being provided then the response in the Technical Proposal shall be to that effect.

**Q010: Is there a history of wire theft on the project? If so, could CFX provide it?**

R: There is no recent history of wire theft.

**Q011: Could CFX provide a permit history for the project roadways?**

R: The question is unclear and too broad.

**Q012: Page PSR-8 states “Firms certified by the Florida Department of Transportation as a Disadvantaged Business Enterprise will be accepted but must be a minority or women owned business.” In this case, is the MBE or WBE status a different/separate certification required in addition to the FDOT DBE certification?**

R: See Changes to the Instructions/Information for Proposers

**Q013: Could CFX provide an MRP history?**

R: See MRP history attached to this addendum.

**Q014: Please elaborate on the expected role that the contractor will take in permits.**

R: See Scope of Services subarticle 4.1.1.

END OF ADDENDUM NO. 2



FY 16

Florida Department of Transportation			
Maintenance Rating Program			
Evaluation Period	ANNUAL	FY 2015/2016	
Contract Number:	AN-T85		
FACILITY:	ALL FACILITIES		
ELEMENT/CHARACTERISTIC	MILEAGE:	107.857	
	#	YES	*
<b>ROADWAY</b>			
FLEX POTHOLE	180	177	98
FLEX EDGE RVL	0	0	100
FLEX SHOVIING	180	180	100
FLEX DEP/BUMP	180	174	97
FLX PVD SH/TO	180	165	92
RIGID POTHOLE	23	23	100
RIGID DEP/BMP	23	23	100
RGD JOIN T/CRK	23	23	100
RGD RVD SH/TO	23	23	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	168	141	84
FRONT SLOPE	173	131	76
SLOPE PAVEMENT	9	9	100
SIDEWALK	6	6	100
FENCE	169	163	96
<b>VEGETATION-AESTHETICS</b>			
ROADSIDE MOW	174	171	98
SLOPE MOWING	60	56	93
LANDSCAPING	74	61	82
TREE TRIMMING	180	166	92
CURB/SW EDGE	19	18	95
LITTER REMOVE	180	144	80
TURF CONDITION	174	160	92
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	180	149	83
STRIPING	180	176	98
PAVT SYMBOL	107	107	100
GUARDRAIL	154	137	89
ATTENUATOR	0	0	100
SIGNS<30 SF	109	100	92
SIGNS>30 SF	80	75	94
OBJECT MARKER	174	148	85
LIGHTING	146	135	92
<b>DRAINAGE</b>			
SIDE/CRS DRA	65	52	80
RS/MED DITCH	166	164	99
OUTFALL DITCH	1	1	100
INLETS	125	114	91
MISC DRAINAGE	80	68	85
SWEEPING	100	94	94
<b>BY ELEMENT:</b>			
ROADWAY	97		
ROADSIDE	86		
TRAFFIC SERVICES	91		
DRAINAGE	92		
VEGETATION - AESTHETICS	90		
OVERALL MRP	89		

Florida Department of Transportation			
Maintenance Rating Program			
Evaluation Period	ANNUAL FY 2015/2016		
Contract Number:	AN-T85		
FACILITY:	RURAL LIMITED ACCESS		
ELEMENT/CHARACTERISTIC	MILEAGE:	28.597	
	#	YES	*
<b>ROADWAY</b>			
FLEX POT HOLE	90	89	99
FLEX EDGE RVL	0	0	100
FLEX SHOING	90	90	100
FLEX DEP/BUMP	90	86	96
FLX PVD SH/TO	90	84	93
RIGID POT HOLE	4	4	100
RIGID DEP/BMP	4	4	100
RGD JOINT/CRK	4	4	100
RGD RVD SH/TO	4	4	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	90	79	88
FRONT SLOPE	90	73	81
SLOPE PAVEMENT	2	2	100
SIDEWALK	2	2	100
FENCE	88	85	97
<b>VEGETATION - AESTHETICS</b>			
ROADSIDE MOW	90	88	98
SLOPE MOWING	13	13	100
LANDSCAPING	22	16	73
TREE TRIMMING	90	88	98
CURB/SW EDGE	5	4	80
LITTER REMOVE	90	79	88
TURF CONDITION	90	80	89
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	90	80	89
STRIPING	90	88	98
PAVT SYMBOL	50	50	100
GUARDRAIL	90	85	94
ATTENUATOR	0	0	100
SIGNS<30 SF	45	40	89
SIGNS>30 SF	33	30	91
OBJECT MARKER	89	83	93
LIGHTING	61	58	95
<b>DRAINAGE</b>			
SIDE/CRS DRA	23	22	87
RS/MED DITCH	90	90	100
OUTFALL DITCH	1	1	100
INLETS	44	39	89
MISC DRAINAGE	23	20	87
SWEEPING	11	11	100
<b>BY ELEMENT:</b>			
ROADWAY	97		
ROADSIDE	89		
TRAFFIC SERVICES	94		
DRAINAGE	91		
VEGETATION - AESTHETICS	92		
<b>MRP - RURAL LIMITED ACCESS</b>	<b>92</b>		

Florida Department of Transportation			
Maintenance Rating Program			
Evaluation Period	ANNUAL FY 2015/2016		
Contract Number:	AN-T85		
FACILITY:	URBAN LIMITED ACCESS		
ELEMENT/CHARACTERISTIC	MILEAGE:	79.270	
	#	YES	*
<b>ROADWAY</b>			
FLEX POTHOLE	90	88	98
FLEX EDGE RVI	0	0	100
FLEX SHOING	90	90	100
FLEX DEP/BUMP	90	88	98
FLX-PVD SH/TO	90	81	90
RIGID POTHOLE	19	19	100
RIGID DEP/BMP	19	19	100
RGD JOINT/CRK	19	19	100
RGD RVD SH/TO	19	19	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	78	62	79
FRONT SLOPE	83	58	70
SLOPE PAVEMENT	7	7	100
SIDEWALK	4	4	100
FENCE	81	78	96
<b>VEGETATION-AESTHETICS</b>			
ROADSIDE MOW	84	83	99
SLOPE MOWING	47	43	91
LANDSCAPING	52	45	87
TREE TRIMMING	90	78	87
CURB/SW EDGE	14	14	100
LITTER REMOVE	90	65	72
TURF CONDITION	84	80	95
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	90	69	77
STRIPING	90	88	98
PAVT SYMBOL	57	57	100
GUARDRAIL	64	52	81
ATTENUATOR	0	0	100
SIGNS<30 SF	64	60	94
SIGNS>30 SF	47	45	96
OBJECT MARKER	85	65	76
LIGHTING	80	77	91
<b>DRAINAGE</b>			
SIDE/CRS DRA	32	30	94
RS/MED DITCH	76	74	97
OUTFALL DITCH	0	0	100
INLETS	81	25	93
MISC DRAINAGE	57	48	84
SWEEPING	89	83	93
<b>BY ELEMENT:</b>			
ROADWAY	97		
ROADSIDE	83		
TRAFFIC SERVICES	88		
DRAINAGE	93		
VEGETATION - AESTHETICS	89		
MRP - URBAN LIMITED ACCESS	88		

FY 15

Florida Department of Transportation			
Maintenance Rating Program			
Evaluation Period	ANNUAL FY 2014/2015		
Contract Number:	AN-T85		
FACILITY:	ALL FACILITIES		
ELEMENT/CHARACTERISTIC	MILEAGE:	107.857	
	#	YES	*
<b>ROADWAY</b>			
FLEX POTHOLE	179	176	98
FLEX EDGE RVL	1	1	100
FLEX SHOVIING	179	179	100
FLEX DEP/BUMP	179	168	94
FLX PVD SH/TO	179	167	93
RIGID POTHOLE	22	22	100
RIGID DEP/BMP	23	23	100
RGD JOINT/CRK	23	23	100
RGD RVD SH/TO	21	21	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	168	147	88
FRONT SLOPE	171	135	79
SLOPE PAVEMENT	5	5	100
SIDEWALK	4	4	100
FENCE	167	150	90
<b>VEGETATION - AESTHETICS</b>			
ROADSIDE MOW	174	165	95
SLOPE MOWING	70	66	94
LANDSCAPING	74	64	86
TREE TRIMMING	180	162	90
CURB/SW EDGE	23	23	100
LITTER REMOVE	180	158	88
TURF CONDITION	174	152	87
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	180	155	86
STRIPING	180	177	98
PAVT SYMBOL	111	111	100
GUARDRAIL	156	135	87
ATTENUATOR	0	0	0
SIGNS<30 SF	106	100	94
SIGNS>30 SF	89	84	94
OBJECT MARKER	174	156	90
LIGHTING	132	117	89
<b>DRAINAGE</b>			
SIDE/CRS DRA	78	68	87
RS/MED DITCH	165	163	99
OUTFALL DITCH	5	5	100
INLETS	139	123	88
MISC DRAINAGE	95	82	86
SWEEPING	110	102	93
<b>BY ELEMENT:</b>			
ROADWAY	97		
ROADSIDE	86		
TRAFFIC SERVICES	92		
DRAINAGE	92		
VEGETATION - AESTHETICS	90		
<b>OVERALL MRP</b>	<b>90</b>		

Florida Department of Transportation

Maintenance Rating Program

Evaluation Period

ANNUAL FY 2014/2015

Contract Number:

AN-T85

FACILITY: URBAN LIMITED ACCESS			
ELEMENT/CHARACTERISTIC	MILEAGE: 79.270		
	#	YES	*
<b>ROADWAY</b>			
FLEX POTHOLE	89	87	98
FLEX EDGE RVL	0	0	0
FLEX SHOING	89	89	100
FLEX DEP/BUMP	89	86	97
FLX PVD SH/TO	89	84	94
RIGID POTHOLE	18	18	100
RIGID DEP/BMP	19	19	100
RGD JOINT/CRK	19	19	100
RGD RVD SH/TO	18	18	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	78	70	90
FRONT SLOPE	81	81	75
SLOPE PAVEMENT	4	4	100
SIDEWALK	1	1	100
FENCE	79	69	87
<b>VEGETATION - AESTHETICS</b>			
ROADSIDE MOW	84	76	90
SLOPE MOWING	53	52	98
LANDSCAPING	49	47	96
TREE TRIMMING	90	79	88
CURB/SW EDGE	16	15	100
LITTER REMOVE	90	74	82
TURF CONDITION	84	76	90
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	90	77	86
STRIPING	90	90	100
PAVT SYMBOL	63	63	100
GUARDRAIL	67	56	84
ATTENUATOR	0	0	0
SIGNS<30 SF	58	54	93
SIGNS>30 SF	49	49	100
OBJECT MARKER	84	70	83
LIGHTING	76	63	83
<b>DRAINAGE</b>			
SIDE/CRS DRA	33	29	88
RS/MED DITCH	75	74	99
OUTFALL DITCH	0	0	0
INLETS	81	68	84
MISC DRAINAGE	87	60	90
SWEEPING	90	84	93
<b>BY ELEMENT</b>			
ROADWAY	98		
ROADSIDE	84		
TRAFFIC SERVICES	90		
DRAINAGE	91		
VEGETATION - AESTHETICS	90		
MRP URBAN LIMITED ACCESS	90		

Florida Department of Transportation			
Maintenance Rating Program			
Evaluation Period	ANNUAL FY 2014/2015		
Contract Number:	AN-T85		
FACILITY:	RURAL LIMITED ACCESS		
ELEMENT/CHARACTERISTIC	MILEAGE:	28.587	
	#	YES	*
<b>ROADWAY</b>			
FLEX POTHOLE	90	89	99
FLEX EDGE RVL	1	1	100
FLEX SHOING	90	90	100
FLEX DEP/BUMP	90	82	91
FLX PVD SH/TO	90	83	92
RIGID POTHOLE	4	4	100
RIGID DEP/BMP	4	4	100
RGD JOINT/CRK	4	4	100
RGD RVD SH/TO	3	3	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	90	77	86
FRONT SLOPE	90	74	82
SLOPE PAVEMENT	1	1	100
SIDEWALK	3	3	100
FENCE	88	81	92
<b>VEGETATION - AESTHETICS</b>			
ROADSIDE MOW	90	89	99
SLOPE MOWING	17	14	82
LANDSCAPING	25	17	68
TREE TRIMMING	90	83	92
CURB/SW EDGE	7	7	100
LITTER REMOVE	90	84	93
TURF CONDITION	90	76	84
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	90	78	87
STRIPING	90	87	97
PAVT SYMBOL	48	48	100
GUARDRAIL	89	79	89
ATTENUATOR	0	0	0
SIGNS <30 SF	48	46	96
SIGNS >30 SF	40	35	88
OBJECT MARKER	90	86	96
LIGHTING	56	54	96
<b>DRAINAGE</b>			
SIDE/CRS DRA	45	39	87
RS/MED DITCH	90	89	99
OUTFALL DITCH	5	5	100
INLETS	58	55	95
MISC DRAINAGE	28	22	79
SWEEPING	20	18	90
<b>BY ELEMENT</b>			
ROADWAY	96		
ROADSIDE	87		
TRAFFIC SERVICES	93		
DRAINAGE	93		
VEGETATION - AESTHETICS	90		
<b>MRP - RURAL LIMITED ACCESS</b>	<b>91</b>		

fy14

Florida Department of Transportation Maintenance Rating Program			
Evaluation Period	ANNUAL FY 2013/2014		
Contract Number:	AN-T85		
FACILITY:	ALL FACILITIES		
ELEMENT/CHARACTERISTIC	MILEAGE: 107.857		
	#	YES	*
<b>ROADWAY</b>			
FLEX POTHOLE	180	180	100
FLEX EDGE RVL	0	0	0
FLEX SHOING	180	180	100
FLEX DEP/BUMP	180	170	94
FLX PVD SH/TO	180	169	94
RIGID POTHOLE	21	21	100
RIGID DEP/BMP	21	21	100
RGD JOINT/CRK	21	21	100
RGD RVD SH/TO	21	21	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	166	154	93
FRONT SLOPE	176	145	82
SLOPE PAVEMENT	6	6	100
SIDEWALK	8	8	100
FENCE	160	136	85
<b>VEGETATION-AESTHETICS</b>			
ROADSIDE MOW	176	173	98
SLOPE MOWING	74	70	95
LANDSCAPING	76	68	89
TREE TRIMMING	180	160	89
CURB/SW EDGE	27	27	100
LITTER REMOVE	180	167	93
TURF CONDITION	177	163	92
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	180	175	97
STRIPING	180	172	96
PAVT SYMBOL	103	101	98
GUARDRAIL	159	144	91
ATTENUATOR	24	24	100
SIGNS<30 SF	101	96	95
SIGNS>30 SF	82	73	89
OBJECT MARKER	172	155	90
LIGHTING	129	127	98
<b>DRAINAGE</b>			
SIDE/CRS DRA	61	53	87
RS/MED DITCH	166	165	99
OUTFALL DITCH	0	0	0
INLETS	127	109	86
MISC DRAINAGE	98	83	85
SWEEPING	115	108	94
<b>BY ELEMENT:</b>			
ROADWAY	97		
ROADSIDE	87		
TRAFFIC SERVICES	94		
DRAINAGE	91		
VEGETATION - AESTHETICS	93		
<b>OVERALL MRP</b>	<b>92</b>		

Florida Department of Transportation			
Maintenance Rating Program			
Evaluation Period	ANNUAL FY 2013/2014		
Contract Number:	AN-T85		
FACILITY:	RURAL LIMITED ACCESS		
ELEMENT/CHARACTERISTIC	MILEAGE:	28.587	
	#	YES	%
<b>ROADWAY</b>			
FLEX POT HOLE	90	90	100
FLEX EDGE RVL	0	0	0
FLEX SHOWING	90	90	100
FLEX DEP/BUMP	90	83	92
FLX PVD SH/TO	90	89	98
RIGID POT HOLE	8	8	100
RIGID DEP/BMP	8	8	100
RGD JOINT/CRK	8	8	100
RGD RVD SH/TO	9	9	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	86	81	94
FRONT SLOPE	89	79	89
SLOPE PAVEMENT	3	3	100
SIDEWALK	7	7	100
FENCE	85	71	84
<b>VEGETATION - AESTHETICS</b>			
ROADSIDE MOW	90	89	99
SLOPE MOWING	20	20	100
LANDSCAPING	27	22	81
TREE TRIMMING	90	82	91
CURB/SW EDGE	11	11	100
LITTER REMOVE	90	84	93
TURF CONDITION	90	80	89
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	90	88	98
STRIPING	90	85	94
PAVT SYMBOL	46	46	100
GUARDRAIL	89	82	92
ATTENUATOR	13	13	100
SIGNS<30 SF	45	43	96
SIGNS>30 SF	37	30	81
OBJECT MARKER	87	86	99
LIGHTING	53	53	100
<b>DRAINAGE</b>			
SIDE/CRS DRA	35	32	91
RS/MED DITCH	88	87	99
OUTFALL DITCH	0	0	0
INLETS	49	44	90
MISC DRAINAGE	28	24	86
SWEEPING	25	22	88
<b>BY ELEMENT:</b>			
ROADWAY	98		
ROADSIDE	89		
TRAFFIC SERVICES	96		
DRAINAGE	93		
VEGETATION - AESTHETICS	93		
MRP - RURAL LIMITED ACCESS	93		



Florida Department of Transportation Maintenance Rating Program			
Evaluation Period	ANNUAL	FY 2013/2014	
Contract Number:	AN-T85		
FACILITY:	URBAN LIMITED ACCESS		
ELEMENT/CHARACTERISTIC	MILEAGE: 79.270		
	#	YES	*
<b>ROADWAY</b>			
FLEX POTHOLE	90	90	100
FLEX EDGE RVL	0	0	0
FLEX SHOVMG	90	90	100
FLEX DEP/BUMP	90	87	97
FLX PVD SH/TO	90	81	90
RIGID POTHOLE	13	13	100
RIGID DEP/BMP	13	13	100
RGD JOINT/CRK	13	13	100
RGD RVD SH/TO	12	12	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	80	73	91
FRONT SLOPE	87	66	76
SLOPE PAVEMENT	3	3	100
SIDEWALK	1	1	100
FENCE	75	65	87
<b>VEGETATION-AESTHETICS</b>			
ROADSIDE MOW	86	84	98
SLOPE MOWING	54	50	93
LANDSCAPING	49	46	94
TREE TRIMMING	90	78	87
CURB/SW EDGE	16	16	100
LITTER REMOVE	80	83	92
TURF CONDITION	87	83	95
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	90	87	97
STRIPING	90	87	97
PAVT SYMBOL	57	55	96
GUARDRAIL	70	62	89
ATTENUATOR	11	11	100
SIGNS<30 SF	56	53	95
SIGNS>30 SF	45	43	96
OBJECT MARKER	85	69	81
LIGHTING	76	74	97
<b>DRAINAGE</b>			
SIDE/CRS DRA	26	21	81
RS/MED DITCH	78	78	100
OUTFALL DITCH	0	0	0
INLETS	78	65	83
MISC DRAINAGE	70	50	84
SWEEPING	80	86	96
<b>BY ELEMENT:</b>			
ROADWAY	97		
ROADSIDE	85		
TRAFFIC SERVICES	93		
DRAINAGE	90		
VEGETATION - AESTHETICS	93		
MRP - URBAN LIMITED ACCESS	91		

FY13

Florida Department of Transportation			
Maintenance Rating Program			
Evaluation Period	ANNUAL FY 2012/2013		
Contract Number:	AN-T85		
FACILITY:	ALL FACILITIES		
ELEMENT/CHARACTERISTIC	MILEAGE:	104.123	
	#	YES	*
<b>ROADWAY</b>			
FLEX POT HOLE	180	178	99
FLEX EDGE RVL	1	1	100
FLEX SHO VING	180	180	100
FLEX DEP/BUMP	180	179	99
FLX PVD SH/TO	180	172	96
RIGID POT HOLE	23	23	100
RIGID DEP/BMP	23	23	100
RGD JOINT/CRK	23	22	96
RGD RVD SH/TO	23	23	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	158	135	85
FRONT SLOPE	175	126	73
SLOPE PAVEMENT	8	7	88
SIDEWALK	5	5	100
FENCE	163	145	89
<b>VEGETATION-AESTHETICS</b>			
ROADSIDE MOW	170	164	96
SLOPE MOWING	66	66	100
LANDSCAPING	69	62	90
TREE TRIMMING	180	164	91
CURB/SW EDGE	31	31	100
LITTER REMOVE	180	151	84
TURF CONDITION	172	168	98
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	180	172	96
STRIPING	180	174	97
PAVT SYMBOL	105	104	99
GUARDRAIL	153	133	87
ATTENUATOR	21	21	100
SIGNS<30 SF	114	100	88
SIGNS>30 SF	88	82	93
OBJECT MARKER	175	157	90
LIGHTING	130	122	94
<b>DRAINAGE</b>			
SIDE/CRS DRA	61	53	87
RS/MED DITCH	162	161	99
OUTFALL DITCH	1	1	100
INLETS	133	112	84
MISC DRAINAGE	89	74	83
SWEEPING	106	105	99
<b>BY ELEMENT:</b>			
ROADWAY	99		
ROADSIDE	83		
TRAFFIC SERVICES	93		
DRAINAGE	92		
VEGETATION - AESTHETICS	93		
<b>OVERALL MRP</b>	<b>91</b>		

Florida Department of Transportation Maintenance Rating Program Evaluation Period ANNUAL FY 2012/2013 Contract Number: AN-T85			
FACILITY:	URBAN/LIMITED ACCESS		
ELEMENT/CHARACTERISTIC	MILEAGE:	75.536	
	#	YES	*
<b>ROADWAY</b>			
FLEX POTHOLE	90	89	99
FLEX EDGE RVL	0	0	0
FLEX SHOVMG	90	90	100
FLEX DEP/BUMP	90	90	100
FLX PVD SH/TO	90	80	95
RIGID POTHOLE	18	18	100
RIGID DEP/BMP	18	18	100
RGD JOINT/CRK	18	17	94
RGD RVD SH/TO	18	18	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	71	62	87
FRONT SLOPE	85	57	67
SLOPE PAVEMENT	7	6	86
SIDEWALK	3	3	100
FENCE	76	70	92
<b>VEGETATION/AESTHETICS</b>			
ROADSIDE MOW	80	75	94
SLOPE MOWING	43	43	100
LANDSCAPING	49	44	90
TREE TRIMMING	90	77	86
CURB/SW EDGE	18	18	100
LITTER REMOVE	90	74	82
TURF CONDITION	82	80	98
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	90	85	94
STRIPING	90	89	99
PAVT SYMBOL	60	60	100
GUARDRAIL	65	57	88
ATTENUATOR	15	15	100
SIGNS<30 SF	65	54	83
SIGNS>30 SF	50	50	100
OBJECT MARKER	85	73	86
LIGHTING	81	74	91
<b>DRAINAGE</b>			
SIDE/CRS DRA	23	20	87
RS/MED DITCH	72	72	100
OUTFALL DITCH	0	0	0
INLETS	76	62	82
MISC DRAINAGE	60	50	83
SWEEPING	90	89	99
<b>BY ELEMENT:</b>			
ROADWAY	99		
ROADSIDE	82		
TRAFFIC SERVICES	93		
DRAINAGE	91		
VEGETATION - AESTHETICS	91		
MRP - URBAN/LIMITED ACCESS	90		

Florida Department of Transportation			
Maintenance Rating Program			
Evaluation Period	ANNUAL FY 2012/2013		
Contract Number:	AN-T85		
FACILITY:	RURAL LIMITED ACCESS		
ELEMENT/CHARACTERISTIC	MILEAGE:	28,587	
	#	YES	*
<b>ROADWAY</b>			
FLEX POT HOLE	90	89	99
FLEX EDGE RVL	1	1	100
FLEX SHO VING	90	90	100
FLEX DEP/BUMP	90	89	99
FLX PVD SH/TO	90	86	96
RIGID POT HOLE	5	5	100
RIGID DEP/BMP	5	5	100
RGD JOINT/CRK	5	5	100
RGD RVD SH/TO	5	5	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	87	73	84
FRONT SLOPE	90	71	79
SLOPE PAVEMENT	1	1	100
SIDEWALK	2	2	100
FENCE	87	75	88
<b>VEGETATION - AESTHETICS</b>			
ROADSIDE MOW	90	89	99
SLOPE MOWING	23	23	100
LANDSCAPING	20	18	90
TREE TRIMMING	90	87	97
CURB/SW EDGE	13	13	100
LITTER REMOVE	90	77	86
TURF CONDITION	90	88	98
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	90	87	97
STRIPING	90	85	94
PAVT SYMBOL	45	44	98
GUARDRAIL	88	76	86
ATTENUATOR	6	6	100
SIGNS<30 SF	49	46	94
SIGNS>30 SF	38	32	84
OBJECT MARKER	90	84	93
LIGHTING	49	48	98
<b>DRAINAGE</b>			
SIDE/CRS DRA	38	33	87
RS/MED DITCH	90	89	99
OUTFALL DITCH	1	1	100
INLETS	57	50	88
MISC DRAINAGE	29	24	83
SWEEPING	16	16	100
<b>BY ELEMENT:</b>			
ROADWAY	98		
ROADSIDE	83		
TRAFFIC SERVICES	93		
DRAINAGE	92		
VEGETATION - AESTHETICS	95		
<b>MRP - RURAL LIMITED ACCESS</b>	<b>92</b>		

KY12

Florida Department of Transportation Maintenance Rating Program			
Evaluation Period	ANNUAL FY 2011/2012		
Contract Number:	AN-T85		
FACILITY:	ALL FACILITIES		
ELEMENT/CHARACTERISTIC	MILEAGE:	104.123	
	#	YES	*
<b>ROADWAY</b>			
FLEX POTHOLE	180	179	99
FLEX EDGE RVL	0	0	0
FLEX SHOING	180	180	100
FLEX DEP/BUMP	180	176	98
FLX PVD SH/TO	180	171	95
RIGID POTHOLE	18	18	100
RIGID DEP/BMP	18	18	100
RGD JOINT/CRK	18	18	100
RGD RVD SH/TO	20	20	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	168	120	71
FRONT SLOPE	177	123	69
SLOPE PAVEMENT	5	5	100
SIDEWALK	0	0	0
FENCE	175	147	84
<b>VEGETATION-AESTHETICS</b>			
ROADSIDE MOW	178	175	98
SLOPE MOWING	80	78	98
LANDSCAPING	70	58	83
TREE TRIMMING	179	172	96
CURB/SW EDGE	32	32	100
LITTER REMOVE	180	147	82
TURF CONDITION	179	171	96
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	180	177	98
STRIPING	180	175	97
PAVT SYMBOL	91	91	100
GUARDRAIL	152	127	84
ATTENUATOR	17	16	94
SIGNS<30 SF	109	102	94
SIGNS>30 SF	82	77	94
OBJECT MARKER	176	171	97
LIGHTING	109	105	96
<b>DRAINAGE</b>			
SIDE/CRS DRA	83	71	86
RS/MED DITCH	169	167	99
OUTFALL DITCH	0	0	0
INLETS	136	125	92
MISC DRAINAGE	101	90	89
SWEEPING	108	107	99
<b>BY ELEMENT:</b>			
ROADWAY	98		
ROADSIDE	75		
TRAFFICE SERVICES	95		
DRAINAGE	93		
VEGETATION - AESTHETICS	94		
<b>OVERALL MRP</b>	<b>93</b>		

Florida Department of Transportation			
Maintenance Rating Program			
Evaluation Period	ANNUAL FY 2011/2012		
Contract Number:	AN-T85		
FACILITY:	RURAL LIMITED ACCESS		
ELEMENT/CHARACTERISTIC	MILEAGE:	28.587	
	#	YES	*
<b>ROADWAY</b>			
FLEX POTHOLE	90	89	99
FLEX EDGE RVL	0	0	0
FLEX SHOVIING	90	90	100
FLEX DEP/BUMP	90	87	97
FLX PVD SH/TO	90	86	96
RIGID POTHOLE	4	4	100
RIGID DEP/BMP	4	4	100
RGD JOINT/CRK	4	4	100
RGD RVD SH/TO	4	4	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	89	53	60
FRONT SLOPE	90	70	78
SLOPE PAVEMENT	0	0	0
SIDEWALK	0	0	0
FENCE	89	71	80
<b>VEGETATION - AESTHETICS</b>			
ROADSIDE MOW	90	90	100
SLOPE MOWING	20	20	100
LANDSCAPING	24	18	75
TREE TRIMMING	89	86	97
CURB/SW EDGE	9	9	100
LITTER REMOVE	90	72	80
TURF CONDITION	90	85	94
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	90	88	98
STRIPING	90	85	94
PAVT SYMBOL	38	38	100
GUARDRAIL	88	75	85
ATTENUATOR	5	5	100
SIGNS<30 SF	46	43	93
SIGNS>30 SF	38	33	87
OBJECT MARKER	89	87	98
LIGHTING	40	40	100
<b>DRAINAGE</b>			
SIDE/CRS DRA	47	45	96
RS/MED DITCH	89	88	99
OUTFALL DITCH	0	0	0
INLETS	53	47	89
MISC DRAINAGE	29	24	83
SWEEPING	18	18	100
<b>BY ELEMENT:</b>			
ROADWAY	98		
ROADSIDE	71		
TRAFFICE SERVICES	94		
DRAINAGE	93		
VEGETATION - AESTHETICS	94		
MRP - RURAL LIMITED ACCESS	92		

Florida Department of Transportation  
 Maintenance Rating Program  
 Evaluation Period ANNUAL FY 2011/2012  
 Contract Number: AN-T85

FACILITY: URBAN LIMITED ACCESS			
ELEMENT/CHARACTERISTIC	MILEAGE: 75.536		
	#	YES	*
<b>ROADWAY</b>			
FLEX POT HOLE	90	90	100
FLEX EDGE RVL	0	0	0
FLEX SHO VING	90	90	100
FLEX DEP/BUMP	90	89	99
FLX PVD SH/TO	90	85	94
RIGID POT HOLE	14	14	100
RIGID DEP/BMP	14	14	100
RGD JOINT/CRK	14	14	100
RGD.RVD SH/TO	16	16	100
<b>ROADSIDE</b>			
SHLDR UNPAVED	79	67	85
FRONT SLOPE	87	53	61
SLOPE PAVEMENT	5	5	100
SIDEWALK	0	0	0
FENCE	86	76	88
<b>VEGETATION-AESTHETICS</b>			
ROADSIDE MOW	88	85	97
SLOPE MOWING	60	58	97
LANDSCAPING	46	40	87
TREE TRIMMING	90	86	96
CURB/SW EDGE	23	23	100
LITTER REMOVE	90	75	83
TURF CONDITION	89	86	97
<b>TRAFFIC SERVICES</b>			
RAISED MARKER	90	89	99
STRIPING	90	90	100
PAVT SYMBOL	53	53	100
GUARDRAIL	64	52	81
ATTENUATOR	12	11	92
SIGNS<30 SF	63	59	94
SIGNS>30 SF	44	44	100
OBJECT MARKER	87	84	97
LIGHTING	69	65	94
<b>DRAINAGE</b>			
SIDE/GRS DRA	36	26	72
RS/MED DITCH	80	79	99
OUTFALL DITCH	0	0	0
INLETS	83	78	94
MISC DRAINAGE	72	66	92
SWEEPING	90	89	99
<b>BY ELEMENT:</b>			
ROADWAY	99		
ROADSIDE	79		
TRAFFIC SERVICES	95		
DRAINAGE	93		
VEGETATION - AESTHETICS	94		
<b>MRP - URBAN LIMITED ACCESS</b>	<b>94</b>		

**Out Parcel Mowing List Contract 001151**

<u>SR #</u>	<u>Out Parcel</u>	<u>Location</u>	<u>Mowing Acres</u>
SR 408	Pond #1	West SR 50 at SR 408	2.0 acres
SR 408	Pond #2	Eastbound SR 408 approaching Good Homes Rd	1.3 acres
SR 408	Pond #3 (dry)	Northeast corner of Good Homes at SR 408	2.7 acres
SR 408	Amelia St @ Powers Dr	Two parcels	0.4 acre
SR 408	Kirk St	Kirk St and W. Amelia	0.7 acre
SR 408	Hart St	Hart St at SR 408	0.4 acre
SR 408	Kendon Rd	West of Fairvilla Rd at Old Winter Garden	0.3 acre
SR 408	N. Cottage Hill Rd	West of John Young at SR 408	0.4 acre
SR 408	Primrose Ave	Southeast corner Anderson St at Primrose Dr	0.3 acre
SR 408	Kittinger Park/Pond #4	South St at Crystal Lake Dr	2.8 acres
SR 408	GOAA / Pond #5	On Orlando Executive Airport at Conway Rd	0.3 acre
SR 408	Park of Americas/Pond #6	On Andes Ave at ORL Tower Rd	3.0 acres
SR 408	Canal/Pond #7	West of Cosmos and north of SR 408	0.5 acre
SR 408	Pond #8	Corner of Goldenrod Rd and Lk Underhill Rd	1.4 acres
SR 408	Pond #9	Northwest corner of SR 408 and Chickasaw Tr.	1.3 acres
SR 408	Pond #10 and #11	Between Econ Trail and Dean Rd north of SR 408	4.0 acres
SR 408	Pond #12 and #13	Between Econ Trail and Dean Rd south of SR 408	2.8 acres
SR 408	Anderson St along SR 408	from back of curb to planting beds	1.5 acres
SR 408	South St along SR 408	from edge of road to planting beds	1.5 acres
SR 408	Carter St along SR 408	from back of curb to planting beds	3.0 acres
SR 408	Long St along SR 408	from back of curb to planting beds	3.0 acres
SR 408	Lk Underhill Rd from Conway Rd	to Semoran (edge of pavement to plant beds)	1.3 acre
Whittington	Southeast corner of SR 417 and University Blvd		0.65 acre
Paradi Lane	South of Valencia College Ln east of SR 417		0.60 acre
Old Tree Rd	End of cul-de-sac east of SR 417		0.10 acre
Goldenrod Rd	Goldenrod Rd from Hoffner Ave to Cargo Rd		12.70 acres
W Coleman Rd	Between Chickasaw Trail and Val. College Lane		18.00 acres



Note: Edge all turf areas adjacent to curbs and sidewalks where applicable. Remove clippings from roadways and sidewalks. Avoid discharge of clippings into landscape beds. Remove all trash and debris prior to beginning any mowing activities.

**TO:** All Planholders of Record  
**FROM:** Aneth O. Williams, Director of Procurement  
**DATE:** January 18, 2017  
**SUBJECT:** Roadway and Bridge Maintenance Services S.R. 408, S.R. 417, S.R. 528, and Goldenrod Road Extension; RFP No. 001151 – Addendum No. 3

This Addendum forms a part of the Contract Documents and modifies the original bidding documents dated December 2016, as noted below. Acknowledge receipt of this Addendum in the space provided on the Proposal form. Failure to do so may subject the bidder to disqualification. This Addendum consists of 5 pages and the following attachments: New Exhibit “C”- Contract, and CFX Incident Response Plan.

**CHANGE TO CONTRACT**

1. **Discard** the original Exhibit “C” – Contract issued within the RFP package and **replace** it with the New Exhibit “C”- Contract attached to this addendum.

**RESPONSES TO QUESTIONS RECEIVED**

2. The following questions were received from potential proposers of record. CFX’s response follows the questions.

**Q001: What are the job descriptions of the Program Manager and Project Manager? What is the difference between the positions? Do one or both need to be FL PE's?**

R: Job descriptions not available. Scope of Services Exhibit ”A” paragraph 1.2 requires a full-time, Florida registered P.E.

**Q002: A-1. Where and how many out parcels are there to maintain? What are the performance standards for these?**

R: See Addendum No. 2 attachment, “Out Parcel Mowing List”

**Q003: A-1. Permitting - inspection only or processing also? How many permits a year can we expect?**

R: Contractor is expected to handle entire permitting process. Number cannot be determined.

**Q004: A-2. Can we get a copy of the CFX incident response plan?**

R: See attachment

**Q005: A-3. Should priority 2 bridge work orders be 90 days to complete?**

R: FDOT requires Priority 2 work orders to be completed in 180 days.

**Q006: A-3. Since we have RCI responsibility - can we get a copy of the latest RCI and the dates the last RCI was performed to plan how many times we will need to perform during the contract term?**

R: Not available from CFX. Contact FDOT for latest RCI

**Q007: A-19. Is there a construction/resurfacing work program that is published or that can be made available?**

R: Not readily available

**Q008: A-10. What is the threshold that we will be responsible for extensive and/or catastrophic damage?**

R: Contractor shall restore damaged areas to a safe condition. CFX may reimburse contractor on a case-by-case basis.

**Q009: D-4. Do the cost per centerline mile provided for deductions need to add up to the IS pricing provided on the top? How or will these CL prices be evaluated?**

R: No. Centerline mile pricing will not be evaluated. Refer to Exhibit "D-4".

**Q010: How many Roadway Lights does CFX own on SR408 & SR417 & SR528 & SR551?**

R: Information not readily available

**Q011: How many Sign Structure Lights does CFX own on SR408 & SR417 & SR528 & SR551?**

R: 1500 (estimate only). Contractor is responsible for all sign structure lights.

**Q012: How many Under Deck Bridge Lights does CFX own on SR408 & SR417 & SR528 & SR551?**

R: Information not readily available

**Q013: How many High mast light poles (HMLP) does CFX own on SR408 & SR417 & SR528 & SR551?**

R: 68

**Q014: How many poles (Roadway Lights) were knocked down during 2016 or 2015?**

R: Information not readily available

**Q015: 2.7 on page AT5-5 states contractor shall be responsible for locating and marking all roadway lighting infrastructure in compliance with Sunshine 811. How many Sunshine One Call tickets did the current contractor receive in 2016 or 2015?**

R: Information not readily available

**Q016: 2.1 on page AT5-1 requires the contractor to Night patrolling and inspection of the lighting system on the 1st and 15th of each month. Can CFX provide a copy of the most recent inspection report?**

R: Information not readily available

**Q017: 2.5 B on page AT5-5 states maintain a sufficient number of replacement poles, arms, light fixtures and related materials to replace multiple damages light poles. Minimum quantity of poles to be approved by CFX. What is the minimum quantity of poles CFX would approve?**

R: 10 light pole minimum

**Q018: Can CFX provide the following information regarding work quantities:**

- a. **Mowing: Number of cycles performed in each of the last 5 years and the quantities of acres mowed per cycle?**
- b. **Guardrail: Linear feet of Guardrail repaired in each of the last 5 years due to accidents. Inventory of Guardrail in the system.**
- c. **Mechanical Sweeping: Number of cycles performed in each of the last 5 years and number of miles per cycle?**
- d. **Number of luminaires on the project**

R: Information not readily available

**Q019: Can we get a copy of the lighting repair records for 2016 or 2015?**

R: Information not readily available

**Q020: Would CFX provide a list of the Work orders issued for bridges and overhead sign structures over the past 5 years?**

R: Information not readily available

**Q021: Will the contractor be allowed to sit at the FARC meetings when the Work Orders are issued and priorities assigned?**

R: Yes

**Q022: Could CFX provide the number of bridges and overhead sign structures on the system?**

R: 305 bridge structures and 590 overhead sign structures

**Q023: Does CFX require the slopes to be fertilized?**

R: Yes

**Q024: Will the Authority consider extending the renewal option to 5 years as opposed to 1 year increments?**

R: No

**Q025: Will the Authority consider extending the contract to a 7 or 10-year term as opposed to 5 years?**

R: No

**Q026: Current sweeping frequency is 24 times per year at a minimum, will CFX increase the frequency in the current scope after the project begins? At the request of the Authority, sweeping cycles were increased because monthly cycles were not adequate to manage the debris accumulation. Additional sweeping cycles were also performed for special events at the stadium.**

R: At discretion of CFX, additional cycles may be added.

**Q027: When is the estimated start date for the project?**

R: 1 July 2017

**Q028: Given the need to build estimates of quantities (inventory), would CFX consider extending the bid due date for a week?**

R: No

**Q029: Could CFX clarify what will be the contractor's responsibilities during and after declared and not declared emergencies due to weather events (hurricanes, tornados, etc.)?**

R: Refer to Scope of Services

END OF ADDENDUM NO. 3

**Exhibit C**  
**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**ROADWAY AND BRIDGE MAINTENANCE SERVICES**  
**S.R. 408, S.R. 417, S.R. 528, AND GOLDENROD ROAD EXTENSION (S.R. 551)**  
**CONTRACT**

This Contract No. 001151 (the "Contract" as defined herein below), is made this 1<sup>st</sup> day of July, 2017, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called CFX and \_\_\_\_\_, a \_\_\_\_\_ corporation, registered and authorized to conduct business in the State of Florida, whose principal address is \_\_\_\_\_ and who is duly authorized 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 Authority 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 CFX, in order to comply with the 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 roadway and bridge maintenance services on S.R. 408, S.R. 417, S.R. 528, and Goldenrod Road Extension and related tasks as may from time to time be assigned to the CONTRACTOR by CFX; and,

**WHEREAS**, on or about December 5, 2016, CFX issued a Request for Proposals seeking qualified contractors to perform such tasks; and,

**WHEREAS**, CONTRACTOR was the successful one of \_\_\_\_\_ qualified firms that responded to the Request for Proposals and was ultimately selected;

**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 Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized

representatives of CFX, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include maintenance of, and administration and management services related to, S.R. 408, S.R. 417, S.R. 528, and Goldenrod Road Extension in Orange County, Florida as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

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.

The Contract Documents, in order of precedence, consist of:

- 1.1 The Contract,
- 1.2 The Addenda (if any), with those of later date having precedence over those of earlier date,
- 1.3 The Scope of Services (including Maintenance Specifications),
- 1.4 The Memorandum of Agreement,
- 1.5 The Method of Compensation,
- 1.6 The Technical Proposal submitted by CONTRACTOR, and
- 1.7 The Price Proposal submitted by CONTRACTOR,

(collectively, the "Contract Documents").

## **2. TERM AND NOTICE**

The initial term of the Contract will be five (5) years from the date first written above. There shall be five (5) renewal options of one (1) year each. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide the CONTRACTOR with written notice of its intent at least 120 days prior to the expiration of the initial 5-year Contract Term and renewals, if any.

CFX shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 120 days notice for convenience or 60 days with cure notice 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 will 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 hereinabove. CONTRACTOR will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONTRACTOR will not be



paid for special, indirect, consequential, or undocumented termination 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 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 personnel or with sufficient materials to assure the prompt performance of the work items covered 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 in an acceptable manner, or if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of CFX, CFX will give notice in writing to the CONTRACTOR and CONTRACTOR's surety of such delay, neglect or default. 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.

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 and equipment on the sites where work is or was occurring, 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 and the surety shall be jointly and severally liable and 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 cancel and terminate this Contract in the event the CONTRACTOR or any employee, servant, or agent of the CONTRACTOR is indicted for any crime arising out of or in conjunction with any work being performed by the CONTRACTOR for or on behalf of CFX, without penalty. Such termination shall be deemed a termination for default.

CFX reserves the right to terminate or cancel this Contract in the event the CONTRACTOR shall be placed in either voluntary or involuntary bankruptcy or an assignment is made for the benefit of creditors. Such termination shall be deemed a termination for default.

### **3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES**

3.1 The Contract Amount for the five-year Contract term is \$\_\_\_\_\_.

3.2 CFX agrees to pay CONTRACTOR for services performed in accordance with the Method of Compensation.

### **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 or 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 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.

## **5. DISADVANTAGED/MINORITY AND WOMEN'S 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 maximum opportunity to participate in the provision of the Services with respect to the operation and maintenance of the System. 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 Contract Date hereof 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.

## **6. CONTRACTOR INSURANCE AND PERFORMANCE AND PAYMENT BOND**

CONTRACTOR shall carry and keep in force during the period of this Contract, the required amount of coverage as stated below. All bonds and 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. All surety bonds shall be in a

form and issued by a surety company 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:

**6.1 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 Contract.

**6.2 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;

**6.3 Workers' Compensation Insurance Coverage**, including all coverage required under the laws of the state of Florida (as amended from time to time hereafter);

**6.4 Unemployment Insurance Coverage** in amounts and forms required by Florida law, as it may be amended from time to time hereafter.

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.

Compliance with these insurance requirements shall not relieve or limit the CONTRACTOR's liabilities and obligations under this Contract. Failure of CFX to demand such certificate or evidence of full compliance with these insurance requirements or failure of CFX to identify a deficiency from evidence provided will not be construed as a waiver of the CONTRACTOR's obligation to maintain such insurance.

The acceptance of delivery by CFX of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by CFX that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

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.

**6.5 Performance and Payment 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 annual amount of the Contract (Contract Amount/5 years). The initial term of the bond shall be from July 1, 2017 through June 30, 2018. The bond shall be renewed each year thereafter until the expiration of the Contract term. Each fully executed renewal bond shall be transmitted to CFX at least 15 days prior to the expiration of the bond in effect so there is no lapse in coverage. Failure to timely renew the bond may result in CFX giving notice of default to the CONTRACTOR as detailed in Article 2 above. 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 surety's resident agent's name, address, and telephone number shall be clearly stated on the face of the bond.

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 which might be returned to the CONTRACTOR from its payment of premium on the defaulting bond, will be borne by CFX.

## **7. CONTRACTOR RESPONSIBILITY**

7.1 CONTRACTOR shall take all reasonable precautions in the performance of the Services and shall cause its employees, agents and subcontractors to do the same. CONTRACTOR shall be solely responsible for the safety of, and shall provide protection to prevent damage, injury or loss to:

(i) all employees of CONTRACTOR and its subcontractors and other persons who would reasonably be expected to be affected by the performance of the Services;

(ii) other property of CONTRACTOR and its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible on or adjacent to the areas upon which services are performed;

7.2 CONTRACTOR shall comply, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible, with applicable laws, ordinances, rules, regulations, orders of public authorities, sound business practices, including without limitation:

- (i) those relating to the safety of persons and property and their protection from damage, injury or loss, and
- (ii) all workplace laws, regulations, and posting requirements, and
- (iii) 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.

7.3 CONTRACTOR shall be responsible for actual damage and loss that may occur with respect to any and all property located on or about any structures in any way involved in the provision of services by CONTRACTOR, whether such property is owned by CONTRACTOR, CFX, or any other person, to the extent such damage or loss shall have been caused or brought about by the negligent acts or omissions of CONTRACTOR or its employees, agents, officers or subcontractors or any other persons for whom CONTRACTOR may be legally or contractually responsible.

7.4 CONTRACTOR shall ensure that all of its activities and the activities of its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible are undertaken in a manner that will minimize the effect on surrounding property and the public,

7.5 CONTRACTOR shall immediately notify CFX of any material adverse change in CONTRACTOR's financial condition, business, prospects, affairs, or operations, or of such change of any partner, or of such change of any shareholder holding greater than a 10% interest in CONTRACTOR, or of the existence of any material impairment of rights or ability of CONTRACTOR to carry on as its business and operations are currently conducted.

7.6 CONTRACTOR shall not make any requirement of any employee, or enter into a non-competition agreement with any employee, whether oral or written, of any kind or nature, that would prohibit CONTRACTOR's employees from leaving CONTRACTOR's employ and taking employment with any successor of CONTRACTOR for CFX's roadway and bridge maintenance services.

7.7 CONTRACTOR and its subcontractors shall 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 a contract with CFX understands and will comply with subsection. 20.055(5), Florida Statutes.

## **8. 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 Program Manager, Project Manager and Superintendent (the "Key Personnel") 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 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, shall be submitted to CFX 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 Effective Date 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, whether Key Personnel or not, 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.

## **9. HOLD HARMLESS AND INDEMNIFICATION**

The CONTRACTOR shall indemnify, defend and hold harmless CFX, its 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:

9.1 violation of same by CONTRACTOR, its subcontractors, officers, agents or employees,

9.2 CFX's use or possession of the CONTRACTOR Property or CONTRACTOR Intellectual Property (as defined herein below),

9.3 CFX's full exercise of its rights under any license conveyed to it by CONTRACTOR,

9.4 CONTRACTOR's violation of the confidentiality and security requirements associated with CFX Property and CFX Intellectual Property (as defined herein below),

9.5 CONTRACTOR's failure to include terms in its subcontracts as required by this Contract,

9.6 CONTRACTOR's failure to ensure compliance with the requirements of the Contract by its employees, agents, officers, or subcontractors, or

9.7 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.

Contractor's liability per occurrence under this Indemnity provision shall not exceed the greater of: (a) one million dollars (\$1,000,000); (b) the total aggregate amount of insurance required; or (c) the total amount of the Contract, inclusive of amendments, extensions, renewals, and supplemental agreements thereto, for the entire term of the Contract.

The obligations in Section 9.0, Hold Harmless and Indemnification, shall survive the expiration or termination of this Contract and continue in full force and effect.

## **10. PUBLIC RECORDS**

Notwithstanding Section 11, entitled "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.

**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.**

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.

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. Failure by the CONTRACTOR to grant such public access shall be grounds for immediate unilateral cancellation of this Contract by CFX.

The obligations in Section 10.0, Public Records, shall survive the expiration or termination of this Contract and continue in full force and effect.

#### **11. PRESS RELEASES**

The CONTRACTOR agrees that it shall make no statements, press releases or publicity releases concerning this Contract or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Contract, or any particulars thereof, during the period of the Contract, without first notifying CFX and securing its consent in writing, except as required by law. The CONTRACTOR 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 Contract, it being understood that, under Section 10.0 hereof, such data or information is the property of CFX.

#### **12. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS**

CFX is and shall be and remain the sole owner of all rights, title, and interest in, to, and associated with all plans, documents, software in all forms, hardware, programs, procedures, specifications, drawings, brochures pamphlets, manuals, flyers, models, photographic or design images, negatives, videos and film, tapes, work product, information, data and other items (all whether in preliminary, draft, master, final, paper, electronic, or other form), along with the media on which they reside and with which they interface for function or aesthetics, that are generated or developed with respect to and in connection with this Contract and the performance thereof (collectively, the "CFX Property"). CFX's ownership of CFX Property includes without limitation all common law, statutory and other rights, title, and interest in, to, and associated with

trademark, service mark, copyright, patent, trade secret, and publicity (collectively, the “CFX Intellectual Property”). CONTRACTOR, its employees, agents, officers, and subcontractors acknowledge that E-PASS® is CFX’s registered trademark name for CFX’s electronic toll collection system, and comprises a portion of CFX Intellectual Property.

CONTRACTOR, its employees, agents, officers, and subcontractors may not use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR, its employees, agents, officers, and subcontractors’ access to and/or use of CFX Property and CFX Intellectual Property is without any warranty or representation by CFX regarding same.

For all materials listed hereinabove that are not generated or developed under this Contract or performance hereof, but rather are brought in, provided, or installed by CONTRACTOR (collectively, the “CONTRACTOR Property”), and the intellectual property rights associated therewith (collectively, the “CONTRACTOR Intellectual Property”), CONTRACTOR (its employees, officers, agents, and subcontractors, which for purposes of this section shall collectively be referred to as “CONTRACTOR”) warrants and represents the following:

12.1 CONTRACTOR was and is the sole owner of all right, title and interest in and to all CONTRACTOR Property and CONTRACTOR Intellectual Property; **OR**

12.2 CONTRACTOR has obtained, and was and is the sole holder of one or more freely assignable, transferable, non-exclusive licenses in and to the CONTRACTOR Property and CONTRACTOR Intellectual Property, as necessary to provide and install the CONTRACTOR Property and/or to assign or grant corresponding to CFX all licenses necessary for the full performance of this Contract; and that the CONTRACTOR is current and will remain current on all royalty payments due and payable under any license where CONTRACTOR is licensee; **AND**

12.3 CONTRACTOR has not conveyed, and will not convey, any assignment, security interest, exclusive license, or other right, title, or interest that would interfere in any way with CFX’s use of the CONTRACTOR Property or any license granted to CFX for use of the CONTRACTOR Intellectual Property rights; **AND**

12.4 Subject to Chapter 119, Florida Statutes (Florida Public Records Act), CONTRACTOR shall maintain CFX Property and CFX Intellectual Property in strictest confidence and may not transfer, disclose, duplicate, or otherwise use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR shall not publish, copyright, trademark, service mark, patent, or claim trade secret, publicity, or other rights of any kind in any of the Property. In ensuring the confidentiality and security of CFX Property and CFX Intellectual Property, CONTRACTOR shall utilize the same standards of protection and confidentiality that CONTRACTOR uses to

protect its own property and confidential information, but in no instance less than reasonable care plus the standards set forth anywhere in this Contract.

CONTRACTOR further warrants and represents that there are no pending, threatened, or anticipated Claims against CONTRACTOR, its employees, officers, agents, or subcontractors with respect to the CONTRACTOR Property or CONTRACTOR Intellectual Property.

The provisions of this Section shall survive the term of this Contract for the longer of:

12.5 The statute of limitations on any action arising out of either party's conduct relating to this section, whether such action may be brought by CFX, CONTRACTOR, or a third party; or

12.6 CFX's continued use (notwithstanding any temporary suspension of use) of any CONTRACTOR Property or CONTRACTOR Intellectual Property; **and**

12.7 Notwithstanding sections 12.5 and 12.6, the confidentiality and security provisions contained herein shall survive the term of this Contract for ten (10) years beyond 12.5 and 12.6.

### **13. 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.

### **14. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT**

CONTRACTOR warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted.

CONTRACTOR acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Ethics Policy. CONTRACTOR acknowledges that it has read the Ethics Policy and, to the extent applicable, CONTRACTOR will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

In the performance of the Contract, CONTRACTOR shall comply with all applicable local, state, and federal laws and regulations and obtain all permits necessary to provide the Contract services.

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.

The CONTRACTOR acknowledges that it has read CFX's Code of Ethics and the referenced statutes and to the extent applicable to the CONTRACTOR, agrees to abide with such policy.

#### **15. 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.

#### **16. 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.

A person or affiliate who has been placed on the Florida Department of Management Services 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.

#### **17. SUBLETTING AND ASSIGNMENT**

CFX has selected CONTRACTOR to perform the Services based upon characteristics and qualifications of CONTRACTOR and its employees. Therefore, CONTRACTOR shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONTRACTOR's right, title, or interest therein without the written consent of CFX, which may be withheld in CFX's sole and absolute discretion. Any attempt by CONTRACTOR to dispose of this Contract as described above, in part or in whole, without

CFX's written consent shall be null and void and shall, at CFX's option, constitute a default under the Contract.

Notwithstanding the foregoing:

17.1 CONTRACTOR may assign its rights to receive payment under this Contract (except for an assignment made for the benefit of creditors) with CFX's prior written consent, which consent shall not be unreasonably withheld. CFX may assign all or any portion of its rights under this Contract without consent of or advance notice to CONTRACTOR; and

17.2 Subject to the right of CFX to review and approve or disapprove subcontracts, and subject to the compliance by CONTRACTOR with the provisions of this Contract with regard to Key Personnel, CONTRACTOR shall be entitled to subcontract some of the services hereunder to other entities, provided that all subcontracts:

(i) shall name CFX as a third party beneficiary and provide that the subcontract is assignable to CFX (or its successor in interest under the terms of this Contract) without the prior approval of the parties thereto, and that the assignment thereof shall be effective upon receipt by the subcontractor of written notice of the assignment from CFX. Upon such event, CFX shall be deemed to assume all rights and obligations of the CONTRACTOR under the subcontract, but only to the extent such rights and obligations accrue from and after the date of the assignment. Without limitation, all warranties and representations of subcontractor shall inure to the benefit of CFX, and

(ii) shall require the subcontractor to comply with all laws, as all may be revised, modified and supplemented from time to time, and must require the subcontractor to carry forms and amounts of insurance satisfactory to CFX in its sole discretion, and shall provide CFX with certificates of insurance upon request. CFX shall be listed as an additional insured on all such insurance policies, and copies of correct insurance certificates and policies shall be delivered to CFX upon request, and

(iii) shall require the subcontractor to join in any dispute resolution proceeding upon request of CFX, and

(iv) shall include the same or similar terms as are included in this Contract with respect to subcontractors, providing CFX with equal or greater protections than herein.

If, during the life of the Contract and any renewals hereof, 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 her/his 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 her/his 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 her/his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof. 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. REMEDIES**

In addition to any remedies otherwise available to CFX under law, upon an uncured default CFX shall have the right to appropriate or use any or all materials and equipment on the sites where work is or was occurring, 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, but not limited to, the costs of completing Contract performance shall be charged against the CONTRACTOR. If the expense of Contract completion exceeds the remaining sum which would have been payable under the balance of the Contract, CONTRACTOR shall be liable to CFX for the difference. On a Contract terminated for default, in no event shall CFX have any liability to the CONTRACTOR for expenses or profits related to unfinished work, or for CFX's use of any CONTRACTOR materials or equipment on the work sites, including without limitation the CONTRACTOR Property and CONTRACTOR Intellectual Property.

## **20. PREVAILING PARTY ATTORNEY'S FEES**

If any contested claim arises hereunder or relating to the Contract (or CONTRACTOR's work hereunder), and either party engages legal counsel, the prevailing party in such dispute, as "prevailing party" is hereinafter defined, shall be entitled to recover reasonable attorneys' fees and costs as defined herein, from the non-prevailing party.

In order for CONTRACTOR to be the prevailing party, 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 for purposes of this Contract.

For purposes of determining whether the judgment of 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 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 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), which for purposes of enforcing this section only shall be admissible into evidence.

The term "contested claim" or "claims" shall include "Claims" as defined in Section 9, as well as the initial written claim (s) submitted to CFX by CONTRACTOR (disputed by 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 CFX agrees or offers to pay prior to initiation of litigation, shall not be deemed contested claims for purposes of this provision. If 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 CONTRACTOR's claim(s).

Attorneys' 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 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 therefore, fees and costs shall accrue from the date of the first written claim submitted, regardless of whether the original or subsequent claim amount is ultimately used in determining if the judgment or award is at least eighty percent (80%) of the cumulative claims.

"Attorneys' fees" shall include but not be limited to fees and charges of attorneys, paralegals, legal assistants, attorneys' CONTRACTOR's, expert witnesses, court reporters, photocopying, telephone charges, travel expenses, or any other charges, fees, or expenses incurred through use of legal counsel, whether or not such fees are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial fees (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation, or administrative proceedings arising out of this Contract.

"Costs" shall include but not be limited to any filing fees, application fees, expert witnesses' fees, court reporters' fees, photocopying costs, telephone charges, travel expenses, or any other charges, fees, or expenses incurred whether or not legal counsel is retained, whether or not such costs are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial costs (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation or administrative proceeding arising out of this Contract.



As a condition precedent to filing a claim with any legal or administrative tribunal, CONTRACTOR shall have first submitted its claim (together with supporting documentation) to CFX, and CFX shall have had sixty (60) days thereafter within which to respond thereto.

The purpose of this provision is to discourage frivolous or overstated claims and, as a result thereof, CFX and CONTRACTOR agree that neither party shall avail itself of Section 768.79, Florida Statutes, or any other like statute or rule involving offers of settlement or offers of judgment, it being understood and agreed that the purpose of such statute or rule are being served by this provision.

Should this section be judged void, unenforceable or illegal, in whole or in substantial part, by a court of competent jurisdiction, this section shall be void in its entirety and each party shall bear its own attorneys' fees and costs.

## **21. OTHER SEVERABILITY**

If any section of this Contract, other than the immediately preceding Prevailing Party Attorneys' Fees section, 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.

## **22. GOVERNING LAW**

This Contract 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.

In consideration of the foregoing premises, CFX agrees to pay CONTRACTOR for work 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. The Contract Documents, together with and including all exhibits, comprise the entire Contract of the parties and supersedes and nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

## **25.0 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. The 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 this Contract, CFX may immediately and unilaterally terminate this Contract for cause.

## **26.0 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 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.

## **27.0 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). The obligations in this paragraph shall survive the expiration or termination of this Contract and continue in full force and effect.

## **28.0 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.”

## **29.0 INTEGRATION**

This 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.

## **30.0 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 Contract may be terminated, which shall be effective upon CFX giving notice to the CONTRACTOR to that effect.

**31.0 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 CONTRACTOR: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

**32. 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:

32.1 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

32.2 Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and

32.3 Prohibition on non-competition agreements of CONTRACTOR's employees with respect to any successor of CONTRACTOR; and

32.4 Obligations upon expiration or termination of the Contract, as set forth in Section 33; and

32.5 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.

**33. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT**

33.1 CONTRACTOR shall initiate settlement of all outstanding liabilities and claims arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of CFX.

IN WITNESS WHEREOF, the authorized signatures named below have 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 \_\_\_\_\_, 2017.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: \_\_\_\_\_  
Director of Procurement

Print Name: \_\_\_\_\_

CONTRACTOR

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

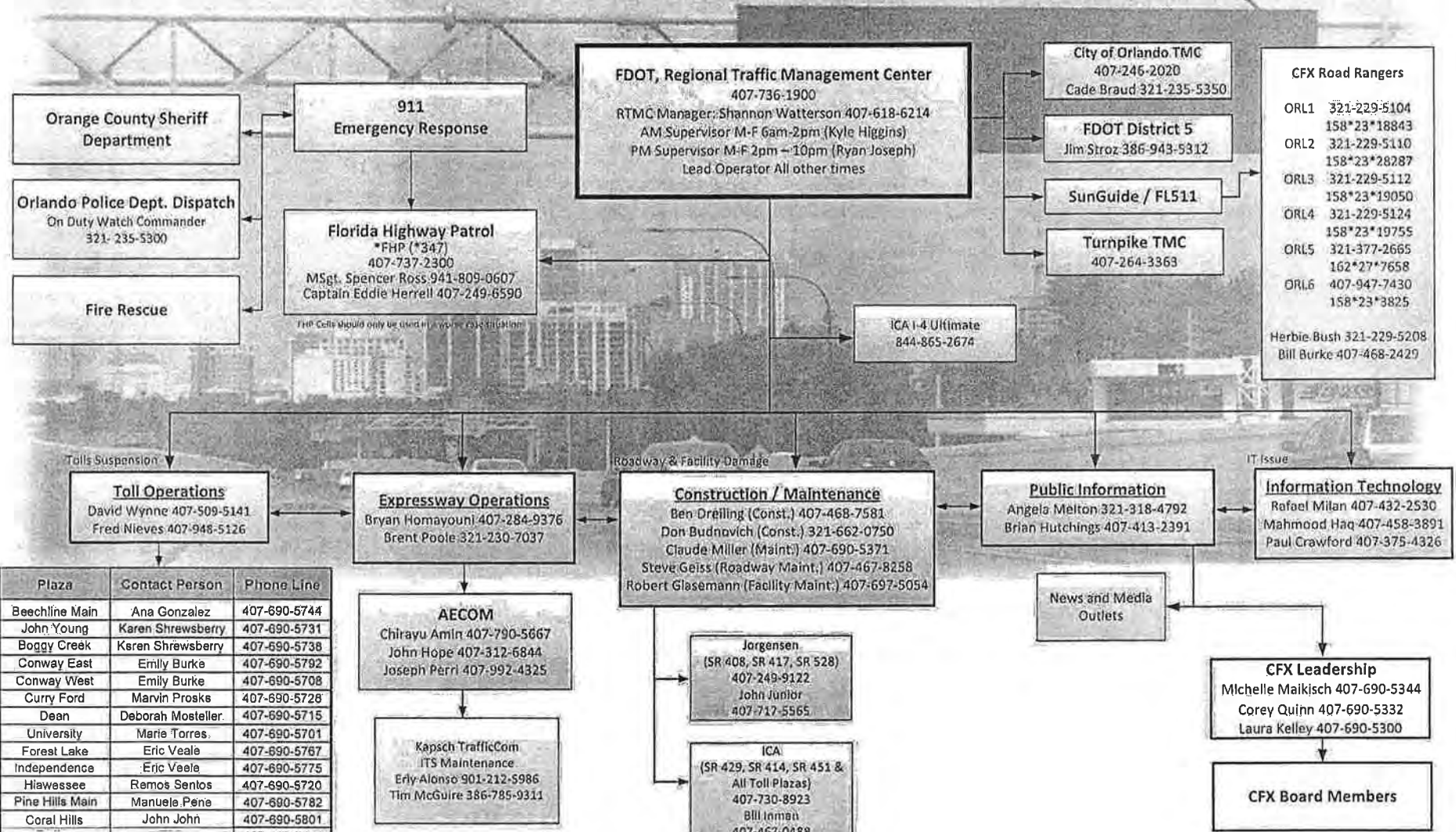
ATTEST: \_\_\_\_\_ (Seal)

Approved as to form and execution, only.

\_\_\_\_\_  
General Counsel for CFX

# CFX Incident Response Plan

\*ALL CONTACTS IN BLUE ARE SECONDARY BACK-UP CONTACTS\*



Plaza	Contact Person	Phone Line
Beechline Main	Ana Gonzalez	407-690-5744
John Young	Karen Shrewsberry	407-690-5731
Boggy Creek	Karen Shrewsberry	407-690-5738
Conway East	Emily Burke	407-690-5792
Conway West	Emily Burke	407-690-5708
Curry Ford	Marvin Proske	407-690-5728
Dean	Deborah Mosteller	407-690-5715
University	Marie Torres	407-690-5701
Forest Lake	Eric Veale	407-690-5767
Independence	Eric Veale	407-690-5775
Hiwassee	Ramos Santos	407-690-5720
Pine Hills Main	Manuela Pene	407-690-5782
Coral Hills	John John	407-690-5801
Dallas	TBD	407-690-5814

Addendum No. 3

RFP No. 001151

January 18, 2017

**Exhibit A**  
**SCOPE OF SERVICES**  
**ROADWAY AND BRIDGE MAINTENANCE SERVICES**  
**S.R. 408, S.R. 417, S.R. 528 AND GOLDENROD ROAD EXTENSION (S.R. 551)**  
**CONTRACT NO. 001151**

**1.0 OVERVIEW**

- 1.1 The Contractor shall perform maintenance of and administration and management services related to roadways (including out parcels) and bridges along S.R. 408 (East-West Expressway), S.R. 528 (Beachline Expressway) from Boggy Creek Road to S.R. 520; S.R. 417 (Central Florida GreeneWay) from International Drive to Seminole/Orange County line, and Goldenrod Road Extension (S.R. 551) from Hoffner Road to Cargo Road in Orange County, Florida.

The Contractor shall furnish all labor, materials, equipment, tools, transportation and supplies required to supply the services and complete the maintenance work in accordance with the specifications, procedures and terms of the Contract, including the specific tasks and events set forth on the attached specifications.

- 1.2 The Contractor, or an approved subcontractor, shall employ a full-time registered professional engineer licensed to practice in the State of Florida and sufficient qualified technical and professional staff to support activities and program areas including, but not limited to: roadway and bridge maintenance contract administration; maintenance contract development; maintenance condition survey management; road serviceability analysis; and transportation safety management. CFX, at its option, may elect to expand, reduce, or delete the extent of each work element described in this Scope of Services document, provided such action does not alter the intent of the Contract.
- 1.3 The services to be provided by the Contractor shall be furnished through a combination of Contractor staff/personnel and subcontractors/subconsultants under contract to the Contractor. Through this combination, the Contractor shall provide maintenance and administrative personnel in appropriate numbers and at the proper times to ensure that the responsibilities assigned under the Contract are effectively carried out. Services to be provided by the Contractor include, but are not necessarily limited to maintenance of: roadway features (pavement); roadside features (e.g., soil shoulders, slopes, and fence); traffic services features (e.g., signs, striping, and guardrail); vegetation/aesthetics (e.g., mowing and litter); and drainage (e.g., ditches and inlets). Work shall also include responsibility for traffic operations; reviewing bridge inspection reports and preparing and implementing a plan for repairs of noted deficiencies; performing road serviceability analysis; and responsibility for permit operations. These services are described in detail in the maintenance specifications attached to this Scope of Services. Maintenance of toll



facilities and equipment, the fiber optic network, wrong-way driving signs, landscaping and aquatic weed control are not a part of this scope and will be performed by others.

- 1.4 CFX does not guarantee that all of the services described in this 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 others or, where applicable, by Florida Department of Transportation (FDOT).

## **2.0 ROADWAY MAINTENANCE AND INSPECTION**

- 2.1 The Contractor shall be responsible for all routine bridge maintenance, roadway maintenance (roadway features, roadside features, traffic services features, vegetation/aesthetics and drainage) and inspection and administrative functions as defined in this Scope of Services, maintenance specifications and referenced manuals and procedures.
- 2.2 The Contractor, through the use of subcontractors and subconsultants, shall provide qualified maintenance contractors and technical and administrative personnel in appropriate numbers to ensure that maintenance is accomplished in accordance with the requirements and criteria set forth in this Scope of Services and the maintenance specifications. All activities shall be performed in accordance with the specifications, guides, standards, procedures and directives that are a part of the Contract.
- 2.3 The Contractor shall comply with the CFX Incident Response Plan. This document provides procedures for situational analysis, mobilizing personnel and equipment, information to the public, taking protective action, assessing damage, record keeping, planning recovery/restoration, and coordinating emergency response activities.
  - 2.3.1 The Contractor shall comply with the CFX Open Road Tolling procedures policy letter for scheduled or emergency closing of express toll lanes.
- 2.4 The Contractor shall be responsible for the control and safety of traffic and the public during the performance of all work under control of the Contractor, its agent, employees and subcontractors/subconsultants. When required by the Contractor's operations, the Contractor shall furnish, erect and maintain such fences, temporary railing, barricades, lights, signs and other devices and take such other protective measures as are necessary to prevent accidents, damage or injury to the public.
- 2.5 The Contractor shall review Bridge Inspection Reports received by CFX. The Contractor shall have complete responsibility for scheduling and performing bridge maintenance and repairs. The Contractor shall return completed signed and dated FDOT work order forms to the Director of Maintenance to include photographs of the completed repairs. CFX will review the documents and notify FDOT to close the work order within 60 days for Priority 1

work orders, 180 days for Priority 2 and 3 work orders and within 2 years for Priority 4 work orders. Work not completed within this time frame will be subject to a reduction in compensation due the Contractor of \$200 per day per work order for each day the work is not completed.

2.6 Road Serviceability Analysis - The Contractor shall:

2.6.1 Attend MRP inspection with FDOT and Director of Maintenance. Review results of the Maintenance Rating Program (MRP) inspection performed by FDOT and initiate corrective action based on undisputed MRP inspections within 30 days of receipt of the findings from the Director of Maintenance.

2.6.2 Prepare road serviceability analyses and documentation to correct identified deficiencies. Use the current year Annual Inspection Report compiled by CFX's General Engineering Consultant as a baseline of the deficiencies needing repair. Integrate report findings in Contractor's Work Plan.

2.6.3 Perform Road Characteristics Inventory (RCI) field review and document changes. Develop and maintain an up to date inventory of CFX assets of roadway items and bridge features within 180 days of Notice to Proceed. Use FDOT Straight Line Drawings (SLD) to populate initial inventory.

2.7 Contract Administration - The Contractor shall:

2.7.1 Review maintenance contract reports relating to Contractor's performance and communicate with subcontractors, if necessary, regarding negative conformance to specifications, workmanship, etc.

2.7.2 Prepare and maintain monthly progress schedules and reports applicable to all phases of maintenance operation and such special reports as may be required to keep CFX advised with respect to the progress of work activity.

Provide the monthly report in a format that includes all Activity Groups and Activity Codes, quantities and applicable measurement units (i.e. acre, square foot/yard, each, etc.) as described in the FDOT Maintenance Cost Handbook.

2.7.3 Assist CFX in responding to the public interest regarding maintenance activities.

2.8 In all cases and scenarios prepare accident claim in form and content reasonably satisfactory to CFX.

2.8.1 For matters or incidents in an amount less than or equal to \$25,000.00, or the CFX insurance contract deductible, whichever is greater, in estimated repair damages for

any particular occurrence due to the intentional acts or negligence of any third party or parties, the Contractor shall:

- (i) Provide a copy of said accident claim to CFX for its records if requested; and
- (ii) Advance and pay for all expenses incurred in connection with the performance of its repair and/or maintenance duties and obligations under the Contract; and
- (iii) Seek reimbursement of the expenses made in connection with the aforementioned repair and/or maintenance, at Contractor's sole expense, only from the negligent party or parties, tortfeasor or tortfeasors (collectively, the "Third Parties"), and/or their respective insurance carriers (the "Third Party Insurers"), if any. The Contractor shall not seek reimbursement from the CFX. Nor shall the Contractor seek reimbursement from the CFX insurance carrier or carriers without first obtaining written approval from CFX, which approval shall not be unreasonably withheld. Alternatively, the Contractor may pursue, at Contractor's sole cost and expense, any and all claims or actions against the Third Parties, and/or the Third Party Insurers, but not against CFX, its employees, officers, agents, representatives, consultants, or their respective employees, officers and representatives, or the CFX insurance carrier or carriers, whether in law or in equity.

2.8.2 For matters or incidents in an amount greater than \$25,000.00, or CFX's insurance contract deductible, whichever is greater, in estimated repair damages for any particular occurrence due to the intentional acts or negligence of any third party or parties, as an absolute condition of the Contractor being reimbursed by CFX, the Contractor shall:

- (i) Submit said accident claim affidavit to CFX; and
- (ii) Advance and pay for all expenses incurred in connection with the performance of its repair and/or maintenance duties and obligations under the Contract; and
- (iii) Notify CFX in writing, that the Contractor seeks reimbursement of the Contractor's expenses, reasonably related to such repairs and/or maintenance, whereby CFX, shall at its expense, file a reimbursement claim with the CFX insurance carrier or carriers. Should the CFX insurance carrier or carriers fail to pay all of any particular reimbursement claim, the Contractor may, but shall have no

obligation to, seek reimbursement of any particular claim shortfall from the negligent party or parties, tortfeasor or tortfeasors (collectively, the "Third Parties"), and/or their respective insurance carriers (the "Third Party Insurers"), if any. The Contractor shall not seek any reimbursement from the CFX insurance carrier or carriers, whether or not the claim is based on bad faith or otherwise, without first obtaining written approval from CFX, which approval shall not be unreasonably withheld. Alternatively, the Contractor may pursue, at Contractor's sole cost and expense, any and all claims or actions against the Third Parties, and/or the Third Party Insurers, but not against CFX, its employees, officers, agents, representatives, consultants, or their respective employees, officers and representatives, whether in law or in equity.

- 2.8.3 Contractor and its assigns, if any, hereby waive any and all claims, reimbursement requests, and the like, against any self-insurance policy or policies of CFX and of the Florida Department of Transportation.

### **3.0 CONTROL OF THE WORK**

- 3.1 The Contractor shall develop, prepare, and implement a Roadway Maintenance Operations Work Plan.

The Work Plan shall contain a description of activities the Contractor intends to carry out during the 12-month period beginning on the Notice to Proceed date for the Contract and the scheduled date for each such activity. The date may be expressed by week or by any other more specific periods or date the Contractor selects.

A draft of the Work Plan shall be submitted to CFX within 30 days after the date of the Notice to Proceed. CFX will review the plan and meet with the Contractor to resolve any concerns pertaining to the schedule and the activities and to finalize the plan.

The Contractor shall submit an updated Work Plan to CFX at least 30 days prior to the first day of each quarter to show a rolling 12-month period of detailed coverage.

- 3.2 Director of Maintenance

To avoid unnecessary repetition of expressions, whenever in the Scope of Services, Maintenance Specifications or other Contract Documents the term "Director of Maintenance" is used, it is understood that "or designated representative" is a part of the term unless specifically indicated otherwise.

All work shall be subject to review and acceptance by the Director of Maintenance who shall evaluate the Contractor's work for compliance with the Contract Documents. The Director

of Maintenance 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.

### 3.3 Coordination of Contract Documents

The Scope of Services, Maintenance Specifications and all supplementary documents are integral parts of the Contract Documents and a requirement occurring in one document is as binding as though occurring in all documents. Section 102, Maintenance of Traffic, which is included in the Maintenance Specifications as Attachment 19, replaces Section 102 in the FDOT Standard Specifications for Road and Bridge Construction. The remainder of the Standard Specifications, (current edition at the time of Contract execution) and the FDOT Design Standards, January 2016 edition, are incorporated by reference as if fully set forth herein. In a circumstance of inconsistency or discrepancy between documents, the priority order of the documents shall be as follows:

1. Scope of Services
2. Maintenance Specifications
3. FDOT Standard Specifications, current edition at time of Contract execution.
4. FDOT Design Standards, January 2016 edition

Unless specifically allowed by the Director of Maintenance, the Method of Measurement and the Basis of Payment articles in all sections of the Standard Specifications will not apply to this Contract. See Method of Compensation for additional information.

### 3.4 Traffic Control and Lane Closures

The Contractor shall adhere to the requirements of Part 6 of the FHWA's Manual on Uniform Traffic Control Devices (MUTCD). For operations requiring closure of travel lane(s), Contractor shall comply with Maintenance Specifications Attachment 19, Section 102, Maintenance of Traffic, and FDOT Design Standards Drawing No. 600.

No work shall occur on CFX's system between the hours of 6:00 am and 11:00 pm, Monday through Sunday, without the permission of the Director of Maintenance. Ramp closures will only be permitted between the hours of 11:00 pm and 5:00 am any day of the week.

If, in the opinion of the Director of Maintenance, any permitted lane closure(s) causes extended traffic congestion the Contractor shall, at the direction of the Director of Maintenance, open any temporary lane closures until traffic is returned to an acceptable flow as determined by the Director of Maintenance.

Delay costs to the public will result if all lanes are not open to traffic during the times noted above. The Contractor shall plan its operations such that all equipment and materials except those required for the safety of the traveling public are removed from the clear zone and lanes are reopened for traffic by the times noted above. A damage recovery cost will be assessed for failure by the Contractor to clear traffic lanes in the following amount:

10 minutes and under.....No damage recovery cost assessed  
Each additional 10 minutes or fraction thereof.....\$2,000

Costs will be assessed beginning at the appropriate time as shown above and continue until all lanes are open and traffic flow is restored as recorded by the Director of Maintenance. CFX shall have the right to apply as payment on such damages any money which is due to the Contractor by CFX. At the discretion of the Director of Maintenance, damage recovery costs will not be assessed for failure to open traffic lanes if such cause is beyond the control of the Contractor i.e., catastrophic events, accidents not related or caused by the Contractor's operations.

### 3.5 Other Work

If activities by 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 because of deletion of work items or delay because of activities by others.

### 3.6 Subcontractors

The Contractor shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of the Contract or any portion thereof without the written consent of CFX which may be withheld in CFX's sole and absolute discretion. A list of approved subcontractors shall be made a part of the Contract. Subsequent to the execution of the Contract, any additions to the list will require prior approval by the Director of Maintenance. Additionally, any such subcontract that would, standing alone or aggregated with prior subcontracts awarded to the proposed subcontractor, equal or exceed twenty five thousand dollars (\$25,000.00), will also require prior approval by the CFX Board. No such subcontract shall be executed by the Contractor until Board approval is given. Refer to Article 17, Subletting and Assignment, in the Contract for additional requirements.

Promptly upon request of CFX, the Contractor shall remove from the activities associated with or related to the performance of the Contract any subcontractor, at any tier, whom CFX considers unsuitable for such work. Such subcontractor shall not be reassigned to perform any work relating to the services except with the express written consent of CFX.

## **4.0 OTHER REQUIREMENTS**

### **4.1 Permits, Notifications and Fees**

- 4.1.1 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.
- 4.1.2 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 lump sum prices for the items of work in the Contract.
- 4.1.3 No work shall be performed under the provisions of the Contract on any properties outside the limits of 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.

### **4.2 Hazardous or Toxic Waste, Pollutants**

- 4.2.1 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 Director of Maintenance 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.
- 4.2.2 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 Director of Maintenance.
- 4.2.3 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.

#### 4.3 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 (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.

#### 4.4 Safety

4.4.1 With respect to the activities contemplated to occur pursuant to the Contract, and to the extent reasonably applicable, the Florida Department of Transportation Loss Prevention Manual (current issue at time of Contract execution) 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.

4.4.2 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).

4.4.3 The Contractor shall ensure that its workers and subcontractors at all tiers use vest/garments conforming to ANSI/ISEA 107-1999 Standard Class 2 at all times. Class 2 vest garments will be required for all speeds. Protective safety helmet caps shall be worn at all work sites containing overhead hazards.

4.4.4 All vehicles used within the project limits shall be equipped with flashing yellow strobe lights mounted on top of the vehicle to be clearly visible. All vehicles shall be marked with the Contractor's or any tier subcontractor's name and/or logo on both sides of the vehicle in a font easily read from a distance of 15 feet.

#### 4.5 Contractor's Responsibility for Work

Until acceptance by the Director of Maintenance, 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 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.

#### 4.6 Disadvantaged, Minority and Women Owned Businesses (D/M/WBE)

General: The Contractor is encouraged to continue to meet or demonstrate the 15% 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 herein. 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. 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.

#### 4.6.1 Disadvantaged, Minority and Women Owned Businesses - Participation Objective

4.6.1.1 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.

4.6.1.2 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.

4.6.2 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.

4.6.3 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 or 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.

4.6.4 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 the Director of Maintenance 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.

#### 4.6.5 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", which 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".

#### 4.7 Office and Storage Facilities

CFX will provide office and storage facilities for the Contractor at 7015 McCoy Road. The site includes an office area of which approximately 3,000 square feet will be provided to the Contractor and a covered warehouse/maintenance building of approximately 11,000 square feet which is available to the Contractor. Uncovered space on the site will also be available to the Contractor. Contractor is responsible for all maintenance to the entire office building, storage facility and the facility site. Contractor shall also be responsible for all necessary insurance/liability coverage as well as all utility costs. Any additional space required by the Contractor beyond that furnished by CFX shall be secured by the Contractor at the Contractor's expense.

The space provided by CFX is being made available to the Contractor at the sole discretion of CFX. The Contractor agrees to vacate any or all of the office, warehouse/maintenance building, and uncovered space upon 90 days written notice from CFX.

### 5.0 PROSECUTION AND PROGRESS OF WORK

#### 5.1 Beginning Work

The Contractor shall commence work as of the date established in the Notice to Proceed. The term of the Contract will begin on the date established in the Notice to Proceed.

#### 5.2 Status of Work

The Contractor shall keep the Director of Maintenance advised as to the status of work being done by the Contractor and the details thereof on a daily basis. The Contractor shall e-mail locations of work crews to designated CFX maintenance personnel indicating roadway, start and proposed end location by mile post for each major work activity. Coordination shall be

maintained by the Contractor with the Director of Maintenance. The Director of Maintenance or Contractor may request and be granted a conference with the other party.

### 5.3 Maintenance Operations

- 5.3.1 The Contractor shall be available 24 hours a day, 7 days a week, 52 weeks a year. The Contractor shall schedule maintenance operations to minimize inconvenience to adjacent businesses, residences and the motoring public.
- 5.3.2 Regular time is defined as 7:00 a.m. to 5:00 p.m., Monday through Friday excluding holidays (Thanksgiving Day, Christmas Day, New Year's Day, Independence Day or Labor Day). When any of these holidays fall on a Sunday, no work under the Contract shall be done on the following Monday. If the holiday falls on a Saturday, no work shall be done on the preceding Friday.
- 5.3.3 Special time is defined as 5:00 p.m. to 7:00 a.m., Monday through Friday and all day Saturdays, Sundays, and holidays. For special operations, night work may be allowed between the hours of 5:00 p.m. to 7:00 a.m., with proper lighting, if so authorized by the written approval of the Director of Maintenance (e-mail may be used).
- 5.3.4 No work shall be done when weather conditions limit good visibility to less than five hundred (500) feet. Work may only be performed during prohibited times with written permission from the Director of Maintenance, or in circumstances of an emergency. Refer to the individual specifications (attachments) for specific requirements.
- 5.3.5 Prior to beginning maintenance operations, the Contractor shall submit to the Director of Maintenance, for approval, two (2) copies of the Contractor's proposed plan and methods for performing the required roadway and bridge maintenance work including a listing of equipment and personnel anticipated for use. The plan shall show the proposed methods of ensuring safety and minimum interference with the normal flow of traffic in the travel lanes and local roadways. The Contractor shall provide all necessary instruments and special apparatus to conduct any testing that may be required. Approval of the plan shall not relieve the Contractor of responsibility or liability for injury to persons or damage to property caused by the operation of equipment and/or personnel.
- 5.3.6 All Contractor, subcontractors and second tier subcontractor's vehicles shall have clear identification of the company they represent. All Contractor, subcontractor and second tier subcontractor employees requiring access to any CFX facility shall wear name tags with photo identification. In addition, a list of such employees shall be provided to CFX prior to beginning work under the Contract. Any employee not on



the Contractor's list and not having the proper photo identification will not be allowed access to facilities.

- 5.3.7 The Contractor shall park equipment left on the right-of-way overnight as close to the right-of-way line as possible. Equipment or vehicles shall be clearly marked with cones or lighted barricades. Do not park equipment overnight in the median regardless of the width of the median. Conduct all service and supply operations as close to the right-of-way line as possible. No supply vehicles shall enter a roadway median except when necessary to repair or remove inoperable equipment.
- 5.3.8 In circumstances where the work has assigned to it a specific time increment within which to accomplish the task (if any), the Director of Maintenance may grant an extension of the allowable time when a controlling item of work is delayed by factors which are beyond the control of the Contractor. Extensions will not be granted for delays due to the fault or negligence of the Contractor.
- 5.3.9 CFX will advise the Contractor when an emergency response will be required for critical situations. In general, emergency response time (the time taken by the Contractor to arrive at the site after notification) shall be 2 hours regardless of the day or time of the notification unless otherwise specified. Failure to meet the required priority response time may result in reductions to compensation for work performed according to the following reduction schedule:
- a. Up to 1 hour late - \$100.00 reduction.
  - b. More than 1 hour late - \$200.00 reduction.
  - c. For each additional hour late - \$200.00 reduction

The reduction will not be assessed if the Contractor can demonstrate to the satisfaction of the Director of Maintenance that the delay was the result of events beyond the control of the Contractor.

Individual maintenance specifications may have specific response requirements that supersede the response time in this subarticle.

No extension of the emergency response time will be granted by CFX due to travel distance requirements of the response crew.

- 5.3.10 Time extensions for delays (in work performance which has completion dates associated therewith, if any) caused by the effects of inclement weather will be handled differently from those resulting from other types of delay. Such time extensions are justified only when rains or other inclement weather conditions or related adverse soil conditions prevent the Contractor from productively performing controlling items of work, resulting in either:

- (i) The Contractor being unable to work at least fifty percent (50%) of the normal work day on pre-determined controlling work items due to adverse weather conditions, or
- (ii) The Contractor being required to make major repairs to work damaged by weather; provided, however, the damage was not attributable to a failure to perform or neglect by the Contractor, and provided that the Contractor was unable to work at least fifty percent (50%) of the normal workday on pre-determined controlling work items.

The Director of Maintenance will monitor the effects of weather and (when found justified) recommend time extensions. The Contractor will not be required to submit a request for additional time due to the effects of weather unless the Contractor disputes the additional time granted by CFX.

#### 5.4 Suspension of Work

CFX reserves the right (as may be 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.

CFX anticipates future roadway and bridge construction in the Contract limits which could also result in suspension of the work. Upon direction from the Director of Maintenance, the Contractor shall reduce roadway maintenance activities in the construction areas designated by CFX until such time as the suspension is lifted. The only maintenance activities that shall be performed by the Contractor in the designated areas are litter removal, herbicide applications and emergency response. Payment will only be made to the Contractor for the maintenance activities performed during the suspensions at the appropriate reduced cost per centerlinemile shown in the Price Proposal.

#### 5.5 Liquidated Damages

5.5.1 The Contractor (or in the circumstance of the Contractor default, the surety) shall pay to CFX, not as a penalty but as liquidated damages, \$200 per day for failure of the Contractor to complete the work within the time stipulated in the work order or maintenance specifications or within such additional time as may have been granted by CFX. It shall be the responsibility of the Contractor to schedule work in a manner that prevents delays, stoppages and rework.

- 5.5.2 For all work, regardless of whether the performance time is stipulated in calendar days or working days, default days shall be counted in calendar days.
- 5.5.3 Permitting the Contractor to continue and to finish the work, or any part of it, after the expiration of the 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.
- 5.5.4 In the event of default by the Contractor 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.
- 5.5.5 The work will be considered completed when all work has been accepted by the Director of Maintenance. CFX reserves the right to apply as payment on such liquidated damages any money due the Contractor by CFX.

## 5.6 Sales and Use Taxes

Work under the Contract is subject to the provisions of Chapter 212, Florida Statutes, Tax on State, Use and Other Transactions. Other state, local, or federal taxes may be applicable. The Contractor is responsible to remit to the appropriate governmental entity all applicable taxes. Any applicable tax shall be included in the Contractor's Price Proposal.

## 5.7 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.

### 5.7.1 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:

- a. 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
- b. 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
- c. 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 nor 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 proceedings, all participants shall be afforded pre-hearing discovery in accordance with the rules of the American Arbitration Association.

## 5.8 Evaluation and Acceptance of Work

- 5.8.1 The performance of the Contractor under the terms of the Contract will be subject to review by CFX. Reworking required due to Contractor negligence, omission, or inadequate performance will be the responsibility of the Contractor. No additional payment will be due the Contractor for the reworking of non-acceptable areas or work.
- 5.8.2 For roadway maintenance work, the major criterion used by CFX for evaluating the Contractor's performance and acceptability of the completed work will be the average "score" given to the roadway features, roadside features, traffic services features, vegetation/aesthetic (exclusive of landscape areas maintained by others) and drainage by the Florida Department of Transportation through its annual Maintenance Rating Program (MRP). CFX will use the current FDOT weighted scoring system when evaluating the roadway system. The Contractor shall achieve and maintain an

MRP of 91 for S.R. 408, S.R. 417, and S.R. 528. The Goldenrod Road Extension (S.R. 551) is not scored by MRP.

The MRP score is not the only evaluation criterion that CFX will use to evaluate Contractor performance. The fact that the Contractor is able to achieve the required scores for each roadway shall not relieve the Contractor from its responsibility to constantly monitor and maintain the roadways and all of their elements and characteristics. For example, with regard to vegetation/aesthetics, CFX expects the Contractor to keep S.R. 408, S.R. 417, S.R. 528 and the Goldenrod Road Extension virtually litter free on a daily basis and to ensure that all turf areas have a pleasing and presentable appearance at all times. CFX further expects the Contractor to be sensitive to the needs and perceptions of CFX's customers who feel that paying a toll to use a roadway entitles them to a ride that is not only pleasing to the eye but also smooth, safe and comfortable as well.

The FDOT will conduct MRP ratings for CFX every four months on S.R. 408, S.R. 417 and S.R. 528. Beginning with the first four-month period, CFX will withhold from monies due the Contractor an amount equal to one percent (1%) of the cumulative amount of four months payments for each point below an overall MRP of 91. CFX will withhold from monies due the Contractor an amount equal to one-half of one percent (.5%) of the cumulative amount of four months payments for each point below 89 on any element rating. CFX will withhold from monies due the Contractor an amount equal to one-tenth of one percent (0.10%) of the cumulative amount of four months payments for each percentage point below 80 on any characteristic rating. If a characteristic falling below 80 is rated on fewer than 10 inspection points, CFX will conduct a supplemental inspection of those characteristics to provide a minimum of 10 points for evaluation.

The monies withheld by CFX will be placed in the Work Order Allowance for use at CFX's sole discretion to cover the cost of additional work. Any amount remaining in the Work Order Allowance at the end of the Contract term will remain the property of CFX.

5.9 Compensation

The Contractor will be paid monthly for lump sum items according to the schedule below. Monthly dollar amount will be the total Contract amount multiplied by the monthly factor listed below.

<u>Month</u>	<u>Year 1</u>	<u>Years 2-5</u>
1	0.019	0.017
2	0.019	0.017
3	0.016	0.017
4	0.016	0.017
5	0.016	0.017
6	0.016	0.017
7	0.016	0.017
8	0.016	0.017
9	0.016	0.017
10	0.016	0.017
11	0.016	0.017
12	0.018	0.013
Yearly Amount	0.200	0.200

END OF SECTION

**TABLE OF ATTACHMENTS  
MAINTENANCE SPECIFICATIONS**

**ROADWAY AND BRIDGE MAINTENANCE**

<u>Attachment</u>	<u>Specification Title</u>
1.	Roadside and Slope Mowing
2.	Litter Removal
3.	Guardrail Repair
4.	Fence Repair
5.	Roadway Lighting Maintenance and Repair
6.	Attenuator Maintenance and Repair
7.	Pavement Marking and Signing
8.	Traffic Control Devices
9.	Cable Barrier System
10.	Fertilizer Application
11.	Chemical Control of Weeds and Grass
12.	Graffiti and Stain Removal
13.	Asphalt-In-Place
14.	Mechanical Road Sweeping
15.	Repair and Restoration of Slopes, Shoulders and Roadside Ditches and Canals
16.	Drainage System Repair and Cleaning
17.	Concrete Repairs and Joint Sealing
18.	Tree Trimming and Removal
19.	Specification Section 102, Maintenance of Traffic
20.	Specification Section 561, Coating Existing Structural Steel
21.	Railroad Crossing Maintenance

**Attachment 1**  
**ROADSIDE AND SLOPE MOWING**

1.0 Description

- 1.1 Provide all labor, materials, equipment and incidentals necessary to perform routine mowing of grassed or vegetated roadside / slope area located within the project limits including litter removal and disposal.
- 1.2 The work described herein includes the periodic mowing of grassed or vegetated roadside, median, and slope areas within the project limits with conventional high production style mowing equipment, small machine mowing equipment, and specialized equipment and/ or string trimming as necessary. Vegetation shall consist of all grass, part grass and part succulent weed growth, or all succulent weed growth within the area to be mowed.
- 1.3 Apply Orthene (or equal approved by the Director of Maintenance) insecticide to all fire ant mounds located within turf areas adjacent to paving edge, guardrails, fence lines and all other roadside / drainage structures during each roadside mowing cycle and as directed by the Director of Maintenance to control fire ants when mounds form above normal ground line in mowed turf areas. Applications shall be performed during each mowing cycle. 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. Method of application and dosage shall be as recommended by the manufacturer. Submit product label, MSDS sheet, and proposed application method and rate to Director of Maintenance for approval prior to use. Daily pesticide application reports shall be collected and submitted to the Director of Maintenance on a weekly basis.

2.0 Types of Mowing Areas

- 2.1 “Roadside mowing” is defined as the mowing of all grassed and vegetated areas of shoulders, medians, ramps, all front and back slopes of less than 3:1 including retention areas, roadside ditch bottoms (both wet and dry), around retention ponds to water line (at time of each mowing cycle), dry retention areas, out parcels, raised roadside and median islands, along right of way fence line maintenance strips, various width utility strips (defined as the top of slope behind the guardrail), and similar areas as designated by the Director of Maintenance.
  - 2.1.1 Utility strips shall be mowed in conjunction with roadside mowing cycle. Grasses behind guardrail shall be maintained so as not to exceed the height of the bottom of the guardrail.



- 2.2 “Slope mowing” is defined as the mowing of all grassed and vegetated areas of slopes greater or steeper than 3:1, e.g., steep slopes, canal banks, etc. Perform slope mowing using a boom-type slope mower, hand held equipment or other equipment suitable for mowing steep slopes

### 3.0 Quantity and Frequency of Mowing

- 3.1 The mowing cycles specified represent the type of mowing to be accomplished (roadside or slope as defined in sections 2.1 and 2.2). The area and limits of each type of mowing will be determined by the Contractor in the field and verified by the Director of Maintenance.
- 3.2 The Contractor shall perform each mowing cycle in accordance with the Contractor’s approved Work Plan unless directed otherwise by the Director of Maintenance. Roadside and slope mowing cycles shall be performed twelve (12) times per year and slope mowing cycles shall be performed eight (8) times per year. The total number of roadside mowing cycles and slope mowing cycles performed per year may be increased or decreased as directed by the Director of Maintenance. Before payment is made for a cycle, the Contractor and Director of Maintenance shall inspect the roadways to verify completion. Any missed areas identified in the inspection shall be completed before payment for a cycle is made.
  - 3.2.1 At the direction of the Director of Maintenance, the Contractor shall mow selected parcels not part of the routine roadside mowing areas. These areas are located on surface streets or in City of Orlando parks adjacent to CFX roadways where sidewalks and curbing exist. These areas shall be mowed and edged bi-weekly.
- 3.3 Each roadside / slope mowing cycle shall begin on the first day of each month as per the Work Plan unless directed otherwise by the Director of Maintenance. Each roadside / slope mowing cycle shall be completed in its entirety within twenty one (21) calendar days of the beginning of each cycle. The remaining days of each month shall be used for inspection and identification of deficiencies in the performance of the previous cycle by the Director of Maintenance and the performance of directed corrective measures by the Contractor to complete the cycle within the current month.
- 3.4 Roadside/slope mowing cycles not completed within scheduled twenty one (21) calendar days due to weather conditions shall be performed during the remaining days of each month with prior approval from the Director of Maintenance. Incomplete roadside / slope mowing cycles shall not delay the start and successful completion of subsequent scheduled cycles. Liquidated damages in the amount of \$1,000 per day will be assessed for each day that a cycle is not completed and accepted within the allotted timeframe including weather delays.

#### 4.0 Equipment

- 4.1 All equipment shall be subject to inspection by the Director of Maintenance at any time. Properly maintain safety devices, as described in the Scope of Services, at all times.
- 4.2 If the Director of Maintenance determines that equipment is deficient in safety devices, the Contractor will be notified immediately. Remove the equipment from service until the deficiency is corrected to the satisfaction of the Director of Maintenance.
- 4.3 Inspection of the Contractor's equipment by the Director of Maintenance shall not relieve the Contractor of responsibility or liability for injury to persons or damage to property caused by the operation of the equipment.
- 4.4 Equipment which damages the pavement or turf in any way will not be allowed. Repair all damage caused by the Contractor's equipment to the satisfaction of the Director of Maintenance and at no cost to CFX. Repairs to pavement or turf shall be completed within 14 days after the damage occurs and/or is identified by the Director of Maintenance. Payment for mowing will be withheld until required repairs/replacements have been completed and accepted.

#### 5.0 Mowing Equipment

- 5.1 The roadside and slope mowing equipment shall be in good repair capable of producing a clean, sharp cut (minimum 6" height) with uniform distribution of the cuttings. Slope mowing equipment shall be capable of a clean, sharp cut (minimum 6" height) with uniform distribution of the cuttings without damaging or compromising the integrity of the slope.
- 5.2 The Contractor shall furnish all equipment of the type and quantity necessary to perform the work satisfactorily within the time specified herein. Any additional equipment needed to complete the mowing cycles in accordance with the Work Plan shall be provided by the Contractor at no additional cost to CFX.
- 5.3 Furnish specialized equipment for the use when conventional mowing equipment is unable to reach wet mowing areas. Boom, arm or other specialized equipment with sufficient reach shall be used at no additional cost to CFX.

## 6.0 Method of Operations

- 6.1 Prior to the beginning of each month, the Contractor shall submit to the Director of Maintenance, via email, a monthly schedule identifying proposed upcoming mowing cycle start, weekly progress, and ending dates and locations. Work progress interruptions due to weather conditions or equipment issues shall be communicated to the Director of Maintenance, via email, in the daily progress reports.
- 6.2 Each roadside and / or slope mowing cycle shall commence at the same starting location on the roadway and proceed continuously to the same completion location on the roadway. On subsequent cycles, follow the pattern adopted for the first cycle unless the Director of Maintenance specifically authorizes a change in the pattern.
- 6.3 Daily mowing cycle progress intent is that all mowing from right-of way to right of way limits shall be completed in its entirety with not more than one mile of either roadside being partially mowed / incomplete.
- 6.4 Prior to the start of each cycle, the Contractor shall inspect and identify any areas where turf conditions, work by other CFX contractors, or any other circumstances could prevent required mowing. The Contractor shall immediately notify the Director of Maintenance of the existing conditions and request directions as to how to proceed. If such conditions are eliminated during the period designated for that mowing cycle, the Director of Maintenance may require the Contractor to cut these areas as part of the cycle or have the areas mowed in the subsequent cycle. When directed by the Director of Maintenance, do not mow grassed areas that are saturated with standing water. Mow these areas at subsequent cycles as directed by the Director of Maintenance
- 6.5 Perform litter pick up immediately prior to the mowing operation to preclude the spread of litter.
- 6.6 During mowing operations, the Director of Maintenance shall inspect work being performed to determine Contract compliance. In the event of deficient work, the Contractor will be directed to re-perform any Contract required task without additional compensation, in the area(s) identified so that the total mowing cycle may be satisfactorily completed within the monthly mowing cycle time period. The Director of Maintenance shall notify the Contractor, via email, of any identified deficiencies within 24 hours of discovery.
- 6.7 Items damaged (e.g. object markers, delineators, guardrail end treatments, fence posts, drainage end sections and grates, FON marker poles, etc.) during mowing operations shall be immediately repaired/replaced to the satisfaction of the

Director of Maintenance. Payment for mowing will be withheld until required repairs/replacements have been completed and accepted.

## 7.0 Limitation of Operation

- 7.1 When mowing within ten (10') feet of the travel way operate equipment in the direction of the traffic. This provision does not apply when the specific worksite is protected by flagmen and warning signs in accordance with the MUTCD.
- 7.2 When necessary for mowing machines to cross bridges with full width shoulders on the right, make the crossing on the shoulder. Cross all bridges with care. Keep such crossings to the minimum required to complete the work as specified.
- 7.3 When necessary for mowing machines to cross the travel way, select a location that provides a minimum five hundred (500') feet of unobstructed sight distance. The mower operator shall stop before crossing the travel way and permit closely approaching vehicles to pass before crossing. Plan operations to minimize crossings.

## 8.0 Quality of Work

- 8.1 Mow all grass and vegetation to a height of six inches (6") with a maximum tolerance of one-half (1/2") inch plus or minus.
- 8.2 Connect areas of different widths with smooth flowing curve transitions. The accumulation or the piling of cuttings will not be permitted. Accumulations of cutting shall be evenly distributed throughout adjacent turf areas or removed and disposed of off-site as directed by the Director of Maintenance.
- 8.3 Mow / trim grass and vegetation around landscape beds, installed buffers, and naturalized areas so as not to damage adjacent plant material and trees. Mow around landscaped areas so as not to discharge clippings into the planting areas. Do not mow within four (4) feet of tree trunks and shrubs in installed buffer and naturalized areas.
- 8.4 During each mowing cycle, mow / trim around existing appurtenances to maintain grass and vegetation to height consistent with adjacent mowed turf areas or as directed by the Director of Maintenance. Appurtenances shall include, but are not necessarily limited to, sign post and bases, delineator posts, fences, guardrail or barrier walls, headwalls, end walls, pipes, drainage structures, roadway lighting poles, power poles, guy wires, landscape areas, etc. Mowing around appurtenances by small machine or by hand shall be coordinated with the large machine mowing to present a clean continuous appearance.

- 8.5 Mow small areas (out parcels) outside of the fenced right of way that CFX owns and as identified in the Contract. In most cases, this mowing shall require small machine or push-type mowers and hand work.
- 8.6 The Contractor will not be required to routinely rake or remove grass or other vegetation cuttings from the right-of-way during each mowing cycle. Contractor may be required to remove vegetation cuttings that, due to their volume, may be damaging to existing turf or are aesthetically unacceptable as determined by the Director of Maintenance such as windrows of mowed grass. Removal shall be as directed by the Director of Maintenance. Grass or clippings spread by the Contractor on paved areas or landscaped areas as a result of mowing operations shall be removed immediately.

END OF SECTION

**Attachment 2**  
**LITTER REMOVAL**

1.0 Description

- 1.1 Pickup, remove and dispose of litter and debris from the limits of the highway right-of-way from fence to fence to include landscaped and ramp areas.
- 1.2 Litter or debris consists of bottles, cans, paper, tires, tire pieces, lumber, vehicle parts, metal junk, brush, dead animals and other items not considered normal to the right-of-way.
- 1.3 It is not intended for small objects such as cigarette butts, chewing gum wrappers and similar sized items to be removed under this work.
- 1.4 The Contractor shall be responsible for the performance of its organization and completion of all work under this contract as set forth in these specifications and as directed by the Director of Maintenance.
- 1.5 These specifications are end-result oriented. Although the litter activity is expected to be accomplished by manual means, these specifications are not intended to be restrictive or limit other techniques that achieve the specified and desired quality.

2.0 Quantity and Frequency of Removal

- 2.1 Litter removal from turf areas shall occur in advance of each mowing cycle. The Contractor shall complete a minimum of fourteen (14) litter removal cycles per year. The actual number of cycles may be increased or decreased as directed by the Director of Maintenance and is not dependent on the number of mowing cycles.
- 2.2 For daily maintenance patrol, provide a laborer with a vehicle, shovels and brooms for each roadway (S.R. 408, S.R. 417, and S.R. 528 including Goldenrod Road). The daily patrol shall consist of continuous round trips along each roadway, Monday through Saturday during regular work hours, exclusive of holidays, 52 weeks per year, each direction, both sides of the roadway and ramps, including landscaped areas, removing and disposing of the debris, including dead animals, vehicle tires and any materials on the paved surfaces. Large items visible from the driving surface such as cardboard boxes, tire pieces, buckets, etc., laying in the turf or landscaped areas shall also be removed. Remove accumulated debris from drainage inlets to include but not limited to, plastic bottles, cans, paper, pine straw, and palm fronds. CFX expects the Contractor to keep the area within the project limits virtually litter free on a daily basis to ensure that all turf areas have a pleasing and presentable appearance at all times.

2.3 No work will be permitted during non-daylight hours.

### 3.0 Equipment

3.1 Equipment used to transport litter from the project site shall be constructed and operated to preclude distribution or loss of litter along the roadway.

3.2 All vehicles shall be equipped with safety equipment as described in the Scope of Services.

3.3 Specialized equipment designed for the mechanical removal of litter and debris may require additional safety devices or precautions unique to the equipment as determined by the Director of Maintenance. Such devices may include but not be limited to amber flashing lights, slow moving vehicle signs, flagged antennas or fluorescent orange flags.

### 4.0 Disposal of Litter and Debris

4.1 Remove all litter and debris from the right-of-way at the end of each working day and dispose of at locations provided by the Contractor. Dispose in accordance with applicable laws and regulations. Cost incurred for disposal shall be borne by the Contractor. Storage or stockpiling of litter or debris on the right-of-way is not permitted.

4.2 Provide two (2) 30 cubic yard roll-off dumpster for tire/rubber and roadside debris at University Mainline Toll Plaza.

### 5.0 Quality of Work

5.1 Completed areas of work shall be free of litter and debris immediately after cleaning, as determined by the Director of Maintenance. Work shall be subject to periodic daily inspection. The quality and acceptance of workmanship will be determined during these inspections. Areas that are determined by the Director of Maintenance or designated representative to be unacceptable shall be re-cleaned at no cost to CFX.

5.2 It is the intent of these specifications that cleaned areas are reasonably free of all litter and debris. It is not the intent to penalize the Contractor for litter and debris that may be deposited between the time an area is worked and when it is inspected. The decision of the Director of Maintenance as to acceptance or rejection of an area will be final.

END OF SECTION

**Attachment 3**  
**GUARDRAIL REPAIR**

1.0 Description

- 1.1 Provide all labor, materials, equipment and incidentals necessary to remove, repair or replace damaged or destroyed sections of guardrail, realign panels, posts, blocks and anchorages and miscellaneous hardware.

2.0 Contractor Responsibilities

- 2.1 Replace damaged guardrail and accessories using materials of a like kind unless directed otherwise by the Director of Maintenance or designated representative. Repair/restore any damaged or disturbed miscellaneous asphalt under guardrail and at posts.
- 2.2 All guardrails shall meet the design specifications in accordance with the Florida Department of Transportation (FDOT) Design Standards Index No. 400 unless directed otherwise by the Director of Maintenance.
- 2.3 Use any salvageable materials within the limits of each work site in that work site at no additional cost to CFX.
- 2.4 Remove all debris, including the original guardrail materials, from the right-of-way at the end of each working day unless otherwise allowed by the Director of Maintenance. All original guardrail materials removed and not used in the reinstallation shall become the property of the Contractor and shall be transported from CFX property and disposed of properly at locations provided by the Contractor unless otherwise directed by the Director of Maintenance.
- 2.5 Damaged guardrail is required to be secured with maintenance of traffic in conformance with MUTCD and FDOT Design Standards. Permanent repairs to damaged guardrail must be completed within ten (10) days, unless, due to the severity of damage, the Director of Maintenance determines a shorter time frame is necessary.
- 2.6 When directed by the Director of Maintenance, apply a paint coating over galvanized structural members and over areas of previously galvanized members on which the galvanizing has become significantly damaged. Use a galvanizing compound conforming to FDOT Specifications.

END OF SECTION



**Attachment 4  
FENCE REPAIR**

1.0 Description

- 1.1 Provide all labor, materials, equipment and incidentals necessary to repair and maintain right-of-way fences. Repairs may be necessary on both chain link (Type B), special vinyl coated chain link wire fabric and farm type (Type A) fencing.
- 1.2 Remove and replace or repair deteriorated, damaged or destroyed fencing.
  - 1.2.1 All fencing shall be cleared of all brush and vegetative growth either by hand, mechanical equipment or by chemical application. The intent is to have fences free of any vegetative matter. Provide CFX a schedule detailing the method and locations of fence clearing/cleaning operations.
- 1.3 This work may consist of the removal, furnishing of materials, and replacement or mending of wire fabric, special vinyl coated chain link wire fabric, barbed wire, line posts, corner brace posts, braces and associated fasteners, gates and other hardware, for both chain link (Type B) and farm (Type A) fencing.

2.0 Contractor Responsibilities

- 2.1 Obtain satisfactory permits or permission from property owners for any encroachments required to perform the work.
- 2.2 As part of this work and prior to the installation of the replacement fence, clear the alignment of all brush and/or vegetation as may be required. Cleaning to a width of at least two feet on each side of the fence line but shall not go beyond the right-of-way line.
- 2.3 Mend or replace damaged fence and accessories using materials of a like kind. Contractor shall provide all necessary chains, cables and locks to secure all right-of-way gates.
- 2.4 Perform installation in accordance with FDOT Standard Index Drawing Nos. 800, 801, and 802.
- 2.5 Remove all debris, including the original fence materials, from the right-of-way and dispose of at locations provided by the Contractor.

- 2.6 Replace all fence removed during any one working day during that same day. While the fence is down, provide continuous security to ensure that no automobiles or vehicles enter or exit the roadway from the temporarily unfenced area. Give specific attention to prevent any persons, animals, or vehicles moving from adjacent private property onto the roadway right-of-way.
- 2.7 All materials used in this work shall conform to Section 550 of the FDOT Standard Specifications.
- 2.8 Install replacement fence on the same alignment as the removed fence. Install the replacement fence at a uniform height and tension with all line and pull posts set in a vertical direction. Replace fence posts in kind.

END OF SECTION

**Attachment 5**  
**ROADWAY LIGHTING MAINTENANCE AND REPAIR**

1.0 Description

Provide all labor, equipment, materials and incidentals to perform roadway lighting maintenance on all roadway light poles, sign structure lights, under deck bridge lights and high mast light poles (HMLP) as described below.

The Contractor or its subcontractor shall possess a license to do business as a certified or registered electrical contractor pursuant to Chapter 489, Part II, Florida Statutes. A copy of the license shall be submitted before maintenance begins at the first site. All work shall be supervised by an onsite Journeyman Electrician possessing a current license from the local municipality or county.

The Contractor shall comply with all local licensing requirements and ordinances governing performance of the work. All work shall be performed in accordance with the laws of the State, all municipal ordinances, all regulations and requirements of the Public Service Commission, the National Electrical Code, the National Electrical Safety Code, the current edition of the MUTCD, the FDOT Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System current at the time of the Contract execution, and FDOT Standard Specifications. The Contractor shall be a member of Sunshine State One-Call.

2.0 Contractor Responsibilities

2.1 Night Patrolling and Inspection of System

- A. Perform night patrol and inspection of the entire system on the 1<sup>st</sup> and 15<sup>th</sup> of each month. Identify each outage by pole number on an inspection report form prepared by the Contractor and approved by the Director of Maintenance. Submit the inspection report along with a diagram (Google Map or similar product) representation of the outage location(s) to the Director of Maintenance at the completion of each patrol inspection.
- B. Perform work necessary based on the results of the inspection. CFX expects all lights on the system to operate as designed. Unless otherwise extended by the Director of Maintenance, the Contractor shall repair or replace standard roadway and sign lights within 72 hour of notification by the Director of Maintenance. If the Contractor fails to repair or replace lighting within 72 hours, or an extension granted by the Director of Maintenance, liquidated damages in the amount of \$100 per day per light will be assessed until the repair/replacement is completed.

- C. Notify Director of Maintenance of any major repairs required to make HMLP functional. Provide schedule for approval, when specialized equipment is required to effect repairs (i.e. high-reach crane, etc). Repairs shall be completed within 10 days after schedule is approved. Hydraulic lowering device is available to be loaned out from FDOT's South Orlando Maintenance yard for the HMLP's located at SR 528 at SR 520. Contractor is responsible for any damage to the equipment.

## 2.2 Diagnostic and Repair Work

- A. Perform the diagnostic work per pole location and sign location, load centers and circuits as identified by the system patrol and inspection.
- B. If the diagnosis reveals the problem to be a routine or minor maintenance item, as defined herein, make repairs at the same time as the diagnostic inspection. Should the diagnosis determine the problem to be major repair, as defined herein, report such to the Director of Maintenance. Submit a Diagnostic Work Report.
- C. Use licensed qualified personnel for appropriate work.

## 2.3 Routine/Minor Maintenance

- A. Perform routine/minor maintenance at the same time as diagnostic work on a luminaire assembly (including sign and high mast poles).
- B. Perform routine/minor maintenance functions and repairs at the same time Diagnostic Work is performed.
- C. Routine maintenance is defined as replacing, cleaning or repairing any or all other following items:
  - 1. Hardware such as hinges, latches, fasteners, locks, snaps, cover plates, inspection plates, pole caps, nuts, bolts, washers, ground wire for metal pull box covers, and other small components.
  - 2. Bird guards and reflectors.
  - 3. Gaskets and filters.
  - 4. Electrical shorts not requiring replacement of buried cable.
  - 5. Lamp and photocell sockets (waterproof).
  - 6. Tree trimming to allow servicing of lights.
  - 7. All pole or structure wiring (usually No. 10 wire) from the luminaire to the supply cable connection.

8. Signing Bracket Arm.
9. Leveling of under-deck light fixture or pole mast (bracket) arm.
10. Cleaning refractors (Glassware).
11. Pea rock in pull boxes.
12. Electrical putty on ends of conduit.
13. Lamps.
14. Ballast assembly.
15. Refractors (glassware).
16. Grounding wires and rods.
17. Fuses, Fuse Holders, High Mast Pole Breakers, Safety Switches, Surge Protectors, Sockets, and other such Electrical Components

- D. Whenever the above listed items have been vandalized, rusted or oxidized, are missing, frayed, defective, damaged or have stopped functioning for whatever cause, the repairing, cleaning or replacing of them shall be defined as routine maintenance except where the cause is from a vehicle strike or a natural cause such as lightning, wind or flooding where the scope of the repair or replacement becomes a major repair effort.
- E. Perform cleaning of refractors (glassware) at the same time as any routine maintenance function is performed.

#### 2.4 Reporting and Tagging

- A. Furnish detailed daily field work performance report forms to all crews. Crews shall fill out these daily field work performance reports on every location, giving a complete description of work performed, pole number, location by grid map or nearest count to a ramp or bridge, and a complete description of problem(s) to be corrected. Before leaving the location, the description of problem(s) to be corrected by another service crew shall be noted on a tag which shall be attached to the fixture that is in need of additional service. This shall be noted on the Daily Report and Tag Procedure.
- B. Submit Daily Report Forms, with a summary of all reports filled out in triplicate, to the Director of Maintenance at the end of each week. Upon verification of these reports, the Director of Maintenance shall sign and return two copies.
- C. Meet with the Director of Maintenance monthly to discuss any subjects pertinent to this work. Additional meetings may be called by CFX as needed.

## 2.5 Major Repair

- A. Work shall include the replacement or repairing of damaged or missing light poles, foundations, transformer bases, luminaires, mast arms, buried cable and conduit between poles and high mast lowering devices.
- B. Replace light poles damaged by traffic within five working days from date of notification or fourteen days from when new foundations are poured-in-place. Work under major repair includes the removal of the damaged parts and debris, wiring (rewiring), and all hardware, covers, caps, splices and appurtenances necessary to make a complete replacement installation. Maintain a sufficient number of replacement poles, arms, light fixtures and related materials to replace multiple damaged light poles. Minimum quantity of poles to be approved by CFX.
- C. Transport all damaged poles, mast arms, luminaires and parts thereof to a location designated by the Director of Maintenance (including the Contractor's yard) and shall remain the property of CFX.
- D. Install all replaced poles as originally constructed or by an alternate method proposed by the Contractor and with the approval of CFX.
- E. All major repair work shall be approved by the Director of Maintenance.
- F. Reuse of repaired or usable salvaged components, as verified by the Director of Maintenance, will be allowed.
- G. All components used shall be in accordance with the original record drawings and use only current approved components. Alternate components shall not be used unless requested in writing and approved by the Director of Maintenance. Equipment installed that is not previously approved or as installed per the record drawings shall be replaced with accepted components at no cost to CFX at the request of the Director of Maintenance.

## 2.6 Emergency Repairs

The Contractor shall be responsible at all times, including after normal work hours and weekends, for removal of knocked down poles or mast arms from a travelway, and the repair of the electrical system in such a manner as to prevent electrical shock to CFX personnel, the general public and Contractor's work force.

## 2.7 Locates

Contractor shall be responsible for locating and marking all roadway lighting in compliance with Sunshine 811; "Underground Facility Damage Prevention and Safety Act," Chapter 556, Florida Statutes. In order to promptly and accurately respond to excavation work on the system, the Contractor shall be a member of Sunshine One Call of Florida. Tickets shall be responded to within 48 hours of receipt per Chapter 556, F.S. Failure to respond to and accurately locate roadway lighting, will result in the assessment of liquidated damages in the amount of \$100/calendar day per occurrence. Contractor will be responsible for all damages occurring to roadway lighting due to failure to properly locate utilities.

## 3.0 Performance Standards

### 3.1 General

#### 3.1.1 Luminaire

- A. Replace luminaire if damaged or missing.
- B. Inspect luminaire for rust or oxidation and water intrusion.

#### 3.1.2 Lamps

- A. Check all lamps for looseness. If any are loose, remove and inspect the socket.
- B. Lamp shall be Sylvania, General Electric, Norelco or Westinghouse.
- C. If lamp or lamp socket shows any sign of improper operation, check to determine the cause and then correct deficiencies.
- D. Visually check all new lamps for defects prior to installation.
- E. Test lamps for proper functionality after all repairs.

#### 3.1.3 Glassware or Plastic

- A. For enclosed assemblies with hinged door with glassware, remove, wash, rinse twice and dry the glassware.

1. While glassware or plastic is removed for cleaning, brush bugs from that part of the fixture holding the glass (or plastic), in addition to that area surrounding the reflector still remaining in the head of the fixture.
  2. With a hinged-door fixture, unfasten and hair brush the second portion of the fixture, cleaning away the bugs and debris that have located along the ballast and transformer. Do not to disturb the wires while removing this debris.
- B. Replace glassware with the same type and pattern as removed. Ensure that glassware with shields will be replaced with the same type.
- C. Glass refractors may be replaced with plastic where it is shown to be necessary because of vandalism.

#### 3.1.4 Reflectors

- A. Clean and/or polish the inner surface of reflectors with removable polish, use of water is not permitted.
- B. Replace reflector if the original reflective qualities cannot be adequately restored.
- C. Replace complete new fixture if reflector cannot be replaced separately.

#### 3.1.5 Gaskets and Filters

- A. Clean neoprene or silicon gaskets of foreign material and oxidation and aligned if necessary.
- B. Spray neoprene or silicon gaskets with a special treatment to prevent oxidation and sticking.
- C. Replace all felt or Dacron gaskets with Dacron Sutron gaskets of the proper thickness and width to form a perfect seal.
- D. Glue gaskets with special non-hardening material and install correctly to stop entry of bugs.
- E. Replace all non-functioning, stretched or cracked gaskets.



- F. Check filters and replace when worn or dirty as necessary.

### 3.1.6 Bird Guards

- A. Replace missing bird guards.
- B. If bird guards are not available to fit the specifications of the present fixture, design and install new bird guards for that fixture.
- C. Keep bird guards in working condition at all times.

### 3.1.7 Hinges and Latches

- A. Repair hinges and latches with parts that can be obtained or engineered and applied without removing the fixture.
- B. If hinge or latch cannot be repaired, replace the fixture or part of the fixture on which the hinge or latch is located.

### 3.1.8 Fasteners and Snaps

- A. Replace all fixtures which have fasteners or snaps that are obsolete.

### 3.1.9 Leveling

- A. Correct all fixtures which are not properly level.
- B. Shim the pole base so the pole will be vertical.
- C. On adjustable mast arms, adjust the arm to bring the head to proper alignment.
- D. On non-adjustable mast arms, adjust the fixture with the leveling device in the head.

### 3.1.10 Mast Arms

- A. Inspect mast arm for rust or oxidation.
- B. Drill 1/8" weep holes where evidence of water pockets are found in certain types of aluminum arms.
- C. If possible, adjust mast arm that is bent or incorrectly positioned.

Replace if unable to be repaired.

- D. If the mast arm is missing, install a new mast arm of the proper length and shape.

#### 3.1.11 Photo Cells

- A. Check all photocells, whether on the fixture, pole, or remote, for proper cycling of turn-on, turn-off.
- B. Replace any photocell failing to turn on at proper time.
- C. If any photocell is located on a utility pole, obtain permission to climb the pole and check photo cell for continuity.
- D. Some service points may include electric service supplied by the power company which is photo-electrically controlled by the Power Company. Only photo-electric cells and the associated contacts which are owned by CFX are included in this work.

#### 3.1.12 Sockets

- A. Replace defective photocell sockets.
- B. Replace lamp sockets which are defective or damaged due to high heat or other causes.
- C. Replace defective socket holders.
- D. Correct improper connections.
- E. Replace lamp sockets in the same position to assure proper light distribution.

#### 3.1.13 Hand Hole Plates

- A. Check all hand hole plates and repair where needed.
- B. Replace all missing hand hole plates.

### 3.1.14 Wiring

Perform all wiring consistent with rules established by A.N.S.I. (American National Standards Institute) and all appropriate Electrical Codes.

#### A. Luminaires

1. Perform rewiring, as needed, on the luminaire head on the integral ballast using methods prescribed for wiring in high heat environments and using materials which will withstand high temperatures.
2. Where repairs are too extensive for complete repair in the field, remove the luminaire head and install an approved replacement unit in its place.

#### B. Pole Risers

1. Rewire poles where pole riser conductors show evidence of chaffing, or shorting, or openings which could affect the operation of the luminaire.
2. When rewiring poles, use #10 THW wire consistent with established color codes.
3. Maintain lightning protection by connecting all metal components, i.e, luminaire housing, bracket arm, etc. to the associated ground rod at the base of each pole.
  - a. Wooden poles and concrete poles require a #6 AWG ground or bond wire connected from the pole top to the ground rod at the bottom.
  - b. Metal poles may be used as the conductor in lieu of the ground wire.
  - c. The current carrying neutral wire is not connected to ground at each pole, but only at the distribution panel.

#### C. Grounding Wires

1. Run a #6 AWG bare copper bond wire (counterpoise) in the same trench as the PVC conduit buried 3" above this conduit.

This bond wire shall connect all ground rods and poles electrically to one another.

2. Connect poles mounted on bridges and structures to a #6 THW, green bond wire run with the current carrying conductors inside the conduit on the structure. Connect insulated bond wire to a 20-foot ground rod driven into the soil at each end of the structure.
3. The ground resistance of the connected counterpoise system shall not be greater than 10 ohms at any location: (Using a direct reading Groundohmer or Groundometer as the measuring device).
4. Any conduit shall contain an insulated bond wire as specified in No. 2 above.

#### D. Pole Bases

1. Use waterproof, pull-apart connectors at all frangible poles. The pole cable distribution shall be replaced with Duraline/MG2 or CFX-approved equal.
2. Properly install weatherproof, pull-apart "Y" fused connectors, vulcanize as necessary, seal, lubricate, and protect from chaffing. Wire nut connectors are not permitted.

In-line, pull-apart, weatherproof, connectors are permitted when Duraline/MG2 is not installed per original contract provided connections are made with compression sleeves, split bolts or are soldered before being made waterproof.

3. Twist type weatherproof fuse holders approved for the application and UL listed may be used in lieu of pull-apart connectors at any location where the pole need not be frangible, i.e., behind guardrail, behind bridge rail, concrete poles, etc. (This may not replace existing Duraline/MG2 components)
4. Place fuse inserts in the "hot leg" of the pole riser. Place blank conductor inserts in the neutral leg of the pole riser. Fuse both legs where there is no neutral conductor.

5. Place a #6 AWG bare bond wire from the ground rod under the ground lug at the bottom of all metal poles.
6. Leave sufficient slack in all wires to allow the wire and connectors to be pulled and worked on outside the hand hole.
7. Seal ends of conduit with electrical putty.

E. Circuit Current Carrying Conductors

1. Avoid damage to insulation where new conductors are to be pulled into existing duct.
  - a. Use lubrication.
  - b. Use pulling aids.
  - c. Where practical, remove the pole from the foundation so the wire is pulled through the hand hole.
  - d. Install wire of the same size and type as that removed.
2. Where new conduit and conductors are to be installed, pre-wired duct may be used if approved by the Director of Maintenance.
3. Install all new underground wiring in duct or conduit. Direct burial is not acceptable.
4. Lay conduit in trenches with vertical walls at a minimum depth of 30 inches with warning tape at a depth of 18 inches. Devices which plow conduit into the ground may not be used.

F. Distribution Boxes

Regardless of location, the distribution box, or circuit breaker panelboard enclosure which controls the lights shall be the responsibility of the Contractor and shall be padlocked with a lock provided by the Contractor and keyed to the CFX master locks. Furnish an extra padlock key to the Director of Maintenance.

G. Foundations

Straighten, repair, replace or re-pour the foundation in accordance with original design. Precast foundations may be permitted at the discretion of the Director of Maintenance.

### 3.1.15 Ballast

- A. Check ballast and replace any that are malfunctioning, defective or failed.
- B. Wire ballast as specified under WIRING.
- C. New ballast shall be of the regulator type and shall be wired for the appropriate voltage.

### 3.1.16 Fuses

- A. Replace blown fuses with dual element, 600V 10 Amp, type FNQ.
- B. Fuses are located as a part of the pull-apart connectors either in the pole hand hole or in the transformer base. Lubricate the pull-apart connector whenever the fuse is checked.

### 3.1.17 Grounding

- A. Each pole shall be grounded. If not grounded, drive an approved twenty foot grounding rod six inches below grade into the ground adjacent to the foundation of the pole. Ground rods shall have a resistance to ground not to exceed 25 ohms. Where the resistance of 25 ohms is not attained with a single rod, additional rods shall be driven until the 25 ohms is attained with rods connected parallel.
  - 1. Run a #6 stranded copper wire from the top of the grounding rod through the transformer base at a hole located there. (Bore a hole if there is none). Connection to the grounding rod shall be through approved exothermic welds.
  - 2. Wrap the copper wire around a bolt on the inside of the transformer base or pole base and connect with a UL approved ground lug.

### 3.1.18 Transformer Base

- A. Replace missing transformer base doors.

- B. Re-tap broken bolts to hold the door securely in place to protect the inside of the base from the elements and unauthorized personnel. Use stainless steel bolts.
- C. Clean the inside wall of the base and the surface of the concrete foundation with a wire brush, then vacuum or blow free of all dust and debris.
- D. Disconnect, clean, lubricate and reconnect pull-apart connectors in all transformer bases as specified under WIRING.

#### 3.1.19 Poles

- A. Replace missing inspection plate or hand hole cover. If bolts are broken off, re-tap, thread and place in proper position using stainless steel bolts.
- B. If the pole is leaning, shim at the base to return it to proper position.
- C. Replace bent or deformed poles.
- D. If any portion of the riser wire going from the base of the pole to the socket in the head of the fixture is frayed or damaged, completely replace with new wire.
- E. Plug conduit coming out of the foundation with electrical putty.
- F. Repair damaged poles where possible by replacing the damaged shoe base and pole section with replacement parts, so that mast arm position and hand hole position remain per design. (Retain breakaway capability).

#### 3.1.20 Salvaged Materials and CFX Furnished Materials

Poles which are knocked down, bent, or otherwise replaced, and all parts thereof, shall remain the property of CFX. Deliver these poles to a site within the county (including the Contractor's yard) as directed by the Director of Maintenance. The Contractor may be required to use salvaged, repaired or materials furnished by CFX.

#### 3.1.21 Sign Lights and Under Deck Lights

- A. Fixture: Keep all drain holes in fixture open and filtered.

- B. Gaskets: Properly treat and seal gaskets each time the fixture is serviced.
- C. Ballasts
  - 1. Replace defective ballasts with CFX approved parts.
  - 2. Ballasts mounted in a location that is difficult to service may be relocated on the structure for easier accessibility at no additional cost to CFX.

3.1.22 Ground work, conventional lighting, load distribution centers etc., shall have a fourteen (14) day burn in period after completion of the work. If burn in is not achieved, further work will be performed until burn in is achieved.

#### 3.1.23 Wiring

- A. The size of wire to be used shall be determined by the Contractor in accordance with the NEC, and shall be at least the same size as the wire it replaces. All wire shall be THW copper wire unless approved in advance by the Director of Maintenance.

#### 3.1.24 Conduit

- A. All underground conduit shall be 2" min. Schedule 40, PVC.
- B. Above ground conduit shall be IMC or GMC, galvanized (ASTM A-135, A-513, A-568), sized appropriately by the Contractor according to the NEC.
- C. Conduit trench surfaces shall be stabilized and restored by the Contractor to a maintenance free condition.
- D. The Contractor shall be responsible for all underground locates.

END OF SECTION



**Attachment 6**  
**ATTENUATOR MAINTENANCE AND REPAIR**

1.0 Description

- 1.1 Furnish all labor, equipment, and tools necessary to complete the work as specified to include all attenuators at all mainline and ramp toll plazas. Use only experienced personnel to perform the required inspections and repairs.

2.0 Contractor Responsibilities

- 2.1 The manufacturers of CFX-approved vehicle attenuator devices have published written instructions that detail operational characteristics, maintenance check lists, impact repair procedures and a materials list for parts replacement. The Contractor shall obtain this information directly from the manufacturer.
- 2.2 Maintain an inventory of basic spare parts in stock at Contractor's facility. Replenish the stock as parts are used. Contractor shall have immediate access to repair parts for all CFX-approved attenuators.
  - 2.2.1 Maintain a complete inventory of all attenuators including units at mainline and ramp plazas by type, number of bays and location on S.R. 408, S.R. 417, S.R. 528 and S.R. 551.
- 2.3 Completely repair an attenuator at a site within five (5) calendar days after the earlier of a notification by the Director of Maintenance, FDOT semi-annual inspection report, or by accident report.
  - 2.3.1 Contractor shall make repairs to attenuators identified by semi-annual FDOT inspection reports within 5 days. Return completed and signed inspection report along with photographs of the completed repairs to FDOT with one (1) copy to the Director of Maintenance. Liquidated damages in the amount of \$100 per day per unit will be assessed for each day that the Contractor fails to complete the repairs as specified within the time allowed.
- 2.4 Submit two (2) copies of repair reports to the Director of Maintenance within two days after the repairs are completed. The report shall show the date, time and location of the repairs as well as a list of parts replaced and the name(s) of the Contractor's personnel performing the repairs.

- 2.5 Use salvaged parts in the repairs whenever possible. Parts that are not reusable as determined by the Director of Maintenance, are the property of the Contractor and shall be removed and disposed of properly.
- 2.6 If directed by the Director of Maintenance, furnish and install a Temporary Inertia Attenuator System (complete 5 module set) at a site where repairs to the permanent attenuator system are in progress. Install temporary inertia attenuators in accordance with the Florida Department of Transportation (FDOT) Roadway and Traffic Design Standards Index Drawing No. 415 and 417 which is incorporated herein by reference and made a part of this contract as if fully set forth herein.
- 2.7 Comply with the requirements of the FDOT Design Standards Index Drawing Nos. 600 through 651 and the MUTCD.

END OF SECTION

**Attachment 7**  
**PAVEMENT MARKING AND SIGNING**

1.0 Description

- 1.1 Provide all labor, equipment, materials, and incidentals necessary to install, maintain, and repair pavement marking and signing including feeder roads, connector roads, and off-system roads in the area covered by the Contract.
- 1.2 Signing work will be defined as follows: 1 post signs (single post), 2 or more posts (multi-post) signs, and overhead signs. Work on overhead sign panels will include repair or replacement as directed by the Director of Maintenance. Work on overhead sign structures will be limited to minor repair work only, including welding of structures. This Contract does not include installation or replacement of overhead sign supports. All new single post, multi-post and overhead sign panels shall be installed using new hardware.
  - 1.2.1 Overhead sign repairs issued to the Contractor through FDOT-generated work orders shall be completed and returned to CFX within 180 calendar days of the issue date of the work order. Failure to complete the repair in the specified time will result in the assessment of liquidated damages in the amount of \$200 per day until the repair is made and accepted by the Director of Maintenance.
- 1.3 Pavement marking work shall include reflective pavement markers (RPMs), flexible delineators, striping and pavement messages.

2.0 Contractor Responsibilities

- 2.1 Complete emergency response sign work by the end of the next working day excluding Sundays and legal holidays upon notification by the Director of Maintenance. In general, emergency response work will include tightening, straightening and covering ground and overhead signs. No extension of the emergency response time will be granted by CFX due to travel distance requirements of the response crew.
- 2.2 Schedule single post and overhead sign work so as to be completed within 7 calendar days after notification. Complete multi-post sign work within 14 calendar days after notification. Completion of work shall not be affected by performance of emergency response work.

- 2.3 CFX will authorize a reasonable amount of procurement time, on a case by case basis, for manufacture of sign panels and supports by the Contractor. The time allowed will not exceed 45 calendar days or industry standard based on the item(s) being manufactured.
- 2.4 Complete pavement marking work that is classified as emergency response by the end of the next working day, excluding Sundays and legal holidays upon notification by the Director of Maintenance. Completion of pavement marking work shall not be affected by the performance of emergency response or routine work for signing work. No extension of the emergency response time will be granted by CFX due to travel distance requirements of the response crew
- 2.5 As part of the daily service patrol inspect the signing and pavement markings. Pavement markings include striping, reflective pavement markers (RPMs) and delineators (surface and roadside mounted).
  - 2.5.1 Signing issues to be addressed at time of service patrol are straighten all leaning or misaligned signs (including panel deflection angle) and post delineators, and perform minor repairs including replacing required nuts, bolts, washers and similar incidental items.
  - 2.5.2 Pavement marking issues to be addressed at time of service patrol are ripped, damaged or missing striping material, severe wear (i.e. wear beyond normal) and misaligned striping due to vehicular contact. Straighten leaning or misaligned delineators and replace missing delineators.
  - 2.5.3 Make a list of all signs and pavement markings that require repair or replacement. Provide a copy of the list to the Director of Maintenance. Repair/replace signing and pavement marking as approved by the Director of Maintenance.
  - 2.5.4 Be prepared to replace damaged RPMs and delineators on a weekly basis during the service patrol if quantity is less than 10 units or within 48 hours of receiving approval for larger quantities.
- 2.6 Locate all underground utilities or highway lighting prior to beginning work on new sign installations where digging or post driving is required and avoid any damage to, or interference with, existing utilities or lighting. Contact Sunshine One Call of Florida 48 hours in advance for locates of utilities owned by others.

- 2.7 Equipment must be approved by the Director of Maintenance before being placed in service. Safety devices shall be properly maintained at all times the equipment is in use. If the Director of Maintenance determines that equipment is deficient in safety devices, the Contractor will be notified immediately. Remove the equipment from service until the deficiency is corrected to the satisfaction of the Director of Maintenance.
- 2.8 Submit to CFX shop drawings from the panel manufacturer for approval prior to fabrication. Shop drawings are required for all new panels and overlays regardless of mounting type, i.e. single post, multi-post or overhead.

3.0 Design Criteria and Installation

- 3.1 The CFX Guidelines for Design and Preparation of Signing and Pavement Marking Plans (latest edition) and subsequent updates is made part of the Contract by reference as if fully set forth herein. Where CFX standards, as specified in the Guidelines, differ from either Federal or State signing and pavement marking standards, the CFX Guidelines shall take precedent. The portions of the FDOT Standard Specifications and the FDOT Design Standards cited below are made a part of this Contract.

3.2 FDOT Standard Specifications:

In case of discrepancies between these Maintenance Specifications and the Standard Specifications, these specifications will take precedence.

1. Section 700, Highway Signing
2. Section 705, Object Markers and Delineators
3. Section 706, Raised Retro-Reflective Pavement Markers and Bituminous Adhesive
4. Section 710, Painted Pavement Markings
5. Articles 711-2, through 711-6 of Section 711 regarding thermoplastic compound
6. Section 713, Permanent Tape Stripes and Markings
7. Articles 994-2 and 994-3 of Section 994, regarding Reflective Sheeting

3.3 Index Drawings:

Nos. 400, 410, 600 through 670, 700, 11200 through 11860, 13417, 17302, 17345 through 17349, 17352, 17355, 17357 and 17359.

- 3.4 Unless otherwise directed by the Director of Maintenance or specified herein, all salvaged material will remain the property of CFX to be delivered by the Contractor to a designated storage facility. Material that is classified as waste by CFX shall become the property of the Contractor to be disposed of properly at locations provided by the Contractor.
- 3.5 All tubing supports will require post anchor to prevent turning of the sign structure.
- 3.6 For all new sign regardless of mounting type (ground or overhead), stencil or apply a decal with the following information on the back of each panel: CFX/Maintenance; Fabricator's initials and date of fabrication (DOF); Sheeting manufacturer and name of sheeting; Date of installation (DOI). Stencil or apply decal in the lower left corner of the panel. Stencil or decal using black paint when back of panel is not painted black. If back of panel is painted black, stencil or decal using white paint. Stencil or decal in large enough letters to be clearly legible. A sample of the decal shall be submitted by the Contractor to the Director of Maintenance for approval at least 30 days prior to the notice to proceed for the work.
- 3.7 For full or partial overlays, regardless of mounting type (ground or overhead), stencil or apply decal meeting all requirements contained herein. Leave the existing decal visible.
- 3.8 For roadside sign relocation, abandoned sign footers must be removed to twelve (12) inches below existing ground elevation.
- 3.9 All new single post, multi-post and overhead sign panels shall be a minimum of 0.125 inches thick aluminum. All overlays shall be a minimum of 0.08 inches thick aluminum. Extruded panels are not allowed. No more than one horizontal splice shall be allowed in large panel fabrication. The horizontal splice shall be at the centerline of an interior wind beam and shall be located between lines of copy on the panel face.
- 3.10 For new single post and multi-post assemblies or panel replacements, use 3M™ Company Very High Bond (VHB) Acrylic Foam Tape number 4950 in combination with mechanical fasteners to attach panels to wind beams, brackets and splice plates. Install VHB tape meeting all 3M™ requirements and in conformance with the requirements herein. Do not reuse VHB tape once installed. Submit VHB calculations with panel shop drawings.

- 3.11 Use countersunk screws for the mechanical fasteners when installing new single post, multi-post and overhead sign panels. Apply a patch matching the sheeting color and material over each countersunk screw. Patch shall be of sufficient diameter to secure patch to sign face. Orient the patch in the same direction as the sign face material.
- 3.12 For new signs and full or partial overlays, regardless of mounting type, use 3M™ Company Diamond Grade Cubed™ (DG3) Reflective Sheeting. Use 3M™ Company Diamond Grade Cubed™ (DG3) Fluorescent Yellow Reflective Sheeting when installing new panels or overlays for the following warning signs: Lane Drop (W4-2), Lane Ends (W9-1, W9-2), Reduce Speed Ahead (W3-5), curves and pedestrian crossing. Use 3M™ Company Diamond Grade Cubed™ (DG3) Fluorescent Yellow-Green Reflective Sheeting when installing new panels or overlays for school crossing warning sign. 3M Company EC Film 1170NP (clear) shall be applied to all finished panels or overlays for the CFX Logo, the E-Pass Logo and the CFX toll shield either free standing or within a guide sign or mile post marker.
- 3.13 For full sign overlays, overlap of the existing panel is limited to between one (1) and three (3) inches. If new overlay matches the size of the existing sign, trim the corners of the existing sign if necessary such that the existing corners are not visible when overlay installation is complete. Hex head bolts on the sign surface shall be replaced using countersunk screws. Remove all existing overlays prior to installing the new overlay.
- 3.14 For partial overlays, remove any existing overlay in the same location. Install pop rivets at a minimum of 6" centers on the border of the overlay and 12" centers across the face of the panel(s). Paint pop rivets to match color of sign sheeting at pop rivet locations.
- 3.15 For multi-post sign supports, aluminum and steel, furnish and install sign supports as specified including any breakaway devices necessary. Determine the number, length, and size of sign supports based on the latest FDOT Multi-post Sign computer program which the Contractor can download from the FDOT's internet site or, if necessary, will be provided on disk upon request. Submit the results of the computer run to the Director of Maintenance prior to the fabrication of the support(s). Supports shall meet the requirements of Index Drawing No. 11200 as amended below. Round multi-post sign supports may be used at the Contractor's option. However, if these supports are used, submit to the Director of Maintenance for approval design drawings that have been signed and sealed by a Professional Engineer registered in the State of Florida.

- 3.16 For single post sign supports and foundations, furnish and install sign supports and breakaway devices meeting criteria in FDOT Design Standard 11860.
- 3.17 For attenuators, furnish and install nine button Object Markers (OM1-1) as found in the FHWA Standard Highway Sign manual.
- 3.18 For delineators, roadside and surface mounted delineators that are removed will become the property of the Contractor to be disposed of properly.
- 3.19 For roadside flexible delineators, use Safe-Hit Corporation, type 2 Guide Posts (48" with flattened top).
- 3.20 For surface mounted delineators, use single unit Flexstake 48" Low Profile Surface Mount Delineators. Adhere the entire delineator base to the roadway surface.
- 3.21 For reflective markers:
- Furnish and install 3M™ Company Series 290 Reflective Pavement Markers on the roadway surface. New pavement markers may be offset 1" from the pavement marking line if directed by the Director of Maintenance, to improve adhesion to old pavement.
  - Furnish and install guardrail reflective markers in kind or per the latest FDOT Design Standard (Index 400) as directed by the Director of Maintenance.
  - Furnish and install barrier wall reflective markers in kind or per the latest FDOT Design Standard (Index 410) as directed by the Director of Maintenance.

Old pavement markers will become the property of the Contractor to be disposed of properly at locations provided by the Contractor. Roadside disposal does not constitute proper disposal.

- 3.22 For pavement markings, use thermoplastic for stop bars, crosswalks, edge lines along loop ramps, ramp and main line toll plazas and standard pavement messages and directional arrows. Use 3M™ Company Stamark™ High Performance Tape Series 380IES for all other striping on the mainline and ramps unless CFX standards are revised. Furnish and install one stripe of the specified width, i.e. do not abut multiple stripes in order to meet the specified width (example: three 6



inch stripes to make one 18 inch stripe). Replace any damaged or missing High Performance Tape at ramp and main line toll facilities with thermoplastic.

- 3.23 For all traffic striping and pavement markings, furnish and install in accordance with manufacturers specifications traffic striping and marking as specified in herein, including cleaning and protection of surfaces, and curing and protection of all items as required. Removal of pavement marking shall be by a method which does not significantly damage the surface texture of the pavement and which will eliminate the previous marking pattern regardless of weather and light conditions. Repair any damage to the pavement which results from the marking removal operation.
- 3.24 All ground mount signs, except where noted in the plans, shall utilize 3M VHB (Very High Bond) Acrylic Foam Tape Number 4950, or CFX-approved equal in combination with mechanical fasteners (countersunk screws) to fasten the sign panel to wind beams/ brackets and also to fasten sign panels together at vertical splice joints. One mechanical fastener shall be installed at each end of each wind beam on multi-post sign panels and at each end of each horizontal bracket on single post signs. One mechanical fastener shall be installed one inch (1") from the edge of each vertical splice at each wind beam. In addition, one mechanical fastener shall be used at the top and bottom of the vertical splice to attach the backing strips (Index Nos. 11200 and 11860) to the panel. See attached Typical Three Panel Sign sketch. Other mechanical fasteners per Index Nos. 11200 and 11860 shall remain.

A. The following procedure shall be used to determine the minimum amount of tape necessary for each sign for the attachment of the panel to the wind beams (z-bars):

1. Sign Surface Area: Multiply the dimensions of the sign face, in feet, to determine the sign's surface area.

$$\text{length} \text{ ft.} \times \text{width} \text{ ft.} = \frac{\text{---}}{\text{(a)}} \text{ ft}^2 \text{ of sign surface area.}$$

2. Sign Weight: Multiply the surface area (a) by the appropriate weight per square foot (from Table below) for the particular thickness of aluminum being used to determine the static load of the sign face.

Thickness (in.)	Weight (lb/ft <sup>2</sup> )	
.080	1.15	
.100	1.44	From Table 7.4 of the
.125	1.80	ASTM Chart for sheet and plate weights

$$\frac{\text{ft}^2}{\text{(a) from Table}} \times \frac{\text{lb/ft}^2}{\text{(b)}} = \text{lbs. of static load.}$$

3. Square Inches of Tape: Multiply pounds of load (b) by 4 in<sup>2</sup> of tape per pound to determine amount of tape required to support the load.

$$\frac{\text{lbs.}}{\text{(b)}} \times 4 \text{ in}^2 / \text{lb.} = \frac{\text{in}^2 \text{ of tape.}}{\text{(c)}}$$

4. Lineal Feet of Tape: To convert the required square inches of tape into lineal feet of 1-inch wide tape to be applied to stiffeners, divide the required square inches (c) by 12 in./lineal foot.

$$\frac{\text{in}^2}{\text{(c)}} \div 12 \text{ in./ft.} = \frac{\text{lineal foot of 1-inch wide}}{\text{(d) tape required to support the weight of the sign face}}$$

5. Area of Tape Per Z-Bar: Divide the lineal feet of 1-inch tape (d) by the number of z-bars.

Additional, or larger, z-bars in excess of the standard number or size per Index 11200, may be required to achieve the square area of tape required per the above calculations. Payment shall be included in the unit price for the sign as bid.

The above calculations identify the minimum tape required. However, the entire length of all z-bars in all signs shall be covered with tape.

More tape may be necessary to fully cover all the stiffeners used to prevent wind deflection for a particular sign design. The Contractor shall submit calculations to the Director of Maintenance for review by the manufacturer.

B. For connection of sign panel pieces at butt joints, the following procedure shall be used to determine the amount of VHB tape necessary. Backing strips 22 inches to 3 inches wide shall be used along the length of all sign panel butt joints. A 1 inch strip of VHB tape shall be placed along each edge of the backing strip (i.e., two 1 inch strips along the length). The center of the backing strip shall be placed at the center of the butt joint.

C. Installation Procedures

#### Required Surface Preparation for All Applications

1. Application Temperature: The tape application temperature range shall be 70 degrees Fahrenheit to 100 degrees Fahrenheit.
2. Cleaning: All surfaces to be bonded shall be cleaned with a solvent such as a 50:50 mixture of isopropyl alcohol (rubbing alcohol) and water, then wipe the surface with a clean, dry cloth to remove solvent. Oil based solvents that inhibit adhesion, such as turpentine, shall not be used. Contractor shall follow solvent manufacturer's directions and precautions for handling solvent.
3. Abrading: Metal surfaces shall be lightly abraded with isopropyl alcohol saturated abrasive pad prior to applying tape. Metal with corrosion or other surface debris on any reclaimed metal shall be abraded before taping. Surface shall be re-cleaned with solvent after abrading. Conversion coated aluminum that is free of surface debris will not require abrading.
4. Rub Down Pressure: Firm application pressure shall be applied to ensure bond strength through adequate adhesive-to-surface contact.
5. Dwell Time: After proper application, the bond strength should increase as the adhesive flows onto the surface. At room temperature, approximately 50% of the ultimate

strength should be achieved after 20 minutes, 90% after 24 hours, and 100% after 72 hours. In some cases, bond strength can be increased and ultimate bond strength can be achieved more quickly by exposing the bond to elevated temperatures e.g., 150 degrees Fahrenheit for 1 hour.

#### Assembly Steps for Bonding Stiffeners

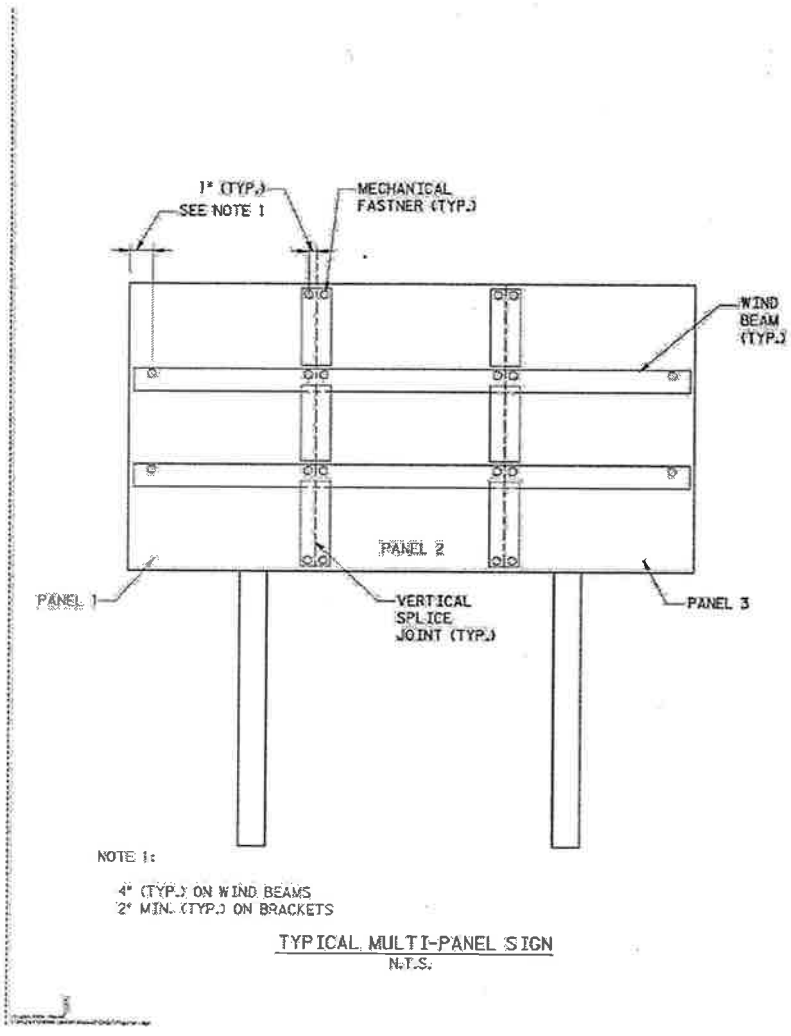
1. Determine the amount of tape to be used from the procedures detailed above.
2. All surfaces to be bonded shall be cleaned with a 50:50 mixture of isopropyl alcohol and water. Metal surfaces shall be lightly abraded to improve initial bond strength. Re-cleaning shall be performed after abrading (see Required Surface Preparation for All Applications).
3. VHB tape shall be applied to a clean, dry, well unified surface of the stiffener with a hand held roller or tape applicator.
4. Laminated panels shall be aligned in the desired position and the stiffeners placed in the proper location for bonding to the panel.
5. The sign surface where the stiffener is to be bonded shall be clean and dry.
6. The stiffener shall be aligned in position and the release liner shall be removed. The stiffener shall be pressed in place on the panel and a hand held roller used to aid in laminating the stiffeners to the panel. A flat firm surface shall be used to support the sign panels while pressure is being applied. Repeat steps 2-6 until all the stiffeners are bonded to the panels.

#### Bonding Backing Strips on Multi-Panel Signs

1. All surfaces to be bonded shall be cleaned with a 50:50 mixture of isopropyl alcohol and water (see Required Surface Preparation for All Applications).
2. A strip of VHB tape shall be applied along both longitudinal edges of the backing strip.

3. The backing strip shall be aligned on the panel seam so that both edges of the two panels are covered with tape.
4. The release liner shall be removed and the backing strip applied to panel seams. A hand roller shall be used to aid in laminating the batten strip to the panels.

Technical assistance and pricing information for this product may be obtained from 3M Industrial Tape and Specialties at 800-362-3550.



END OF SECTION

**Attachment 8**  
**TRAFFIC CONTROL DEVICES**

1.0 Description

- 1.1 Contractor shall furnish, install and maintain traffic control devices for both routine and emergency situations.
- 1.2 CFX will provide a list of names and titles of individuals (along with certifications) who are authorized to direct the Contractor to provide traffic devices. Do not provide any devices unless specifically directed to do so by an authorized individual.

2.0 Contractor Responsibilities

- 2.1 Use experienced personnel with the ability to interpret traffic engineering standards and applications, and to make judgments in the field as situations warrant. Personnel shall be certified in accordance with FDOT procedure 750-030-006(e), which is hereby incorporated by reference and made a part of this Contract as if fully set forth herein. Submit a list of individuals and their certifications to the Director of Maintenance within 10 days after the Notice to Proceed.
- 2.2 Provide a Worksite Traffic Supervisor with all equipment and materials needed to set up, take down, maintain traffic control, and handle traffic-related situations. Ensure that the Worksite Traffic Supervisor performs the following duties:
  - 1. Performs on site direction of all traffic control in a work zone.
  - 2. Is on site during all set up and take down, and performs a drive through inspection immediately after set up.
  - 3. Is on site during all nighttime operations to ensure proper Maintenance of Traffic.
  - 4. Immediately corrects all safety deficiencies and does not permit minor deficiencies that are not immediate safety hazards to remain uncorrected for more than 1 hour.
  - 5. Is available on a 24-hour per day basis and present within 45 minutes after notification of an emergency situation and is prepared to positively respond to repair the work zone traffic control or to provide alternate traffic arrangements.
  - 6. On Maintenance of Traffic lasting more than 24 hours conduct daily daytime and weekly nighttime inspections of projects with predominately daytime work activities, and daily nighttime and weekly daytime inspections of projects with predominantly nighttime work activities of all traffic control devices, traffic flow, pedestrian, bicyclist, and business accommodations.

## 2.3 Emergency Installations

Devices used in emergency situations are classified as either non-traffic control or traffic control.

2.3.1 Non-traffic control devices include Type I and Type II barricades with steady burn or flashing lights and sandbags for weight. These devices shall be used to delineate or identify a hazard along the roadside, median, and shoulder up to within 2 feet of a travel lane. These devices shall also be used within toll plazas.

2.3.2 Traffic control devices shall be used to control or guide traffic under the following general conditions:

- a. Type I - Single lane closure
- b. Type II - Two lane closure
- c. Type III - Full roadway closure and/or detour route signing
- d. Type IV - Ramp closure
- e. Type V - Lane closure at toll plazas

2.3.3 The approximate number, types, and placement of traffic control devices required for each closure configuration shall be in accordance with the MUTCD and FDOT Design Standards Index Nos. 600 through 650 as each may be applicable to field situations. These standards establish the minimum requirements. Additional warning devices, barricades, or other safety devices may be required as directed by the Director of Maintenance where unusual, complex or particularly hazardous conditions exist. Minimum transition taper lengths on the mainline for lane closures shall be 800 feet for purposes of this contract.

2.3.4 Cones which shall be a Type I device can be used during daylight hours only, where their use does not exceed eight hours in any one day.

## 2.4 Maintenance of Devices

2.4.1 Perform daily inspection of all traffic control devices installed and replace all equipment and devices not conforming to standards.

2.4.2 Keep traffic control devices, warning devices and barriers in the correct position and clearly visible and clean at all times. Check batteries in barricades equipped with flashers and replace if necessary to ensure proper operation. Immediately repair, replace or clean damaged, defaced, or dirty devices or barriers as directed by the Director of Maintenance.

2.4.3 Reverse Lane Implementation Barrier

CFX maintains a movable median barrier located on SR 528 just west of SR 520 to expedite the movement of large numbers of evacuees in the event of a worst case multi-regional disaster. Contractor shall inspect and operate the barrier to confirm it is operational and performs as intended. Inspect the barrier 3 time per year in April, August and December and prepare a report for the Director of Maintenance certifying the barrier is operational, what preventative maintenance was performed and what repairs were made, if any.

2.5 Non-Emergency Installation at Interchanges

Furnish, install, and maintain Type II barricades with steady burn or flashing lights and sandbags for weight.

2.6 Variable Message Sign (VMS)

Furnish, operate and maintain portable Variable Message Signs (VMSs) (furnish fuel, oil and batteries) as directed by the Director of Maintenance.

END OF SECTION



**Attachment 9**  
**CABLE BARRIER SYSTEM REPAIR**

1.0 Description

- 1.1 Provide all labor, materials, equipment and incidentals necessary to remove, repair or replace damaged or destroyed sections of cable barrier, posts, cables, anchorages and miscellaneous hardware.

2.0 Contractor Responsibilities

- 2.1 Repair or replace damaged cable barrier and accessories using materials of a brand and quality equal to or better than the ones being replaced and shall be compatible with the existing equipment.
- 2.2 Accomplish all installations in accordance with the manufacturer's requirements.
- 2.3 Parts provided by the Contractor shall be new. Rebuilt and or repaired parts will not be acceptable.
- 2.4 Remove and dispose of all debris from the right-of-way at the completion of the work.
- 2.5 Repair response time shall be a maximum of two (2) hours from time of notification. Reduction in compensation shall be assessed per the Scope of Services for emergency response.
- 2.6 Damaged cable barrier is required to be secured with maintenance of traffic in conformance with MUTCD and FDOT Design Standards.
- 2.7 Permanent repairs to damaged cable barrier shall be completed no later than the next day, unless, due to the severity of damage, the Director of Maintenance determines a longer time frame is necessary. Failure to repair the damaged cable barrier within the time specified shall result in a penalty of \$100 per day until the damaged cable is repaired/replaced and accepted by the Director of Maintenance.
- 2.8 The Contractor shall maintain a sufficient inventory of spare parts for emergency repairs of the cable barrier system at no additional cost to CFX. Spare parts shall be immediately available so that repairs/replacements can be completed within the specified time frame.

END OF SECTION

**Attachment 10**  
**FERTILIZER APPLICATION**

1.0 Description

- 1.1 Furnish and apply a “combination” fertilizer to provide required nutrients to establish and maintain grass and vegetation and to provide a pre-emergence herbicide to control the germination of noxious weeds. Apply fertilizer in accordance with the Contractor’s approved Work Plan. It is anticipated that applications will occur within the Contract limits once a year (April – May). Completion date for application will be May 30th.
- 1.2 Prior to the application of any fertilizer, the Contractor shall have a soil analysis of the turf performed conducted by a licensed soils laboratory, to determine what amendments to the soil are needed. Sampling shall be performed using established procedures of the industry and at a frequency of at least one (1) sample per centerline mile of the roadway. Samples taken shall be combined together as a representative sample of the roadway soil conditions and analyzed to determine the need for fertilizer application.
- 1.3 A report of the findings shall be provided to the Director of Maintenance within 30 days with recommendations as to the application of any fertilizer (if any) to the turf areas.
- 1.4 If it is determined that a fertilizer cycle is needed, the Director of Maintenance shall direct the Contractor to proceed with the application of the recommended fertilizer. An annual Work Order Allowance in the contract will be used to compensate the Contractor for this work.

2.0 Contractor’s Responsibilities

- 2.1 Use equipment specifically designed for commercial application of fertilizer. Keep equipment in good repair and operating condition at all times and meet all safety requirements established for this type of work.
- 2.2 Properly use and dispose of all chemicals and fertilizers in strict accordance with applicable local, state, and federal environmental regulations and shall indemnify CFX for any liabilities arising out of the Contractor’s handling, use of, and disposal of said chemicals and fertilizers.

## 2.3 Fertilizer Requirements

Commercial fertilizer shall comply with all applicable State of Florida fertilizer laws and regulations.

- 2.3.1 The numerical indication of fertilizer indicates the minimum percentages respectively of (1) total nitrogen, (2) available phosphoric acid, and (3) water soluble potash, contained in the fertilizer.
- 2.3.2 The chemical designation of this fertilizer shall be 15-0-15 distributed uniformly at 290 pounds per acre unless otherwise directed by the Director of Maintenance.
- 2.3.3 The fertilizer shall contain 15% total nitrogen with 50% of its nitrogen in the water insoluble form and shall be derived from a fertilizer grade of:
  - A. Ureaform containing 38% nitrogen and having an activity index of 40% as determined by the appropriate A.O.A.C. procedure; or
  - B. Isobutylidene Diurea containing 31% nitrogen with a particle size of 0.7–2.0 millimeters (coarse grade); or
  - C. Sulfur Coated Urea containing a minimum of 35% nitrogen
- 2.3.4 The remaining 50% of nitrogen shall be water soluble derived from:
  - A. 5.25% Ammoniacal nitrogen
  - B. 0.25% Nitrate nitrogen
  - C. 2.0% Urea nitrogen
- 2.3.5 The fertilizer shall also contain a pre-emergence herbicide in a combined form at an approved rate. A proposed label shall be submitted to the Director of Maintenance for approval prior to production of the fertilizer.
- 2.3.6 If the fertilizer is delivered in bulk, provide documentation of chemical content and weight at time of application. If bags of fertilizer are used, provide individual bag tags to verify weight and content.

## 2.4 Limits of Fertilizer Application

- 2.4.1 Fertilizer to be applied to all turf areas within the project limits at the rate stated in Section 2.3.2. On steep slopes and where machine spreading is not practical, perform spreading by hand operated mechanical spreaders.

END OF SECTION

**Attachment 11**  
**CHEMICAL CONTROL OF WEEDS AND GRASS**

1.0 Description

- 1.1 Provide all labor, materials and equipment necessary to apply chemicals to roadside turf and vegetation located in areas maintained under this contract to treat undesirable weed and brush growth. These areas include all grassed roadsides and slopes, around roadside obstructions, in surface joints, on paved surfaces, along fence lines, along shoulders, edge of pavement, curb and gutter, around guardrails where no landscaping exists, barrier walls, signs, culvert ends, bridge abutments, and narrow or wide medians, on and around MSE walls and any and all concrete structures. CFX expects the Contractor to maintain these areas with as many herbicide applications as necessary to provide a virtually weed free condition.
- 1.2 Perform aquatic vegetation control along outfall ditches, roadside ditches, around drainage structures and side drains. Pre-emergence herbicide applications to turf areas shall be performed as described in Attachment 10 - Fertilizer Application.
- 1.3 Chemicals shall not be applied to any areas that are located within or directly adjacent to a landscape planting bed. Landscape areas are maintained under separate contract and are not the responsibility of the Contractor.
- 1.4 The Contractor shall provide a fulltime employee to directly supervise all chemical applications who possesses the Florida Department of Agriculture's Commercial Pesticide Applicators License for use of restricted pesticides in accordance with the Federal Environmental Pesticide Control Act of 1972 (PL 92-516, FIFRA) with the Right of Way (#6) and Aquatic (#5A) categories. The Contractor shall read the product labels carefully for complete compliance and follow all safety and precautionary measures as described therein. Copies of the required license shall be submitted to the Director of Maintenance before the first application is performed.
- 1.5 The Contractor shall notify the Director of Maintenance at least 48 hours in advance of the date, time and location where the herbicide application will begin. The Contractor and its subcontractor shall meet with the Director of Maintenance at the designated site. The Contractor shall produce the certification of the applicator as required in 1.4 above as well as a copy of the Director of Maintenance's approval of the herbicide being used. No herbicide shall be applied until this process is completed.

## 2.0 Contractor Responsibilities

### 2.1 Materials

All chemicals shall be commercial quality complying with the herbicide laws of the State of Florida. Prior to the first use of any product on the CFX system, the Contractor shall submit to the Director of Maintenance for approval, the manufacturer's Material Safety Data Sheets, product label, and a written statement of proposed application rates and application equipment for all chemicals intended for use. All chemical applicator personnel shall have the product information listed above of the material they are working with in their work vehicle at all times. When chemicals are used around guardrail, curbs and miscellaneous obstructions, use a tracker dye to highlight the area(s) sprayed. Tracker dye shall not be used when applying chemicals on painted barrier walls, sound walls, MSE walls or any other painted surfaces.

### 2.2 Equipment

All chemical applicator personnel shall also have all of the equipment required to correctly mix and apply all chemicals intended for use (measurement devices, personal safety equipment, and application devices). Use equipment specifically designed for commercial application of chemicals. 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 Director of Maintenance.

Roadside and slope mowing areas shall receive four (4) approved selective wide spectrum broadleaf herbicide applications per year as per the Annual Mowing Schedule unless directed otherwise by the Director of Maintenance.

Selective herbicide applications to roadside areas that are mowed using high production style mowing equipment shall use a computerized control system to dispense chemical inside the mower deck or an enclosed chamber simultaneous to the mowing operation. Apply chemicals directly to the cut of the surface tissue of the plant at the moment of cut. Equip each deck with an independent control to provide simultaneous or singular use of each particular deck. Use a computer that will automatically signal the operator with an audible alarm and a visible diagnostic error message should the vehicle ground speed and selected application rate exceed the pump output capacity or become too slow for uniform application of materials. The computer system console must display the accumulated area treated, the accumulated distance traveled, the speed, and the rate of application. The computerized control system must provide daily computer generated documentation of the total area treated and the total quantity of chemical applied. The daily computer generated

documentation shall be submitted with the Herbicide Application Log submittal noted in Section 2.4 below.

Roadside and slope areas that are mowed with other than high production style mowing equipment shall receive selective herbicide applications using equipment/methods approved by the Director of Maintenance prior to the beginning of work.

### 2.3 Method of Application

2.3.1 Use the FDOT publication called *A Guide for Roadside Vegetation Management, 2012 Edition*, which is hereby incorporated by reference and made a part of the Contract as if fully set forth herein, as the standard reference in determining desirable treatments.

2.3.2 Properly use and dispose of all chemicals and herbicides in strict accordance with applicable local, state, and federal environmental regulations and indemnify CFX for any liabilities arising out of the Contractor's handling, use of, and disposal of said chemicals and herbicides.

2.3.3 All chemical applications performed in areas other than grassed roadsides and slopes, as noted in Section 1.1 above, shall be performed in a "spot treatment" method. Any other method of chemical application must be approved by the Director of Maintenance prior to the beginning of work.

2.3.4 Contractor shall replace desirable trees, shrubs, or other plants, at no cost to CFX that are injured or lost due to the Contractor's negligence in the application of chemicals.

2.4 The Contractor shall complete a daily FDOT Herbicide Application Log for each location where chemical applications are being performed. The forms must be thoroughly and accurately filled out prior to submittal. The Contractor shall submit completed forms to the Director of Maintenance on a weekly basis. These forms shall be forwarded via email to the Director of Maintenance by the following Monday for the previous week's applications.

2.5 Work will be subject to periodic daily inspection. The quality and acceptance of workmanship will be determined during these inspections; areas that are determined to be unacceptable shall be treated again at no additional cost to CFX.

END OF SECTION

**Attachment 12**  
**GRAFFITI AND STAIN REMOVAL**

1.0 Description

- 1.1 Provide all labor, materials, equipment and incidentals necessary to perform pressure cleaning and/or painting of bridges, including beams and columns, concrete barrier walls, concrete slopes, and reinforced/ retained earth wall faces and other structures to remove graffiti and other unsightly stains and markings.

2.0 Contractor Responsibilities

- 2.1 Protect vegetation, structures and equipment, and the general public during the time the work is underway.
- 2.2 Clean surfaces using equipment appropriate for removal of the graffiti or other unsightly stains and markings to include entertainer/campaign posters. Equipment shall not damage the surface being cleaned. Mechanical (e.g. scrub brushes), steam cleaning, pressure washing or other means may be necessary. All surfactants or other cleaners must be approved by the coatings manufacturer and reviewed by the Director of Maintenance prior to use. Do not use hydrocarbon solvents.
  - 2.2.1 Provide the Director of Maintenance with a schedule for annual pressure washing of all bridges, cladding enclosures, MSE walls and sidewalks under CFX bridges. Cleaning shall include the removal of dirt, soot, bird droppings, mold and any other matter that detracts from the appearance of the structure. Schedule cleaning to minimize impact on pedestrian traffic.
- 2.3 Complete emergency maintenance response for graffiti and stain removal work, including application of the permanent coating(s) by the end of the next day (including Saturdays, Sundays and legal holidays) after notification. Graffiti determined to be profane or offensive by the Director of Maintenance shall be removed and, at a minimum, a temporary coating applied within two (2) hours of notification. Permanent coatings shall be completed within 48 hours of completion of the temporary work. No extension of the emergency response time will be granted by CFX due to travel distance requirements of the response crew. Penalties defined in the Scope of Services for emergency response shall be applicable. Completion of routine work shall not be affected by the need to perform emergency work.
- 2.4 Apply the following finishes where applicable:
  - 2.4.1 Concrete surfaces shall receive a Class 5 finish in accordance with Section 400 of the FDOT Standard Specifications. Apply anti-graffiti coating to Class 5 finish. Cleaning, surface preparation, application rates shall be in



accordance with manufacturers recommendations. All products must be listed on the FDOT Qualified Products List.

2.4.2 Structural steel surfaces shall receive maintenance painting in accordance with Maintenance Specifications Attachment 20, Section 560, Coating Structural Steel.

2.4.3 Painted concrete surfaces

Ambient Conditions: Do not apply paint unless the surface temperature is 5°F above the dew point and the relative humidity is below 85%. No paint shall be applied when the ambient air or surface temperature is less than 50° F or above 95° F, unless authorized in writing by the Director of Maintenance.

Do not apply any paint that contains more than 100 ppm lead.

Remove any paint that curls or lifts after application and repaint the areas as per specification.

The color and scheme of the finish coat(s) shall match existing. The color of the primer (textured) coat shall contrast with color of the finish coat. Apply two layers of pigmented anti-graffiti coating (TEXT COTE-TY-COTE) or approved equal. Coating thickness and cure time shall be per manufacturer's recommendations.

Coating Materials: Concrete coatings materials may be obtained from Textured Coatings of America, Inc. or Sherwin Williams.

Dark Brown – Color 33446, Batch 40304-103

Light Brown – Color 33690, Batch 40304-102

Dark Green – Color 34227, Batch 4034-101

Light Gray – Color 36622, Batch N/A

2.5 Collect all debris resulting from the cleaning process and remove from the CFX right-of-way at the end of each workday.

2.6 Painted areas shall be comprised of complete panels or sections. Spot painting will not be accepted. Completed areas of work shall be free from graffiti and stains after cleaning as determined by the Director of Maintenance. Work shall be subject to periodic daily inspection. The quality and acceptance of workmanship will be determined during these inspections. Clean and or paint again areas that are determined to be unacceptable at no additional cost to CFX.

END OF SECTION

**Attachment 13**  
**ASPHALT-IN-PLACE REPAIR**

1.0 Description

- 1.1 Provide all labor, materials, equipment, and incidentals necessary to perform the work as specified herein. Repair asphalt that may be damaged by vehicle accidents, spills, fire or other conditions as determined by the Director of Maintenance. Contractor or subcontractor shall be prequalified by the Florida Department of Transportation (FDOT) to perform milling and asphalt paving operations.
- 1.2 Premature friction course failures caused by original construction or material deficiencies will not be the responsibility of the Contractor. At locations where settlement of the pavement (such as at bridge approach slabs), pot holes, depressions/settlement or raveling occurs, the Contractor shall make repairs as directed by the Director of Maintenance.

2.0 Contractor Responsibilities

2.1 Milling

2.1.1 Method of Operation

Remove existing pavement to varying depths in a manner which will restore the pavement surface to a uniform longitudinal profile and cross section as specified by the Director of Maintenance.

Establish the longitudinal profile of the milled surface by a skid sensor on the side of the cut nearest the centerline of the road. Establish the cross slope of the milled surface by a second skid sensor near the outside edge of the cut or by an automatic cross slope control mechanism.

Multiple cuts may be made to achieve the required pavement configuration or depth of cut.

Operate the milling machine to effectively minimize the amount of dust being emitted from the machine. Pre-wetting of the pavement may be required.

Place temporary pavement markings to match existing lane lines.

### 2.1.2 Equipment

The equipment for this operation shall be a machine capable of maintaining a depth of cut and cross slope which will achieve the results specified herein. The machine shall be equipped with automatic grade controls which operate by sensing from one or more skids moving along the pavement surface.

If the machine is equipped with preheating devices, special attention is directed to the fact that local environmental and other regulations governing the operation of this type equipment may vary considerably at each location. Comply with all local regulations, as well as State and Federal rules, and obtain all necessary permits.

### 2.1.3 Milled Surface

The milled surface shall have a reasonably uniform texture which will provide good bonding, shall be within 1/4 inch of the true profile grade, and shall have no deviations in excess of 1/4 inch from a straightedge applied to the pavement perpendicular to the centerline. Areas varying from a true surface in excess of the above states tolerate may be accepted without correction if the Director of Maintenance determines that they were caused by a pre-existing condition which could not have reasonably been corrected by the milling operations. Correct any unsuitable texture or profile as determined by the Director of Maintenance.

The Director of Maintenance may require re-milling of any area which a surface lamination causes a non-uniform texture to occur.

## 2.2 Overlaying and Patching

### 2.2.1 Method of Operation

Place asphalt pavement as specified herein, at the direction of the Director of Maintenance. The work procedure shall be in accordance with accepted methods and materials to achieve a high quality asphalt overlay or patch.

The following is a basic and minimum procedure to be used to accomplish specific work.

- a. Establish traffic control
- b. Remove surface material within the marked boundaries leaving sides vertical and a reasonably square or rectangular hole.

- c. Inspect base for dryness and for adequate support. If base replacement is required, notify the Director of Maintenance.
- d. Apply light tack coat.
- e. Place mix and compact in lifts of two inches (2") maximum.

All patches shall be reasonably square or rectangular and shall not present a bump or depression and shall provide a smooth ride and transition.

Contractor shall have a twelve (12) foot minimum straight edge on the job site and may be required to test for results deemed unsatisfactory by the Director of Maintenance.

### 2.3 Materials

Use only materials conforming to the requirements of the specifications and approved by the Director of Maintenance. Unless otherwise specified, obtain asphaltic concrete mixes from a plant that is certified by the FDOT. Asphaltic concrete mixes shall use the current FDOT approval design mix for the materials specified herein. Submit a copy of the design mix to be used to the Director of Maintenance for approval prior to using the material on the project.

Unless otherwise specified, construct asphalt pavement with the following limitations:

- (i) Surface course material shall generally be compatible with existing pavement in the vicinity of the work.
- (ii) The use of reclaimed asphalt shall meet the requirement of Section 334 of the FDOT Standard Specifications.
- (iii) Layer thickness for asphaltic concrete structural courses shall comply with Index 514 of the FDOT Design standards.
- (iv) Friction course material shall not be used for base, leveling or as a structural course.

Random testing of materials may be performed by the Director of Maintenance at any time during their preparation and used to verify compliance with Section 330 of the FDOT Standard Specifications.

- 2.4 Perform work in accordance with the following specified sections of the FDOT's Standard Specifications. References in the incorporated sections to the Engineer shall be taken to mean the Director of Maintenance. In case of conflicts between the Standard Specifications and these specifications, these specifications will take precedence.

The following Standard Specifications sections apply:

- Section 101 Mobilization
- Section 320 Hot Bituminous Mixtures Plant, Methods and Equipment
- Section 327 Milling of Existing Asphalt Pavement
- Section 330 Hot Bituminous Mixtures - General Construction Requirements
- Section 334 Superpave Asphalt Concrete
- Section 337 Asphalt Concrete Friction Course
- Section 339 Miscellaneous Asphalt Pavement

In Section 327, Milling of Existing Asphalt Pavement, references to opening of milled areas to traffic are hereby deleted. All milled areas must be resurfaced prior to opening to traffic. Any exception must have the specific approval of the Director of Maintenance.

Maintenance of traffic shall be in accordance with Maintenance Specifications Attachment 19, Section 102, Maintenance of Traffic

- 2.5 For milling existing asphalt pavement, mill existing asphalt pavement, haul off and stockpile or otherwise dispose of the milled material, including temporary striping and removal of existing reflective markers. Disposal at an appropriate site off the CFX right-of-way shall be the sole responsibility of the Contractor.

END OF SECTION

**Attachment 14**  
**MECHANICAL ROAD SWEEPING**

1.0 Description

Perform routine mechanical road sweeping to protect the roadways from excessive accumulation of debris along the roadways including drain gutters and drain grates. The term debris includes all materials normally picked up by a mechanical sweeper such as sand, glass, paper, cans, and other materials. It also includes large limbs, wood, cable, and other materials in the areas to be swept.

2.0 Contractor Responsibilities

2.1 These specifications are end-result oriented. Although the sweeping activity is expected to be accomplished by mechanical means, these specifications are not intended to be restrictive or limit other techniques that achieve the specified and desired quality. Completed work shall be clean and free of all accumulated debris immediately after sweeping as determined by the Director of Maintenance regardless of the number of sweeping passes required to achieve the specified quality.

2.2 Areas to be maintained:

2.2.1 Perform sweeping and/or cleaning on the following designated areas of the highways:

- (i) Along all outside and median paved shoulders for the full length and width of the shoulder.
- (ii) At all paved gore areas where interchange ramps converge and diverge from the through traffic lanes for the full width of the gore.
- (iii) Along all concrete median barrier walls for the full length of the wall (full width).
- (iv) Along all paved inside and outside shoulders of interchange ramps for the full length and width of the shoulders.
- (v) Along all pavements of interchange ramps at places where foreign matter has accumulated thereon.
- (vi) Along all curbs in any of the above areas.
- (vii) Along all bridge curbs paralleling and adjacent to the traffic lanes (full width).

### 2.3 Quantity and Frequency of Sweeping

Begin each sweeping cycle in accordance with the Contractor's approved Work Plan. The total number and the timing of cycles will depend upon the roadway conditions, or severity of debris on the areas where sweeping is to be performed. Mechanical roadside sweeping within the Contract limits shall be accomplished twelve (12) times per year on S.R. 408, S.R. 417, S. R. 528 and the Goldenrod Road Extension (S.R. 551). The actual number of sweeping cycles may be increased or decreased as directed by the Director of Maintenance.

#### 2.3.1 Emergency Response

In the event of a major accident/spill, the Contractor shall respond within 1 hour upon notification from the Director of Maintenance. Before leaving the accident/spill site, the Contractor shall ensure that the road surface is free of debris and any fluids that can cause an unsafe condition. Sand or any other absorbent material used in the clean-up shall be collected and deposited in an approved collection facility.

### 2.4 Equipment

- 2.4.1 All equipment shall be submitted to the Director of Maintenance for approval before being placed into service. Properly maintain all safety devices at all times the equipment is in use.
- 2.4.2 If the Director of Maintenance determines that equipment is deficient in safety devices, the Contractor shall be notified immediately. Remove the equipment from service until the deficiency is corrected to the satisfaction of the Director of Maintenance.
- 2.4.3 Inspection and approval of the Contractor's equipment by the Director of Maintenance shall not relieve the Contractor of responsibility or liability for injury to persons or damage to property caused by the operation of the equipment.
- 2.4.4 Do not use equipment which damages the pavement or turf. If this occurs, fix or replace damaged areas at no cost to CFX.
- 2.4.5 When a mechanical sweeper is in use, mount a "Slow Moving Vehicle" sign and an arrow board on the rear with a Type B high intensity warning light mounted on top of the vehicle.
- 2.4.6 Provide a follow vehicle. Equip the follow vehicle with a sequential arrow panel with an approved crash cushion system attached.

## 2.5 Equipment

Furnish equipment of a type and quantity to perform the work satisfactorily within the time specified herein. If in the opinion of the Director of Maintenance the Contractor has insufficient equipment on the job to satisfactorily complete the work within the required time, provide additional equipment as directed by the Director of Maintenance.

## 2.6 Equipment Specifications

2.6.1 When requested by the Director of Maintenance, provide proof of ownership, signed subcontract, or a signed lease for the duration of the Contract, for at least one mechanical road sweeper, one attenuator truck and two arrow boards.

2.6.2 Where new equipment will be purchased, provide CFX with a guaranteed delivery date to verify that work can begin on time.

### A. Mechanical Road Sweeper

The road sweeper shall be a mechanical sweeper or sweepers with at least a combination of six (6) cubic yard capacity, and each shall be equipped with a FDOT approved arrow board.

### B. Attenuator Truck

The attenuator truck shall be at least 10,000 gross vehicle weight.

### C. Flashing Arrow Board

Standard FDOT approved flashing arrow board.

Minimum Size: 30" x 60"

Minimum Number of Panel Lamps: 15 lamps

Minimum Legibility Distance: 3/4 mile

Arrow panels shall be rectangular, of solid construction, and finished with non-reflective flat back. The panels shall be mounted on a vehicle, trailer or other suitable support.

Minimum mounting height shall be 7 feet above roadway to the bottom of the panel, except on vehicle mounted panels which shall be as high as practicable.



## 2.7 Safety

In the event that an accident occurs involving the Contractor's equipment while the equipment is being used to accomplish authorized work, no relief in responsibility for work performance will be granted to the Contractor.

## 2.8 Method of Operations

- 2.8.1 Do not begin any roadway sweeping until authorized by the Director of Maintenance in writing to do so. Perform all sweeping during daylight hours other than 6:00 - 9:00 AM or 3:00 - 6:00 PM. Special schedules may be established with the approval of the Director of Maintenance. Special schedules shall be in writing and may include weekend and holiday work in addition to night time hours.
- 2.8.2 Complete each sweeping cycle in its entirety prior to beginning another cycle.
- 2.8.3 Pick up and remove from the areas to be swept, any obstacle such as wood, tires, cans, etc., that cannot be traversed by the sweeper including the area under guardrail on paved shoulders. Remove any item such as newspaper, magazines, large boxes, etc., that would be torn, ripped, scattered or further subdivided by the sweeper that will result in an objectionable appearance.
- 2.8.4 Dispose of debris properly and in accordance with state and local rules and regulations in effect at the time of disposal.
- 2.8.5 Provide equipment, guard truck and sweeper with adequate warning lights and signs at all times to protect equipment from being overrun by traffic during the course of operation and also when moving equipment to another job location.
- 2.8.6 Load, haul and dispose of all accumulated material to an approved disposal site outside the project limits.
- 2.8.7 Do not create excessive airborne dust or other particulates. Use equipment supplied with functioning water spray equipment normal to the industry for dust control.
- 2.8.8 During periods of sweeping operations, consult with the Director of Maintenance for inspection and tentative approval of work quality being accomplished. In the event of unsatisfactory work, re-sweep these areas so that the total sweeping cycle may be completed in a satisfactory manner within the specified time.

2.8.9 Sweep around vehicles that are parked in the sweeping area. The area occupied by a parked vehicle will be considered as work accomplished.

2.9 Limitation of Operation

2.9.1 When sweeping areas within ten feet of the travel way, operate the equipment in the direction of the traffic. Comply with safety requirements contained in Index Drawing Nos. 600 and 619 of the Design Standards.

2.9.2 When necessary for sweeping equipment to cross the travel way, select a location that provides a minimum of 500 feet of unobstructed sight distance. The operator shall stop before crossing the travel way and permit closely approaching vehicles to pass before crossing. Plan operations to minimize crossings. U-turns are not permitted.

END OF SECTION

**Attachment 15**  
**REPAIR AND RESTORATION OF SLOPES, SHOULDERS**  
**AND ROADSIDE DITCHES AND CANALS**

1.0 Description

Provide all labor, materials, equipment, and incidentals necessary to repair and/or restore roadway shoulders, slopes, and roadside ditches including clearing and grubbing, site preparation, hauling, grading, stabilizing, sodding, seeding and mulching, miscellaneous asphalt pavement, miscellaneous concrete ditch and slope pavement, and riprap. Finished work shall generally conform to the lines and grades shown on the original approved for construction drawings. CFX will be responsible to secure and pay for any required environmental and water management permits for the work covered under the Contract.

2.0 Contractor Responsibilities

- 2.1 Comply with both the requirements of the FDOT Design Standards Index Series 600 and the MUTCD, latest edition, which are hereby incorporated by reference and made a part of the Contract as if fully set forth herein.
- 2.2 Blade down high points of shoulders, slopes, and accessible ditches, and rough grade, remove, and haul unsuitable material to appropriate disposal sites provided by the Contractor. Retain material on site for use as needed. The Director of Maintenance will make a determination as to the suitability of the retained material, which may be used as either stabilizer or backfill. Dispose of all suitable surplus material or uniformly spread in areas approved by the Director of Maintenance.
  - 2.2.1 The size of the slope restoration repair in this section shall be limited to 100 square yards. Areas greater than 100 square yards shall be compensated for at the unit price in the Price Proposal in accordance with the Method of Compensation.
- 2.3 Place suitable material in low points of shoulders, slopes, and ditches, and rough grade and mix with existing material. Furnish borrow or topsoil material, as directed by the Director of Maintenance, necessary to complete the work if sufficient material is not available on site.
- 2.4 Roll completed shoulder areas with pneumatic-tired equipment.
- 2.5 Grade site(s) to meet adjacent contours and provide flow for surface drainage.

Provide and maintain all measures required for the prevention, control and abatement of erosion and water pollution.

- 2.6 Place miscellaneous asphalt pavement, miscellaneous concrete ditch and slope pavement, sod, seed and mulching, fertilizing, riprap and sand-cement filler at the direction of the Director of Maintenance.
- 2.7 The application rate for grass seed, in pounds per acre, shall be the sum of both permanent and temporary grasses as referenced herein and in Index Drawing No. 104.
- 2.8 Use water sprinkling or other suitable method to limit the amount of dust and dirt rising and scattering in the air to the extent practical for the conditions of the work as determined by the Director of Maintenance.
- 2.9 Use sand-cement filler and water to fill voids in bridge approaches and at other locations specified by the Director of Maintenance. Proportion the sand and cement in a ratio of five parts sand (loose volume) to 1 part Portland cement. Consistency of mixture shall be such that pumping can be accomplished to achieve even distribution in void being filled. The Director of Maintenance may approve other mixes that are specifically designed for this purpose.
- 2.10 Perform work in accordance with the following specified sections of the FDOT Standard Specifications for Road and Bridge Construction, current edition at Contract execution, which are hereby incorporated by reference and made a part of the Contract as if fully set forth herein. References in the incorporated sections to the Engineer shall be taken to mean the Director of Maintenance or designated representative. In case of conflicts between the Standard Specifications and these specifications, these specifications will take precedence.

The following standard specification sections apply:

- Section 110, Clearing and Grubbing
- Section 120, Excavation and Embankment
- Section 160, Stabilizing
- Section 162, Prepared Soil Layer
- Section 230, Limerock Stabilized Base
- Section 339, Miscellaneous Asphalt Pavement
- Section 524, Concrete Ditch and Slope Pavement
- Section 530, Riprap
- Section 570, Performance Turf
- Section 914, Stabilization Materials

- 2.11 Repair damage caused by operations to adjacent facilities. Do not use equipment that damages the pavement or turf area.
- 2.12 Leave site(s) in clean condition free from materials, rubbish, and debris. Grade site(s) to meet adjacent contours and provide flow for surface drainage.
- 2.13 When cleaning and reshaping ditches, clear wet ditches and/or canals of vegetation and reshape them to a uniform grade to provide for proper drainage; spread suitable material obtained from excavations or furnished by the Contractor; and haul surplus suitable/unsuitable material (vegetation) from site.
- 2.14 For ditch construction, construct ditches and/or canals to a uniform grade to provide for proper drainage; spread suitable material obtained from excavations or furnished by the Contractor; and haul surplus suitable/unsuitable material (vegetation) from site.
- 2.15 Install limerock material and compact to a firm and unyielding base. Compaction will be based on visual inspection by the Director of Maintenance or authorized representative in lieu of density testing.
- 2.16 For seeding and mulching, the mulch machine shall make enough passes to cut in mulch every 4 inches. A seeder that places seed in the ground on 4 inch centers shall be used. Spreading seed on the ground and cutting in will not be allowed.
- 2.17 For seeding and fertilizing, a seeder that places seed in the ground on 4 inch centers shall be used. Spreading seed on the ground and cutting in will not be allowed.

END OF SECTION

**Attachment 16**  
**DRAINAGE SYSTEM REPAIR AND CLEANING**

1.0 Description

Perform jet/vacuuming and cleaning drainage pipe, catch basins, junction boxes, and associated grates; clean underdrains; clean ditch pavement; repair or replace skimmers with fiberglass; and adjust manholes and inlets. Perform minor repairs (replace broken frames and/or missing grates, reset frame and grate, patch spalled areas and seal cracks in structures).

2.0 Contractor Responsibilities

- 2.1 Comply with the requirements of the FDOT Design Standards Index Drawing Nos. 600 through 651.
- 2.2 Clean drainage systems and structures using equipment appropriate for the required cleaning operation. Unit shall be equipped with an evacuating system large enough to handle the quantity of water used to clean the systems and the resulting debris.
- 2.3 Collect all debris resulting from the cleaning process, remove from the site and dispose of properly and in accordance with state, federal, and local regulations.
- 2.4 Respond to emergency situations as directed by the Director of Maintenance. Response time to a site shall be 2 hours or less after notification by the Director of Maintenance. Penalties described in the Scope of Services are applicable. Response team shall include a working supervisor and laborer, a jet/vacuuming truck, and additional equipment necessary to handle the type of emergency described by the Director of Maintenance, including a truck mounted flashing arrow board and enough traffic cones to close a lane on the roadway.
- 2.5 Perform minor repairs including sealing leaks in catch basins, junction boxes and similar structures, replace broken grates, and reset existing frames and grates.
- 2.6 Protect the general public, vegetation, structures, slopes, and roadways at all times when work is in progress.
- 2.7 Contractor's equipment must be approved by the Director of Maintenance before being placed in service. Properly maintain safety devices at all times the equipment is in use. If the Director of Maintenance determines that equipment is deficient in safety devices, the Contractor shall be notified immediately. Remove the equipment from service until the deficiency is corrected to the satisfaction of the Director of Maintenance.

- 2.8 Do not use equipment which damages the pavement or turf. If this occurs, repair or replace damaged areas at no cost to CFX.
- 2.9 Completed areas of work shall be reasonably free from debris after cleaning as determined by the Director of Maintenance. Work shall be subject to periodic daily inspection. The quality and acceptance of workmanship will be determined during these inspections. Clean areas that are determined to be unacceptable at no additional cost to CFX. The Director of Maintenance will use reasonable judgment when evaluating completed work and any decision as to acceptance or rejection will be final.
- 2.10 At the direction of the Director of Maintenance, make necessary miscellaneous repairs to drainage system components. Repairs also include, but are not necessarily limited to, repairs that are required due to damage resulting from vandalism, fire, theft, vehicular impact, or acts of God. Repairs that are required due to the negligence of the Contractor shall be repaired by the Contractor at no cost to CFX.
- 2.11 Provide drainage system materials that are equal to or better than the materials that were previously used or found in use and with 100% compatibility with existing drainage system.

END OF SECTION

**Attachment 17**  
**CONCRETE REPAIRS AND JOINT SEALING**

1.0 Description

Provide all labor, materials, equipment and incidentals necessary to seal joints on bridges, roadways, slope pavement, and reinforced earth retaining walls. Patch spalled areas on bridge decks, pier caps, handrails, concrete pavement and the partial or total replacement of roadway slabs.

2.0 Contractor Responsibilities

2.1 Protect vegetation, structures and equipment, and the general public during the time the work is underway.

2.2 When working over a travel lane, close that lane to traffic and use proper traffic control devices conforming to FDOT and MUTCD requirements to cause traffic to use the remaining lane.

2.3 Joint Repairs on Bridge Decks: Compression seals shall be elastomeric.

2.3.1 Submit shop drawings showing all expansion joint materials including seal manufacturer, seal designation and proposed method of installation. The selected seal shall be a heavy duty bridge seal and shall accommodate the joint size shown in accordance with the manufacturer's recommendations.

2.3.2 Accurately cut seal opening with a power saw using concrete cutting blade after existing joint material is removed. Form a joint in the new widened portion of the deck to match existing. Saw cut will be allowed.

2.3.3 All seals shall be installed in conformance with the manufactures recommendations, including adjustments for temperature variances

2.3.4 Compression seals shall be continuous from gutter to gutter on the bridge.

2.3.5 Thoroughly coat all contact surfaces between the compression seals and concrete surfaces with a compression seal adhesive.

2.3.6 Restore spalled areas of existing edge of deck slab, using approved methods and materials, before saw cutting the joint.



2.4 Joint Repairs on Bridge Approaches and Concrete Pavement:

- 2.4.1 Remove old joint materials or, if joint is unsealed, saw or chip, as required, prior to sealing. Sufficient depth shall be obtained to hold material below the concrete surface (2 inch minimum).
- 2.4.2 Clean joints before applying new material.
- 2.4.3 Use filler or bond breaker rod, where required, prior to applying joint sealant.
- 2.4.4 Joint materials shall be included in the approved list (Qualified Products list) on file with the Florida Department of Transportation, Value Engineering Office.

2.5 Joint Repairs on Slope Pavement and Miscellaneous Concrete:

Repair procedure generally follows that specified for bridge approaches and concrete pavement in paragraph 2.6 below.

2.6 Repairs to Concrete Bridge Deck, Concrete Roadway Slabs, Pier Caps, Handrails:

- 2.6.1 Remove unsound concrete and reshape area edges to provide a vertical faced wall. Bridge decks require a depth to 1 inch below the first reinforcing material. Place forms if required.
- 2.6.2 Patching material shall be on the FDOT Qualified Products list. Place patch material and finish consistent and level with surrounding pavement, deck or other surface. For areas requiring rapid hardening concrete bag mix, the mix shall meet or exceed the performance of Eucospeed MP as manufactured by Euclid Chemical Co., or SET-45 as manufactured by Master Builders Technologies.

2.7 Cleaning and Resealing Joints

- 2.7.1 Remove the existing expansion joint material and furnish and install a backer rod and pourable elastomeric joint sealant in accordance with the requirements of the manufacturer.
- 2.7.2 The sealant used shall meet or exceed the performance and material requirements of Dow Corning 902 RCS, a two-component, silicone rubber sealant, manufactured by Dow Corning Chemical Corporation, Midland, Michigan 48686-0994.

2.7.3 The following is a basic and minimum procedure to be used to accomplish the specified work. All work performed shall comply with the manufacturer's recommended procedures and practices for the specific joint products.

1. Remove all expansion joint filler material and clean the vertical faces of the existing joint throat to remove all debris and contaminants.
2. Vacuum or air blast all excessive dust from the vertical faces of the existing joint throat. All faces of the joint shall be completely dry before placement of the surface conditioner and sealant.
3. Apply a surface conditioner, if required by the manufacturer, to all faces of the joint throat that are to receive the sealant and allow sufficient time to dry, as specified by the manufacturer.
4. Place an appropriately sized backer rod into the joint throat and cover with bond breaker.
5. Mix the sealant (Dow Corning 902 RCS) in accordance with the manufacturer's recommendations and place into the joint opening. The pourable sealant shall be self-leveling and allowed to cure for the appropriate time.

2.8 Remove and properly dispose of old joint material.

2.9 Collect all debris resulting from the work and remove from CFX right-of-way.

2.10 Work will be subject to periodic daily inspection. The quality and acceptance of workmanship will be determined during these inspections. Reseal areas that are determined to be unacceptable at no additional cost to CFX.

2.11 Bridge repairs issued to the Contractor through an FDOT-generated work order shall be completed and returned to CFX within 180 calendar days of the issue date of the work order. Failure to complete the repair in the specified time will result in the assessment of liquidated damages in the amount of \$200 per day until the repair is made and accepted by the Director of Maintenance.

END OF SECTION

**Attachment 18**  
**TREE TRIMMING AND REMOVAL**

1.0 Description

- 1.1 Trim desired trees and brush or remove undesired trees and brush, and dispose of resulting waste and debris. Perform all work meeting the requirements of recognized and approved arboriculture principles with emphasis on tree health and symmetry as set forth in “The American National Standard for Tree Care Operations – Tree, Shrub and Other Woody Plant Maintenance – Standard Practices” (ANSI A300-2014). Perform all work without damage to trees and shrubs that are intended to remain in the work area.

Prior to beginning work, report all damaged fence, fence posts and other appurtenances (i.e., sign posts and bases, delineator posts, guardrail or barrier walls, light poles, endwalls, pipes, drainage structures, poles, guys landscape areas, etc.) to the Director of Maintenance. Replace any fence, fence post or other appurtenance found damaged after beginning work at no cost to CFX.

2.0 Contractor’s Responsibilities

- 2.1 Tree trimming and removal shall be required to maintain visibility and clear obstructions from signs, lighting, roadway surveillance cameras, guardrail, fences and other roadway features. Tree trimming may be required to remove dead, decaying, dying or diseased branches or trees or as may be directed by the Director of Maintenance.

- 2.2 Use equipment designed for the performance of work described herein. Maintain equipment in good repair and operating condition at all times meeting all applicable safety requirements. Maintain safety devices at all times while the equipment is in use. Cut and trim the trees to the height and width desired using mobile, mechanical equipment capable of vertical, horizontal and angle cuts.

Do not use equipment on CFX right-of-way that damages the pavement, curbs or turf area. Repair damage resulting from work activities at no cost to CFX before resuming project activities.

- 2.3 Obtain any and all permits and licensing required by law during the term of this contract. Provide and distribute any announcements or written notices that may be required.

- 2.4 Trim the trees to the height and width required to clear the obstruction as directed by the Director of Maintenance. Remove all dead, dying, diseased, decaying, interfering, suckering, obstructing and weak branches. Cut and remove all branches or limbs in accordance with ANSI A300 Standards. Topping or heading back is not a recommended pruning practice. If the height of a tree must be reduced, all cuts will be made to strong laterals or to the parent limb. Do not cut limbs back to stubs. When practical, cuts will be made in accordance to A-300 Standards, and the natural shape and structure of the tree should be maintained.
- 2.5 Remove trees by severing and lowering to the ground suitable sized sections of limbs or trunk. Use suitable ropes, slings, guidelines and block and tackle to safely lower the severed branches and trunk sections. Cut the main trunk at or below the ground surface. Treat the stumps with an herbicide labeled for stump use and approved by the Director of Maintenance. Use of soil sterilant or residual type materials will not be permitted.
- 2.6 Brush Removal: Cut and remove vegetation with multiple trunks extending from a common root-base (i.e., Brazilian pepper, myrtle, palmettos, bamboo, palms, etc.) flush with the ground surface. Remove all stumps or debris.
- 2.7 Tree and Brush Removal from Fence Lines: Cut and remove trees and brush within the right-of-way and adjacent to the fence creating a corridor measuring ten (10) feet in width and 15 feet in height. The corridor should be cut to avoid the trees marked by the Director of Maintenance not to be removed while maintaining a clear corridor to the dimensions stated above. Cut and remove trees and brush diagonally from the roadway to the right-of-way fence creating access corridors (10 feet in width and 15 feet in height at intervals of not more than (2000 feet, or as required by outfall ditches, natural drains, or other intersecting roadways, railroads, etc.
- 2.8 Stump Removal: Remove stumps (including protruding roots and debris) to a depth of (12 inches below the surface of the original ground. Provide acceptable fill material, grade and compact holes or voids created by the removal of the stumps.
- 2.9 Disposal of Debris: Dispose of all debris and waste in compliance with all local, state and federal regulations. Debris may be stockpiled in the CFX right-of-way for a period of time determined by and with the written approval of the Director of Maintenance. With the approval of the Director of Maintenance, wood chips may be evenly distributed to a depth of no more than one inch in designated areas in CFX right-of-way.

- 2.10 Quality: Ensure the work site and adjacent properties are clean and free of trimmings, stumps, roots, logs or any other debris at all times.

END OF SECTION

**Attachment 19**  
**SECTION 102**  
**MAINTENANCE OF TRAFFIC**

**102-1 Description:** Maintain traffic within the limits of the project for the duration of the construction period, including any temporary suspensions of the Work. Construct and maintain any necessary detour facilities. Provide necessary facilities for access to residences, businesses, etc., along the project. Furnish, install, and maintain traffic control and safety devices during construction. Furnish and install work zone pavement markings for maintenance of traffic in construction areas. Furnish and apply calcium chloride on the subgrade, unsurfaced base, or other unsurfaced traveled ways in order to control dust during construction operations. Provide any other special requirements for safe and expeditious movement of traffic as may be specified on the plans. The term, Maintenance of Traffic, includes all of such facilities, devices, and operations required for the safety and convenience of the public as well as for minimizing public nuisance.

**102-1.1 Sections Not Requiring Traffic Maintenance:** In general, do not maintain traffic over those portions of the Project where no work is to be accomplished or where construction operations will not affect existing roads. However, do not obstruct or create a hazard to any traffic during the performance of the Work, and repair any damage to existing pavement or facilities caused during the Work.

**102-1.2 Detours Over Existing Roads and Streets:** When CFX specifies that traffic be detoured over roads or streets outside the project area, do not maintain such roads or streets. However, maintain all signs and other devices placed for the purpose of the detour.

**102-1.3 Contractor's Responsibility:** Maintain traffic starting the day work begins on the maintenance activity. Continually and adequately review traffic control devices to ensure proper installation and working order, including monitoring of lights. Provide an individual responsible for this review who is certified as an American Traffic Safety Services Association Certified Worksite Supervisor.

The Contractor shall remove all equipment and portable signs from the shoulder during non-construction operations. Such signs and equipment can be placed behind guardrail if available. Post-mounted signs shall be covered

**102-2 Specific Requirements.**

**102-2.1 Maintenance of Roadway Surfaces:** Maintain all lanes that are being used for the maintenance of traffic, including those on detours and temporary facilities on asphalt. Keep the lanes reasonably free of dust, and, when necessary to accomplish this, sprinkle them with water, or apply some other dust palliative. Provide the lanes with the drainage facilities necessary to maintain a smooth riding surface under all weather conditions.

## 102-2.2 Not Used

**102-2.3 Crossings and Intersections:** Provide and maintain adequate accommodations for intersecting and crossing traffic. Do not block or unduly restrict any road or street crossing the project unless approved by the Director of Maintenance.

Prior to interruption of traffic flow that will cause a temporary interruption to the local traffic flow, the Contractor shall submit to the Director of Maintenance at least two (2) weeks prior to anticipated stoppage, a schedule of the proposed stoppages. Upon approval, the Contractor shall notify all emergency services (police, rescue and fire) of the stoppages five (5) days in advance.

**102-2.4 Law Enforcement Services:** A uniformed law enforcement officer and marked vehicle shall be provided during all lane closure operations, during all nighttime operations.

Payment for off-duty law enforcement officers, if used, will not be paid separately but will be included in the lump sum price for maintenance of the roadway.

## 102-3 Traffic Control.

**102-3.1 Standards:** FHWA's MUTCD Part 6 is the minimum standard for Traffic Control for Highway Construction, Maintenance, and Utility Operations. Follow the basic principles and minimum standards contained in this manual for the design, application, installation, maintenance, and removal of all traffic control devices and all warning devices and barriers which are necessary to protect the public and workers from hazards within the project limits. Understand that the standards established in the aforementioned manual constitute the minimum requirements for normal conditions. The Director of Maintenance will require additional traffic control devices, warning devices, barriers, or other safety devices where unusual, complex, or particularly hazardous conditions exist. In case of conflict between MUTCD and Design Standards Index 600, the more stringent requirement shall prevail.

Reflectorize traffic cones used at night with cone collars meeting the following requirements:

(a) Use collars designed to properly fit the taper of the cone when installed. Place the upper 6 inch collar a uniform 3 1/2 inch distance from the top of the cone and the lower 4 inch collar a uniform 2 inch distance below the bottom of the upper 6 inch collar. Ensure that the collars are capable of being removed for temporary use or attached permanently to the cone in accordance with the manufacturer's recommendations. Provide white sheeting having a smooth outer surface and that essentially has the property of a retroreflector over its entire surface.

(b) For the retroreflective sheeting for the collars, meet the requirements of ASTM D 4956 Table 4, Type VI; excluding 0.1 degree observation angle and -4 degree, +30 degree entrance angles.

Provide three certified copies of test reports and certification from the manufacturer that the material furnished meets all requirements of (b) above. Use reflective collars for cones included on the Qualified Products List.

Reflective sheeting material for work zone barricades shall be Type III or IV, meeting requirements of Section 994. Reflective sheeting material for all work zone signs, both on and off the CFX system, shall be fluorescent orange Type VII meeting requirements of Section 994. Mesh signs shall not be used for work zone signs. Rollup sheeting (Type VI, 3M Diamond Grade Fluorescent Roll Up Sign Sheeting RS24 or equal) may be used in day or night operations not to exceed 24 hours and approval is given by the Director of Maintenance.

### **102-3.2 Traffic Control Devices, Warning Devices and Barriers:**

**102-3.2.1 Installation:** Install and maintain adequate traffic control devices, warning devices and barriers to protect the traveling public and workers, and to safeguard the work area. Erect the required traffic control devices, warning devices and barriers to prevent any hazardous conditions and in conjunction with any necessary traffic re-routing. Use only those devices that are included on the Qualified Products List (QPL). Use construction signs meeting the requirements of Section 700-2.5 and 700-5.5. Specific requirements for Maintenance of Traffic devices, additional to the requirements of this Section, are contained in the 600 series of the FDOT Design Standards. Immediately remove, turn or cover any devices or barriers which do not apply to existing conditions.

All QPL approved safety devices must meet the requirements of National Cooperative Highway Research Report 350 (NCHRP 350) and current FHWA directives. Manufacturers seeking evaluation must furnish certified test reports showing that their product meets all test requirements set forth by NCHRP 350.

Notify the Director of Maintenance of any scheduled operation which will affect traffic patterns or safety, sufficiently in advance of commencing such operation to permit his review of the plan for the proposed installation of traffic control devices, warning devices or barriers. Assign an employee the responsibility of maintaining the position and condition of all traffic control devices, warning devices and barriers throughout the duration of the Contract. Keep the Director of Maintenance advised at all times of the identification and means of contacting this employee on a 24-hour basis.

**102-3.2.2 Maintenance of Devices and Barriers:** Keep traffic control devices, warning devices, and barriers in the correct position, properly directed, clearly visible and clean, at all times. Immediately repair, replace or clean damaged, defaced or dirty devices or barriers and have the Director of Maintenance approve them for use.

**102-3.2.3 Temporary Impact Attenuators:** Furnish, install, maintain and subsequently remove temporary vehicular impact attenuators in accordance with the details and notes shown in the plans, and the FDOT Design Standards. Maintain the attenuators until their authorized removal. Repair all attachment scars to permanent structures and pavements after attenuator removal.

**102-3.2.4 Flagger:** Provide trained flaggers to direct traffic where one-way operation in a single lane is in effect and in other situations as required in 102-3.1. The Worksite Traffic Supervisor or others as approved by CFX will provide training for flaggers using FDOT-approved training materials.



**102-3.2.5 Existing Pavement Markings:** Where a detour changes the lane use or where normal vehicle paths are altered during construction, remove all existing pavement markings that will conflict with the adjusted vehicle paths. Do not overpaint. Remove existing pavement markings using a method that will not damage the surface texture of the pavement and which will eliminate the previous marking pattern regardless of weather and light conditions. Grinding will not be permitted. Remove all pavement markings that will be in conflict with "next phase of operation" vehicle paths as described above, prior to opening to traffic.

**102-3.2.6 No Waiver of Liability:** Conduct operations in such a manner that no undue hazard results due to the requirements of this Article. The procedures and policies described herein in no way acts as a waiver of any terms of the liability of the Contractor or its surety.

**102-3.2.7 Portable Arrow Boards:**

**102-3.2.7.1 Scope:** These Specifications expand the basic requirements that all portable arrow boards must meet the physical display and operational requirements as described in the MUTCD.

Manufacturers seeking approval of their arrow board shall provide CFX with a prototype unit to be evaluated in accordance with these Specifications and certify that the furnished unit meets all requirements specified herein.

**102-3.2.7.2 Display Panel and Housing:**

- (a) The display housing assembly shall be weather-tight to protect the panel from the elements.
- (b) All nuts, bolts, washers and other fasteners shall be of corrosion resistant material.
- (c) The display assembly shall be equipped with an automatic dimming operational mode capable of a minimum of 50% dimming and a separate manual dimmer switch.
- (d) The display panel background and frame for the display assembly shall be painted flat black and must meet Federal Specification TT-E-489.
- (e) Display panel and housing shall be designed and constructed to allow the unit to be operated in the displayed position at speeds of 30 mph. In the down position it shall be designed for speeds of 65 mph.
- (f) The display panel, when raised in the upright position, will have a minimum height of 7 feet from the bottom of the panel to the ground, in accordance with the MUTCD.
- (g) The unit shall have an accessible mechanism to easily raise and lower the display assembly. A locking device shall also be provided to ensure the display panel will remain in the raised or lowered position.

**102-3.2.7.3 Arrow Board Matrix:**

(a) The minimum legibility distance for various traffic conditions are based on the decision-sight distance concept. The minimum legibility distance is the distance at which the arrow panel message can be comprehended by a driver on a sunny day or a clear night. The arrow panel size that is needed to meet the legibility distance is listed as follows:

Type	Minimum Size	Number of Panel Lamps	Minimum Legibility Distance
B	30 by 60 inches	13	3/4 mile
C	48 by 96 inches	15	1 mile

For use on the state highway system, the Types "B" or "C" advance warning arrow boards may be used for low to intermediate (0 to 50 mph) facilities and for maintenance or moving operations on high-speed roadways. Type "C" arrow boards shall be used on high-speed (50 mph and up).

- (b) Devices shall meet all arrow board displays identified in the MUTCD.
- (c) The lamp lens should be 5 3/4 inches in diameter. Smaller lamp lens diameters are permissible only if they provide an equivalent or greater brightness indication and meet the legibility criteria in Section (a) of this Specification.
- (d) The color of the light emitted shall be in accordance with the MUTCD.
- (e) There shall be a 360 degree hood for close-up glare reduction.
- (f) For solar powered arrow boards the bulbs shall provide a 350 candle power intensity for day use and an automatic reduction or dimming capacity for night use. The dimmed night operation shall provide adequate indication without excessive glare.
- (g) The flashing rate of the lamps shall not be less than 25 nor more than 40 flashes per minute as required in the MUTCD.
- (h) The minimum lamp "on time" shall be 50% for the flashing arrow and 25% for the sequential chevron.

**102-3.2.7.4 Electrical System:** For diesel engines the following shall apply:

- (a) The power supply and electrical system shall be self-contained within the unit.

- (b) The engine shall have an electrical starting system.
- (c) The power source furnished shall be of sufficient size so as to provide the required maximum load energy plus 25%.
- (d) The electrical system shall meet the National Electrical Code where applicable.
- (e) A backup power system that shall operate the unit for a minimum of three hours automatically when the motor driven generator fails to operate.
- (f) The starting batteries and back-up power supply system batteries shall be automatically charged when the generator is operating.
- (g) The engine shall be supplied with an ammeter and the generator shall be supplied with a volt meter showing voltage to the sign assembly.

For solar powered units the following shall apply:

- (a) The unit shall provide automatic recharging of power supply batteries to normal operating levels.
- (b) Solar array recovery time shall be accomplished in a maximum of three hours.

**102-3.2.7.5 Battery Life Test:** The following shall apply to batteries:

- (a) The photovoltaic unit shall be able to operate from a full battery charge without sunlight for a period of not less than 21 days.
- (b) The battery shall be equipped with a controller to prevent overcharging and over-discharging. An external battery level indicator shall also be provided.
- (c) The battery, controller, and power panel shall be designed to be protected from the elements and vandalism.

**102-3.2.7.6 Controller:**

- (a) Controller and control panel shall be housed in a weather, dust, and vandal resistant lockable cabinet.
- (b) The controller shall be solid-state in design and function.

**102-3.2.7.7 Support Chassis:** The following shall apply:

(a) The support chassis shall be self-contained and self-supporting without the use of additional equipment or tools.

(b) Both trailer and truck mounted units are allowed.

(1) Trailer mounted unit:

(a) The sign, power supply unit and all support systems shall be mounted on a steel, wheeled trailer with a minimum capacity of 2,600 pounds.

(b) The trailer shall be equipped with class-A lights, using a plug adaptor.

(c) The trailer shall be equipped with adjustable outrigger leveling pads (screw-type), one on each of the four frame corners.

(d) The trailer shall be designed to be set up at the site with its own chassis and outriggers, without being hitched to a vehicle.

(e) The trailer shall be equipped with fenders over the tires and shall be made from heavy duty metal sufficient to allow a person to stand and operate or perform maintenance on the unit.

(f) The trailer shall meet all equipment specifications set forth in Chapter 316 of the Florida Statutes, and by such rule, regulation or code that may be adopted by the Department of Highway Safety and Motor Vehicles.

(2) Truck mounted unit:

(a) The truck-mounted assembly shall be designed to fit on a 2 ton or greater duty truck.

(b) The unit shall be self-contained with its own power supply, controls, raising and lowering device and shall be capable of being operated by one person.

(c) The unit shall be secured in the vehicle for normal operation.

**102-3.2.7.8 Other Requirements:**

(a) The portable arrow board assembly shall be designed to function in dry, wet, hot or cold weather (ambient temperature ranges from -30 to 165 degrees F.

- (b) The controller shall not be affected by mobile radio, or any other radio transmissions.
- (c) An operator's manual shall be furnished with each unit.
- (d) The manufacturer's name and FDOT approval number shall be affixed on the equipment.
- (e) The arrow board shall be listed on the Qualified Products List (QPL).

#### **102-3.2.8 Portable Changeable Message Signs:**

**102-3.2.8.1 Scope.** These Specifications expand the basic requirement that all Portable Changeable Message Signs (PCMS's) must meet the physical display and operational requirements as described in the MUTCD.

Manufacturers seeking approval for their PCMS shall provide CFX with a prototype unit to be evaluated in accordance with these Specifications and certify that the unit meets all requirements specified herein.

Permanent installations can be used but will be evaluated for each specific project or installation. These standards shall include but not be limited to the following:

#### **102-3.2.8.2 Display Panel and Housing:**

- (a) The display housing assembly shall be weather-tight to protect the panel from the elements.
- (b) All nuts, bolts, washers and other fasteners shall be of a corrosive resistant material.
- (c) The message matrix panel background and frame for the changeable message assembly shall be painted flat black (must meet Federal Specification TT-E-489).
- (d) Servicing of all message matrix panel components shall be accomplished from the front of the message matrix panel.
- (e) Each message matrix panel shall provide a glare screen for each message line to aid against sun glare for non-reflecting type signs.
- (f) The display panel, when raised in the upright position, will have a minimum height of 7 feet from the bottom of the panel to the ground.
- (g) The unit shall have an accessible mechanism to easily raise and lower the display assembly. A locking device shall also be provided to ensure the display panel will remain in the raised or lowered position.

**102-3.2.8.3 Message Matrix:**

- (a) The overall dimensions of the message matrix panel shall be a maximum height of 7 feet by a width of 10 feet.
- (b) The message matrix panel shall contain three separate lines. Each line shall consist of eight characters, equally spaced a minimum of 3 inches. Each character shall contain 35 pixels in a five by seven horizontal to vertical grid arrangement.
- (c) Each message line shall provide for a nominal 18 inch character height.
- (d) For flip disk matrix signs, the disk elements shall be coated on the display side with a highly reflective florescent yellow Mylar material, and on the back with a flat black to blend in with the flat black background.
- (e) Similar components shall be interchangeable.

**102-3.2.8.4 Electrical System:** For diesel engines the following shall apply:

- (a) The power supply and electrical system shall be self contained within the unit.
- (b) The power source furnished shall be of sufficient size so as to provide the required maximum load energy plus 25%.
- (c) The electrical system shall meet the National Electrical Code where applicable.
- (d) A lightning protection device shall be provided for stationary equipment.
- (e) The engine shall have an electrical starting system.
- (f) A backup power system shall be provided that will operate the unit for a minimum of three hours automatically when the motor driven generator fails to operate.
- (g) An automatic charging system to recharge the starting and backup power supply batteries, when the generator is operating.
- (h) The engine shall be supplied with an ammeter and the generator shall be supplied with a volt meter showing voltage to the sign assembly.

For solar powered units the following shall apply:

- (a) The photovoltaic unit shall be designed to provide 21 days of continuous operation without sunlight with a minimum of on site maintenance.

(b) Automatic recharging of power supply batteries shall be provided.

**102-3.2.8.5 Battery Life Test:**

(a) The battery shall be equipped with a battery controller to prevent overcharging and over-discharging. An external battery level indicator shall be provided.

(b) The battery, controller, and power panel shall be designed to be protected from the elements and vandalism.

**102-3.2.8.6 Controller:**

(a) Controller and control panel shall be housed in a weather, dust, and vandal proof lockable cabinet.

(b) The keyboard shall be equipped with a security lockout feature to prevent unauthorized use of the controller.

(c) The controller shall be solid state in design and function.

(d) The control panel shall display a representative message that will be displayed on the sign panel.

(e) The flash rate shall be adjustable in the sign controller from one to ten seconds.

**102-3.2.8.7 Operation and Performance:**

(a) The message shall be displayed in upper case except when lower case is project specific and is allowed by the MUTCD.

(b) The message matrix panel shall be visible from 2 mile and legible from a distance of 900 feet under both day and night conditions. Under variable light level conditions the sign shall automatically adjust its light source so as to meet the 900 feet visibility requirement.

(c) The control panel shall have the capability to store a minimum 50 pre-programmed messages.

(d) The controller in the control panel shall be able to remember messages during non-powered conditions.

(e) The controller shall allow the operator to generate additional messages on site via the keyboard.

(f) For a PCMS using Flip-Disk technology, the controller shall have the capability to provide a stipulated default message upon loss of controller function.

(g) All messages shall be flashed or sequenced. In the sequence mode, the controller shall have the capability to sequence three line messages during one cycle.

**102-3.2.8.8 Use of Orange Vests:** Contractor shall provide its personnel with orange vests and require that these vests be worn whenever the workers are within 15 feet of the edge of the travelway. Workers operating machinery or equipment in which loose clothing could become entangled during operation are exempt from this requirement. Such exempt workers will be required to wear orange shirts or jackets. Contractor personnel shall wear reflective orange vest during nighttime operations. Replace faded vests.

### **102-3.3 Work Zone Pavement Markings:**

**102-3.3.1 Description:** Furnish and install Work Zone Pavement Markings for maintenance of traffic in construction areas and in close conformity with the lines and details shown on the plans. Measure the reflectivity of white and yellow stripes using a Mirolux 12 retroreflectometer, Delta LTL-X or LTL 2000, Advanced Retro Technology AR Stripemaster, or equal approved by the State Materials Office. Reflectivity shall be at least 250 mcd/lx\*m<sup>2</sup> for yellow and 300 mcd/lx\*m<sup>2</sup> for white when installed. Re-stripe anytime the reflectivity falls below 150 mcd/lx\*m<sup>2</sup>. Compensation for re-striping will be at the Contract unit price for the appropriate material when the material used appears on the Qualified Products List (QPL) and is properly installed. The pavement marking materials shall not contain any lead or chromium compounds. Manufacturers seeking product approval shall furnish certified test reports showing the Work Zone Pavement Marking material meets the requirements of this Section.

Centerlines, lane lines, edgelines, stop bars and turn arrows in work zones will be required in accordance with Section 6D of the MUTCD with the following additions:

(a) Install edgelines when a paved shoulder 4 feet or greater in width exists along the edge of a lane.

(b) Place edgelines on all detours where vehicle paths are altered from normal operations and where a lane is narrowed from its normal width for any reason.

(c) Apply Work Zone Pavement Markings, including arrows and messages determined by the Director of Maintenance to be required for safe operation of the facility, prior to the end of the day if the highway is open to traffic. Channelizing devices may be used to direct traffic during the day prior to placing the Work Zone Pavement Markings.

(d) Work Zone Pavement Markings will be designated in the plans or by the Director of Maintenance as removable or non-removable.



Work Zone Raised Pavement Markers (WZRPMs) may be used in lieu of Temporary Tape in accordance with 102-3.3.2.3.

Removable Work Zone Pavement Markings consists of materials that can be taken up by hand. An example of this category of markings is plastic film (Tape), or Work Zone Raised Pavement Markers (WZRPM's).

Non-Removable Work Zone Pavement Markings consists of markings that are not classified as removable.

Use of Removable or Non-Removable Work Zone Pavement Markings shall be as follows:

Application	Category
<b>Finish Pavement*</b>	
All stripes representing final pavement markings	Non-Removable
All stripes in an area where the traffic pattern will be altered prior to project acceptance	Removable
<b>Intermediate Pavement Course</b>	
All stripes in pavement areas that will be covered with a subsequent course of pavement prior to altering of the traffic pattern within such area.	Non-Removable
All stripes where the traffic pattern will be altered prior to placing of the subsequent paving course within such area.	Removable
<b>Existing Pavement</b>	
All stripes that will be removed or overlaid with new pavement prior to altering the traffic pattern within such area.	Non-Removable
All stripes where the traffic pattern will be altered prior to removal or overlaying of such area.	Removable
*Place striping representing final markings in the permanent location unless excepted in writing by the Director of Maintenance.	

Removable Pavement Markings may be substituted for Non-Removable Pavement Markings. When substitution is made, payment will be made under the Bid Item, Non-Removable Pavement Marking.

### **102-3.3.2 Materials:**

**102-3.3.2.1 Paint and Glass Beads:** Meet the application requirements of Section 710, and the material requirements of Section 971.

**102-3.3.2.2 Preformed Non-Removable Pavement Marking Film (Tape):** Conform to the application requirements of the Plans and the material requirements of Section 971.

**102-3.3.2.3 Work Zone Raised Pavement Markers:** Work Zone Raised Pavement Markers (WZRPMs) are RPMs intended for use in work zones as an alternate to other line markings. Use tape in all transition areas in addition to the RPMs. WZRPMs shall be referred to as class "D" or class "E" Markers. Apply all markers in accordance with FDOT Design Standards, Index No. 600.

Class A, B, and flexible E markers may be used in lieu of Class D Markers. Class E markers will only be allowed for use in areas for five continuous days or less.

Use colorless reflectors to replace white lines and amber reflectors to replace yellow lines. Space markers at 30 inch centers for lane lines and 5 foot centers for edgelines.

To provide contrast, place five black Work Zone Raised Pavement Markers (WZRPMs) immediately after the five colorless reflective markers on asphalt pavement five years or older and all concrete pavement. Black Work Zone Raised Pavement Markers (WZRPMs) will not be required with amber markers.

Ensure that Work Zone Raised Pavement Markers (WZRPMs) are certified as meeting the following except for Class E markers as noted below:

(1) Composition: Use markers made of plastic, ceramic or other durable materials. Markers with studs or mechanical attachments will not be allowed.

(2) Dimensions: Marker minimum and maximum surface dimensions is based on an x and y axis where the y dimension is the axis parallel to the centerline and the x axis is 90 degrees to y. Class E markers shall be 4 inch (W) by 2 inch (H) by 1 inch (D).

The x and y dimension of Class D markers shall be a maximum of 5 inches. The x dimension shall be a minimum of 4 inches and the minimum y dimension will be 2.25 inches.

Ensure that the maximum installed height of Class D markers is 1 inch. Ensure that the maximum installed height of Class E markers is 2 inches. Use Class D markers having a minimum reflective face surface of 0.35 in<sup>2</sup>. Use Class E markers having a minimum reflective surface area of 1 in<sup>2</sup>.

Ensure that after installation, the marker's reflective face is completely visible and above the pavement surface measured from a line even with the pavement perpendicular to the face of the marker.

(3) Optical Performance: Ensure that the specific intensity of each white reflecting surface at 0.2 degrees observation angle is at least the following when the incident light is parallel to the base of the marker:

Horizontal Entrance Angle	Specific Intensity
0 degrees	3
20 degrees	1.2

For yellow reflectors, the specific intensity shall be 60% of the value for white. For red reflectors, the specific intensity shall be 25% of the value for white. Reflectivity of all (WZRPMs) shall not be less than 1.0 Specific Intensity (SI) any time after installation.

(4) Strength requirements: Markers shall support a load of 5,000 pounds. Three markers per lot or shipment will be randomly selected for a test.

Position the marker base down between the flat parallel platens of a compression testing machine. Place on top of the marker a flat piece of 65 durometer rubber 6 by 6 by 0.375 inch centered on the marker. Apply the compressive load through the rubber to the top of the marker at a rate of 0.2 in/s.

Either cracking or significant deformation of the marker at any load less than 5,000 pounds will constitute failure.

(5) Adhesion: Use bituminous or other adhesive materials recommended by the marker manufacturer for bonding the markers to the pavement. The adhesive used shall be one of the products included on the Qualified Products List.

(6) Removability: Ensure that the pavement marker is removable from asphalt pavement and portland cement concrete pavement intact or in substantially large pieces, either manually or by mechanical devices at temperatures above 40 degrees F, and without the use of heat, grinding or blasting.

(7) Replacement Requirements: Replace markers any time after installation when more than two markers in a skip, or more than three consecutive markers on an edgeline are missing at no expense to CFX. Replace all failed markers in a timely manner as directed by the Director of Maintenance.

#### 102-3.3.2.4 Preformed Wet Retroreflective Removable Pavement Markings:

The preformed markings shall consist of white or yellow retroreflective film on a conformable backing.

The quality of the material shall be such that the performance requirements for the marking shall be met.

The markings shall be precoated with a pressure sensitive adhesive and shall be capable of being adhered to asphalt concrete or Portland cement concrete at temperatures as low as 50 degrees F in accordance with the manufacturer's recommendations. A surface preparation adhesive shall be used for all applications to improve initial and long term adhesion.

When stored in a cool dry area indoors, the materials shall be suitable for use for one year after the date of purchase.

The removable retroreflective striping tape shall be designed and constructed in such a manner that it can be readily removed when the markings are no longer applicable. The tape shall be capable of performing for the duration of a normal construction season and shall then be capable of being removed intact or in large pieces.

The removable, preformed, retroreflective pavement markings shall consist of a highly reflective, enclosed lens white or yellow film with a thin, flexible, conformable backing which is precoated with a pressure sensitive adhesive.

The enclosed lens white and yellow films shall have the following initial minimum reflectance values under dry and wet conditions at 1.05° observation angle and 88.76° entrance angle. These angles represent a simulated driver viewing geometry at 30 meters distance. The photometric quantity to be measured shall be the coefficient of retroreflected luminance ( $R_L$ ), and shall be expressed as millicandelas per square foot per foot candle  $[(\text{mcd}/\text{ft}^2)/\text{fc}^{-1}]$ . Values measured under dry conditions will be in accordance with the testing procedure of ASTM D 4061. Values measured under wet conditions will be in accordance with the testing procedure of ASTM E 1710 using a portable retroreflectometer capable of measuring at 30 meters geometry. As per CEN Standard EN 1436 Annex B.6, the wet test condition is created using clean water poured from a bucket of approximately 10 liters capacity from a height of approximately 0.5 m above the surface. Water is poured evenly along the test surface so that the measuring field and its surrounding area is momentarily flooded by a crest of water. The coefficient of retroreflected luminance ( $R_L$ ) in condition of wetness shall be measured under the test condition one (1) minute after the water has been poured.

Visually, the reflective performance shall be similar whether the material is dry or wet.

The angular aperture of both the photoreceptor and light projector shall be 6 minutes of arc. The reference center shall be the geometric center of the sample and the reference axis shall be taken perpendicular to the test sample.

	White	Yellow
Entrance Angle	88.76°	88.76°
Observation Angle	1.05°	1.05°
Retroreflected Luminance $R_L[(\text{mcd}/\text{ft}^2)/\text{fc}^{-1}]$	750	450

The manufacturer shall be required to demonstrate that the properly applied pavement marking adheres to the roadway under climatic and traffic conditions normally encountered in the construction work zone.

The marking film shall be removable from asphalt concrete and Portland cement concrete intact or in large pieces, at temperatures above freezing without the use of heat, solvents, grinding or blasting without permanently scaring the roadway surface.

The surface of the markings when new provides an average skid resistance value of 50 BPN when tested according to ASTM E 303.

Pavement markings in construction work zones shall be placed in accordance with the following provisions:

At the end of each day's work, pavement markings shall be in place on each paving lift that is open to normal traffic flow. Materials requiring removal shall be specified above, and marking configurations shall be in accordance with the Manual on Uniform Traffic Control Devices.

The pavement markings shall be maintained and replaced by the Contractor without additional compensation until they have served their purpose, at which time the Contractor shall remove them.

Pavement markings shall be applied to clean, dry surfaces in accordance with the manufacturer's installation instructions or a method approved by the Director of Maintenance.

**102-3.3.3 Certification:** Furnish the Director of Maintenance certified test reports showing the work zone pavement marking material and adhesive supplied meets the applicable specification. Each certification shall cover only one type. Due to the wide range of application of the products within some types, the certification shall state that the product is recommended for that specific project location, and specific use.

### **102-3.4 Temporary Glare Screen:**

**102-3.4.1 General:** Furnish, install, maintain, remove and relocate glare screen systems in conjunction with temporary barrier wall at locations identified in the Plans.

**102-3.4.2 Design and Installation:** Meet the following requirements:

(a) Glare screen units shall be manufactured in lengths such that when installed the joint between barrier sections will not be spanned by any one modular unit. Color shall be green, similar to Federal Color Standard 595-34227.

(b) Blades, rails and/or posts shall be manufactured from polyethylene, fiberglass, plastic, polyester or polystyrene, and be ultraviolet stabilized and inert to all normal atmospheric conditions and temperature ranges found in Florida.

(c) For paddle type designs, the blade width shall not be less than 6 inches, nor more than 9 inches. Blades or screen for individual or modular systems shall be 24 to 30 inches high and capable of being locked down at an angle and spacing to provide a cut-off angle not less than 20 degrees.

(d) For glare screen mounted on temporary barrier wall, a strip (6 by 12 inches) of reflective sheeting as specified in 994-2 shall be placed on a panel, centered in each barrier section (at a spacing not to exceed 15 feet and positioned in such a manner as to permit total right angle observation by parallel traffic. When glare screen is utilized on temporary concrete barriers, warning lights will not be required.

(e) Anchorage of the glare screen to the concrete barrier shall be capable of safely resisting an equivalent tensile load of 600 lb/ft of glare screen, with a requirement to use a minimum of three fasteners per barrier section.

(f) Prior to approval an impact test shall be performed by the manufacturer to verify the safety performance of the proposed system. The minimum impact strength of the posts, blades, rail and the barrier attachment design shall be sufficient to prevent the unit from separating from the barrier when impacted by a 3 inch outside diameter steel pipe traveling at 30 mph and impacting mid-height on the glare screen assembly.

(g) All hardware shall be galvanized in accordance with ASTM A 123 or stainless steel in accordance with AISI 302/305.

**102-3.4.3 Certification:** Furnish certified test reports including all applicable test methods stating that the materials comply with the requirements of this specification.

**102-3.4.4 Qualified Products List (QPL):** Manufactured glare screen systems may be modular or individual units listed on the Qualified Products List. A field impact test may be required by the Manufacturer to verify continual compliance with these Specifications.

**102-3.5 Work Zone Signs:** Work Zone Sign Panels include all Warning and Temporary Regulatory Signs, as identified in the MUTCD and the FDOT Design Standards, Index 600. Obtain manufacturer certification that the Work Zone signs meet the requirements of the FDOT Design Standards, MUTCD, and this Section. Provide signing in accordance with the FDOT Design Standards, unless otherwise shown in the plans.

**102-3.5.1 Temporary Regulatory Signs:** Provide signs with dimensions of 4 foot by 4 foot. For all other facilities, provide signs having minimum dimensions of 2 foot by 2.5 foot.

**102-3.6 Truck Mounted Attenuators:** Use Truck Mounted Attenuators (TMA), when called for in the Design Standards. Use truck mounted attenuator systems designed and constructed to slow impacting vehicles, and dissipate the vehicle's kinetic energy and bring the errant vehicle to a safe and controlled stop. Use systems designed and constructed for installation at the rear of trucks with a Gross Vehicular Weight of 15,000 pounds (actual weight) or more meeting the requirements of the manufacturer of the TMA. If adding supplemental weight to the vehicles as ballast is necessary, use only dry loose sand.

The TMA will provide a safety device between approaching vehicular traffic and the work zone when properly attached. Use like new units that are in current production, or updates of existing models as approved by CFX.

Use truck mounted attenuators rated at 45 mph or 60 mph design speeds. Base utilization of TMAs on the posted speed limit. Restrict a TMA rated for 45 mph to use on roadways with posted speed limits of 45 mph or less and prohibit from use on freeways. A TMA rated for 60 mph may be utilized on all freeways or roadways with posted speed limits greater than 45 mph.

Equip the TMA cartridge with lights and reflectors in compliance with applicable Florida motor vehicle laws, including turn signals, dual tail lights, and brake lights. Ensure that lights are visible in both the raised and lowered positions if the unit is capable of being raised.

Ensure that the complete unit is painted DOT yellow (Fed. Std. 595 b, No. 13538). Stripe the rear facing of the cartridge in the operating position with the alternating 6 inch white and 6 inch safety orange 45 degree striping to form an inverted "V" at the center of the unit and slope down and toward the outside of the unit, in both directions from the center. The bottom of the cartridge shall have the same pattern, covering the entire bottom, with 6 inch white and 6 inch safety orange stripes. Use Type III reflectorized sheeting for striping.

Obtain certified test reports from the TMA manufacturer showing the attenuator meets all requirements set by the National Cooperative Highway Research Program, Report 350. Certification shall include drawings and calculations signed and sealed by a Professional

Engineer registered in the State of Florida for each model. Limit TMAs to those items listed on the Qualified Products List.

The trucks and truck mounted impact attenuators will not be paid for separately, but will be included in the lump sum cost of maintenance of the roadway.

#### **102-4 Detours.**

**102-4.1 General:** Construct and maintain detour facilities wherever it becomes necessary to divert traffic from any existing roadway or bridge, or wherever construction operations block the flow of traffic.

**102-4.2 Standards of Construction:** Plan, construct, and maintain detours for the safe passage of traffic in all conditions of weather. Provide the detour with all facilities necessary to meet this requirement.

Where the Plans call for CFX to furnish detour bridge components, construct the pile bents in accordance with the FDOT Structures Design Office Standard Drawings, Index No. 300 and 301, unless otherwise authorized by the Director of Maintenance.

Submit a letter with the following: company name, phone number, office address, project contact person, project number, detour bridge type, bridge length, span length, location and usage time frames, to the Director of Maintenance at least 30 calendar days prior to the intended pick-up date, to obtain the storage facility location and list of components for the project. Upon receipt of letter, the Director of Maintenance will, within ten calendar days provide an approved material list to the Contractor and the appropriate CFX storage site. Provide a letter with an original company seal, identifying the representative with authority to pick up components, to the Director of Maintenance at least ten calendar days prior to the proposed pick-up date. CFX is not obligated to load the bridge components without this notice. At the time of issuance the Contractor's representative shall sign for each item loaded.

Provide timber dunnage, and transport the bridge components from the designated storage facility to the job site. Unload, erect, and maintain the bridge, then dismantle the bridge and load and return the components to the designated storage facility.

Notify the Director of Maintenance in writing at least ten calendar days prior to returning the components. Include in this notice the name of the Contractor's representative authorized to sign for return of the bridge components.

The Contractor shall provide a crane and an operator at the storage facility to load and unload the bridge components and furnish all other labor and equipment required for loading and unloading the components.



The Director of Maintenance will record all bridge components issued or returned on the Detour Bridge Issue and Credit Ticket. The Tickets must be signed by the Director of Maintenance and Contractor representative, after loading or unloading each truck to document the quantity and type of bridging issued or returned.

Bind together all bridge components to be returned in accordance with the instructions given by the storage facility. Repack components that are not packed in compliance with these instructions.

Assume responsibility for any shortage or damage to the bridge components.

The skid resistance of open steel grid decking on the detour bridge may decrease gradually after opening the bridge to traffic. The Contractor shall furnish a pneumatic floor scabbler machine for roughening the roadway surface of the detour bridge decking. Provide an air compressor at the job site with 200 ft<sup>3</sup> /minute capacity, 90 psi air pressure for the power supply of the machine, and an operator. Perform scabbling when determined necessary by the Director of Maintenance.

Return the bridge components to the designated storage facility beginning no later than ten calendar days after the date the detour bridge is no longer needed, or the date the new bridge is placed in service, whichever is earlier. Return the detour bridging at an average of not less than 200 feet per week.

**102-4.3 Materials:** Provide all materials for the construction and maintenance of all detours, except that, where the plans call for CFX to provide borrow or other material pits, the Director of Maintenance will allow the Contractor to obtain material from these pits for the detour. CFX will make no separate payment for materials used from these pits to construct detours.

**102-4.4 Construction Methods:** Do not apply the requirements of the Standard Specifications pertaining to construction and material details to detour construction. Select and use construction methods and materials that shall provide a stable and safe detour facility. Construct the detour facility to have sufficient durability to remain in good condition, supplemented by maintenance, for the entire period that the detour is required.

**102-4.5 Removal of Detours:** Remove temporary detours when they are no longer needed and before the Contract is completed. Take ownership of all materials from the detour and dispose of them, except for materials which might be on loan from CFX with the stipulation that they be returned.

## **102-5 Calcium Chloride for Dust Control.**

**102-5.1 General:** The Director of Maintenance will direct the locations and the time of using calcium chloride for dust control.

**102-5.2 Equipment:** Apply the calcium chloride using any spreader capable of such adjustment and control that the quantity of calcium chloride applied in any 25 foot length of road does not vary more than 10% from the quantity intended for that length. Do not use rotary-type spreaders,

as they are not considered capable of proper control. Use equipment to apply water that is capable of applying the water uniformly within the limitations of moisture required.

### **102-5.3 Application:**

**102-5.3.1 Weather Limitations:** Even if previously ordered by the Director of Maintenance, do not treat surfaces when raining or when the moisture condition exceeds that for proper application of the calcium chloride as determined by the Director of Maintenance.

**102-5.3.2 Preparation for Treatment:** Level the subgrade, base materials, or other surface to be treated to a smooth grade and crown or shape the surface to effect adequate drainage. When so directed, moisten the surface prior to application of the material.

**102-5.3.3 Rate of Application:** The Director of Maintenance will specify the actual rate at which to uniformly spread the material. Apply the flakes at a rate between 1.0 and 1.25 lbs/sq.yd. of surface, and pellets at a rate between 0.80 and 1.0 lb/sq. yd.

**102-5.3.4 Subsequent Applications:** If subsequent applications are required over a previously treated area which has previously been treated, make such applications at a rate of approximately 0.75 lb/sq. yd. for flakes and 0.6 lb/sq. yd. for pellets.

**102-5.3.5 Protection from Traffic:** Do not allow traffic on the treated surface until two hours after application.

### **102-6 Materials for Driveway Maintenance.**

**102-6.1 General:** Place material in driveways to residences and businesses to provide safe, stable, and reasonable access.

**102-6.2 Materials:** Provide material of the type typically used for base and having stability and drainage properties that will provide a firm surface under wet conditions.

**102-6.3 Construction Methods:** Place, level, manipulate, compact, and maintain the material, to the extent appropriate for the intended use.

As permanent driveway construction is accomplished at a particular location, the Contractor may salvage and reuse previously placed materials that are suitable for reuse on other driveways.

END OF SECTION

**SECTION 561  
COATING EXISTING STRUCTURAL STEEL**

**561-1 Description.**

Coat existing structural steel in accordance with the requirements of this Section by removing and replacing the existing coating or overcoating the existing coating as stated in the Contract Documents.

**561-2 Materials.**

**561-2.1 Coating Systems:** For removal and replacement systems, use coating products and systems meeting the requirements of Section 975 and are listed on the Department's Approved Product List (APL).

For overcoating systems, use products and systems as designated in the Contract Documents. Submit product data sheets and product Material Safety Data Sheets (MSDS), or in lieu of MSDS, submit test reports showing percent weight compositional analysis, Chemical Abstract Number, American Conference of Governmental Industrial Hygienists (ACGIH) time weighted average and ceiling exposure limits for all components, and lower and upper explosive limits, flash point, boiling point, amount of volatile organic compounds by weight, and specific gravity for each component of the coating system.

**561-2.2 Thinners, Solvents and Cleaners:** Meet the requirements of 560-2.2. In addition, for overcoating systems, use thinners, solvents, and cleaners that do not damage the existing coating system.

**561-2.3 Caulking:** Meet the requirements of 560-2.3.

**561-2.4 Soluble Salts Test Kit:** Meet the requirements of 560-2.4.

**561-2.5 Abrasives:** Meet the requirements of 560-2.5.

**561-2.6 Rust Preventative Compound:** Meet the requirements of 560-2.6.

**561-2.7 Storage:** Meet the requirements of 560-2.7.

**561-3 Equipment.**

**561-3.1 Compressed Air:** Meet the requirements of 560-3.1.

**561-3.2 Abrasive Blasting System:** Meet the requirements of 560-3.2.

**561-3.3 Coating Application System:** Meet the requirements of 560-3.3.

**561-4 Quality Control (QC).**

**561-4.1 Field Preparation and Application:** Provide a current Corporate Q C Plan approved by SSPC under the SSPC QP1 and SSPC QP2 certifications as appropriate and a site specific Coating Plan to the Engineer at least 14 calendar days prior to beginning coatings work. Do not begin coatings work until the site specific Coating Plan has been approved by the Engineer.

Prepare a traffic control plan for each phase of construction activities signed and sealed by the Contractor's Engineer of Record in accordance with the Roadway Plans Preparation Manual. Do not begin work until the traffic control plan is approved by the Engineer. Maintain traffic in accordance with Section 102.

For work over navigable waters, submit a work plan to the United States Coast Guard including any scheduled restrictions to navigation channels or marine traffic. Obtain Coast Guard approval at least 30 days in advance of any restrictions.

**561-4.2 Inspection:** Meet the requirements of 560-5.3.

### **561-5 Qualifications.**

**561-5.1 Field Contractor:** Meet the requirements of 560-6.2.

**561-5.2 Quality Control (QC) Inspectors:** Meet the requirements of 560-6.3.

**561-5.3 Certifications:** Meet the requirements of 560-6.4.

### **561-6 Surface Preparation.**

**561-6.1 General:** When portions of the existing coating are designated in the Contract Documents to be removed and replaced, clean, wash, test and remove soluble salts, and abrasive blast or hand and power tool clean to remove all existing coating and corrosion in the intended locations. Feather back the edges of all existing coating to remain a minimum of 3 inches around the area of existing coating removed to provide a smooth transition. Verify the edges of the existing coating are intact by probing with a dull putty knife in accordance with SSPC SP 2. Roughen the existing coating in the feathered area to ensure proper adhesion of the new coating. Notify the Engineer immediately when any structural steel appears to be defective.

When the existing coating is to remain, clean, wash, and test and remove soluble salts.

Ensure all surfaces to be coated are clean, dry, and free from oil, grease, dirt, dust, soluble salts, corrosion, peeling coating, caulking, weld spatter, mill scale and any other surface contaminants. Sequence the surface preparations and coating operations so that freshly applied coatings will not be contaminated by dust or foreign matter. Protect all equipment and adjacent surfaces not to be coated from surface preparation operations. Protect working mechanisms against intrusion of abrasive. In the event that any rusting or contamination occurs after the completion of the surface preparation, prepare the surfaces again to the initial requirements. Perform surface preparation work only when the temperature of the steel surface is at least 5°F above the dew point temperature.

**561-6.2 Mechanical Removal of Surface Defects:** Meet the requirements of 560-7.2. In addition, remove all pack rust prior to solvent cleaning.

**561-6.3 Cleaning:** Meet the requirements of 560-7.3.

**561-6.4 Washing:** Meet the requirements of 560-7.4.

**561-6.5 Soluble Salts Detection and Removal:** Meet the requirements of 560-7.5 except test five random locations in the first 1000 square feet and one random location for each subsequent 1000 square feet.

**561-6.6 Abrasive Blast Cleaning:** Meet the requirements of 560-7.6.

**561-6.7 Hand and Power Tool Cleaning:** Prepare steel by power and hand tool cleaning as defined in SSPC SP 11, SSPC SP 3, and SSPC SP 2 as stated in the Contract Documents. Use SSPC VIS 3 as an aid in establishing cleanliness.

### **561-7 Surfaces Not to be Coated.**

**561-7.1 Galvanized Surfaces:** Meet the requirements of 560-8.1.

**561-7.2 Machine Finished Surfaces:** Meet the requirements of 560-8.4.

### **561-8 Application.**

**561-8.1 General:** Apply a complete coating system to all structural steel surfaces except surfaces indicated in 561-7.

Prior to the application of any coating, inspect the substrate for contamination and defects, and prepare the surface in accordance with 561-6 before application of the next coat.

Apply each coat including a stripe coat in a color that contrasts with the substrate or preceding coat. For exterior surfaces, apply a finish coat color meeting FED-STD-595, Shade 36622, unless otherwise specified in the Contract Documents.

**561-8.2 Weather and Temperature Limitations:** Meet the requirements of 560-9.2.

**561-8.3 Sealing Using Caulk:** Meet the requirements of 560-9.3.

**561-8.4 Protection of Adjacent Surfaces:** Meet the requirements of 560-9.4.

**561-8.5 Mixing and Thinning:** Meet the requirements of 560-9.5.

**561-8.6 Application Methods:** Meet the requirements of 560-9.6.

**561-8.7 Stripe Coating:** Meet the requirements of 560-9.7.

**561-8.8 Thickness of Coats:** Meet the requirements of 560-9.8.

**561-8.9 Coating Drying, and Curing:** Apply coatings within the time specified by the coating manufacturer's product data sheet for drying and recoating. Before handling, test for cure in accordance with the manufacturer's recommended method. Meet the requirements of ASTM D5402 for organic zinc primers when the manufacturer's technical data sheet does not state a specified cure test. Obtain the acceptance criteria from the coating manufacturer and report the results to the Engineer.

**561-8.10 Coating Finish:** Meet the requirements of 560-9.10.

#### **561-9 Touchup and Repair.**

Clean and coat all welds, rivets, bolts, and all damaged or defective coating and rusted areas in accordance with 561-6 and 561-8. Upon approval by the Engineer, aluminum mastic may be used in accordance with the manufacturer's recommendations. Aluminum mastic must contain aluminum pigment and minimum 80% volume solids.

#### **561-10 Protection of the Environment, Public, and Workers.**

**561-10.1 General:** Establish plans and programs to protect the environment, public, contractor employees, other workers, and property from overspray, exposure to toxic heavy metals and the release and emission of hazardous materials and nuisance dusts. Include in such plans and programs a procedure for the receipt, processing, evaluation and timely written response for claims by the public for damage resulting from the foregoing work. Provide the Department with copies of any written response which denies such damage claims. Conduct all coating application and removal operations in compliance with EPA, OSHA, and other applicable Federal, State and local regulations. Provide a contingency plan for the remediation of water and land in the event of contamination by solid or liquid paint and contaminated water.

**561-10.2 Environmental Protection:** Prepare and submit to the Engineer, plans and programs for the protection of the environment and public based on the applicable EPA requirements, the requirements of this Section, and the Contract Documents. Include plans and programs for the protection of the air, soil/ground, and water.

**561-10.2.1 Pollution Control:** Submit a written pollution control and monitoring plan at the preconstruction meeting or as directed by the Engineer which clearly describes the means for complying with all Local, State and Federal regulations including pollution control provisions specified herein. The written plan must be in accordance with SSPC Project Design: Industrial Lead Paint Removal Handbook, Volume II, Phase 6, Environmental Monitoring, and specifically include, but not be limited to, providing a scaled map of the work site layout showing the proposed number and location of soil sampling, Total Suspended Particulate (TSP) monitoring sites, waste storage areas, staging areas, temporary waste storage areas, and ambient air and personnel sampling frequency.

Comply with all applicable Federal, State, and Local rules and regulations. Immediately cease all operations in the event a violation of any environmental regulation or a failure to properly execute any pollution control provisions occurs. Resume operations after written proposed corrective procedures have been submitted to and approved by the Engineer and implemented.

**561-10.2.2 Permits:** Submit all required permits from all applicable regulatory agencies to the Engineer prior to the commencement of any work. Seek permit determination from these regulatory agencies to avoid any potential permit non-compliance issues during work activities. The Contractor is responsible for all liability resulting from non-compliance with pertinent rules and regulations including permit requirements.

**561-10.2.3 Ambient Air Quality Compliance and Protection of the Air:**

**561-10.2.3.1 Visible Emissions:** Assess the visible emissions using EPA Method 22, Timing of Emissions as defined by 40 CFR 60, Appendix A, Standards of Performance for New Stationary Sources. During abrasive blasting, do not allow visible emissions from a containment to exceed a random cumulative duration of more than one percent of the workday (SSPC Guide 6, Level 1 Emissions). During pressurized water cleaning, do not allow visible emissions from a containment to exceed a random cumulative duration of more than ten percent of the workday (SSPC Guide 6, Level 3 Emissions).

**561-10.2.3.2 Total Suspended Particulate (TSP) Matter:** Control emissions from the containment area to prevent exceeding the TSP lead of 1.5  $\mu\text{g}/\text{m}^3$  over a 90 day period, or the daily and adjusted daily allowances of SSPC-TU 7. Conduct TSP Lead monitoring in accordance with 40 CFR 50, Appendix B, Reference Method for Determination of TSP Matter in the Atmosphere (high volume sampler required), and 40 CFR 50, Appendix G, Reference Method for Determination of TSP Matter Collected from Ambient Air. Position the TSP lead monitoring equipment in general accordance with 40 CFR 58, Ambient Air Quality Surveillance.

When lead is present in the coating, perform TSP Lead background monitoring for a period of 3 days prior to the beginning of abrasive blast cleaning operations. Submit the results from background monitoring and the first week of monitoring during abrasive blast cleaning to the Engineer for review within 5 calendar days after the first week of work. Continue monitoring unless otherwise directed by the Engineer.

**561-10.2.3.3 Regulated Area:** Establish a regulated area around the work site to prohibit unauthorized persons from areas where exposure to hazardous airborne metals may exceed the following action levels:

Airborne Metals	Action Level
Lead	30 $\mu\text{g}/\text{m}^3$
Cadmium	2.5 $\mu\text{g}/\text{m}^3$
Arsenic	5 $\mu\text{g}/\text{m}^3$
Hexavalent Chromium ( $\text{Cr}^{6+}$ )	2.5 $\mu\text{g}/\text{m}^3$

Conduct monitoring in accordance with the National Institute for Occupational Safety and Health (NIOSH) procedures upon initiation of dust producing operations and submit the test results to the Engineer within 72 hours of sampling. Report sample results as eight-hour Time Weighted Averages (TWA). Reestablish the regulated area and perform additional sampling when the results exceed the action levels or when directed by the

Engineer. Document all pertinent data in a field logbook. Position air-sampling pumps around the project perimeter where the public or personnel can approach the work area. Place sampler inlets at breathing height. Clearly mark the regulated area by the use of warning signs, rope, barrier tape, or temporary construction fencing.

**561-10.2.4 Soil/Ground Quality:** Inspect the ground beneath and in proximity to the structure in the presence of the Engineer for visible paint chips to establish an initial job site cleanliness standard. When heavy metals are in the existing coatings, test soil samples prior to the beginning of operations and after project completion for heavy metals. Document the number and specific locations where the initial samples are taken as outlined in the SSPC Project Design-Industrial Lead Paint Removal Handbook, Volume 2 to ensure the post samples are collected from the same locations. Submit all samples to the Engineer for review. If the project activities increase the heavy metal content in soil to more than 20% above the pre-job geometric mean or 100% at any one location, return the site to the pre-job levels. Conduct additional soil testing as necessary to determine the extent of contamination.

For structures less than 14 feet minimum height, take one sample north, south, east, and west (where soil is present) of the structure. If the structure is longer than 14 feet, take one additional sample for every 14 feet in length.

For structures greater than 14 feet minimum height, take two samples north, south, east, and west (where soil is present) of the structure. Locate the inner row of samples within 14 feet of the structure. Locate the outer row of samples at a distance equal to the height of the structure. If the structure is longer than 14 feet, take one additional sample for every 14 feet in length.

In addition, submit a pre- and post- soil sampling plan for storage areas identifying the sample location, depth, analyses list, lab certification, and turnaround time. Once approved by the Engineer, submit sampling results along with a scaled drawing indicating designated sample locations.

**561-10.2.5 Water Quality:** Do not release, discharge or otherwise cause hazardous materials, debris, waste, or paint chips to enter the water. Protect against releases due to rain and methods of surface preparation from reaching rivers, streams, lakes, storm drains, or other bodies of water.

**561-10.3 Containment System:** Submit a written containment system design plan in accordance with this section and the contract documents at the pre-construction conference or as directed by the Engineer which clearly describes the proposed containment system applicable to the intended removal method and in accordance with the requirements outlined herein and SSPC Guide 6, Guide for Containing Debris Generated During Paint Removal Activities. Ensure the plan includes, but is not limited to, removal method; methods for collecting debris; and containment enclosure components. Use fire retardant materials. Provide containment drawings, calculations, assumptions, ventilation criteria if applicable, and a structural analysis that verifies the existing structure can withstand the additional dead, live and wind loads imposed by the containment system, signed and sealed by a Specialty Engineer. However, for more complex structures incorporating cables stayed, suspension, or truss designs, the analysis must be performed by the Contractor's Engineer of Record qualified in Type Work Category 4.3, Complex Bridge Design. Provide a contingency plan addressing natural weather events such as tropical storms and hurricanes. Ensure the lighting inside the containment is in accordance with SSPC Guide 12, Guide for Illumination of Industrial Painting Projects. Provide lighting to a minimum intensity of 10 ft-cd for general, 20 ft-cd for work, and 50 ft-cd for inspection. All

drawings and calculations must be submitted and accepted before any work begins. Include a clear description of the ventilation system components and information including the fan curve and design point on the proposed dust collector. Design to provide ventilation according to the notes provided in SSPC Guide 6: 100 feet per minute for cross draft and 50-60 feet per minute for downdraft.

Isolate the immediate area of the structure to ensure compliance with current and permit requirements for air, water, soil, and pollution prevention. Protect the containment system from vehicular and pedestrian traffic. Ensure paint, paint chips, or other debris will not fall outside of the containment area under any circumstances. Repair any damage created by fastening, bracing, or handling the scaffolding and staging. If a suspended platform is constructed, use rigid or flexible materials as needed to create an air and dust impenetrable enclosure. Verify that the platform and its components are designed and constructed to support at least four times its maximum intended load without failure, with wire cables capable of supporting at least six times their maximum intended load without failure. Strictly comply with all applicable OSHA regulations regarding scaffolding. The category and class of containment shall be as required in the Contract Documents.

**561-10.4 Protection of Adjacent Areas:** Protect all areas adjacent to abrasive blast cleaning, including machinery and deck grating. Before the commencement of any cleaning and coating operations, provide a control plan for the protection of adjacent surfaces from damage by nearby blasting and coating to the Engineer for review. Repair any damage to adjacent areas. The repair procedure must be submitted to the Engineer for acceptance prior to any remediation.

**561-10.5 Worker Protection:** Comply with the requirements of OSHA 29 CFR 1926 and applicable portions of 29 CFR 1910. Include specific programs as required by 29 CFR 1926.62 (lead), 29 CFR 1926.1118 (inorganic arsenic), 29 CFR 1926.1126 (hexavalent chromium), and 29 CFR 1926.1127 (cadmium) when these hazardous agents are present. Implement appropriate safety procedures for all hazards on the job site whether specifically identified herein or not.

#### **561-11 Waste Handling and Management.**

**561-11.1 General:** Prepare a waste management program plan which addresses the applicable requirements from EPA regulations for hazardous waste management and the Contract Documents. Include provisions for the handling and disposal of non hazardous waste. Dispose of all waste in accordance with all federal, state, and local laws and regulations.

**561-11.2 Collection and Handling of Waste:** Properly classify, package, and store all paint removal debris, both solid and liquid in accordance with SSPC Guide 7, Guide for the Disposal of Lead-Contaminated Surface Preparation Debris, the Federal Water Pollution Control Act with amendments, and all other current government regulations and guidelines. Comply with the Resource Conservation and Recovery Act to include, at a minimum, CFR 40 260 through CFR 40 268. Prior to identification and storage, separate solid and liquid waste, and separate individual waste streams.

**561-11.3 Testing and Analysis:** Laboratory analyses for all waste stream and environmental samples shall be conducted by an EPA certified, independent laboratory with an approved Quality Assurance Plan. Laboratory analyses for worker monitoring and regulated area samples shall be conducted by an American Industrial Hygiene Association (AIHA) metals accredited laboratory. Provide a copy of all sampling and test reports no later than 72 hours after collection of samples.



**561-11.4 Waste Identification:** Collect samples in accordance with EPA SW 846, Test Methods for Evaluating Solid Waste - Physical/Chemical Methods. Use a random and representative sampling technique. Collect a minimum of four representative samples of each waste stream. These waste streams include, but are not limited to, water, paint chips, dust, and paint chips mixed with disposable abrasives and debris. Complete the initial sampling of each waste stream immediately upon filling the first drum, but do not allow waste to accumulate for longer than 7 days before sampling.

After the representative samples are collected, send them immediately to the EPA certified laboratory for analysis. Unless otherwise directed by the Engineer, required by State regulations, or required by the waste recycling or disposal facility, once each waste stream is sampled, tested, and classified, additional sampling and analysis are not required for subsequent shipments unless the waste stream changes. Submit samples to an approved laboratory to be tested for arsenic, barium, cadmium, hexavalent chromium, lead, mercury, selenium, and silver in accordance with EPA Method 3050 and Method 6010 (content) and EPA Method 1311, Toxicity Characteristics Leaching Procedures (TCLP). Clearly label each sample with sample number, date and time of sampling, name of collector, and location of collection.

Maintain chain of custody forms for each sample. Enter each sample on a sample analysis request form. Enter sample numbers, type of waste, amount of each sample, distribution of samples, signature and all other information into field logbook.

**561-11.5 Waste Storage:** Collect waste from the control devices, equipment, and all work surfaces on a daily basis. Keep hazardous and non-hazardous waste separate. Do not mix blasting debris with any other type of waste. Place waste in approved storage drums.

Locate all hazardous waste within a regulated area. The maximum weight for each drum, when filled, is 821 pounds. Properly seal and label all drums. Transport waste storage drums to a secured, marked, temporary storage area. Locate the temporary storage area on well-drained ground not susceptible to flooding or storm water run-off. Place drums on a pallet and cover with fiber reinforced, impermeable tarpaulins. Store drums no more than two drums wide and two drums high. Arrange drums so that labels are easily readable. Do not store waste in the temporary storage area longer than 90 days.

**561-11.6 Waste Disposal:** Transport, treat and dispose of all hazardous and non-hazardous waste. Notify the Engineer a minimum of three weeks prior to the date of shipment of any waste to an off-site facility. Provide the Engineer with documentation that the receiving disposal facilities are properly licensed. Provide manifests for all hazardous and non-hazardous waste shipments. Identify any waste disposal subcontractors and provide a copy of their licensing to perform waste disposal and transport operations.

**561-11.7 Permits:** The Contractor is responsible for all liability resulting from non-compliance with pertinent rules and regulations including permit requirements.

**Attachment 21**  
**RAILROAD CROSSING MAINTENANCE**

**1.0 Description**

- 1.1 The Contractor shall furnish all labor, materials, equipment, tools, transportation and supplies required to maintain the railroad crossing in accordance with the specifications, procedures and terms of the Contract, including the specific tasks and events set forth on the attached exhibits or plans (if any).

Contractor shall be responsible for the maintenance of the automatic grade crossing traffic control devices, the highway roadbed and the portion of the highway lying between the width of the rail ties at the crossing, but not the track bed and rail components.

Inspections of the crossing shall be performed no less than once a month. Contractor shall maintain the highway roadbed referred to above and the signals at the crossing, including crossing gates in accordance with accepted industry practices and all applicable local, state and federal statutes. A copy of each monthly inspection checklist shall be submitted to the Director of Maintenance within 5 days after completion of the inspection.

**2.0 Location**

- 2.1 The railroad crossing, FDOT Crossing No. 621659G (single track), located on the Orlando Utilities Stanton Energy Line, south of SR 528 at International Corporate Parkway, crossing the CFX on/off ramp.

**3.0 Notification**

- 3.1 Contractor shall notify the Director of Maintenance promptly whenever signals have been repaired and returned to normal operation.

END OF SECTION

**CONSENT AGENDA ITEM**

**#18**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement


DATE: November 30, 2021

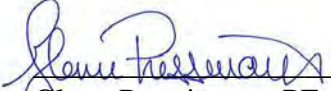
SUBJECT: Ratification of Contract Award to Jorgensen Contract Services, L.L.C. for Roadway and Bridge Maintenance Services – SR 453, SR 429, SR 414 and SR 451  
Contract No. 001861

---

On October 22, 2021, CFX was notified that Infrastructure Corporation of America, a contractor that provided roadway and bridge maintenance services, intended to cease operations at the end of the day. On October 27, 2021 quotes were requested from qualified firms to provide roadway and bridge maintenance services on SR 453, SR 429, SR 414 and SR 451 to take the place of Infrastructure Corporation of America. Two responses were received by the November 1, 2021 deadline. Those firms were Jorgensen Contract Services, L.L.C. and Louis Berger Hawthorne Service, Inc.

In accordance with CFX's Procurement Policy and Florida Statutes, the Executive Director approved the emergency contract to Jorgensen Contract Services, L.L.C. on November 23, 2021. Board ratification of the contract award to Jorgensen Contract Services, L.L.C. in the amount of \$2,100,000.00 for six months is requested.


Reviewed by:   
\_\_\_\_\_  
Don Budnovich, PE  
Director of Maintenance

  
Glenn Pressimone, PE

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Laura Kelley  
Executive Director

FROM: Aneth Williams   
Director of Procurement

DATE: November 22, 2021

SUBJECT: Approval of Emergency Contract to Jorgensen Contract Services, L.L.C. for  
Roadway and Bridge Maintenance Services – SR 453, SR 429, SR 414 and SR 451

---

In accordance with the Procurement Policy, Article XII, Exemption from Competitive Procurement Processes, paragraph N, Emergency Purchases, your approval is requested to proceed with the award of contract to Jorgensen Contract Services, L.L.C. in the amount of \$350,000.00 monthly for a total of \$2,100,000.00 for six (6) months to provide roadway and bridge maintenances services for SR 453, SR 429, SR 429 and SR 451. This amount was negotiated between the surety company and Jorgensen Contract Services, L.L.C.

On October 22, 2021, CFX was notified that Infrastructure Corporation of America, a contractor that provides roadway and bridge maintenance services to CFX, intended to cease operations at the end of the day. On October 27, 2021 the Procurement Department requested quotes from two (2) qualified contractors, Jorgensen Contract Services, L.L.C. and Louis Berger Hawthorne Services, Inc., per Florida Statutes 287.057(3)(a).

Subject to your approval, and in accordance with Florida Statutes 287.057(3)(a) and CFX's Procurement Policy, I will prepare a memo to the board requesting ratification of the contract award.

Approved  Rejected

  
Executive Director

If rejected, reason(s) for rejection:

---

---

cc: Lisa Lumbard  
Don Budnovich  
Woody Rodriguez

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
ROADWAY AND BRIDGE MAINTENANCE SERVICES  
S.R. 453, S.R. 429, S.R. 414, AND S.R. 451  
CONTRACT 001861**

This Contract No. 001861 (the "Contract" as defined herein below), is made this 24th day of November 2021, between the CENTRAL FLORIDA EXPRESSWAY, a body politic and agency of the State of Florida, hereinafter called CFX and Jorgensen Contract Services, L.L.C., 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 Authority 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 CFX, in order to comply with the 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 roadway and bridge maintenance services on S.R. 453, S.R. 429, S.R. 414, and S.R. 451 and related tasks as may from time to time be assigned to the CONTRACTOR by CFX; and,

**WHEREAS**, on or about January 15, 2017, CFX issued a Request for Proposals (RFP001152) seeking qualified contractors to perform such tasks; and,

**WHEREAS**, Infrastructure Corporation of America (ICA) was the successful one of five qualified firms that responded to the Request for Proposals and was ultimately selected;

**WHEREAS**, on April 13, 2017, CFX and Infrastructure Corporation of America (ICA) entered into an Agreement identified as 001152 to perform such tasks; and,

**WHEREAS**, On October 22, 2021, CFX was notified that Infrastructure Corporation of America (ICA), a contractor that provides facilities maintenance services and roadway and bridge maintenance services to CFX, intended to cease operations at the end on the day. DBI Services, as the successor in interest to Infrastructure Corporation of America, was previously awarded two contracts, 001150 and 001152, which require significant maintenance responsibilities of our roadways and facilities. A lapse of maintenance or failure of any of these items would represent an immediate danger to the public health, safety or welfare, particularly during a pandemic when there is a need for heightened custodial care for public buildings and areas utilized by CFX employees; and,

**WHEREAS**, on October 25, 2021, in accordance with Section 287.057(3)(a), Florida Statutes, the CFX Executive Director declared that an immediate danger to the public health, safety or welfare exists requiring emergency action including the procurement of emergency services for certain necessary maintenance services; and,

**WHEREAS**, on or about October 27, 2021, CFX issued an emergency Request for Quotes seeking an interim qualified contractor to perform such tasks; and,

**WHEREAS**, CONTRACTOR was the successful one of two qualified firms that responded to the Request for Quotes and was ultimately selected;

**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 Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized representatives of CFX, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include maintenance of, and administration and management services related to roadways and bridges on S.R. 453, S.R. 429, S.R. 414, and S.R. 451 in Orange County, Florida as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

CFX does not guarantee that all of the services described in the Scope of Services (including the Addendum to the Scope of Services and the Maintenance Specifications) attached as **Exhibit "A."** 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.

The Contract Documents, in order of precedence, consist of:

- 1.1 The Contract, including insurance policies,
- 1.2 The Addenda (if any),
- 1.3 The Scope of Services (including the Addendum to the Scope of Services and the Maintenance Specifications),
- 1.4 The Method of Compensation,
- 1.5 The Price Proposal submitted by CONTRACTOR,

(collectively, the "Contract Documents").

## 2. TERM AND NOTICE

The term of the Contract shall be on a month to month basis and shall commence from the date in the Notice to Proceed from CFX until the Contractor is provided a Notice of Termination. The month to month term is to allow CFX time to successfully identify a permanent Contractor through a Request for Proposal process and the mobilization of the permanent Contractor to begin said services. CFX hereby notifies the interim Contractor that no privileges, rights, or guarantees are conferred upon them that will benefit them in the final selection of a Permanent Contractor.

CFX shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 15 days notice for convenience or 30 days with cure notice 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 will 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 hereinabove. CONTRACTOR will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONTRACTOR will not be paid for special, indirect, consequential, or undocumented termination 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 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 personnel or with sufficient materials to assure the prompt performance of the work items covered 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 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 and equipment on the sites where work is or was occurring, 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 cancel and terminate this Contract in the event the CONTRACTOR or any employee, servant, or agent of the CONTRACTOR is indicted for any crime arising out of or in conjunction with any work being performed by the CONTRACTOR for or on behalf of CFX, without penalty. Such termination shall be deemed a termination for default.

CFX reserves the right to terminate or cancel this Contract in the event the CONTRACTOR shall be placed in either voluntary or involuntary bankruptcy or an assignment is made for the benefit of creditors. Such termination shall be deemed a termination for default.

### **3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES**

3.1 CFX agrees to pay CONTRACTOR for services performed in accordance with the Method of Compensation attached as **Exhibit "B."**

3.2 The month to month Contract Amount is \$350,000.00, amount negotiated between the surety company and Jorgensen Contract Services, L.L.C., attached as **Exhibit "C."**

### **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 or 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 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.

## **5. DISADVANTAGED/MINORITY AND WOMEN'S 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 maximum opportunity to participate in the provision of the Services with respect to the operation

and maintenance of the System. 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 Contract Date hereof 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.

## **6. 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:

6.1 **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.

6.2 **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;

6.3 **Workers' Compensation Insurance** Coverage, including all coverage required under the laws of the state of Florida (as amended from time to time hereafter);

6.4 **Unemployment Insurance** Coverage in amounts and forms required by Florida law, as it may be amended from time to time hereafter.

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.

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.

## **7. CONTRACTOR RESPONSIBILITY**

7.1 CONTRACTOR shall take all reasonable precautions in the performance of the Services and shall cause its employees, agents and subcontractors to do the same. CONTRACTOR shall be solely responsible for the safety of, and shall provide protection to prevent damage, injury or loss to:

(i) all employees of CONTRACTOR and its subcontractors and other persons who would reasonably be expected to be affected by the performance of the Services;

(ii) other property of CONTRACTOR and its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible on or adjacent to the areas upon which services are performed;

7.2 CONTRACTOR shall comply, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible, with applicable laws, ordinances, rules, regulations, orders of public authorities, sound business practices, including without limitation:

(i) those relating to the safety of persons and property and their protection from damage, injury or loss, and

(ii) all workplace laws, regulations, and posting requirements, and

(iii) 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.

7.3 CONTRACTOR shall be responsible for actual damage and loss that may occur with respect to any and all property located on or about any structures in any way involved in the provision of services by CONTRACTOR, whether such property is owned by CONTRACTOR,

CFX, or any other person, to the extent such damage or loss shall have been caused or brought about by the negligent acts or omissions of CONTRACTOR or its employees, agents, officers or subcontractors or any other persons for whom CONTRACTOR may be legally or contractually responsible.

7.4 CONTRACTOR shall ensure that all of its activities and the activities of its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible are undertaken in a manner that will minimize the effect on surrounding property and the public.

7.5 CONTRACTOR shall immediately notify CFX of any material adverse change in CONTRACTOR's financial condition, business, prospects, affairs, or operations, or of such change of any partner, or of such change of any shareholder holding greater than a 10% interest in CONTRACTOR, or of the existence of any material impairment of rights or ability of CONTRACTOR to carry on as its business and operations are currently conducted.

7.6 CONTRACTOR shall not make any requirement of any employee, or enter into a non-competition agreement with any employee, whether oral or written, of any kind or nature, that would prohibit CONTRACTOR's employees from leaving CONTRACTOR's employ and taking employment with any successor of CONTRACTOR for CFX's roadway and bridge maintenance services.

## **8. 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 Program Manager, Project Manager and Superintendent (the "Key Personnel") 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 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, shall be submitted to CFX 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 Effective Date 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.

## **9. INDEMNITY**

The CONTRACTOR shall indemnify and hold harmless CFX and all of its respective officers, CONTRACTOR's or 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:

9.1 violation of same by CONTRACTOR, its subcontractors, officers, agents or employees,

9.2 CFX's use or possession of the CONTRACTOR Property or CONTRACTOR Intellectual Property (as defined herein below),

9.3 CFX's full exercise of its rights under any license conveyed to it by CONTRACTOR,

9.4 CONTRACTOR's violation of the confidentiality and security requirements associated with CFX Property and CFX Intellectual Property (as defined herein below),

9.5 CONTRACTOR's failure to include terms in its subcontracts as required by this Contract,

9.6 CONTRACTOR's failure to ensure compliance with the requirements of the Contract by its employees, agents, officers, or subcontractors, or

9.7 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.

#### **10. PUBLIC RECORDS**

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify CFX. Thereafter, CONTRACTOR shall follow CFX'S instructions with regard to such request. To the extent that such request seeks non-exempt public records, CFX shall direct CONTRACTOR to provide such records for inspection and copying in compliance with Chapter 119. A subsequent refusal or failure by CONTRACTOR to timely grant such public access will be grounds for immediate, unilateral cancellation of the Contract by CFX.

#### **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. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS**

CFX is and shall be and remain the sole owner of all rights, title, and interest in, to, and associated with all plans, documents, software in all forms, hardware, programs, procedures, specifications, drawings, brochures pamphlets, manuals, flyers, models, photographic or design images, negatives, videos and film, tapes, work product, information, data and other items (all whether in preliminary, draft, master, final, paper, electronic, or other form), along with the media on which they reside and with which they interface for function or aesthetics, that are generated or developed with respect to and in connection with this Contract and the performance thereof (collectively, the "CFX Property"). CFX's ownership of CFX Property includes without limitation all common law, statutory and other rights, title, and interest in, to, and associated with trademark, service mark, copyright, patent, trade secret, and publicity (collectively, the "CFX Intellectual Property"). CONTRACTOR, its employees, agents, officers, and subcontractors acknowledge that E-PASS® is CFX's registered trademark name for CFX's electronic toll collection system, and comprises a portion of CFX Intellectual Property.

CONTRACTOR, its employees, agents, officers, and subcontractors may not use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of CFX, which may be granted or denied

in CFX's sole discretion. CONTRACTOR, its employees, agents, officers, and subcontractors' access to and/or use of CFX Property and CFX Intellectual Property is without any warranty or representation by CFX regarding same.

For all materials listed hereinabove that are not generated or developed under this Contract or performance hereof, but rather are brought in, provided, or installed by CONTRACTOR (collectively, the "CONTRACTOR Property"), and the intellectual property rights associated therewith (collectively, the "CONTRACTOR Intellectual Property"), CONTRACTOR (its employees, officers, agents, and subcontractors, which for purposes of this section shall collectively be referred to as "CONTRACTOR") warrants and represents the following:

12.1 CONTRACTOR was and is the sole owner of all right, title and interest in and to all CONTRACTOR Property and CONTRACTOR Intellectual Property; **OR**

12.2 CONTRACTOR has obtained, and was and is the sole holder of one or more freely assignable, transferable, non-exclusive licenses in and to the CONTRACTOR Property and CONTRACTOR Intellectual Property, as necessary to provide and install the CONTRACTOR Property and/or to assign or grant corresponding to CFX all licenses necessary for the full performance of this Contract; and that the CONTRACTOR is current and will remain current on all royalty payments due and payable under any license where CONTRACTOR is licensee; **AND**

12.3 CONTRACTOR has not conveyed, and will not convey, any assignment, security interest, exclusive license, or other right, title, or interest that would interfere in any way with CFX's use of the CONTRACTOR Property or any license granted to CFX for use of the CONTRACTOR Intellectual Property rights; **AND**

12.4 Subject to Chapter 119, Florida Statutes (Florida Public Records Act), CONTRACTOR shall maintain CFX Property and CFX Intellectual Property in strictest confidence and may not transfer, disclose, duplicate, or otherwise use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR shall not publish, copyright, trademark, service mark, patent, or claim trade secret, publicity, or other rights of any kind in any of the Property. In ensuring the confidentiality and security of CFX Property and CFX Intellectual Property, CONTRACTOR shall utilize the same standards of protection and confidentiality that CONTRACTOR uses to protect its own property and confidential information, but in no instance less than reasonable care plus the standards set forth anywhere in this Contract.

CONTRACTOR further warrants and represents that there are no pending, threatened, or anticipated Claims against CONTRACTOR, its employees, officers, agents, or subcontractors with respect to the CONTRACTOR Property or CONTRACTOR Intellectual Property.

The provisions of this Section shall survive the term of this Contract for the longer of:



12.5 The statute of limitations on any action arising out of either party's conduct relating to this section, whether such action may be brought by CFX, CONTRACTOR, or a third party; **or**

12.6 CFX's continued use (notwithstanding any temporary suspension of use) of any CONTRACTOR Property or CONTRACTOR Intellectual Property; **and**

12.7 Notwithstanding sections 12.5 and 12.6, the confidentiality and security provisions contained herein shall survive the term of this Contract for ten (10) years beyond 12.5 and 12.6.

### **13. 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.

### **14. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT**

CONTRACTOR warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted.

CONTRACTOR acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Ethics Policy. CONTRACTOR acknowledges that it has read the Ethics Policy and, to the extent applicable, CONTRACTOR will comply with the aforesaid Ethics Policy 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 Florida Statutes 112.313

as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.

#### **15. 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.

#### **16. 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.

#### **17. SUBLETTING AND ASSIGNMENT**

CFX has selected CONTRACTOR to perform the Services based upon characteristics and qualifications of CONTRACTOR and its employees. Therefore, CONTRACTOR shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONTRACTOR's right, title, or interest therein without the written consent of CFX, which may be withheld in CFX's sole and absolute discretion. Any attempt by CONTRACTOR to dispose of this Contract as described above, in part or in whole, without CFX's written consent shall be null and void and shall, at CFX's option, constitute a default under the Contract.

Notwithstanding the foregoing:

17.1 CONTRACTOR may assign its rights to receive payment under this Agreement (except for an assignment made for the benefit of creditors) with CFX's prior written consent, which consent shall not be unreasonably withheld. CFX may assign all or any portion of its rights under this Agreement without consent of or advance notice to CONTRACTOR; and

17.2 Subject to the right of CFX to review and approve or disapprove subcontracts, and subject to the compliance by CONTRACTOR with the provisions of this Contract with regard to Key Personnel, CONTRACTOR shall be entitled to subcontract some of the services hereunder to other entities, provided that all subcontracts:

(i) shall name CFX as a third party beneficiary and provide that the subcontract is assignable to CFX (or its successor in interest under the terms of this Contract) without the prior approval of the parties thereto, and that the assignment thereof shall be effective upon receipt by the subcontractor of written notice of the assignment from CFX. Upon such event, CFX shall be deemed to assume all rights and obligations of the CONTRACTOR under the subcontract, but only to the extent such rights and obligations accrue from and after the date of the assignment. Without limitation, all warranties and representations of subcontractor shall inure to the benefit of CFX, and

(ii) shall require the subcontractor to comply with all laws, as all may be revised, modified and supplemented from time to time, and must require the subcontractor to carry forms and amounts of insurance satisfactory to CFX in its sole discretion, and shall provide CFX with certificates of insurance upon request. CFX shall be listed as an additional insured on all such insurance policies, and copies of correct insurance certificates and policies shall be delivered to CFX upon request, and

(iii) shall require the subcontractor to join in any dispute resolution proceeding upon request of CFX, and

(iv) shall include the same or similar terms as are included in this Contract with respect to subcontractors, providing CFX with equal or greater protections than herein.

If, during the life of the Contract and any renewals hereof, 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 her/his 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 her/his 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 her/his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof. 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. REMEDIES**

In addition to any remedies otherwise available to CFX under law, upon an uncured default CFX shall have the right to appropriate or use any or all materials and equipment on the sites where

work is or was occurring, 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, but not limited to, the costs of completing Contract performance shall be charged against the CONTRACTOR. If the expense of Contract completion exceeds the remaining sum which would have been payable under the balance of the Contract, CONTRACTOR shall be liable to CFX for the difference. On a Contract terminated for default, in no event shall CFX have any liability to the CONTRACTOR for expenses or profits related to unfinished work, or for CFX's use of any CONTRACTOR materials or equipment on the work sites, including without limitation the CONTRACTOR Property and CONTRACTOR Intellectual Property.

## **20. PREVAILING PARTY ATTORNEY'S FEES**

If any contested claim arises hereunder or relating to the Contract (or CONTRACTOR's work hereunder), and either party engages legal counsel, the prevailing party in such dispute, as "prevailing party" is hereinafter defined, shall be entitled to recover reasonable attorneys' fees and costs as defined herein, from the non-prevailing party.

In order for CONTRACTOR to be the prevailing party, 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 for purposes of this Contract.

For purposes of determining whether the judgment of 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 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 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), which for purposes of enforcing this section only shall be admissible into evidence.

The term "contested claim" or "claims" shall include "Claims" as defined in Section 9, as well as the initial written claim (s) submitted to CFX by CONTRACTOR (disputed by 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 CFX agrees or offers to pay prior to initiation of litigation, shall not be deemed contested claims for purposes of this provision. If 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 CONTRACTOR's claim(s).

Attorneys' 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 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 therefore, fees and costs shall accrue from the date of the first written claim submitted, regardless of whether the original or subsequent claim amount is ultimately used in determining if the judgment or award is at least eighty percent (80%) of the cumulative claims.

"Attorneys' fees" shall include but not be limited to fees and charges of attorneys, paralegals, legal assistants, attorneys' CONTRACTOR's, expert witnesses, court reporters, photocopying, telephone charges, travel expenses, or any other charges, fees, or expenses incurred through use of legal counsel, whether or not such fees are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial fees (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation, or administrative proceedings arising out of this Contract.

"Costs" shall include but not be limited to any filing fees, application fees, expert witnesses' fees, court reporters' fees, photocopying costs, telephone charges, travel expenses, or any other charges, fees, or expenses incurred whether or not legal counsel is retained, whether or not such costs are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial costs (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation or administrative proceeding arising out of this Contract.

As a condition precedent to filing a claim with any legal or administrative tribunal, CONTRACTOR shall have first submitted its claim (together with supporting documentation) to CFX, and CFX shall have had sixty (60) days thereafter within which to respond thereto.

The purpose of this provision is to discourage frivolous or overstated claims and, as a result thereof, CFX and CONTRACTOR agree that neither party shall avail itself of Section 768.79, Florida Statutes, or any other like statute or rule involving offers of settlement or offers of judgment, it being understood and agreed that the purpose of such statute or rule are being served by this provision.

Should this section be judged void, unenforceable or illegal, in whole or in substantial part, by a court of competent jurisdiction, this section shall be void in its entirety and each party shall bear its own attorneys' fees and costs.

## **21. OTHER SEVERABILITY**

If any section of this Contract, other than the immediately preceding Prevailing Party Attorneys' Fees section, 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.

## **22. GOVERNING LAW**

This Contract 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.

In consideration of the foregoing premises, CFX agrees to pay CONTRACTOR for work 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. The Contract Documents, together with and including all exhibits, comprise the entire agreement of the parties and supersedes and nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

## **25. SURVIVAL OF EXPIRATION OR TERMINATION**

Any clause, sentence, paragraph, or section providing for, discussing, or relating to any of the following shall survive the expiration or earlier termination of the Contract:

25.1 Trademarks, service marks, patents, trade secrets, copyrights, publicity, or other intellectual property rights, and terms relating to the ownership, security, protection, or confidentiality thereof; and

25.2 Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and

25.3 Prohibition on non-competition agreements of CONTRACTOR's employees with respect to any successor of CONTRACTOR; and

25.4 Obligations upon expiration or termination of the Contract, as set forth in Section 26; and

25.5 Any other term or terms of this Contract which by their nature or context necessarily survive the expiration or earlier termination of the Contract for their fulfillment.

## **26. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT**

26.1 CONTRACTOR shall initiate settlement of all outstanding liabilities and claims arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of CFX.

## **27. EXHIBITS**

Exhibit "A" Scope of Services (including the Addendum to the Scope of Services and the Maintenance Specifications)


Exhibit "B" Method of Compensation

Exhibit "C" Price Proposal

Exhibit "D" Potential Conflict Disclosure Form

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 Executive Director on October 22, 2021.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By:   
Director of Procurement


Print Name: Aneth Williams

CONTRACTOR: JORGENSEN CONTRACT SERVICES, L.L.C.

By: 

Print Name: Douglas W. Selby

Title: President

ATTEST: 



(Seal)

Approved as to form and execution, only.

Diego "Woody"  
Rodriguez

Digitally signed by Diego  
"Woody" Rodriguez  
Date: 2021.12.01 22:00:59 -05'00'

General Counsel for CFX

Diego "Woody" Rodriguez

Print Name



**Exhibit A**  
**SCOPE OF SERVICES**  
**ROADWAY AND BRIDGE MAINTENANCE SERVICES**  
**S.R. 429, S.R. 414, AND S.R. 451**  
**CONTRACT NO. 001861**

**1.0 OVERVIEW**

- 1.1 The Contractor shall perform maintenance of and administration and management services related to roadways (including out parcels) and bridges along S.R. 429 (Daniel Webster Western Beltway) between Seidel Road to north of Kelley Park Road, along S.R. 414 (John Land Apopka Expressway) between S.R. 429 and US 441, and S.R. 451 from S.R. 414 to US 441 in Orange County, Florida.

The Contractor shall furnish all labor, materials, equipment, tools, transportation and supplies required to supply the services and complete the maintenance work in accordance with the specifications, procedures and terms of the Contract, including the specific tasks and events set forth on the attached specifications.

- 1.2 The Contractor, or an approved subcontractor, shall employ a full-time registered professional engineer licensed to practice in the State of Florida and sufficient qualified technical and professional staff to support activities and program areas including, but not limited to: roadway and bridge maintenance contract administration; maintenance contract development; maintenance condition survey management; road serviceability analysis; and transportation safety management. CFX, at its option, may elect to expand, reduce, or delete the extent of each work element described in this Scope of Services document, provided such action does not alter the intent of the Contract.

- 1.3 The services to be provided by the Contractor shall be furnished through a combination of Contractor staff/personnel and subcontractors/subconsultants under contract to the Contractor. Through this combination, the Contractor shall provide maintenance and administrative personnel in appropriate numbers and at the proper times to ensure that the responsibilities assigned under the Contract are effectively carried out. Services to be provided by the Contractor include, but are not necessarily limited to maintenance of: roadway features (pavement); roadside features (e.g., soil shoulders, slopes, and fence); traffic services features (e.g., signs, striping, and guardrail); vegetation/aesthetics (e.g., mowing and litter); and drainage (e.g., ditches and inlets). Work shall also include responsibility for traffic operations; reviewing bridge inspection reports and preparing and implementing a plan for repairs of noted deficiencies; performing road serviceability analysis; and responsibility for permit operations. These services are described in detail in the maintenance specifications attached to this Scope of Services. Maintenance of toll facilities and equipment, the fiber optic network, landscaping and aquatic weed control are not a part of this scope and will be performed by others.

- 1.4 CFX does not guarantee that all of the services described in this 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 others or, where applicable, by Florida Department of Transportation (FDOT).
- 1.5 During the term of the Contract, the remaining portions of S.R. 429 and the new S.R. 453 (constructed as part of the Wekiva Parkway project) will be accepted and opened to the public in phases. The Contractor shall furnish all labor, materials, equipment, tools, transportation and supplies required to supply the services and complete the maintenance work for each phase through supplemental agreements at costs to be negotiated between CFX and the Contractor.

## **2.0 ROADWAY MAINTENANCE AND INSPECTION**

- 2.1 The Contractor shall be responsible for all routine bridge maintenance, roadway maintenance (roadway features, roadside features, traffic services features, vegetation/aesthetics and drainage) and inspection and administrative functions as defined in this Scope of Services, maintenance specifications and referenced manuals and procedures.
- 2.2 The Contractor, through the use of subcontractors and subconsultants, shall provide qualified maintenance contractors and technical and administrative personnel in appropriate numbers to ensure that maintenance is accomplished in accordance with the requirements and criteria set forth in this Scope of Services and the maintenance specifications. All activities shall be performed in accordance with the specifications, guides, standards, procedures and directives that are a part of the Contract.
- 2.3 The Contractor shall comply with the CFX Incident Response Plan. This document provides procedures for situational analysis, mobilizing personnel and equipment, information to the public, taking protective action, assessing damage, record keeping, planning recovery/restoration, and coordinating emergency response activities.
  - 2.3.1 The Contractor shall comply with the CFX Open Road Tolling procedures policy letter for scheduled or emergency closing of express toll lanes.
- 2.4 The Contractor shall be responsible for the control and safety of traffic and the public during the performance of all work under control of the Contractor, its agent, employees and subcontractors/subconsultants. When required by the Contractor's operations, the Contractor shall furnish, erect and maintain such fences, temporary railing, barricades, lights, signs and other devices and take such other protective measures as are necessary to prevent accidents, damage or injury to the public.

- 2.5 The Contractor shall review Bridge Inspection Reports received by CFX. The Contractor shall have complete responsibility for scheduling and performing bridge maintenance and repairs. The Contractor shall return completed signed and dated FDOT work order forms to the Director of Maintenance to include photographs of the completed repairs. CFX will review the documents and notify FDOT to close the work order within 60 days for Priority 1 work orders, 180 days for Priority 2 and 3 work orders and within 2 years for Priority 4 work orders. Work not completed within this time frame will be subject to a reduction in compensation due the Contractor of \$200 per day per work order for each day the work is not completed.
- 2.6 Road Serviceability Analysis - The Contractor shall:
- 2.6.1 Attend MRP inspection with FDOT and Director of Maintenance. Review results of the Maintenance Rating Program (MRP) inspection performed by FDOT and initiate corrective action based on undisputed MRP inspections within 30 days of receipt of the findings from the Director of Maintenance.
- 2.6.2 Prepare road serviceability analyses and documentation to correct identified deficiencies. Use the current year Annual Inspection Report compiled by CFX's General Engineering Consultant as a baseline of the deficiencies needing repair. Integrate report findings in Contractor's Work Plan.
- 2.6.3 Perform Road Characteristics Inventory (RCI) field review and document changes. Develop and maintain an up to date inventory of CFX assets of roadway items and bridge features within 180 days of Notice to Proceed. Use FDOT Straight Line Drawings (SLD) to populate initial inventory.
- 2.7 Contract Administration - The Contractor shall:
- 2.7.1 Review maintenance contract reports relating to Contractor's performance and communicate with subcontractors, if necessary, regarding negative conformance to specifications, workmanship, etc.
- 2.7.2 Prepare and maintain monthly progress schedules and reports applicable to all phases of maintenance operation and such special reports as may be required to keep CFX advised with respect to the progress of work activity.
- 2.7.2.1 Provide the monthly report in a format that includes all Activity Groups and Activity Codes, quantities and applicable measurement units (i.e. acre, square foot/yard, each, etc.) as described in the FDOT Maintenance Cost Handbook.
- 2.7.3 Assist CFX in responding to the public interest regarding maintenance activities.

2.8 In all cases and scenarios prepare accident claim in form and content reasonably satisfactory to CFX.

2.8.1 For matters or incidents in an amount less than or equal to \$25,000.00, or the CFX insurance contract deductible, whichever is greater, in estimated repair damages for any particular occurrence due to the intentional acts or negligence of any third party or parties, the Contractor shall:

- (i) Provide a copy of said accident claim to CFX for its records; and
- (ii) Advance and pay for all expenses incurred in connection with the performance of its repair and/or maintenance duties and obligations under the Contract; and
- (iii) Seek reimbursement of the expenses made in connection with the aforementioned repair and/or maintenance, at Contractor's sole expense, only from the negligent party or parties, tortfeasor or tortfeasors (collectively, the "Third Parties"), and/or their respective insurance carriers (the "Third Party Insurers"), if any. The Contractor shall not seek reimbursement from the CFX. Nor shall the Contractor seek reimbursement from the CFX insurance carrier or carriers without first obtaining written approval from CFX, which approval shall not be unreasonably withheld. Alternatively, the Contractor may pursue, at Contractor's sole cost and expense, any and all claims or actions against the Third Parties, and/or the Third Party Insurers, but not against CFX, its employees, officers, agents, representatives, consultants, or their respective employees, officers and representatives, or the CFX insurance carrier or carriers, whether in law or in equity.

2.8.2 For matters or incidents in an amount greater than \$25,000.00, or CFX's insurance contract deductible, whichever is greater, in estimated repair damages for any particular occurrence due to the intentional acts or negligence of any third party or parties, as an absolute condition of the Contractor being reimbursed by CFX, the Contractor shall:

- (i) Submit said accident claim affidavit to CFX; and
- (ii) Advance and pay for all expenses incurred in connection with the performance of its repair and/or maintenance duties and obligations under the Contract; and

- (iii) Notify CFX in writing, that the Contractor seeks reimbursement of the Contractor's expenses, reasonably related to such repairs and/or maintenance, whereby CFX, shall at its expense, file a reimbursement claim with the CFX insurance carrier or carriers. Should the CFX insurance carrier or carriers fail to pay all of any particular reimbursement claim, the Contractor may, but shall have no obligation to, seek reimbursement of any particular claim shortfall from the negligent party or parties, tortfeasor or tortfeasors (collectively, the "Third Parties"), and/or their respective insurance carriers (the "Third Party Insurers"), if any. The Contractor shall not seek any reimbursement from the CFX insurance carrier or carriers, whether or not the claim is based on bad faith or otherwise, without first obtaining written approval from CFX, which approval shall not be unreasonably withheld. Alternatively, the Contractor may pursue, at Contractor's sole cost and expense, any and all claims or actions against the Third Parties, and/or the Third Party Insurers, but not against CFX, its employees, officers, agents, representatives, consultants, or their respective employees, officers and representatives, whether in law or in equity.

2.8.3 Contractor and its assigns, if any, hereby waive any and all claims, reimbursement requests, and the like, against any self-insurance policy or policies of CFX and of the Florida Department of Transportation.

### **3.0 CONTROL OF THE WORK**

3.1 The Contractor shall develop, prepare, and implement a Roadway Maintenance Operations Work Plan.

The Work Plan shall contain a description of activities the Contractor intends to carry out during the 12-month period beginning on the Notice to Proceed date for the Contract and the scheduled date for each such activity. The date may be expressed by week or by any other more specific periods or date the Contractor selects.

A draft of the Work Plan shall be submitted to CFX within 30 days after the date of the Notice to Proceed. CFX will review the plan and meet with the Contractor to resolve any concerns pertaining to the schedule and the activities and to finalize the plan.

The Contractor shall submit an updated Work Plan to CFX at least 30 days prior to the first day of each quarter to show a rolling 12-month period of detailed coverage.

### 3.2 Director of Maintenance

To avoid unnecessary repetition of expressions, whenever in the Scope of Services, Maintenance Specifications or other Contract Documents the term "Director of Maintenance" is used, it is understood that "or designated representative" is a part of the term unless specifically indicated otherwise.

All work shall be subject to review and acceptance by the Director of Maintenance who shall evaluate the Contractor's work for compliance with the Contract Documents. The Director of Maintenance 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.

### 3.3 Coordination of Contract Documents

The Scope of Services, Maintenance Specifications and all supplementary documents are integral parts of the Contract Documents and a requirement occurring in one document is as binding as though occurring in all documents. Section 102, Maintenance of Traffic, which is included in the Maintenance Specifications as Attachment 19, replaces Section 102 in the FDOT Standard Specifications for Road and Bridge Construction. The remainder of the Standard Specifications, (current edition at the time of Contract execution) and the FDOT Design Standards, January 2016 edition, are incorporated by reference as if fully set forth herein. In a circumstance of inconsistency or discrepancy between documents, the priority order of the documents shall be as follows:

1. Scope of Services
2. Maintenance Specifications
3. FDOT Standard Specifications, current edition at time of Contract execution.
4. FDOT Design Standards, January 2016 edition

Unless specifically allowed by the Director of Maintenance, the Method of Measurement and the Basis of Payment articles in all sections of the Standard Specifications will not apply to this Contract. All payments to the Contractor will be based on the lump sum and unit price amounts shown in the Price Proposal.

### 3.4 Traffic Control and Lane Closures

The Contractor shall adhere to the requirements of Part 6 of the FHWA's Manual on Uniform Traffic Control Devices (MUTCD). For operations requiring closure of travel lane(s), Contractor shall comply with Maintenance Specifications Attachment 19, Section 102, Maintenance of Traffic, and FDOT Design Standards Drawing No. 600.

No work shall occur on CFX's system between the hours of 6:00 am and 11 :00 pm, Monday through Sunday, without the permission of the Director of Maintenance. Ramp closures will only be permitted between the hours of 11 :00 pm and 5:00 am any day of the week.

If, in the opinion of the Director of Maintenance, any permitted lane closure(s) causes extended traffic congestion the Contractor shall, at the direction of the Director of Maintenance, open any temporary lane closures until traffic is returned to an acceptable flow as determined by the Director of Maintenance.

Delay costs to the public will result if all lanes are not open to traffic during the times noted above. The Contractor shall plan its operations such that all equipment and materials except those required for the safety of the traveling public are removed from the clear zone and lanes are reopened for traffic by the times noted above. A damage recovery cost will be assessed for failure by the Contractor to clear traffic lanes in the following amount:

10 minutes and under.....No damage recovery cost assessed  
Each additional 10 minutes or fraction thereof. .... \$2,000

Costs will be assessed beginning at the appropriate time as shown above and continue until all lanes are open and traffic flow is restored as recorded by the Director of Maintenance. CFX shall have the right to apply as payment on such damages any money which is due to the Contractor by CFX. At the discretion of the Director of Maintenance, damage recovery costs will not be assessed for failure to open traffic lanes if such cause is beyond the control of the Contractor i.e., catastrophic events, accidents not related or caused by the Contractor's operations.

### 3.5 Other Work

If activities by 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 unit prices because of deletion of work items or delay because of activities by others.

### 3.6 Subcontractors

The Contractor shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of the Contract or any portion thereof without the written consent of CFX which may be withheld in CFX's sole and absolute discretion. A list of approved subcontractors shall be made a part of the Contract. Subsequent to the execution of the Contract, any additions to the list will require prior approval by the Director of Maintenance. Additionally, any such subcontract that would, standing alone or aggregated with prior subcontracts awarded to the proposed subcontractor, equal or exceed twenty five thousand dollars (\$25,000.00), will also

require prior approval by the CFX Board. No such subcontract shall be executed by the Contractor until Board approval is given. Refer to Article 17, Subletting and Assignment, in the Contract for additional requirements.

Promptly upon request of CFX, the Contractor shall remove from the activities associated with or related to the performance of the Contract any subcontractor, at any tier, whom CFX considers unsuitable for such work. Such subcontractor shall not be reassigned to perform any work relating to the services except with the express written consent of CFX.

#### **4.0 OTHER REQUIREMENTS**

##### **4.1 Permits, Notifications and Fees**

4.1.1 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.

4.1.2 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 lump sum and unit prices for the items of work in the Contract.

4.1.3 No work shall be performed under the provisions of the Contract on any properties outside the limits of 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.

##### **4.2 Hazardous or Toxic Waste, Pollutants**

4.2.1 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 Director of Maintenance 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.



4.2.2 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 Director of Maintenance.

4.2.3 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.

#### 4.3 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 (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.

#### 4.4 Safety

4.4.1 With respect to the activities contemplated to occur pursuant to the Contract, and to the extent reasonably applicable, the Florida Department of Transportation Loss Prevention Manual (current issue at time of Contract execution) 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.

4.4.2 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).

4.4.3 The Contractor shall ensure that its workers and subcontractors at all tiers use vest/garments conforming to ANSI/ISEA 107-1999 Standard Class 2 at all times. Class 2 vest garments will be required for all speeds. Protective safety helmet caps shall be worn at all work sites containing overhead hazards.

4.4.4 All vehicles used within the project limits shall be equipped with flashing yellow strobe lights mounted on top of the vehicle to be clearly visible. All vehicles shall be marked with the Contractor's or any tier subcontractor's name and/or logo on both sides of the vehicle in a font easily read from a distance of 15 feet.

#### 4.5 Contractor's Responsibility for Work

Until acceptance by the Director of Maintenance, 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 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.

#### 4.6 Disadvantaged, Minority and Women Owned Businesses (D/M/WBE)

General: The Contractor is encouraged to continue to meet or demonstrate the 15% participation objective 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 herein. 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. 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 proforma 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.

#### 4.6.1 Disadvantaged, Minority and Women Owned Businesses - Participation Objective

4.6.1.1 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.

4.6.1.2 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.

4.6.2 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.

4.6.3 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.

4.6.4 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 the Director of Maintenance 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.

#### 4.6.5 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", which 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".

## 5.0 PROSECUTION AND PROGRESS OF WORK

### 5.1 Beginning Work

The Contractor shall commence work as of the date established in the Notice to Proceed. The term of the Contract will begin on the date established in the Notice to Proceed.

### 5.2 Status of Work

The Contractor shall keep the Director of Maintenance advised as to the status of work being done by the Contractor and the details thereof on a daily basis. E-mail locations of work crews shall be sent to designated CFX maintenance personnel indicating roadway, start and proposed end location by mile post for each major work activity. Coordination shall be maintained by the Contractor with the Director of Maintenance. The Director of Maintenance or Contractor may request and be granted a conference with the other party.

### 5.3 Maintenance Operations

- 5.3.1 The Contractor shall be available 24 hours a day, 7 days a week, 52 weeks a year. The Contractor shall schedule maintenance operations to minimize inconvenience to adjacent businesses, residences and the motoring public.



- 5.3.2 Regular time is defined as 7:00 a.m. to 5:00 p.m., Monday through Friday excluding holidays (Thanksgiving Day, Christmas Day, New Year's Day, Independence Day or Labor Day). When any of these holidays fall on a Sunday, no work under the Contract shall be done on the following Monday. If the holiday falls on a Saturday, no work shall be done on the preceding Friday.
- 5.3.3 Special time is defined as 5:00 p.m. to 7:00 a.m., Monday through Friday and all day Saturdays, Sundays, and holidays. For special operations, night work may be allowed between the hours of 5:00 p.m. to 7:00 a.m., with proper lighting, if so authorized by the written approval of the Director of Maintenance (e-mail may be used).
- 5.3.4 No work shall be done when weather conditions limit good visibility to less than five hundred (500) feet. Work may only be performed during prohibited times with written permission from the Director of Maintenance, or in circumstances of an emergency. Refer to the individual specifications (attachments) for specific requirements.
- 5.3.5 Prior to beginning maintenance operations, the Contractor shall submit to the Director of Maintenance, for approval, two (2) copies of the Contractor's proposed plan and methods for performing the required highway and bridge maintenance work including a listing of equipment and personnel anticipated for use. The plan shall show the proposed methods of ensuring safety and minimum interference with the normal flow of traffic in the travel lanes and local roadways. The Contractor shall provide all necessary instruments and special apparatus to conduct any testing that may be required. Approval of the plan shall not relieve the Contractor of responsibility or liability for injury to persons or damage to property caused by the operation of equipment and/or personnel.
- 5.3.6 All Contractor, subcontractors and second tier subcontractor's vehicles shall have clear identification of the company they represent. All Contractor, subcontractor and second tier subcontractor employees requiring access to any CFX facility shall wear name tags with photo identification. In addition, a list of such employees shall be provided to CFX prior to beginning work under the Contract. Any employee not on the Contractor's list and not having the proper photo identification will not be allowed access to facilities.
- 5.3.7 The Contractor shall park equipment left on the right-of-way overnight as close to the right-of-way line as possible. Equipment or vehicles shall be clearly marked with cones or lighted barricades. Do not park equipment overnight in the median regardless of the width of the median. Conduct all service and supply operations as close to the right-of-way line as possible. No supply vehicles shall enter a roadway median except when necessary to repair or remove inoperable equipment.

5.3.8 In circumstances where the work has assigned to it a specific time increment within which to accomplish the task (if any), the Director of Maintenance may grant an extension of the allowable time when a controlling item of work is delayed by factors which are beyond the control of the Contractor. Extensions will not be granted for delays due to the fault or negligence of the Contractor.

5.3.9 CFX will advise the Contractor when an emergency response will be required for critical situations. In general, emergency response time (the time taken by the Contractor to arrive at the site after notification) shall be 2 hours regardless of the day or time of the notification unless otherwise specified. Failure to meet the required priority response time may result in reductions to compensation for work performed according to the following reduction schedule:

- a. Up to 1 hour late - \$100.00 reduction.
- b. More than 1 hour late - \$200.00 reduction.
- c. For each additional hour late - \$200.00 reduction

The reduction will not be assessed if the Contractor can demonstrate to the satisfaction of the Director of Maintenance that the delay was the result of events beyond the control of the Contractor.

Individual maintenance specifications may have specific response requirements that supersede the response time in this subarticle.

No extension of the emergency response time will be granted by CFX due to travel distance requirements of the response crew.

5.3.10 Time extensions for delays (in work performance which has completion dates associated therewith, if any) caused by the effects of inclement weather will be handled differently from those resulting from other types of delay. Such time extensions are justified only when rains or other inclement weather conditions or related adverse soil conditions prevent the Contractor from productively performing controlling items of work, resulting in either:

- (i) The Contractor being unable to work at least fifty percent (50%) of the normal work day on pre-determined controlling work items due to adverse weather conditions, or
- (ii) The Contractor being required to make major repairs to work damaged by weather; provided, however, the damage was not attributable to a failure to perform or neglect by the Contractor, and provided that the Contractor was

unable to work at least fifty percent (50%) of the normal workday on pre-determined controlling work items.

The Director of Maintenance will monitor the effects of weather and (when found justified) recommend time extensions. The Contractor will not be required to submit a request for additional time due to the effects of weather unless the Contractor disputes the additional time granted by CFX.

#### 5.4 Suspension of Work

CFX reserves the right (as may be 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.

CFX anticipates future roadway and bridge construction in the Contract limits which could also result in suspension of the work. Upon direction from the Director of Maintenance, the Contractor shall reduce roadway maintenance activities in the construction areas designated by CFX until such time as the suspension is lifted. The only maintenance activities that shall be performed by the Contractor in the designated areas are litter removal, herbicide applications and emergency response. Payment will only be made to the Contractor for the maintenance activities performed during the suspensions at the appropriate reduced cost per centerline or lane mile shown in the Price Proposal.

#### 5.5 Liquidated Damages

5.5.1 The Contractor (or in the circumstance of the Contractor default, the surety) shall pay to CFX, not as a penalty but as liquidated damages of \$200 per day for failure of the Contractor to complete the work within the time stipulated in the work order or maintenance specifications or within such additional time as may have been granted by CFX. It shall be the responsibility of the Contractor to schedule work in a manner that prevents delays, stoppages and rework.

5.5.2 For all work, regardless of whether the performance time is stipulated in calendar days or working days, default days shall be counted in calendar days.

5.5.3 Permitting the Contractor to continue and to finish the work, or any part of it, after the expiration of the 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.

5.5.4 In the event of default by the Contractor 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.

5.5.5 The work will be considered completed when all work has been accepted by the Director of Maintenance. CFX reserves the right to apply as payment on such liquidated damages any money due the Contractor by CFX.

## 5.6 Sales and Use Taxes

Work under the Contract is subject to the provisions of Chapter 212, Florida Statutes, Tax on State, Use and Other Transactions. Other state, local, or federal taxes may be applicable. The Contractor is responsible to remit to the appropriate governmental entity all applicable taxes. Any applicable tax shall be included in the Contractor's Price Proposal.

## 5.7 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.

### 5.7.1 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:

- a. 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

- b. 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
- c. 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 nor 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 proceedings, all participants shall be afforded pre-hearing discovery in accordance with the rules of the American Arbitration Association.

## 5.8 Evaluation and Acceptance of Work

- 5.8.1 The performance of the Contractor under the terms of the Contract will be subject to review by CFX. Reworking required due to Contractor negligence, omission, or inadequate performance will be the responsibility of the Contractor. No additional payment will be due the Contractor for the reworking of non-acceptable areas or work.
- 5.8.2 For roadway maintenance work, the major criterion used by CFX for evaluating the Contractor's performance and acceptability of the completed work will be the average "score" given to the roadway features, roadside features, traffic services features, vegetation/aesthetic (exclusive of landscape areas maintained by others) and drainage by the Florida Department of Transportation through its annual Maintenance Rating Program (MRP). CFX will use the current FDOT weighted scoring system when evaluating the roadway system. The Contractor shall achieve and maintain an MRP of 91 for S.R. 429, S.R. 414 and S.R. 451.

The MRP score is not the only evaluation criterion that CFX will use to evaluate Contractor performance. The fact that the Contractor is able to achieve the required scores for each roadway shall not relieve the Contractor from its responsibility to constantly monitor and maintain the roadways and all of their elements and characteristics. For example, with regard to vegetation/aesthetics, CFX expects the Contractor to keep all roadways under this Contract virtually litter free on a daily basis and to ensure that all turf areas have a pleasing and presentable appearance at all times. CFX further expects the Contractor to be sensitive to the needs and

perceptions of CFX's customers who feel that paying a toll to use a roadway entitles them to a ride that is not only pleasing to the eye but also smooth, safe and comfortable as well.

The FDOT will conduct MRP ratings for CFX every four months on S.R. 429, S.R. 414 and S.R. 451. Beginning with the first four-month period, CFX will withhold from monies due the Contractor an amount equal to one percent (1%) of the cumulative amount of four months payments for each point below an overall MRP of 91 for S.R. 429, S.R. 414, and S.R. 451. CFX will withhold from monies due the Contractor an amount equal to one-half of one percent (.5%) of the cumulative amount of four months payments for each point below 89 on any element rating. CFX will withhold from monies due the Contractor an amount equal to one-tenth of one percent (0.10%) of the cumulative amount of four months payments for each percentage point below 80 on any characteristic rating. If a characteristic falling below 80 is rated on fewer than 10 inspection points, CFX will conduct a supplemental inspection of those characteristics to provide a minimum of 10 points for evaluation.

The monies withheld by CFX will be placed in the Work Order Allowance for use at CFX's sole discretion to cover the cost of additional work. Any amount remaining in the Work Order Allowance at the end of the Contract term will remain the property of CFX.

## 5.9 Compensation

The Contractor will be paid monthly for lump sum items according to the Method of Compensation, Exhibit "B".

END OF SECTION

---

## Synopsis of SA1 – SA3

- SA1 CFX desires to extend the limits of the roadway and bridge maintenance services along S.R. 429 (Wekiva Parkway) to include US 441 to Kelly Park Road (4.3 centerline miles). Services to be provided by the Contractor shall include those as described and detailed in Exhibit A, Scope of Services, of the Contract Documents.
- SA2 N/A added clean-up of approx. 120 downed trees due to Hurricane Irma.
- SA3
1. CFX desires to amend the Scope of Services to add services for the Wekiva Parkway (SR 429) from Kelly Park Road to ~2000 feet North East of Mount Plymouth Road (as measured along the centerline of SR 429) and SR 453 in its entirety.
  2. The Scope of Services to be performed for the entire Wekiva Parkway (Including that described in Item #1 above and SR 429 from the Connector Road to Kelly Park Road (ref: SA #1) shall be as follows:
    - a. Perform the "Parkway Mowing" as described below for CFX Projects 429-202 & 429-203 (SA #1) and CFX Projects 429-204, 429-205 & 429-206 (SA #3, This Agreement) for the 51 Months beginning on April 1, 2018 until the current Contract Expires on June 30, 2022.
    - b. "Parkway Mowing" shall be defined as the mowing of all grassed and vegetated areas of the Wekiva Parkway within the Clear Zone in accordance with the current FDOT Design Manual (Currently 36 feet per Section 215 of the 2018 FDOT Design Manual). In addition, this mowing is to also include a section ten (10) feet wide behind guardrails and along Right of Way fences. This mowing is to be completed each cycle as specified in section 3.2 of Attachment 1 of the contract documents. Areas outside the Clear Zone are to be mowed at a reduced frequency of at least 3 times per calendar year. All areas under and within landscape planting shall be mowed around and bypassed. "Parkway Mowing" is an aesthetic treatment to the vegetation of the right of way.
    - c. Slope mowing shall be performed eight (8) times per year. Parkway mowing shall be performed twelve (12) times per year and areas outside the Clear Zone shall be mowed 3 times per year as directed by the Director of Maintenance in order to obtain the aesthetic required parkway mowing. Additional cycles will be handled out of the work order allowance.
    - d. Bridge Maintenance is not included in the performance-based scope but if necessary (subject to the approval of CFX), shall be paid from the Contract contingency fund / Work Order Allowance.
    - e. Sign Structure Maintenance is not included in the performance-based scope but if necessary (subject to the approval of CFX), shall be paid from the Contract contingency fund/ Work Order Allowance.
    - f. MSE Wall Coating Maintenance is not included in the performance-based scope but if necessary (subject to the approval of CFX), shall be paid from the Contract contingency fund/ Work Order Allowance.
    - g. Perform all other services in accordance with CFX Contract # 1152.

## Synopsis of SA1 – SA3

### SA3 Amendment No. 1 –

1. CFX desires to amend the Scope of Services in Supplemental Agreement No. 3 by deleting the "Parkway Mowing" described in item 2b and add "Roadside Mowing" as described in Attachment 1 of Contract 001152.
2. A complete Roadside Mowing cycle of the Wekiva Parkway (as defined in Supplemental Agreement #3) shall be performed on a monthly basis and included in the existing performance requirements described in Attachment I of Contract 001152.
3. Items 2c, 2d, 2e, 2f and 2g of Supplemental Agreement #3 remain in effect and unchanged by this Amendment.



## **TENDER AGREEMENT**

This Tender Agreement ("Agreement") is made and entered into this 23rd day of November, 2021, by and among Atlantic Specialty Insurance Company ("ASIC" or "Surety"), the Central Florida Expressway Authority, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32801-4414 ("CFX" or "Obligee"), and Jorgensen Contract Services, L.L.C., a Florida limited liability company ("Completion Contractor"). ASIC, Obligee and the Completion Contractor shall be individually referred to herein as the "Party" or collectively as the "Parties".

### **RECITALS**

WHEREAS, Obligee entered into Contract No. 001152 dated April 13, 2017, as supplemented and amended by that certain Supplemental Agreement No. 1 dated July 13, 2017, that Supplemental Agreement No. 2 dated December 14, 2017, that Supplemental Agreement No. 3 dated April 23, 2018, and that Amendment No. 1 to Supplemental Agreement No. 3 dated February 13, 2020 (collectively, the "Contract") with Infrastructure Corporation of America ("Principal"), to perform certain roadway and bridge maintenance services on S.R. 429, S.R. 414, and S.R. 451 in the State of Florida ("Project") for an original total Contract Amount, as defined in the Contract, of \$9,271,953.00, which Contract Amount was subsequently supplemented and increased to \$14,502,277.00;

WHEREAS, as required by the Contract and at the request of Principal, ASIC issued Performance and Payment Bond No. 800071112 ("Payment Bond" and "Performance Bond" shall be collectively referred to as "Bond") naming Principal, as the principal, and the Obligee, as the Obligee, in the penal sum of \$1,854,390.60;

WHEREAS, on or about June 8, 2021, ASIC issued a continuation certificate for the Bond continuing the Bond for a period from July 1, 2021 to June 30, 2022 with a penal sum of \$1,854,390.60;

WHEREAS, on or about October 22, 2021 ("Default Date"), subsequent to commencing its work on the Project, Principal ceased all operations and was declared in default by the Obligee, whereby Obligee terminated the Contract for Principal's failure to perform and asserted a Performance Bond claim against ASIC;

WHEREAS, in an effort to satisfy and resolve any and all claims against ASIC by Obligee under the Performance Bond, ASIC has agreed to arrange for substitute performance of the Contract by the Completion Contractor through April 30, 2022, in accordance with the terms and conditions hereof;

WHEREAS, it is expressly acknowledged and agreed that no portion of the accrued but unpaid balance of the Contract Amount, or any other portion of the Contract Amount otherwise anticipated to have been paid by Obligee to Principal in the event Principal fully performed under the Contract (collectively, the "Remaining Contract Funds"), are due or will become due to Principal by virtue of the default and termination of Principal under the Contract, and the

Remaining Contract Funds shall be disbursed in accordance with this Agreement as follows:

- Amounts accrued for work performed but not yet invoiced:

August 2021	\$246,463.20
September 2021	\$246,463.20
October 2021	\$174,909.37
Unpaid Work Orders	\$20,793.47
2021/2022 Q1 MRP Deduction	(\$37,408.44)
<b>TOTAL:</b>	<b>\$651,220.80</b>

- Unaccrued amounts that would have been paid to Principal to complete the Contract (Excluding extra work orders):

November 2021	\$246,463.20
December 2021	\$246,463.20
January 2022	\$246,463.20
February 2022	\$246,463.20
March 2022	\$246,463.20
April 2022	\$246,463.20
May 2022	* * *
June 2022	* * *
<b>TOTAL:</b>	<b>\$1,478,779.20</b>

- Amounts required to complete the performance of the Contract through April 30, 2022, by Completion Contractor (Excluding extra work orders):

November 2021	\$350,000.00
December 2021	\$350,000.00
January 2022	\$350,000.00
February 2022	\$350,000.00
March 2022	\$350,000.00
April 2022	\$350,000.00
May 2022	* * *
June 2022	* * *
<b>TOTAL:</b>	<b>\$2,100,000.00</b>

- Anticipated cost of emergency response activities for essential work being performed between the Default Date and Commencement Date:

2 weeks @ \$15,000.00 per week = \$30,000.00

- **AGREEMENT SUMMARY:**

Accrued and unaccrued costs to complete work under the Contract for the Remaining Contract Term	\$2,130,000.00
Cost for the Completion Contractor and Emergency Services to complete work for the Remaining Contract Term Through April 30, 2022	\$2,130,000.00
<b>Net Difference</b>	<b>\$0</b>

\* \* \* Obligee reserves the right to make additional claims against ASIC in accordance with Section 9 hereof.

WHEREAS, to fulfill its legal obligations under the Performance Bond, ASIC tenders the Completion Contractor to Obligee and arranges for Obligee to enter into a contract for the completion of the work with Completion Contractor pursuant to the terms in this Agreement.

NOW, THEREFORE, based on the exchange of valuable consideration, the receipt and sufficiency of which is acknowledged, and based on the Recitals set forth above which form a part of this Agreement, ASIC, Completion Contractor and Obligee agree to the following terms and conditions:

#### TERMS

In consideration of the terms and conditions in this Agreement, the parties agree as follows:

1. RECITALS. The above Recitals are contractual and incorporated herein by reference.

2. COMPLETION CONTRACTOR PROPOSAL. Completion Contractor has examined the Contract and certifies that it is familiar with all of the terms and conditions of the Contract, which are incorporated by reference herein, including, without limitation, all supplemental agreements and work contained therein, the required levels of service, the maintenance rating program and any and all applicable liquidated damages, fees and penalties for noncompliance therewith. Completion Contractor diligently investigated and inspected the Project jobsite and is familiar with the work remaining to be performed on the Contract. Completion Contractor hereby confirms that it has investigated and is informed as to the status and conditions affecting the work to be done and that no representations with respect to same have been made by ASIC, Obligee, or any of their representatives. ASIC has made no warranties or representations, express or implied, to Completion Contractor with respect to the Contract or the Project. ASIC makes no representation or warranty regarding any future performance of any subcontractor or supplier, the availability of any leased equipment or facilities, or the availability of any materials supplied or to be supplied to the Project. Completion Contractor considered all of the Contract documents and jobsite conditions and observations in reaching its Completion Contractor monthly lump sum price of \$350,000.00 per month ("Completion Price") for the Remaining Contract Term (hereinafter defined).

- (a) RCI inventory or updates to the CFX asset inventory as provided in Section 2.6.3 of the proposed scope of services cannot be completed within 180 days of the NTP and is deleted. Completion Contractor will be provided the latest RCI inventory and use reasonable means to maintain and update the RCI inventory during the terms of this Agreement and the proposed scope of services agreement.

3. TENDER. Pursuant to its obligations under the Performance Bond, ASIC hereby tenders the Completion Contractor to complete the Project to Obligee under this Agreement. By this Agreement with Obligee, Completion Contractor promises to be bound by and fully perform the Contract, the Completion Contract (hereinafter defined) and this Agreement. Obligee recognizes Completion Contractor as Principal's successor in interest to the original Contract. Following the Effective Date (hereinafter defined) of this Agreement, Obligee, Completion

Contractor and ASIC agree that the term "CONTRACTOR" as used in the Contract shall refer to Completion Contractor. Simultaneously with the execution of this Agreement, Completion Contractor will enter into a separate agreement in substantially the form and manner substantially attached hereto as Exhibit "A" and incorporated herein by reference ("Completion Contract") with Oblige setting forth the scope of work and other relevant terms. The scope of work of the Completion Contract shall mirror the scope of work attached to the Contract, as supplemented. Completion Contractor, Oblige and ASIC agree and acknowledge that Oblige has issued a request for proposals ("RFP") for those maintenance services performed under the Contract commencing May 1, 2022 ("Expiration Date"), and as such, the Completion Contractor shall be responsible for the performance of any and all work conducted under the Contract and the Completion Contract from the Commencement Date until the Expiration Date ("Remaining Contract Term"). Completion Contractor understands and acknowledges that the selection by ASIC of, and agreement by Oblige to, the Completion Contractor for the performance of the maintenance services under the Contract and Completion Contract for the Remaining Contract Term shall in no way impact or affect the selection of the contractor under the RFP.

4. COMPLETION CONTRACTOR'S BONDS. Completion Contractor shall furnish to Oblige Performance and Payment Bonds in accordance with § 6.5 of the Contract in the amount of \$2,100,000.00 issued by a commercial surety with an AM Best rating of A- or better and a financial size category of VI or larger approved by the U.S. Treasury to issue a bond to the Federal Government. The Completion Contractor shall furnish those bonds on forms designated by the Oblige within five (5) calendar days of the Effective Date. ASIC shall be named as a dual obligee of Completion Contractor's bond. The Completion Contractor shall perform any and all work described in the Contract and the Completion Contract to the required levels of service set forth in the Contract. The Completion Contractor warrants all that all work to be performed by the Completion Contractor under the Contract and Completion Contract shall be performed in accordance with the warranty terms and levels of service of the Contract and Completion Contract. The Completion Contractor warrants all work to be performed by Completion Contractor and its subcontractors and suppliers under the Contract according to the warranty terms and standards for the level of services of the Contract. The Completion Contractor acknowledges that its Completion Price includes adequate consideration related to its warranty of all work previously performed by Principal and its subcontractors, vendors and suppliers under the Contract, and the assumption of all obligations to correct any latent defects.

5. ADDITIONAL WORK THAT MAY ARISE. Oblige may direct Completion Contractor to perform extra, additional or changed work or to delete work ("Change Order") pursuant to the terms of the Contract and the Completion Contract. In no event shall any Change Order issued by the Oblige to the Completion Contractor affect or alter the penal limit of ASIC's Bond.

6. COMPLETION CONTRACTOR'S INDEMNITY AND INSURANCE OBLIGATIONS.

- (a) To the fullest extent permitted by law, Completion Contractor shall indemnify and hold harmless ASIC and Oblige, and their officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful

misconduct of Completion Contractor and persons employed or utilized by Completion Contractor in the performance of Completion Contractor's work.

- (b) The Completion Contractor must comply with all insurance requirements in the Contract and Completion Contract. The Completion Contractor shall obtain and maintain the insurances required under the Contract and Completion Contract, with the coverages and in the amounts specified in the Contract. The Completion Contractor shall provide the evidence of insurance required by this section within five (5) calendar days of the Effective Date. Further, the Completion Contractor shall ensure that its insurers waive all rights of subrogation against the Obligee and ASIC. The Completion Contractor shall deliver certificates of insurance confirming that the insurances required under the Contract and Completion Contract have been obtained and that the Obligee and ASIC have been named as additional insureds. Failure to obtain this insurance, or permitting this insurance to lapse, or failing to provide certificates required by this section shall constitute a material breach of this Agreement justifying termination. The Completion Contractor shall not proceed with any work until the insurances and certificates have been obtained and provided to the Obligee and ASIC.

7. COMMENCING OF WORK. The Parties agree and understand that time is of the essence for this Agreement and the Completion Contract. Completion Contractor agrees to commence the work under the Completion Contract with all required materials, equipment, supplies and labor no later than five (5) calendar days from the Effective Date ("Commencement Date"). The Completion Contractor's performance and payment bonds and evidence of insurance shall be submitted and approved by the Obligee prior to Completion Contractor being permitted to commence performance. Any delay in procuring these bonds and evidence of insurance shall be the fault of the Completion Contractor. The Completion Contractor agrees to diligently proceed with and to complete the work in accordance with the terms and conditions of the Contract from the Commencement Date through May 1, 2022 ("Remaining Contract Term"). In the event Completion Contractor fails to complete the work within the time specified in this Agreement, or any extension thereof, the Completion Contractor shall pay to Obligee liquidated damages as specified in the Contract or Completion Contract, if any. Notwithstanding the foregoing, the Parties agree and acknowledge that Obligee shall pay to Completion Contractor, and Completion Contractor shall receive the total sum of \$350,000.00 for the calendar month of November, provided Completion Contractor commences the work in full no later than November 23, 2021.

- (a) Upon commencement of work by Completion Contractor, Obligee will close and reissue in PONTIS any open Priority 2 or Priority 3 Work Orders to provide Completion Contractor with a 90 day duration for completion. Work not completed within this time frame will be subject to a reduction in compensation provisions in Section 2.5 of the Contract.

8. BREACH OF THIS AGREEMENT. Should Completion Contractor breach this Agreement or an issue arises with respect to performance on the Project under the Completion Contract, Obligee agrees to only look to the Completion Contractor and its surety, and that ASIC shall have no further obligation for Completion Contractor's default or breach of the Completion Contract.

9. RELEASE OF ASIC. Except for the Reserved Claims (hereinafter defined) and Claim (hereinafter defined), Obligee expressly RELEASES, ACQUITS AND FOREVER DISCHARGES ASIC from any and all claims, rights, demands or causes of action of whatever kind or nature whether in law or equity or otherwise which Obligee has or may ever have against ASIC under or by reason of ASIC's Performance Bond, and Obligee agrees to return the original Performance Bond for the Contract to ASIC upon execution of this Agreement. The Completion Contractor agrees to make demand and look solely and exclusively to the Obligee in the event of any breach or default by the Obligee of this Agreement.

10. RESERVED CLAIMS. The following claims, rights, demands, and causes of action are specifically reserved by Obligee and not otherwise released or discharged by Obligee against ASIC: (a) any rights or obligations contained in or arising under ASIC's Payment Bond, including any obligations by ASIC to indemnify, hold harmless, release, and defend Obligee, and its respective directors, officers, agents, servants, employees, affiliates and subsidiaries, from and against any and all losses, costs, damages, injuries, liabilities, claims, causes of action, demands, penalties, and interest, including reasonable attorneys' fees arising out of the performance of the work under the Contract by Principal. (b) enforcement of this Agreement, and (c) any amounts incurred by Obligee in excess of the amounts that would have been paid to Principal pursuant to Contract for months of May 2022 and June 2022 (collectively, the "Reserved Claims"). Notwithstanding the foregoing, within thirty (30) days of receipt of written notice from Obligee to ASIC that Obligee has secured a written contract with a contractor ("New Contractor") in accordance with the terms of the RFP for the same work which would have otherwise been performed by Principal pursuant to the Contract for the months of May 2022 and June 2022, ASIC shall reimburse and pay to Obligee the amount of the costs incurred, or to be incurred by Obligee, for the New Contractor to complete the Contract for May 2022 and June 2022, based on the amounts set forth in the New Contractor's response to the RFP, in excess of \$246,463.20 per month, provided; however, such amount shall not exceed a total of \$300,000.00 for both months.

11. ASIC'S PAYMENT BOND OBLIGATIONS. ASIC's Payment Bond remains in full force and effect for work performed by Principal under the Contract, and ASIC retains all obligations, rights and defenses pursuant to the Payment Bond. ASIC's Payment Bond shall not apply to or cover Completion Contractor or any of Completion Contractor's subcontractors and suppliers for any work performed and/or materials delivered and ASIC shall not be a co-surety with Completion Contractor's surety. The ASIC's Payment Bond obligations run solely to those claimants who performed work, labor or supplied material or equipment to the Project on or before October, 22, 2021 and met the terms and conditions of submitting a claim under the Payment Bond. All payments made by ASIC relating to claims on its Payment Bond shall be credited against and applied to reduce the \$1,854,390.60 penal limit of the Payment Bond. ASIC shall not, under any circumstances, be obligated to expend more than the penal limit of its Payment Bond. This clause shall survive the termination or expiration of this Agreement.

12. COMPLETION CONTRACTOR'S OBLIGATIONS. This Agreement is expressly contingent on the Completion Contractor's timely execution of this Agreement. If after executing this Agreement the Completion Contractor does not timely furnish the bonds and insurance and commence the work required under the Contract and Completion Contract within five (5) business days of the Effective Date, then that failure is a material breach of this Agreement. If after receiving a five (5) calendar day written notice to cure from ASIC or Obligee, the Completion Contractor

does not cure its breach by providing the required bonds and insurance or commencing the work, as applicable, then this Agreement may be terminated by ASIC or Oblige, in their sole and absolute discretion, without prejudice to any rights or remedies of the ASIC or Oblige, and the Completion Contractor shall be liable to the ASIC and the Oblige for any and all damages, direct or indirect, actual or consequential, including, but not limited to, all costs of re-bidding the Project, any cost or price difference between the Completion Contractor's Completion Price and any new contractor's price to complete the Project, along with any and all damages of the ASIC and/or the Oblige, related to or arising from the Completion Contractor's termination.

### 13. MISCELLANEOUS PROVISIONS.

- (a) Except as expressly provided in this Agreement, nothing in this Agreement shall be construed as a waiver of any rights of the Oblige or ASIC against Principal.
- (b) It is understood and agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Florida. The Parties agree that venue for any legal action authorized hereunder shall be exclusively in the courts of Ninth Judicial Circuit of Florida.
- (c) This Agreement (and all of its exhibits), the Contract and the Completion Contract are intended to be complementary and are intended to require all work and services by the Completion Contractor necessary to complete the remaining work in compliance with this Agreement (and all of its exhibits), the Contract and the Completion Contract. In the case of conflict between the terms of the Agreement and the Contract:
  - (i) This Agreement has priority over the Contract, Completion Contract and any other agreement or document.
  - (ii) The Completion Contract has priority over the Contract and any other agreement or document except for this Agreement.
  - (iii) The Contract has priority over any other agreement or documents except for this Agreement and the Completion Contract.
- (d) This Agreement may be independently executed in any number of counterparts each of which when executed and delivered, shall constitute an agreement which shall be binding upon all Parties notwithstanding that the signatures of all parties and/or their designated representatives do not appear on the same page. Facsimile, digital or electronic signatures shall have the same effect as original signatures.
- (e) This Agreement has been drafted equally by all Parties and shall not be subject to the rule of construction that a written agreement is construed against the Party preparing or drafting the Agreement.
- (f) Subject to the limits and limitations of Section 768.28, Florida Statutes, in the event any action is brought to enforce or for breach of the provisions of this Agreement, the prevailing party will be entitled to recover attorneys' fees and expenses.

- (g) This Agreement shall extend to and be binding on the Parties, their respective successors, heirs and assigns.
- (h) This Agreement is fully integrated and its incorporated documents constitute the complete agreement between the Parties. No prior statements, oral or written, course of dealing or trade usage shall supplement or alter the terms of this Agreement. All discussions and prior agreements are merged herein. This Agreement replaces and supersedes any statements or representations the ASIC, its consultants, agents, and/or attorneys have made to the Completion Contractor or Obligeec.
- (i) ASIC's actions under this Agreement and its Performance and Payment Bond shall forever be construed and considered as those of a surety and not a contractor.
- (j) The section headings in this Agreement are for convenience only and do not limit, define, or construe the contents of the sections.
- (k) This Agreement is strictly for the benefit of the Parties to this Agreement and they expressly declare that they do not intend to confer any rights or benefit whatsoever on any third party.
- (l) Any notice, consent, approval, or other communication which is provided for or required by either the Contract or this Agreement must be in writing and may be delivered in person to any Party or may be sent by a facsimile transmission, telegraph, courier, or registered or certified U.S. mail, with postage prepaid, return receipt requested. E-mail is an acceptable communication method. Any such notice or other written communication shall be deemed received by the Party to whom it is sent (i) in the case of delivery by hand or delivery by reputable national or local courier (such as United Parcel Service or Federal Express), on the date of delivery to the party to whom such notice as addressed, (ii) in the case of facsimile transmission or email, one working day after the date of successful transmission (provided that an additional copy of such notice is subsequently received within three (3) days of the facsimile transmission using the methods in (i) or (iii)), and (iii) in the case of registered or certified mail, the date receipt is acknowledged on the return receipt for such notice. All such notices and other written communication shall be sent to the persons and addresses listed below:
- (m) **If to Obligeec:**

Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: Chief of Infrastructure  
[Glenn.Pressimone@cfxway.com](mailto:Glenn.Pressimone@cfxway.com)

**Copy To:**

Central Florida Expressway Authority



4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: General Counsel  
[Woody.Rodriguez@cfxway.com](mailto:Woody.Rodriguez@cfxway.com)

**If to ASIC:**

Terence J. Dahl, Esq.  
Intact Insurance Surety Group  
One State Street Plaza 31<sup>st</sup> Floor  
New York, NY 10004  
[tdahl@intactinsurance.com](mailto:tdahl@intactinsurance.com)

**Copy To:**

Watt, Tieder, Hoffar & Fitzgerald, L.L.P.  
Attn.: John E. Sebastian, Esq.  
10 S. Wacker Dr., Suite 1100  
Chicago, Illinois 60606  
[jsebastian@watttieder.com](mailto:jsebastian@watttieder.com)

**If to Completion Contractor:**

Roy Jorgensen Associates, Inc.  
Attn: Douglas W. Selby | President  
3735 Buckeystown Pike  
P.O. Box 70  
Buckeystown, MD 21717  
[Doug\\_Selby@royjorgensen.com](mailto:Doug_Selby@royjorgensen.com)

The addresses and persons listed may be changed at any time by giving written notice in accordance with this paragraph.

- (n) The Parties and their signatories warrant that each has the power and authority to execute this Agreement. The Parties voluntarily executed this Agreement based on their own independent investigations. The provisions of this Agreement shall be interpreted in a manner consistent with each other to carry out the purposes and intentions of the parties. If for any reason any provision of this Agreement is held unenforceable or invalid, that provision shall be deemed severed from this Agreement and the remaining provisions shall not be affected.
- (o) **Effective Date.** The effective date of this Agreement shall be the date upon which the last of the Parties executes this Agreement ("Effective Date").
- (p) **Severability.** If any court finds part of this Agreement invalid or unenforceable, such invalidity or unenforceability shall not affect the other parts of the Agreement (a) if the rights and obligations of the Parties contained therein are not materially

prejudiced and (b) if the intentions of the Parties can continue to be effective. To that end, this Agreement is declared severable.

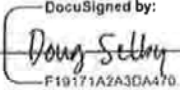
[INTENTIONALLY BLANK – CONTINUED ON NEXT PAGE]

Executed via this \_\_\_\_\_ day of \_\_\_\_\_, 2021

**COMPLETION CONTRACTOR:**

By: Doug Selby

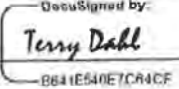
Its: President

X: 

**SURETY:**

By: Terence J. Dahl, Esq. "Terry"

Its: Claims Counsel

X: 

**OBLIGEE:**

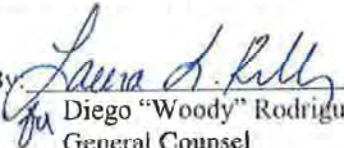
**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

By: 

Its: Executive Director

X: LAURA KELLEY

Approved as to form and legality by legal counsel to the Central Florida Expressway Authority on this 23<sup>rd</sup> day of November, 2021 for its exclusive use and reliance.


By:   
Diego "Woody" Rodriguez  
General Counsel

**CONSENT AGENDA ITEM  
#19**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: November 17, 2021

SUBJECT: Approval of First Contract Renewal with Access Information Protected for  
Offsite Records Storage Services  
Contract No. 001523

---

Board approval is requested for the first renewal of the referenced contract with Access Information Protected in the amount of \$0.00 for one year beginning on March 14, 2022 and ending March 13, 2023. The original contract was for three years with two one-year renewals.

The work to be performed includes offsite records storage.

Original Contract	\$108,000.00
First Renewal	<u>\$ 0.00</u>
Total	\$108,000.00

This contract is included in the OM&A Budget.

Reviewed by: Tim O'Toole  
Tim O'Toole  
Director of Records Management

  
Michelle Maikisch (Nov 23, 2021 15:28 EST)  
Michelle Maikisch

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
CONTRACT RENEWAL NO. 1 AGREEMENT  
CONTRACT NO. 001523**

**THIS CONTRACT RENEWAL NO. 1 AGREEMENT** (“Renewal Agreement”), is made and entered into this 9th day of December 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and Access Information Protected., registered and authorized to do 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 March 14, 2019, (collectively, the “Original Agreement”), with a Notice to Proceed date of March 14, 2019, whereby CFX retained the Consultant to perform offsite records storage 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 first renewal of said Initial CFX Contract, which renewal shall begin on March 14, 2022 and end on March 13, 2023 (“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 \$0.00 (“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.

**ACCESS INFORMATION PROTECTED**

**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: \_\_\_\_\_



Access Information Management  
500 Unicorn Park  
Suite 503  
Woburn, MA 01801

TEL 978,539,3350  
FAX 978,777,0145  
WEB accesscorp.com

August 1, 2019

6\*\*38\*\*1775\*\*\*\*\*MIXED AADC 197

Central Florida Expressway Authority  
4974 Orl Tower Rd  
Orlando, FL 32807-1684

19 AUG 12 AM 11:22



Notice of Consolidation of Access Affiliate Subsidiaries

Access is an international leader in records and information management, now serving more than 230 markets across the US and Canada with additional operations in, Brazil, Latin America, and the Caribbean. We are excited to continue to support your organization as part of the Access family.

We are reaching out to notify you that Access is consolidating various subsidiaries affiliated with our acquisition of Retrievevex, Inc. in 2012. Retrievevex, Inc. is the sole member of the subsidiaries: Retrievevex Acquisition LLC I, Retrievevex Acquisition LLC II, Retrievevex Acquisition LLC III and Retrievevex Acquisition LLC IV.

Effective on August 31, 2019, the wholly-owned subsidiaries will merge with Retrievevex, Inc. and **Retrievevex, Inc. will be the sole surviving entity.** This letter serves as formal notification of this change to our corporate structure.

This merger will not impact or change any of the services that Access now offers you. This merger will also not have any effect on the terms, provisions and conditions of your services agreement or any other agreements with Access. If your agreement with Access was in the name of one of the acquisition subsidiaries listed above, it will automatically be assigned to Retrievevex, Inc. In addition, your invoicing for Access services will not be impacted. For reference, a W-9 for Retrievevex, Inc. is included on the reverse side of this letter.

All of us at Access look forward to continuing the high level of service to which you have become accustomed.

At Access, our **vision** is clear: To exceed the expectations of our clients, company and community every day.

Our **mission** is focused: Advancing how the worked manages information with the very best service.

And our **purpose** is simple: We protect and manage information for millions of people.

Sincerely,

John Chendo  
President



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
COOPERATIVE PURCHASE AGREEMENT  
OFFSITE RECORDS STORAGE SERVICES  
CONTRACT NO. 001523**

This Agreement is made this 14<sup>th</sup> day of March, 2019, between Central Florida Expressway Authority, a body politic and agency of the State of Florida, hereinafter called CFX and Retrievox Acquisition, LLC II, 1451 Ocoee-Apopka Road, Apopka, FL 32703, hereinafter the CONTRACTOR, who is duly authorized to conduct business in the State of Florida.

**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 [CFX];" 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 Offsite Records Storage Services; and

**WHEREAS**, on or about February 19, 2008, the CONTRACTOR entered an agreement with the Greater Orlando Aviation Authority (GOAA) under its Purchasing Bid 01-08 to provide the same services as required by CFX; and

**WHEREAS**, an Invitation for Bid seeking qualified contractors to perform such services for CFX was not required because the CONTRACTOR has an existing contract with GOAA for substantially the same services to be provided hereunder and CFX has decided to contract with CONTRACTOR for the performance of the services described herein under the same conditions previously negotiated by GOAA; and

**WHEREAS**, the CONTRACTOR agrees to provide the services under the same terms, conditions and rates as included in its contract with GOAA, a copy of which is attached to this Agreement as **Exhibit "A"**, and such additional terms and conditions as detailed below.

**NOW THEREFORE**, in consideration of the mutual covenants and benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged by each party to the other, the parties hereto agree as follows:

## 1. RECITALS

The recitals are true and corrected and incorporated herein as terms.

## 2. ADOPTION OF GOAA CONTRACT

The parties adopt the terms and conditions in the CONTRACTOR's existing contract with the GOAA under its Purchasing Bid 01-08, including the Master Services Agreement and Amendments, by reference as though set forth fully herein, subject to the substitutions or revisions described below.

2.1 References to "GOAA" in the Contract shall be replaced with the "Central Florida Expressway Authority" or "CFX."

2.2 In GOAA Contract – Amendment No. 10 on page 1, Article 2 entitled "Extend Term of Contract" shall be revised by removing the text marked by strikeouts and adding the underlined text as follows:

~~The term of the contract shall be, and hereby is extended for a period of six (6) months, commencing effective as of September 18, 2018 and expiring March 17, 2019. The term of the Contract will be for three (3) years beginning March 14, 2019 with two (2) one-year renewals. The option to renew is at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide the CONTRACTOR with written notice of its intent at least 30 days prior to the expiration of the initial Contract terms.~~

2.3 CFX shall pay the CONTRACTOR the unit prices and rates as shown in GOAA's Contract in Attachment "A-10" entitled "Offsite Records Storage Services Extension Pricing" with the addition of Access-FileBRIDGE Records tool (including Access Metrics) for a monthly rate of \$14.95.

## 3. ADDITIONAL TERMS REQUIRED BY CFX

3.1 SERVICES TO BE PROVIDED. The CONTRACTOR shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all equipment, supplies, labor and incidentals necessary to perform this Contract in the manner and to the full extent as required by CFX

3.2 CFX is public agency subject to Chapter 119, Florida Statutes. CONTRACTOR shall comply with Florida's Public Records Law including: (a) keeping and maintaining public records that ordinarily and necessarily would be required by the CFX in order to perform the services. (b) providing the public with access to public records on the same terms and conditions that the CFX would provide the records and at a cost that does not exceed the cost provided in

chapter or as otherwise provided. (c) ensuring that public records that are exempt or that are confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law and (d) meeting all requirements for retaining public records and transfer at no cost to the CFX\_all public records in possession of the CONTRACTOR upon termination of the Agreements and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CFX in a format that is compatible with the information technology systems of the CFX.

The parties agree that if the contractor fails to comply with a public records request, then CFX must enforce the contract provisions in accordance with the contract and as required by Section 119.0701, Florida Statutes.

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify CFX. Thereafter, CONTRACTOR shall follow CFX's instructions with regard to such request. To the extent that such request seeks non-exempt public records, CFX shall direct CONTRACTOR to provide such records for inspection and copying in compliance with Chapter 119. A subsequent refusal or failure by CONTRACTOR to timely grant such public access will be grounds for immediate, unilateral cancellation of the Contract by CFX.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING  
THE APPLICATION OF CHAPTER 119, FLORIDA  
STATUTES, TO THE CONTRACTOR'S DUTY TO  
PROVIDE PUBLIC RECORDS RELATING TO THIS  
CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC  
RECORDS AT**

**Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807  
(407) 690-5000  
PublicRecords@CFXWay.com**

**3.3 CONTRACTOR INSURANCE.**

CONTRACTOR shall carry and keep in force during the period of this Contract, the required amount of coverage as stated in the CONTRACTOR's contract with GOAA.

If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide CFX with certificates of same, CFX may obtain such polices and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments.

### 3.4 CONTRACTOR RESPONSIBILITY

CONTRACTOR shall take all reasonable precautions in the performance of the services and shall cause its employees, agents and subcontractors to do the same.

(a) CONTRACTOR shall comply, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible, with applicable laws, ordinances, rules, regulations, orders of public authorities, sound business practices, including without limitation:

(i) those relating to the safety of persons and property and their protection from damage, injury or loss, and

(ii) all workplace laws, regulations, and posting requirements, and

(b) CONTRACTOR shall be responsible for all damage and loss that may occur with respect to any and all property in any way involved in the provision of services by CONTRACTOR, whether such property is owned by CONTRACTOR, CFX, or any other person, to the extent such damage or loss shall have been caused or brought about by the acts or omissions of CONTRACTOR or its employees, agents, officers or subcontractors or any other persons for whom CONTRACTOR may be legally or contractually responsible.

(c) CONTRACTOR shall ensure that all of its activities and the activities of its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible are undertaken in a manner that will minimize the effect on surrounding property and the public.

3.5 INDEMNITY. The CONTRACTOR shall indemnify, defend and hold harmless CFX and all of its respective officers, agents, CONTRACTOR's or employees from all suits, actions, claims, demands, costs as defined elsewhere herein, expenses (including reasonable attorneys' fees as defined elsewhere herein), judgments, liabilities of any nature whatsoever (collectively, "Claims") arising out of, because of, or due to breach of the Contract by the CONTRACTOR (its subcontractors, officers, agents or employees) or due to any negligent or intentional act or occurrence of omission or commission of the CONTRACTOR (its subcontractors, officers, agents or employees). CONTRACTOR will not be liable for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of CFX or any of its officers, agents or employees. The parties agree that 1% of the total compensation to the CONTRACTOR for performance of each task authorized under the Contract is the specific consideration from CFX to CONTRACTOR for CONTRACTOR's indemnity and the parties further agree that the 1% is included in the amount negotiated for each authorized task.

3.6 MEDIA RELEASES. CONTRACTOR shall make no statements, press releases or publicity releases concerning the Contract or its subject matter, or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished under the Contract, or any particulars thereof, without first notifying CFX and securing its consent in writing.

3.7 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.

### 3.8 CONFLICT OF INTEREST AND STANDARDS OF CONDUCT

CONTRACTOR acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Ethics Policy. To the extent applicable, CONTRACTOR will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

In the performance of the Contract, CONTRACTOR shall comply with all applicable local, state, and federal laws and regulations and obtain all permits necessary to provide the Contract services.

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Agreement as though set forth in full.

3.9 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 Agreement.

3.10 SUBLETTING AND ASSIGNMENT. CONTRACTOR shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONTRACTOR's right, title, or interest therein without the written consent of CFX, which may be withheld in CFX's sole and absolute discretion. Any attempt by CONTRACTOR to dispose of this Contract as described above, in part or in whole, without CFX's written consent shall be null and void and shall, at CFX's option, constitute a default under the Contract.

### 3.11 DISPUTES AND TERMINATION

All services shall be performed by the CONTRACTOR to the reasonable satisfaction of CFX's Executive Director (or her/his delegate), who shall decide all questions, difficulties and disputes

of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof.

CFX shall have the right to terminate or suspend the Contract, in whole or in part, at any time, for any reason, with 7 days notice for convenience or 10 days notice for cause.

3.12 OTHER SEVERABILITY. If any section of this Agreement 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.

3.13 GOVERNING LAW. This Contract shall be governed by and construed in accordance with the laws of Florida. Venue of any legal or administrative proceedings arising out of this Contract shall be exclusively in Orange County, Florida.

#### 3.14 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.

3.15 INTERPRETATION. For purposes of this Contract, the singular shall include the plural, and the plural shall include the singular, unless the context clearly requires otherwise. Reference to one gender shall include all genders. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the stated statute or regulation. Words not otherwise defined and that have well-known technical, industry, or legal meanings, are used in accordance with such recognized meanings, in the order stated. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities. If CONTRACTOR discovers any material discrepancy, deficiency, or ambiguity in this Contract, or is otherwise in doubt as to the meaning of any provision of the Contract, CONTRACTOR may immediately notify CFX and request clarification of CFX's interpretation of the Contract. The Contract, together with and including all exhibits, comprise the entire agreement of the parties and supersedes and nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

3.16 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:

(a) Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and

(b) 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.

3.17 OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT. CONTRACTOR shall initiate settlement of all outstanding liabilities and claims arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of CFX.

'19 APR 26 AM 11:30

IN WITNESS WHEREOF, the authorized signatures named below have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written.

RETRIEVEX ACQUISITION LLC II

By: Jean MacLure  
Title: Area Vice President

Attest: Margaret H. Applin (Seal)

Date: 4/24/2019



CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Bill  
Director of Procurement

Approved as to form and execution, only.

Joseph J. Cassiatare  
General Counsel for CFX



**EXHIBIT "A"**  
**Purchasing Contract 01-08**  
**Master Services Agreement, Amendments**

**AMENDMENT NO. 10**

**BY AND BETWEEN**

**GREATER ORLANDO AVIATION AUTHORITY  
AND  
RETRIEVEX ACQUISITION LLC II**

**TO**

**PURCHASING CONTRACT 01-08**

THIS AMENDMENT NO. 10 made and entered into as of the 6 day of FEBRUARY, 2019, by and between the GREATER ORLANDO AVIATION AUTHORITY (hereinafter referred to as "Authority") and RETRIEVEX ACQUISITION, LLC II (hereinafter referred to as "Contractor").

**WITNESSETH:**

**WHEREAS**, by Contract dated April 18, 2008, as amended by Amendment No. 1 dated May 30, 2012, Amendment No. 2 dated April 23, 2013, Amendment No. 3 dated April 23, 2013, Amendment No. 4 dated April 17, 2014, Amendment No. 5 dated March 31, 2016, Amendment No. 6 dated April 18, 2016, Amendment No. 7 dated May 10, 2017, Amendment No. 8 dated October 2, 2017, and Amendment No. 9 dated June, 22, 2018, Contractor agreed to provide Offsite Records Storage Services for the Orlando International Airport and the Orlando Executive Airport, Orlando, Florida; and

**WHEREAS**, the Contract provided the Authority with five (5) options to renew the Contract for periods of one (1) year each; and

**WHEREAS**, Authority desires to extend the Contract for an additional period of six (6) months.

**NOW, THEREFORE**, for and in consideration of the premises and mutual covenants herein contained, the parties hereby amend the Contract as follows:

- 1. Extend Term of Contract.** The term of the Contract shall be, and hereby is extended for a period of six (6) months, commencing effective as of September 18, 2018 and expiring March 17, 2019.
- 2. Compensation.** Authority shall pay to the Contractor during the extended term of the Contract, upon satisfactory completion of the work required by the provisions of the Contract, the Unit Prices and Rates as shown on Attachment "A-10", Offsite Records Storage Services Extension Pricing, attached hereto. Compensation shall be paid pursuant to the terms and conditions of the Contract.

3. Suit/Proceedings. The Contractor agrees that any suit or proceeding initiated for the purpose of interpreting or enforcing any provision of the Contract or any matter in connection therewith shall be brought only in a court of competent jurisdiction in Orange County, Florida, and Contractor waives any venue objection, including, but not limited to, any objection that a suit has been brought in an inconvenient forum. Contractor agrees to submit to the jurisdiction of the Florida courts and irrevocably agrees to accept service of process by U.S. mail.

4. Public Entity Crimes Act. The Contractor acknowledges the following notice: "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount set forth in s.287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list."

5. Continuing Effect of Contract Provisions. Except as amended by this Amendment No. 10, the Contract shall continue in full force and effect in accordance with its terms and conditions.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 10 to be duly executed as of the date and year first above written.

**"AUTHORITY"**

ATTEST:

  
\_\_\_\_\_  
Assistant Secretary

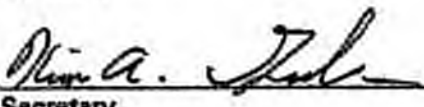
**GREATER ORLANDO AVIATION AUTHORITY**

By:   
\_\_\_\_\_  
Chief Executive Officer

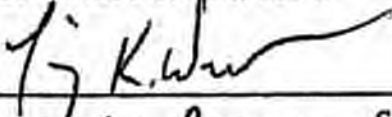
[Official Seal]

**"CONTRACTOR"**

ATTEST:

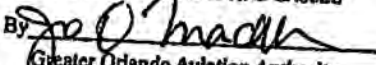
  
\_\_\_\_\_  
Secretary

**RETRIEVEX ACQUISITION, LLC II**

By:   
\_\_\_\_\_  
Its: AREA VICE PRESIDENT SOUTHEAST

[CORPORATE SEAL]

TIMOTHY K. WALKER  
Print or Type Name and Title


Approved as to Form and Legality  
this 15 day of January, 2019  
NELSON MULLINS BROAD AND CASSEL  
By:   
Greater Orlando Aviation Authority

**CONSENT AGENDA ITEM  
#20**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: November 17, 2021

SUBJECT: Approval of Second Contract Renewal with Kyra Solutions, Inc. for  
Image Processing Solution  
Contract No. 001660

---

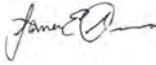
Board approval is requested for the second renewal of the referenced contract with Kyra Solutions, Inc. in the amount of \$500,000.00 for one year beginning on March 1, 2022 and ending February 28, 2023. The original contract was for one year with renewal options.

The work to be performed includes image review.

Original Contract	\$1,500,000.00
Supplemental Agreement No. 1	\$ 0.00
First Renewal	\$ 0.00
Second Renewal	\$ 500,000.00
Total	<u>\$2,000,000.00</u>

This contract is included in the OM&A Budget.

Reviewed by:   
for David Wynne  
Director of Toll Operations

  
Jim Greer  
Chief of Technology/Operations

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
CONTRACT RENEWAL NO. 2 AGREEMENT  
CONTRACT NO. 001660**

**THIS CONTRACT RENEWAL NO. 2 AGREEMENT** (“Renewal Agreement”), is made and entered into this 9th day of December 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and Kyra Solutions, Inc., hereinafter called the (“Contractor”). CFX and Contractor are referred to herein sometimes as a “Party” or the “Parties”.

**WITNESSETH**

**WHEREAS**, on July 9, 2018, CFX and the Contractor entered into a Contract Agreement (the “Original Agreement”) whereby CFX retained the Contractor to provide image review 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 March 1, 2022 and end on February 28, 2023 (“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 \$500,000.00 (“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.

KYRA SOLUTIONS, 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. 001660**

**THIS CONTRACT RENEWAL NO. 1 AGREEMENT** ("Renewal Agreement"), is made and entered into this 11th day of February 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called "CFX", and Kyra Solutions, Inc., hereinafter called the ("Contractor"). CFX and Contractor are referred to herein sometimes as a "Party" or the "Parties".

**WITNESSETH**

**WHEREAS**, on July 9, 2018, CFX and the Contractor entered into a Contract Agreement (the "Original Agreement" ) whereby CFX retained the Contractor to provide image review 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 first renewal of said Initial CFX Contract, which renewal shall begin on March 1, 2021 and end on February 28, 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 \$0.00 ("Renewal Compensation"). The Renewal Compensation shall be in addition to the original compensation paid by CFX to the Contractor pursuant to the terms of the Original Agreement, and any supplements or amendments thereto.
4. **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.

**KYRA SOLUTIONS, INC.**

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

By: Devang A. Patel  
Print Name: Devang A. Patel  
Title: VP, Consulting & Projects

By: Aneth Williams Digitally signed by Aneth Williams  
Date: 2021.02.15 16:30:34 -05'00'  
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 15th day of February, 2021 for its exclusive  
use and reliance.

By: Cristy Mender  
Print Name: Cristy Mender

By: Woody Rodriguez  
Diego "Woody" Rodriguez, General Counsel

By: J. A. Patel  
Print Name: JAYDEEP A. PATEL

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Image Processing Solution

Contract No.001660

Supplemental Agreement No.1

This Supplemental Agreement No.1 entered into this 15<sup>th</sup> day of December 2020, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and KYRA SOLUTIONS, INC (the "Contractor"), the same being supplementary to the Contact between the aforesaid, dated February 13,2020, with a Notice to Proceed date of March 1, 2020, for image processing solution.

1. CFX desires to amend the Scope of Services to add additional image review services of images originating from the new Infinity tolling system. This complimentary image review service will provide additional layer of risk management and operation redundancy through geo diversity for CFX. The proposed scope of services includes:
  - Contractor and its subcontractor Global Agility Solutions will provide manual image review operators to work on the following queues, using CFX's Manual Image Review (MIR) system.
  - This service will be provided from offshore location(s) using the Contractor's desktop or laptop.
  - Initially, 6 operators are slated to staff this service to complement CFX's existing image review staff. The staffing level can be revised upwards or downwards per situation.
  - Contractor will charge CFX 1.9 cents, flat fees per single review (per touch).
  - Contractor will use the existing report from CFX's MIR to invoice CFX monthly.
  - Queues will be - Simple jurisdiction, Advanced jurisdiction, Simple registration and Advanced registration.

Additional queues not mentioned in the scope will be priced separately upon request.

- CFX will be responsible for providing access to MIR using a secure and timely method.
2. The Contractor hereby agrees to provide the additional services with no increase in the Contact amount.
  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.

Contract Name: Image Processing Solution

Contract No. 001660

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: Aneth Williams Digitally signed by Aneth Williams  
Date: 2020.12.18 16:04:22 -05'00'  
Director of Procurement

Date: \_\_\_\_\_

KYRA SOLUTIONS, INC.

By: Devany D. Pooler

Title: VP, Projects & Consulting



Attest: \_\_\_\_\_

Date: 12/18/2020

Approved as to form and legality by legal counsel to the Central Florida Expressway Authority on this 18th day of December, 2020 for its exclusive use and reliance.

By: Woody Rodriguez  
Diego "Woody" Rodriguez, General Counsel

# **CONTRACT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
KYRA SOLUTIONS, INC.**

**IMAGE PROCESSING SOLUTION**

**CONTRACT NO. 001660**

**CONTRACT DATE: February 4, 2020  
CONTRACT AMOUNT: \$1,500,000.00**

**CONTRACT  
CONTRACT NO. 001660**

This Contract No. 001660 (the "Contract" as defined herein below), is made this 13th day of February 2020, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called "CFX" and KYRA SOLUTIONS, INC., whose principal place of business is 4454 Florida National Drive, Lakeland, FL 33813, 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 Authority System; and,

**WHEREAS**, CFX has been granted the power under Section 348.754(2)(m) of Florida Statutes, "to do all acts and things necessary or convenient for the conduct of its business and the general welfare of CFX, in order to carry out the powers granted to it (by state law);" and,

**WHEREAS**, CFX has determined that it is necessary and convenient in the conduct of its business to retain the services of a CONTRACTOR to provide Image Processing Solution and other services as may be assigned to the CONTRACTOR by CFX; and,

**WHEREAS**, having verified the CONTRACTOR's unique qualifications, CFX has determined that it is in its best interest to "single source" the services to CONTRACTOR;

**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 Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed, and services provided to the satisfaction of the duly authorized representatives of CFX, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include image review services and other services as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

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.

The Contract Documents, in order of precedence, consist of:

- 1.1 The Contract,
- 1.2 The Scope of Services,

(collectively, the "Contract").

## **2. TERM AND NOTICE**

The initial term of the Contract will be one year with renewal options. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide the CONTRACTOR with written notice of its intent at least 30 days prior to the expiration of the initial Contract Term and each renewal, if any.

CFX shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 15 days notice for convenience or 30 days with cure notice 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 hereinabove. CONTRACTOR will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONTRACTOR will not be paid for special, indirect, consequential, or undocumented termination 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 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 personnel or with sufficient materials to assure the prompt performance of the work items covered 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 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 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. Upon declaration of default and termination of the Contract, CFX may cease making payments to CONTRACTOR and CFX will not be obligated to make any further payments except for the completed work or portion of the completed work. 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. If such circumstances, CONTRACTOR will provide revised project schedule and corrective action plan acceptable to CFX. 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 terminate or cancel this Contract in the event the CONTRACTOR shall be placed in either voluntary or involuntary bankruptcy or an assignment is made for the benefit of creditors. Such termination shall be deemed a termination for default.

### **3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES**

3.1 The rate will be \$0.05 per transaction up to Contract amount of \$1,500,000.00. Kyra will utilize Global Agility Solution as a subcontractor on this project.

### **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 subcontractors. By submitting a response to the Request for Proposal, CONTRACTOR or any subcontractor submits to and agree to comply with the provisions of this section.

If 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 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.

## **5. MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

CFX has adopted a program to provide opportunities for small business, including Minority Business Enterprises ("MBEs") and Women's Business Enterprises ("WBEs"). Under CFX program, CONTRACTOR is encouraged to grant small businesses the maximum opportunity to participate in the provision of the Services.

## **6. CONTRACTOR RESPONSIBILITY**

6.1 CONTRACTOR shall take all reasonable precautions in the performance of the Services and shall cause its employees, agents and subcontractors to do the same. CONTRACTOR shall be solely responsible for the safety of, and shall provide protection to prevent damage, injury or loss to:

(i) all employees of CONTRACTOR and its subcontractors and other persons who would reasonably be expected to be affected by the performance of the Services;

(ii) other property of CONTRACTOR and its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible on or adjacent to areas upon which services are performed;

6.2 CONTRACTOR shall comply, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible, with the Standard Operating Procedures, 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) 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.

6.3 CONTRACTOR shall be responsible for actual damage and loss that may occur with respect to any and all property located on or about any structures in any way involved in the provision of services by CONTRACTOR, whether such property is owned by CONTRACTOR, CFX, or any other person, to the extent such damage or loss shall have been caused or brought about by the negligent acts or omissions of CONTRACTOR or its employees, agents, officers or subcontractors or any other persons for whom CONTRACTOR may be legally or contractually responsible.

6.4 CONTRACTOR shall ensure that all of its activities and the activities of its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible are undertaken in a manner that will minimize the effect on surrounding property and the public. CONTRACTOR shall be responsible for any theft or conversion of collected funds by employees of CONTRACTOR, or arising out of the negligence or willful misconduct of CONTRACTOR;

6.5 CONTRACTOR shall immediately notify CFX of any material adverse change in CONTRACTOR's financial condition, business, prospects, affairs, or operations, or of such change of any partner, or of such change of any shareholder holding greater than a 10% interest in CONTRACTOR, or of the existence of any material impairment of rights or ability of CONTRACTOR to carry on as its business and operations are currently conducted.

6.6 CONTRACTOR shall not make any requirement of any employee or enter into a non-competition agreement with any employee, whether oral or written, of any kind or nature, that would prohibit CONTRACTOR's employees from leaving CONTRACTOR's employ and taking employment with any successor of CONTRACTOR for CFX's toll operations and management services.

## **7. INDEMNITY**

To the extent caused by the CONTRACTOR, the CONTRACTOR shall indemnify, defend and hold harmless CFX and all of its respective officers, CONTRACTOR's or 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 or misconduct of the CONTRACTOR (its subcontractors, officers, agents or employees), including without limitation any intentional 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:

7.1 violation of same by CONTRACTOR, its subcontractors, officers, agents or employees,

7.2 CFX's use or possession of the CONTRACTOR Property or CONTRACTOR Intellectual Property (as defined herein below),

7.3 CFX's full exercise of its rights under any license conveyed to it by CONTRACTOR,

7.4 CONTRACTOR's violation of the confidentiality and security requirements associated with CFX Property and CFX Intellectual Property (as defined herein below),

7.5 CONTRACTOR's failure to include terms in its subcontracts as required by this Contract,

7.6 CONTRACTOR's failure to ensure compliance with the requirements of the Contract by its employees, agents, officers, or subcontractors, or

7.7 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. Notwithstanding the foregoing, CONTRACTOR's total liability for a breach of contract or warranty shall not exceed the value of this Contract. 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.

## **8. 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:

8.1 Keep and maintain public records required by the public agency to perform the service.

8.2 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.

8.3 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.

8.4 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 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.

## **9. 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.

## **10. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS**

The term "CFX Software/Hardware" refers to all software, hardware, programs, procedures, that are owned by CFX.

CFX is and shall be and remain the sole owner of all rights, title, and interest in, to, and associated with all plans, documents, CFX Software/Hardware, specifications, drawings, brochures pamphlets, manuals, flyers, models, photographic or design images, negatives, videos and film, tapes, work product, information, data and other items (all whether in preliminary, draft, master, final, paper, electronic, or other form), along with the media on which they reside and with which they interface for function or aesthetics, that are generated or developed with respect to and in connection with this Contract and the performance thereof (collectively, the "CFX Property"). CFX's ownership of CFX Property includes without limitation all common law, statutory and other rights, title, and interest in, to and associated with CFX Property. CONTRACTOR, its employees, agents, officers, and subcontractors acknowledge that E-PASS® is CFX's registered trademark name for CFX's electronic toll collection system.

CONTRACTOR, its employees, agents, officers, and subcontractors may not use CFX Property or CFX Intellectual Property (defined broadly to include CFX's trademarks,

service marks, copyrights, patents, trade secrets, and publicity) in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR, its employees, agents, officers, and subcontractors' access to and/or use of CFX Property and CFX Intellectual Property is without any warranty or representation by CFX regarding same.

CFX, its employees, agents, officers, and subcontractors may not use CONTRACTOR Property or CONTRACTOR Intellectual Property in any way, other than under the terms of this Contract, without the prior written consent of CONTRACTOR, which may be granted or denied in CONTRACTOR's sole discretion.

All images, data, results and materials generated under the terms of this Contract, and by way of CONTRACTOR Property and CONTRACTOR Intellectual Property, is the sole Property of CFX (collectively, the "CFX Property and CFX Intellectual Property").

For CONTRACTOR Property and CONTRACTOR Intellectual Property, CONTRACTOR (its employees, officers, agents, and subcontractors, which for purposes of this section shall collectively be referred to as "CONTRACTOR") warrants and represents the following:

10.1 CONTRACTOR was and is the sole owner of all right, title and interest in and to all CONTRACTOR Property and CONTRACTOR Intellectual Property; OR

10.2 CONTRACTOR has obtained, and was and is the sole holder of one or more freely assignable, transferable, non-exclusive licenses in and to the CONTRACTOR Property and CONTRACTOR Intellectual Property, as necessary to utilize the CONTRACTOR Property and CONTRACTOR Intellectual Property for the full performance of this Contract; and that the CONTRACTOR is current and will remain current on all royalty payments due and payable under any license where CONTRACTOR is licensee for the term(s) of this Contract; AND

10.3 CONTRACTOR has not conveyed, and will not convey, any assignment, security interest, exclusive license, or other right, title, or interest that would interfere in any way with the use of the CONTRACTOR Property and CONTRACTOR Intellectual Property during the term(s) of this Contract; AND

10.4 Subject to Chapter 119, Florida Statutes (Florida Public Records Act), CONTRACTOR shall maintain CFX Property and CFX Intellectual Property in strictest confidence and may not transfer, disclose, duplicate, or otherwise use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of CFX, which may be granted or denied in CFX's sole discretion. CONTRACTOR shall not publish, copyright, trademark, service mark, patent, or claim trade secret, publicity, or other rights of any kind in any of the CFX Property. In ensuring the

confidentiality and security of CFX Property and CFX Intellectual Property, CONTRACTOR shall utilize the same standards of protection and confidentiality that CONTRACTOR uses to protect its own property and confidential information, but in no instance less than reasonable care plus the standards set forth anywhere in this Contract.

CONTRACTOR further warrants and represents that there is no pending, threatened, or anticipated Claims against CONTRACTOR, its employees, officers, agents, or subcontractors with respect to the CONTRACTOR Property or CONTRACTOR Intellectual Property.

The provisions of this Section shall survive for ten years after the term of this Contract, unless required by law or court order.

#### **11. 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.

#### **12. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT**

CONTRACTOR warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted.

CONTRACTOR acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Ethics Policy. CONTRACTOR acknowledges that it has read the Ethics Policy and, to the extent applicable, CONTRACTOR will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

In the performance of the Contract, CONTRACTOR shall comply with all applicable local, state, and federal laws and regulations and obtain all permits necessary to provide the Contract services.

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.

### **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. SUBLETTING AND ASSIGNMENT**

CFX has selected CONTRACTOR to perform the Services based upon characteristics and qualifications of CONTRACTOR and its employees. Therefore, CONTRACTOR shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONTRACTOR's right, title, or interest therein without the written consent of CFX, which may be withheld in CFX's sole and absolute discretion. Any attempt by CONTRACTOR to dispose of this Contract as described above, in part or in whole, without CFX's written consent shall be null and void and shall, at CFX's option, constitute a default under the Contract.

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 Director of Procurement for authorization to enter into such subcontract. Except in the case of an emergency, as determined by the Executive Director or her/his 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 her/his 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.

### **15. DISPUTES**

All services shall be performed by the CONTRACTOR to the reasonable satisfaction of CFX Executive Director (or her/his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof. 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.

### **16. OTHER SEVERABILITY**

If any section of this Contract, other than the immediately preceding Prevailing Party Attorneys' Fees section, 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.

## **17. GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the laws of Florida. Venue of any legal or administrative proceedings arising out of this Contract shall be exclusively in Orange County, Florida.

In consideration of the foregoing premises, CFX agrees to pay CONTRACTOR for work performed and materials furnished at the prices submitted with the Proposal.

## **18. 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.

## **19. 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. The Contract Documents, together with and including all exhibits, comprise the entire agreement of the parties and supersedes and

nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

## **22. 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.

## **23. 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:

23.1 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

23.2 Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and

23.3 Prohibition on non-competition agreements of CONTRACTOR's employees with respect to any successor of CONTRACTOR; and

23.4 Obligations upon expiration or termination of the Contract; and

23.5 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.

## **24. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT**

24.1 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

24.2 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.

**25. 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 subcontractors 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.

**26. ASSIGNMENT**

This Contract may not be assigned without the written consent of CFX.

**27. 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.

**28. 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.

**29. COMPANIES PURSUANT TO SECTION 287.135 AND 215.473**

CFX may terminate this Agreement for breach of contract if the CONTRACTOR:

- 29.1. submitted a false certification as provided under Florida Statute 287.135(5); or
- 29.2. been placed on the Scrutinized Companies with Activities in Sudan List; or
- 29.3. been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- 29.4. been engaged in business operations in Cuba or Syria; or
- 29.5. found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

**30. 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: General Counsel

CENTRAL FLORIDA EXPRESSWAY (CFX)  
4974 ORL Tower Road  
Orlando, Florida 32807  
ATTN: Chief of Technology & Operations

CONTRACTOR: KYRA SOLUTIONS, INC.  
4454 Florida National Drive  
Lakeland, FL 33803  
Attn: Devang Patel

**31. FORCE MAJEURE**

Neither party shall be liable for any loss or delay resulting from any force majeure event, including acts of God, fire, natural disaster, terrorism, labor stoppage, war or military hostilities, or in ability of carriers to make scheduled deliveries, and any payment or delivery date shall be extended to the extent of any delay resulting from any force majeure event.

**32. 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).

**33. PUBLIC ENTITY CRIME INFORMATION.**

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.”

**34. ANTI-DISCRIMINATION STATEMENT.**

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.”

**35. EXHIBITS**

This Contract references the exhibits listed below.

Exhibit “A” Scope of Services

[ SIGNATURES TO FOLLOW ]

IN WITNESS WHEREOF, the authorized signatures named below have caused this instrument to be signed by their respective fully authorized officials, as of the day and year first written above.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By:   
Director of Procurement

Print Name: Anesh Williams

'20 FEB 19 AM 10:01

CONTRACTOR

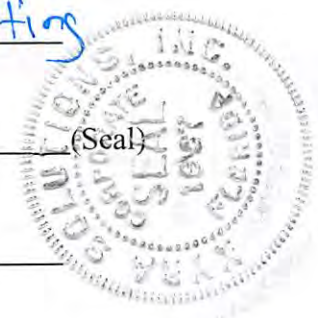
By:   
Signature

Devang A. Patel  
Print Name


VP, Projects & Consulting  
Title

ATTEST: \_\_\_\_\_ (Seal)

DATE: 02/18/2020



Approved as to form and execution, only.

  
General Counsel for CFX

Dear Jim, and Dave,

Thank you for giving Kyra Solutions, Inc. the opportunity to submit to you our task order for the Image Processing Solution at the Central Florida Expressway Authority (CFX). The document that follows will discuss the scope and our approach to help CFX improve its timely processing for image-based transactions from legacy toll plazas.

Thank you,

*Devang A. Patel*

Devang Patel, PMP

### **Kyra's Scope of Services:**

Kyra will provide end to end image review application, infrastructure and labor to provide image review as a service.

Kyra will process images through OCR and / or Manual Image review (double-blind review) and provide results to CFX in a predetermined format.

All manual image reviews will be performed through Kyra's Manual Image Review Application (MIRA), and OCR that has been in production at THEA for 2+ years and providing very high accuracy results.

Kyra has formed the partnership (Kyra's subcontractor) with Manual Image Review Operator to provide help with labor portion of image review. The partner firm has been in the image review business for several years and manages multiple agencies' manual image review tasks. Manual image review will be performed offshore.

By adding Kyra's OCR (KARS), CFX can increase the automation rate for legacy plaza transactions and reduce workload on manual image review operations. Kyra has successfully increased 20%+ automation rate at THEA while maintaining a high accuracy rate.

### **CFX's responsibilities:**

CFX will consume the results provided by Kyra in its database.

CFX will flag the transactions that are being sent to Kyra for processing to avoid duplication of work.

## Pricing and Assumptions

Scope of services	Price / Transaction	Comments
Image Review Services	5 cents per transaction	Kyra will charge flat fees of 5 cents per transaction.
Total contract value is expected to be \$1,500,000 and the duration of the contract term is one year, beginning 02/14/2020 with 4(four) one-year extension option at CFX's discretion.		

- In the event images can't be read via manual review due to a variety of reasons, unreadable images will be charged on a per transaction basis.
- CFX will pay based on the results received by CFX's back office.
- Adequate network bandwidth is available to support the operations.
- Kyra will use an existing interface with CFX, for receiving and sending images, transactions and results.
- Kyra's subcontractor (Global Agility Solution, Austin, TX) portion will be approximately up to \$450,000 of total value.
- If CFX chooses, Kyra will compare the results with POSI, or Trusted list provided by CFX.
- Contract can be terminated by either party with 30 days written notice.
- Kyra will provide monthly billing to CFX, Payment terms: Net - 30




**CONSENT AGENDA ITEM  
#21**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: November 17, 2021


SUBJECT: Approval of Purchase Order to Microsoft Corporation for Support Services

---

Board approval is requested to issue a purchase order to Microsoft Corporation in the amount of \$115,897.00 to continue product support for a one year period from February 28, 2022 to February 27, 2023. This will be a cooperative (piggyback) procurement based on the State of Florida Participating Addendum number 43230000-15-01.

This purchase is budgeted in the OM&A Budget.

Reviewed by:   
Rafael Millan  
Director of IT


  
Jim Greer  
Chief of Technology/Operations

**CONSENT AGENDA ITEM  
#22**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

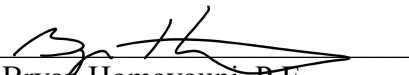
FROM: Aneth Williams   
Director of Procurement

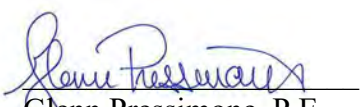
DATE: November 17, 2021

SUBJECT: Approval of Coke Consulting, LLC as Subconsultant to AECOM Technical Services, Inc. for General Systems Consultant Services  
Contract No. 001215

---

Board approval of Coke Consulting, LLC as subconsultant to AECOM Technical Services, Inc., to provide support, design and integrate Performance Metric Dashboards services is requested. The cost is expected to exceed the \$25,000.00 threshold established by the Procurement Policy for subconsultants not disclosed when the contract 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: 10/19/2021

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: Coke Consulting LLC.

Address: 8401 Lake Worth Road, Suite 131, Lake Worth, FL 33467

Phone No.: 561-839-1537

Federal Employee ID No.: 81-1312204

Description of Services to Be Sublet: Coke Consulting shall work with CFX to help support, design and integrate Performance Metric Dashboards.

Estimated Beginning Date of Sublet Services: 12/09/2021

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 sub-consultant has been advised of, and agrees to, the terms and conditions in the Consultant's Contract with the Authority that are applicable to the sub-consultant and the services to be sublet:

Requested By: 

(Signature of Consultant Representative)

Vice President

(Title)

Recommended by:   
BRYAN ROMAYOUNI (Oct 19, 2021 09:43 EDT)  
(Signature of Appropriate CFX Director/Manager)

Date: Oct 19, 2021

Approved by:   
Glenn Pressimone (Oct 19, 2021 07:50 MDT)  
(Signature of Appropriate Chief)

Date: Oct 19, 2021


Attach Subconsultant's Certificate of Insurance to this Request.

**CONSENT AGENDA ITEM  
#23**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: November 17, 2021

SUBJECT: Approval of Supplemental Agreement No. 5 with Vanasse Hangen Brustlin, Inc. for Design Consultant Services for Three-Line Dynamic Message Signs (DMS) Replacement Project – Post Design Services  
Project No. 599-545, Contract No. 001419

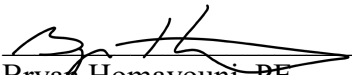
---

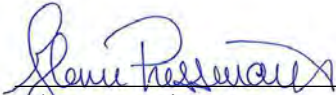
Board approval of Supplemental Agreement No. 5 with Vanasse Hangen Brustlin, Inc. for a not-to-exceed amount of \$88,862.78 is requested. The original contract was for five years with five one-year renewals.

The work to be performed is post design services.

Original Contract	\$ 650,000.00
Supplemental Agreement No. 1	\$ 0.00
Supplemental Agreement No. 2	\$ 153,505.33
Supplemental Agreement No. 3	\$ 109,114.28
Supplemental Agreement No. 4	0.00
Supplemental Agreement No. 5	\$ 88,862.78
Total	\$1,001,482.39

This contract is included in the Five-Year Work Plan.

Reviewed by:   
Bryan Homayouni, PE  
Manager of Traffic Operations

  
Glenn Pressimone, P.E.



# Memorandum

---

**Date:** November 19<sup>th</sup>, 2021  
**To:** Bryan Homayouni, P.E / CFX  
**From:** Patrick O'Shea, P.E./AECOM  
**CC:**  
**Re:** **CFX Project No. 599-545B Three-Line DMS Replacement Project Phase II (Post Design)  
Contract No. 001419**

I have reviewed the fee sheet and scope of services submitted by VHB provided via email first on October 13, 2021, updated on October 26, 2021 and November 4, 2021, and finalized on November 9, 2021 for the Three-Line DMS Replacement Project Phase II project. This supplemental agreement is to provide post design services for the referenced project.

The Supplemental Agreement request is attached, and cost are detailed below:

\$ 61,724.55	VHB as Prime
<u>\$ 27,138.23</u>	<u>Total Subconsultant Fees</u>
\$ 88,862.78	Total Requested Supplemental Amount

The total staff hours for each task were based upon the original negotiation and are reasonable and acceptable, and the staff hour rates are consistent with the original contract. The hours for Structural Post Design Services were reviewed and approved by the CFX GEC (Dewberry) and provided within this Supplemental Agreement. Therefore, it is recommended to approve this agreement.

Please call me at (407) 992-4322 if you have any questions or if you would like to discuss further.





November 9, 2021  
Ref: 63446.00

Mr, Bryan Homayouni, PE  
Manager of Traffic Operations  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

Re: CFX 3 Line DMS Sign Replacement  
Contract No. 001419, Project No. 599-545  
Request to use contract allocation funds

Mr. Homayouni,  
VHB is requesting to utilize the contract allocation funding to cover the services associated with the post design of the contract. During the design phase of this contract, it was decided to implement the improvements through two construction projects: 599-545A and 599-545B. This allocation is needed to cover the post design efforts related to the second construction project, 599-545B.

If you have any questions or concerns with this information, please do not hesitate to contact this office.

Sincerely,

Vanasse Hangen Brustlin, Inc.

A handwritten signature in blue ink, appearing to read "Joseph Perri", is positioned above the typed name.

Joseph Perri  
Project Manager  
[jperri@vhb.com](mailto:jperri@vhb.com)

CC: Kevin Redfield - VHB

**Engineers | Scientists | Planners | Designers**

225 E. Robinson Street, Suite 300  
Landmark Center Two  
Orlando, Florida 32801  
P 407.839.4006  
F 407.839.4008

**SUPPLEMENTAL AGREEMENT NO. 5**  
**TO**  
**AGREEMENT FOR PROFESSIONAL SERVICES**  
**POST DESIGN SERVICES (FOR 599-545B)**

**Three-Line Dynamic Message Signs (DMS) Replacement Project**

THIS SUPPLEMENTAL AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, an agency of the State of Florida, hereinafter called "CFX" and the consulting firm of VANASSE HANGEN BRUSTLIN, INC. of Orlando, Florida, hereinafter called the "CONSULTANT."

WHEREAS, Section 2.13 of Exhibit "A" of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 13<sup>th</sup> Day of December 2018 provides that after completion of the services outlined in Exhibit "A" for Project Number 599-545 of the said Agreement for Professional Services, CFX may negotiate with the CONSULTANT a Supplemental Agreement for Additional Services and whereas, Articles 2.00 and 11.00 of the Agreement for Professional Services provide that in the event that CFX shall change the amount of work 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 Post Design Services required as outlined in the correspondence to CFX dated November 9, 2021 which is attached hereto and made a part of this Supplemental Agreement.

2. All invoices from the CONSULTANT for Post Design Services shall be submitted to CFX with complete documentation. Invoices for Post Design Services shall not be a continuation of the original CONSULTANT 'S contract amount for final design services and shall only be for those services as outlined in this Supplemental Agreement. Compensation for Post Design Services shall be invoiced to CFX at an hourly rate, inclusive of overhead, profit and expenses (exclusive of travel). The hourly rate shall be calculated using the employee's actual direct salary and the negotiated Post Design Services multiplier, as outlined in the correspondence to CFX dated November 9, 2021. Direct expenses will be reimbursed for local travel only (per mile). The maximum fee for Post Design Services shall be \$88,862.78.

3. Section 2.13 of the original Agreement for Professional Services is revised as outlined in Exhibit "A," which is attached hereto and made a part of this Supplemental Agreement.

4. Any supplemental agreements for Post Design Services shall be in accordance with the appropriate Articles within the original CONSULTANT Agreement for Professional Services.

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 Agreement for Professional Services, or any Supplements thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, in quadruplicate, the day and year first above written.

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

Witness: \_\_\_\_\_  
Assistant Secretary

By: \_\_\_\_\_  
Aneth Williams, Director of Procurement

VHB, Inc.

Witness: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to form and execution, only.

\_\_\_\_\_  
General Counsel for CFX

# Professional Engineering Post-Design Services

**Contract 599-545B: Design Consultant Services for  
DMS 3 Line Replacement Project**

**Supplemental No.5**

Scope of Services

Prepared for

**CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY**

By



November 2021

## 1.0 SERVICES PROVIDED BY ACTIVITY

This Scope of Services will require the Designer to perform the following Post-Design tasks by activity. Each item is further detailed as required in the staff-hour forms. Assumes on-site factory/ field testing of equipment is not required.

- **ACTIVITY D: Addenda**
  - Provide Arc Flash Hazard Analysis and associated Detail Sheet Addenda as required for 3 Load Center.
  - Provide Utility Power Company Coordination to complete Arc Flash Hazard Analysis.
  - Provide power report
- **ACTIVITY E: Field Visits**
  - Conduct up to 4 field visits, as required to address RFI, Addendum or Revisions, and Arc Flash Analysis
- **ACTIVITY F: Shop Drawing Reviews**
  - Review and respond to shop drawing submittals from the contractor. This will also include any coordination with CFX to approve the shop drawing.
- **ACTIVITY G: Requests for Information**
  - Review and respond to up to 3 RFI's related to manual transfer switch, toll connections, and electrical services and 8 RFI's related to structures
- **ACTIVITY H: Meetings**
  - Attend 1 Pre-award Meeting if deemed necessary by CFX or their representative.
  - Attend 1 Construction NTP Meeting if deemed necessary by CFX or their representative.
  - Attend Construction Meetings if deemed necessary by CFX or their representative.
- **ACTIVITY I: Plan Revisions**
  - Review and provide up to 3 plan revisions for the ITS/SPM plan sheets and associated details and 4 revisions for structure plans.
- **ACTIVITY J: Bridge Load Ratings**
  - Not Applicable
- **ACTIVITY K: Geotechnical Services**
  - Not Applicable
- **ACTIVITY L: Utilities**
  - See Fee Sheets
- **ACTIVITY M: Record Drawings**
  - Review As-Built information provided by CEI. Update plan set to finalize Record Drawings.
- **ACTIVITY N: Project Management**
  - Provide project invoicing with progress reports.
  - Perform subconsultant and project coordination as necessary.
- **ACTIVITY O: Survey**
  - Not Applicable

**SUPPLEMENTAL AGREEMENT NO. 4**

**TO**

**AGREEMENT FOR DESIGN CONSULTANT SERVICES FOR  
Three-Line Dynamic Message Signs (DMS) Replacement Project**

THIS SUPPLEMENTAL AGREEMENT is made and entered into this 10th day of December, 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 VANASSE HANGEN BRUSTLIN, INC. of Orlando, Florida, hereinafter called the "CONSULTANT".

WHEREAS, Articles 2.0 and 11.0 of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 13<sup>th</sup> day of December 2018, provides that in the event that CFX shall change the amount of work in Exhibit "A" of the said Agreement for Professional Services, the fees to be paid to the CONSULTANT shall be subject to adjustment as shall be mutually agreed upon:

NOW, THEREFORE, BE IT RESOLVED THAT:

1. CFX hereby authorizes the CONSULTANT to proceed with an adjustment to Exhibit "B" and Exhibit "C" as outlined in the Consultant's October 12, 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 upward by \$6,330.34 to \$664,985.11.
- b. The Direct Expenses - Lump Sum (Prime) are adjusted upward by \$15.00 to \$2,254.04.
- c. The Subcontract Items are adjusted upward by \$43,603.76 to \$135,136.64.
  - Nadic \$9,312.37
  - Base \$34,291.39
- d. The Allowance is adjusted downward by \$49,949.10 to \$1,129.54.

The Total Maximum Limiting Amount remains unchanged at \$803,505.33.

3. All provisions of said Agreement for Professional Services, or any Supplements thereto, not modified by the above, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and of the said Consultant Agreement, or any Supplements thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.




IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, in quadruplicate, the day and year first above written.

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams  
Date: 2020.12.10 11:15:20 -05'00'  
Director of Procurement

VANASSE HANGEN BRUSTLIN, INC.

Witness: Andrea Christena  
Print Name:

By:   
Title: Paul W Yeargain, P.E., Managing Director

Approved as to form and execution, only.

**Woody**  
**Rodriguez** Digitally signed by Woody  
Rodriguez  
Date: 2020.12.10 11:11:53  
-05'00'

General Counsel for CFX

<https://cfxgov.sharepoint.com/operations/engineering/Shared Documents/General/599-545 - DMS REPLACEMENT PHASE 1/2 Contract/2.A Supplemental Agreements/SA No.4/VHB-599-545 -SA4.docx>

**SUPPLEMENTAL AGREEMENT NO. 3**  
**TO**  
**AGREEMENT FOR PROFESSIONAL SERVICES**  
**POST DESIGN SERVICES (FOR 599-545)**

**Three-Line Dynamic Message Signs (DMS) Replacement Project**

THIS SUPPLEMENTAL AGREEMENT is made and entered into this 14th day of May, 2020, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, an agency of the State of Florida, hereinafter called "CFX" and the consulting firm of VANASSE HANGEN BRUSTLIN, INC. of Orlando, Florida, hereinafter called the "CONSULTANT."

WHEREAS, Section 2.13 of Exhibit "A" of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 13<sup>th</sup> Day of December 2018 provides that after completion of the services outlined in Exhibit "A" for Project Number 599-545 of the said Agreement for Professional Services, CFX may negotiate with the CONSULTANT a Supplemental Agreement for Additional Services and whereas, Articles 2.00 and 11.00 of the Agreement for Professional Services provide that in the event that CFX shall change the amount of work 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 Post Design Services required as outlined in the correspondence to CFX dated April 28, 2020 which is attached hereto and made a part of this Supplemental Agreement.

2. All invoices from the CONSULTANT for Post Design Services shall be submitted to CFX with complete documentation. Invoices for Post Design Services shall not be a continuation of the original CONSULTANT'S contract amount for final design services and shall only be for those services as outlined in this Supplemental Agreement. Compensation for Post Design Services shall be invoiced to CFX at an hourly rate, inclusive of overhead, profit and expenses (exclusive of travel). The hourly rate shall be calculated using the employee's actual direct salary and the negotiated Post Design Services multiplier, as outlined in the correspondence to CFX dated April 28, 2020. Direct expenses will be reimbursed for local travel only (per mile). The maximum fee for Post Design Services shall be \$109,114.28.

3. Section 2.13 of the original Agreement for Professional Services is revised as outlined in Exhibit "A," which is attached hereto and made a part of this Supplemental Agreement.

4. Any supplemental agreements for Post Design Services shall be in accordance with the appropriate Articles within the original CONSULTANT Agreement for Professional Services.

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 Agreement for Professional Services, or any Supplements thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, in quadruplicate, the day and year first above written.

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

Witness: \_\_\_\_\_  
Assistant Secretary

By: Aneth Williams Digitally signed by Aneth Williams  
Date: 2020.07.30 13:34:40 -04'00'  
Director of Procurement

Diego "Woody" Rodriguez Digitally signed by Diego  
"Woody" Rodriguez  
Date: 2020.07.30 13:31:00  
-04'00'

Legal Approved as to Form

VHB, Inc.

Witness: Joseph Perri  
Print Name: Joseph Perri  
Title: SE Regional ITS/Trans Tech Mgr

By: Paul W Yeargain  
Print Name: Paul W Yeargain  
Title: Managing Director

**SUPPLEMENTAL AGREEMENT NO. 2**

**TO**

**AGREEMENT FOR DESIGN CONSULTANT SERVICES FOR**

**Three-Line Dynamic Message Signs (DMS) Replacement Project**

THIS SUPPLEMENTAL AGREEMENT is made and entered into this 10<sup>th</sup> day of October, 2019, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, hereinafter called "CFX" and the consulting firm of VANASSE HANGEN BRUSTLIN, INC. of Orlando, Florida, hereinafter called the "CONSULTANT".

WHEREAS, Articles 2.0 and 11.0 of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 13<sup>th</sup> day of December 2018, provides that in the event that CFX shall change the amount of work in Exhibit "A" of the said Agreement for Professional Services, the fees to be paid to the CONSULTANT shall be subject to adjustment as shall be mutually agreed upon:

NOW, THEREFORE, BE IT RESOLVED THAT:

1. CFX hereby authorizes the CONSULTANT to proceed with an adjustment to Exhibit "B" and Exhibit "C" as outlined in the Consultant's September 3, 2019 letter to CFX, which is attached hereto and made a part of this Supplemental Agreement.
2. Exhibit "B", Article 2.00 of the Agreement for Professional Services is amended as follows:
  - a. The Salary Related Costs are adjusted upward by \$106,003.68 to \$658,654.77.
  - b. The Direct Expenses - Lump Sum (Prime) are adjusted upward by \$427.67 to \$2,239.04.
  - c. The Subcontract Items are adjusted upward by \$47,073.98 to \$91,532.88.

• Nadic	\$15,089.36
• ECHO	\$31,984.62
  - d. The Allowance remains unchanged at \$51,078.64.

The Total Maximum Limiting Amount is adjusted upward by \$153,505.33 to \$803,505.33.

3. All provisions of said Agreement for Professional Services, or any Supplements thereto, not modified by the above, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and of the said Consultant Agreement, or any Supplements thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.


IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, in quadruplicate, the day and year first above written.

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

By:   
Director of Procurement


'19 NOV 14 PM 1:31

VANASSE HANGEN BRUSTLIN, INC.

Witness:   
Print Name: Andrea Wood

By:   
Title: Paul W Yeargain  
Managing Director

Approved as to form and execution, only.

  
General Counsel for CFX

\\dfsprd1.ocea.internal\Store\Departments\Engineering\General\Bryan H ITS\599-545 VHB - Three-Line (DMS)  
Replacement\SA1\VHB-599-545 -SA2.docx

**SUPPLEMENTAL AGREEMENT NO. 1**

**TO**

**AGREEMENT FOR DESIGN CONSULTANT SERVICES FOR**

**Three-Line Dynamic Message Signs (DMS) Replacement Project**

THIS SUPPLEMENTAL AGREEMENT is made and entered into this 20<sup>th</sup> day of August, 2019, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, hereinafter called "CFX" and the consulting firm of VANASSE HANGEN BRUSTLIN, INC. of Orlando, Florida, hereinafter called the "CONSULTANT".

WHEREAS, Articles 2.0 and 11.0 of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 13<sup>th</sup> day of December 2018, provides that in the event that CFX shall change the amount of work in Exhibit "A" of the said Agreement for Professional Services, the fees to be paid to the CONSULTANT shall be subject to adjustment as shall be mutually agreed upon. A miscalculation has been identified in the fee sheets included in Exhibit "C" of the said Agreement for Professional services and an adjustment has been mutually agreed upon to meet the requirements outlined in section 2.12 of Exhibit "B".



NOW, THEREFORE, BE IT RESOLVED THAT:

1. CFX hereby authorizes the CONSULTANT to proceed with an adjustment to Exhibit "B" and Exhibit "C" as outlined in the Consultant's July 19, 2019 letter to CFX, which is attached hereto and made a part of this Supplemental Agreement.
2. Exhibit "B", Article 2.00 of the Agreement for Professional Services is amended as follows:
  - a. The Salary Related Costs are adjusted upward by \$37,886.01 to \$552,651.09.
  - b. The Direct Expenses - Lump Sum (Prime) are adjusted upward by \$10.93 to \$1,811.37
  - c. The Subcontract Items are adjusted upward by \$2,802.16 to \$44,458.90.
    - Protean \$44,458.90
  - d. The Allowance is adjusted downward by \$40,699.10 to \$51,078.64.

The Total Maximum Limiting Amount remains unchanged at \$650,000.00.

3. All provisions of said Agreement for Professional Services, or any Supplements thereto, not modified by the above, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and of the said Consultant Agreement, or any Supplements thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.


IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, in quadruplicate, the day and year first above written.

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

By:   
Director of Procurement

VANASSE HANGEN BRUSTLIN, INC.

Witness:   
Print Name: Andrea Wood

By:   
Title: Paul W. Yeargain, P.E.  
Managing Director

Approved as to form and execution, only.

  
General Counsel for CFX

# **AGREEMENT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
VANASSE HANGEN BRUSTLIN, INC.**

**DESIGN CONSULTANT SERVICES FOR  
THREE-LINE DYNAMIC MESSAGE SIGNS (DMS)  
REPLACEMENT PROJECT**

**CONTRACT NO. 001419, PROJECT NO. 599-545**

**CONTRACT DATE: DECEMBER 13, 2018  
CONTRACT AMOUNT: \$650,000.00**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF  
COMPENSATION, DETAILS OF COSTS AND FEES,  
POTENTIAL CONFLICT DISCLOSURE FORM,  
PROJECT ORGANIZATIONAL CHART, AND  
PROJECT LOCATION MAP**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, DETAILS  
OF COSTS AND FEES, POTENTIAL CONFLICT DISCLOSURE FORM, PROJECT  
ORGANIZATIONAL CHART, AND PROJECT LOCATION MAP  
FOR**

**DESIGN CONSULTANT SERVICES FOR  
THREE-LINE DYNAMIC MESSAGE SIGNS (DMS) REPLACEMENT PROJECT**

**DESIGN SERVICES**

**CONTRACT NO. 001419  
PROJECT NO. 599-545**

**DECEMBER 2018**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, DETAILS OF  
COSTS AND FEES, PROJECT ORGANIZATIONAL CHART, AND PROJECT  
LOCATION MAP**

**FOR**

**DESIGN CONSULTANT SERVICES FOR  
THREE-LINE DYNAMIC MESSAGE SIGNS (DMS) REPLACEMENT PROJECT**

**DESIGN SERVICES**

**CONTRACT NO. 001419  
PROJECT NO. 599-545**

**DECEMBER 2018**

**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", Potential Conflict Disclosure Form	
E	Exhibit "E", Project Organization Chart	
F	Exhibit "F", Project Location Map	

## 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.....	6
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. INSURANCE.....	9
15.0. COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS.....	11
16.0. CONFLICT OF INTEREST AND STANDARD OF CONDUCT .....	12
17.0. DOCUMENTED ALIENS .....	13
18.0. E-VERIFY CLAUSE.....	13
19.0. INSPECTOR GENERAL .....	13
20.0. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT .....	14
21.0. COMPANIES PURSUANT TO SECTION 287.135 AND 215.473.....	14
22.0. AVAILABILITY OF FUNDS.....	14
23.0. AUDIT AND EXAMINATION OF RECORDS.....	15
24.0. GOVERNING LAW AND VENUE.....	16
25.0. NOTICE.....	16
26.0. HEADINGS .....	17
27.0. CONTRACT LANGUAGE AND INTERPRETATION .....	17
28.0. ASSIGNMENT.....	17
29.0. SEVERABILITY .....	17
30.0. INTEGRATION.....	17
31.0. ATTACHMENTS.....	18

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT, made and entered into this 13<sup>th</sup> day of December 2018, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter “CFX,” and Vanasse Hangen Brustlin, Inc., hereinafter called “CONSULTANT,” registered and authorized to conduct business in the State of Florida, carrying on professional practice in engineering, with offices located at 225 E. Robinson Street, Suite 300, Orlando, FL. 32801.

WITNESSETH:

WHEREAS, CONSULTANT represents that it is fully qualified and authorized to render the professional services contracted herein.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, CFX and CONSULTANT agree as follows:

1.0. DEFINITIONS.

Reference herein to the Project Manager shall mean CFX’s 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 Three-Line Dynamic Message (DMS) Replacement Project identified as Project No. 599-545 and Contract No. 001419.

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:

ECHO UES, Inc      Nadic Engineering Services, Inc.      Protean Design Group

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 \$650,000.00 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 225 E. Robinson Street, Suite 300, Orlando, FL. 32801.

Notwithstanding Section 17, entitled "Communications, Public Relations, and Use of Logos," CONSULTANT acknowledges that CFX is a body politic and corporate, an agency of the State of Florida, and is subject to the Public Records Act codified in Chapter 119, Florida Statutes. To the extent that the CONSULTANT is in the possession of documents that fall within the definition of public records subject to the Public Records Act, which public records have not yet been delivered to CFX, CONSULTANT agrees to comply with Section 119.0701, Florida Statutes.

**IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT Phone: 407-690-5000, e-mail: publicrecords@cfxway.com, and address: Central Florida Expressway Authority, 4974 ORL Tower Road, Orlando, FL. 32807.**

An excerpt of Section 119.0701, Florida Statutes is below.

Per Section 119.0701(1), "Contractor" means an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency as provided under s. 119.011(2).

Per Section 119.0701(b). The contractor shall comply with public records laws, specifically to:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

The CONSULTANT shall allow public access to all documents, papers, letters, or other material as approved and authorized by CFX and subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONSULTANT in conjunction with this Agreement. Failure by the CONSULTANT to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by CFX.

The obligations in Section 7.0, Document Ownership and Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 8.0. COMPLIANCE WITH LAWS

The CONSULTANT shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this contract.

The CONSULTANT shall keep fully informed regarding and shall fully and timely comply with all current laws and future laws that may affect those engaged or employed in the performance of this Agreement.

## 9.0. WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE

The CONSULTANT hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached **Exhibit "C"**, Details of Costs and Fees, supporting the compensation provided in Section 6.0 are accurate, complete and current as of the date of this Agreement. It is further agreed that said price provided in Section 6.0 hereof shall be adjusted to exclude any significant sums where CFX shall determine the price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments shall be made within one year following the date of final billing or acceptance of the work by CFX, whichever is later.

## 10.0. TERMINATION

CFX may terminate this Agreement in whole or in part, for any reason or no reason, at any time the interest of CFX requires such termination.

If CFX determines that the performance of the CONSULTANT is not satisfactory, CFX shall have the option of (a) immediately terminating the Agreement or (b) notifying the CONSULTANT of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time.

If CFX requires termination of the Agreement for reasons other than unsatisfactory performance of the CONSULTANT, CFX shall notify the CONSULTANT in writing of such termination, not less than seven (7) calendar days as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

If CFX abandons the work or subtracts from the work, suspends, or terminates the Agreement as presently outlined, the CONSULTANT shall be compensated in accordance with **Exhibit "B"** for work properly performed by the CONSULTANT prior to abandonment or termination of the Agreement. The ownership of all engineering documents completed or partially completed at the time of such termination or abandonment, shall be transferred to and retained by CFX.

CFX reserves the right to cancel and terminate this Agreement in the event the CONSULTANT or any employee, servant, or agent of the CONSULTANT is indicted or has a direct information issued against him for any crime arising out of or in conjunction with any work being performed by the CONSULTANT for or on behalf of CFX, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans, specifications, maps, and data prepared or obtained under this Agreement shall immediately be turned over to CFX. The CONSULTANT shall be compensated for work properly performed rendered up to the time of any such termination in accordance with Section 7.0 hereof. CFX also reserves the right to terminate or cancel this Agreement in the event the CONSULTANT shall be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors. CFX further reserves the right to suspend the qualifications of the CONSULTANT to do business with CFX upon any such indictment or direct information. In the event that any such person against whom any such indictment or direct information is brought shall have such indictment or direct information dismissed or be found not guilty, such suspension on account thereof may be lifted by CFX.

## 11.0. ADJUSTMENTS

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the Project Manager who shall decide all questions, difficulties and dispute of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof. Adjustments of compensation and term of the Agreement, because of any major changes in the work that may become necessary or desirable as the work progresses, shall be left to the absolute discretion of the Executive Director and Supplemental Agreement(s) of such a nature as required may be entered into by the parties in accordance herewith. Disputes between the Project Manager and the CONSULTANT that cannot be resolved shall be referred to the Executive Director whose decision shall be final.

In the event that the CONSULTANT and CFX are not able to reach an agreement as to the amount of compensation to be paid to the CONSULTANT for supplemental work desired by CFX, the CONSULTANT shall be obligated to proceed with the supplemental work in a timely manner for the amount determined by CFX to be reasonable. In such event, the CONSULTANT will have the right to file a claim with CFX for such additional amounts as the CONSULTANT deems reasonable for consideration by the Executive Director; however, in no event will the filing of the claim or the resolution or litigation thereof, through administrative procedures or the courts, relieve the CONSULTANT from the obligation to timely perform the supplemental work.

## 12.0. HOLD HARMLESS AND INDEMNIFICATION, SOVEREIGN IMMUNITY

The CONSULTANT shall indemnify and hold harmless CFX, and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the design professional in the performance of the Agreement.

Subject to the provisions and limitations set forth in law, the CONSULTANT expressly agrees to indemnify, defend, and hold harmless CFX, and its officers, and employees, from any claim, liabilities, losses, damages, and costs, including, but not limited to, reasonable attorneys' fees, arising from any act, error or omission of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the Agreement, except that the CONSULTANT will not be liable under this paragraph for claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of CFX, its officers, or employees during the performance of the Agreement.

When CFX receives a notice of claim for damages that may have been caused by the CONSULTANT in the performance of services required by the CONSULTANT under this Agreement, CFX will immediately forward the notice of claim to the CONSULTANT. The CONSULTANT and the AUTHORITY will evaluate the notice of claim and report their findings to each other within fourteen (14) calendar days.

In the event a lawsuit is filed against CFX alleging negligence or wrongdoing by the CONSULTANT, CFX and the CONSULTANT will jointly discuss options in defending the lawsuit. After reviewing the lawsuit, CFX will determine whether to request the participation of the

CONSULTANT in the defense of the lawsuit or to request that the CONSULTANT defend CFX in such lawsuit as described in this section. CFX's failure to notify the CONSULTANT of a notice of claim will not release the CONSULTANT from any of the requirements of this section upon subsequent notification by CFX to the CONSULTANT of the notice of claim or filing of a lawsuit. CFX and the CONSULTANT will pay their own cost for the evaluation, settlement negotiations and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all of its costs, but if the verdict determines that there is joint responsibility, the costs of defense and liability for damages will be shared in the same percentage as that judicially established, provided that CFX's liability does not exceed the limits and limitations arising from Section 768.28, Florida Statutes, the doctrine of sovereign immunity, and law.

CFX is an agency of the State of Florida whose limits of liability are set forth in Section 768.28, Florida Statutes, and nothing herein shall be construed to extend the limits of liability of CFX beyond that provided in Section 768.28, Florida Statutes. Nothing herein is intended as a waiver of CFX's sovereign immunity under Section 768.28, Florida Statutes, or law. Nothing hereby shall inure to the benefit of any third party for any purpose, which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of CFX's obligations are limited to the payment of no more than the amount limitation per person and in the aggregate contained in Section 768.28, Florida Statutes, except for payments for work properly performed, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.

The obligations in Section 12.0, Hold Harmless and Indemnification, shall survive the expiration or termination of this Agreement and continue in full force and effect.

### 13.0. INFRINGEMENT OF PATENTS AND COPYRIGHTS

The CONSULTANT shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. The CONSULTANT shall, at its expense, hold harmless and defend CFX against any claim, suit or proceeding brought against CFX which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under this Agreement, constitute an infringement of any patent or copyright of the United States. The CONSULTANT shall pay all damages and costs awarded against CFX. The obligations in Section 13.0, Infringement of Patents and Copyrights, shall survive the expiration or termination of this Agreement and continue in full force and effect.

### 14.0. INSURANCE

The CONSULTANT, at its own expense, shall keep in force and at all times maintain during the term of this Agreement all insurance of the types and to the limits specified herein.

The CONSULTANT shall require and ensure that each of its subconsultants providing services hereunder procures and maintains, until the completion of the services, insurance of the requirements, types and to the limits specified herein. Upon request from CFX, the CONSULTANT shall furnish copies of certificates of insurance and endorsements evidencing coverage of each subconsultant.

The CONSULTANT shall require all insurance policies in any way related to the work and



secured and maintained by the CONSULTANT to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against CFX. The CONSULTANT shall require of subconsultants, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section. When required by the insurer, or should a policy condition not permit an endorsement, the CONSULTANT agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement.

This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the CONSULTANT enter into such an agreement on a pre-loss basis. At the CONSULTANT's expense, all limits must be maintained.

14.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to CFX) or the general aggregate limit shall be twice the required occurrence limit. CFX shall be listed as an additional insured. ISO Form CG 20 10 11 85 or if not available, ISO Forms CG 20 10 10 01 and CG 20 37 10 01, or if not available, their equivalent acceptable to CFX, shall be used to meet these requirements and a photocopy of same shall be provided with the Certificate. The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

14.2 Business Automobile Liability coverage shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Each of the above insurance policies shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured; (2) The stated limits of liability coverage for Commercial/Comprehensive General Liability, and Business Automobile Liability, assumes that the standard "supplementary payments" clause will pay in addition to the applicable limits of liability and that these supplementary payments are not included as part of the insurance policies limits of liability.

14.3 Workers' Compensation and Employer's Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer's Liability insurance shall be provided in amounts not less than \$100,000 per accident for bodily injury by accident, \$100,000 per employee for

bodily injury by disease, and \$500,000 policy limit by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the CONSULTANT, its employees, agents and subconsultants.

14.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

The CONSULTANT shall provide CFX with Certificate(s) of Insurance with required endorsements on all the policies of insurance and renewals thereof in a form(s) acceptable to CFX. CFX shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

All insurance policies shall be issued by responsible companies who are acceptable to CFX and licensed to do business under the laws of the State of Florida. Each Insurance company shall minimally have an A.M. Best rating of A-VII. If requested by CFX, CFX shall have the right to examine copies and relevant provisions of the insurance policies required by this Agreement, subject to the appropriate confidentiality provisions to safeguard the proprietary nature of CONSULTANT manuscript policies.

In the event any of the aforementioned insurance policies provide greater coverage or greater limits than the minimum requirements set forth herein, then CFX shall be entitled to the full coverage and limits of such policies, and these insurance requirements will be deemed to require such greater coverage and greater limits.

Any deductible or self-insured retention must be declared to and approved by CFX. At the option of CFX, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as requests CFX, or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All such insurance required by the CONSULTANT shall be primary to, and not contribute with, any insurance or self-insurance maintained by CFX.

Compliance with these insurance requirements shall not relieve or limit the CONSULTANT's liabilities and obligations under this Agreement. Failure of CFX to demand such certificate or evidence of full compliance with these insurance requirements or failure of CFX to identify a deficiency from evidence provided will not be construed as a waiver of the CONSULTANT's obligation to maintain such insurance.

The acceptance of delivery by CFX of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by CFX that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

#### 15.0. COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS

The CONSULTANT agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying CFX and securing its consent in

writing, except as required by law. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data, documents, reports, or other written or electronic materials furnished in compliance with this Agreement, it being understood that, under Section 7.0 hereof, such data or information is the property of CFX.

Regarding the use of logos, printed documents and presentations produced for CFX shall not contain the name or logo of the CONSULTANT unless approved by CFX's Public Affairs Officer or his/her designee. Prior approval by CFX's Public Affairs Officer or his/her designee is required if a copy of the CFX logo or any CFX mark, including trademarks, service marks, or any other mark, collectively referred as "Marks," is to be used in a document or presentation. The Marks shall not be altered in any way. The width and height of the Marks shall be of equal proportions. If a black and white Mark is utilized, the Mark shall be properly screened to insure all layers of the Mark are visible. The proper presentation of CFX Marks is of utmost importance to CFX. Any questions regarding the use of CFX Marks shall be directed to the CFX Public Affairs Officer or his/her designee.

#### 16.0. CONFLICT OF INTEREST AND STANDARD OF CONDUCT

No Contingent Fees. CONSULTANT warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Contract, and that CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For breach of this provision, CFX shall have the right to terminate this Contract without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

CONSULTANT acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Code of Ethics. CONSULTANT acknowledges that it has read the CFX's Code of Ethics and, to the extent applicable, CONSULTANT will comply with the aforesaid CFX's Code of Ethics in connection with performance of the Contract.

As required by Section 348.753, Florida Statutes, and CFX's Code of Ethics, CONSULTANT agrees to complete CFX's Potential Conflict Disclosure Form prior to the execution of the Contract, upon the occurrence of an event that requires disclosure, and annually, not later than July 1st. The Potential Conflict Disclosure Form is attached as **Exhibit "D."**

CONSULTANT covenants and agrees that it and its employees, officers, agents, and subconsultants shall be bound by the standards of conduct provided in Section 112.313, Florida Statutes, as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

CONSULTANT hereby certifies that no officer, agent or employee of CFX has any "material interest" (as defined in Section 112.312(15), Florida Statutes) either directly or indirectly, in the business of CONSULTANT, and that no such person shall have any such interest at any time during the term of this Agreement.

The CONSULTANT shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Executive Director for resolution.

During the term of this Agreement the CONSULTANT is NOT eligible to pursue any advertised construction engineering and inspection projects of CFX as either a prime or subconsultant where the CONSULTANT participated in the oversight of the projects or for any project which the CONSULTANT prepared plans and/or specifications. Subconsultants are also ineligible to pursue construction engineering and inspection projects where they participated in the oversight of the projects or for any project which the subconsultant was involved in the preparation of plans and/or specifications.

#### 17.0. DOCUMENTED ALIENS

The CONSULTANT warrants that all persons performing work for CFX under this Agreement, regardless of the nature or duration of such work, shall be United States citizens or properly authorized and documented aliens. The CONSULTANT shall comply with all federal, state and local laws and regulations pertaining to the employment of unauthorized or undocumented aliens at all times during the performance of this Agreement and shall indemnify and hold CFX harmless for any violations of the same. Furthermore, if CFX determines that CONSULTANT has knowingly employed any unauthorized alien in the performance of this Agreement, CFX may immediately and unilaterally terminate this Agreement for cause.

The obligations in Section 17.0, Documented Aliens, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 18.0. E-VERIFY CLAUSE

CONSULTANT shall utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the CONSULTANT during the term of the contract. CONSULTANT shall require all of its subconsultants to verify the employment eligibility of all new employees hired by the subconsultants during the term of the Agreement.

#### 19.0. INSPECTOR GENERAL

CONSULTANT agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. CONSULTANT agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.

20.0. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT

Pursuant to Section 287.133(2)(a), Florida Statutes,

“a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.”

Pursuant to Section 287.134(2)(a), Florida Statutes, “an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”

21.0. COMPANIES PURSUANT TO SECTION 287.135 AND 215.473

CFX may terminate this Agreement for breach of contract if the Consultant:

- 21.1. submitted a false certification as provided under Florida Statute 287.135(5); or
- 21.2. been placed on the Scrutinized Companies with Activities in Sudan List; or
- 21.3. been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- 21.4. been engaged in business operations in Cuba or Syria; or
- 21.5. found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

22.0. AVAILABILITY OF FUNDS

CFX’s performance and obligation to pay under this Agreement are contingent upon an annual budget appropriation by its Board. The parties agree that in the event funds are not appropriated, this Agreement may be terminated, which shall be effective upon CFX giving notice to the CONSULTANT to that effect.

## 23.0. AUDIT AND EXAMINATION OF RECORDS

### 23.1 Definition of Records:

(i) "Contract Records" shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data in whatever form, related to the Contract or the CONSULTANT's performance of the Contract determined necessary or desirable by CFX for any purpose. Proposal Records shall include, but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer printouts, charts or other data compilations that contain or reflect information, data or calculations used by CONSULTANT in determining labor, unit price, or any other component of a bid submitted to CFX.

(ii) "Proposal Records" shall include, but not be limited to, any material relating to the determination or application of equipment rates, home and field overhead rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from subcontractors, or material suppliers, profit contingencies and any manuals standard in the industry that may be used by CONSULTANT in determining a price.

23.2 CFX reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Proposal Records (as hereinafter defined) of the CONSULTANT or any subcontractor. By submitting a response to the Request for Proposal, CONSULTANT or any subcontractor submits to and agree to comply with the provisions of this section.

23.3 If CFX requests access to or review of any Contract Documents or Proposal Records and CONSULTANT refuses such access or review or delays such access or review for over ten (10) calendar days, CONSULTANT shall be in default under its Contract with CFX, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of CONSULTANT. These provisions shall not be limited in any manner by the existence of any CONSULTANT claims or pending litigation relating to the Contract. Disqualification or suspension of the CONSULTANT for failure to comply with this section shall also preclude the CONSULTANT from acting in the future as a subcontractor of another contractor doing work for CFX during the period of disqualification or suspension. Disqualification shall mean the CONSULTANT is not eligible for and shall be precluded from doing future work for CFX until reinstated by CFX.

23.4 Final Audit for Project Closeout: The CONSULTANT shall permit CFX, at CFX's option, to perform or have performed, an audit of the records of the CONSULTANT and any or all subconsultants to support the compensation paid the CONSULTANT. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the CONSULTANT under the Contract are subsequently determined to have been inadvertently paid by CFX because of accounting errors or charges not in conformity with the Contract, the CONSULTANT agrees that such amounts are due to CFX upon demand. Final payment to the CONSULTANT shall be adjusted for audit results.

23.5 CONSULTANT shall preserve all Proposal Records and Contract Records for the entire term of the Contract and for a period of five (5) years after the later of: (i) final acceptance of the project by CFX, (ii) until all claims (if any) regarding the Contract are resolved, or (iii) expiration of the Proposal Records and Contract Records' status as public records, as and if applicable, under Chapter 119, Florida Statutes.

23.6 The obligations in Section 24.0, Audit and Examination of Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 24.0. GOVERNING LAW AND VENUE

This Agreement shall be governed by and constructed in accordance with the laws of the State of Florida. The parties consent to the exclusive jurisdiction of the courts located in Orange County, Florida.

The obligations in Section 24.0, Governing Law and Venue, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 25.0. NOTICE

All notices required pursuant to the terms hereof shall be sent by First Class United States Mail. Unless prior written notification of an alternate address for notices is sent, all notices shall be sent to the following addresses:

To CFX: Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807  
Attn: Chief of Infrastructure

Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807  
Attn: General Counsel

To CONSULTANT: Vanasse Hangen Brustlin, Inc.  
225 E. Robinson Street, Suite 300  
Orlando, FL. 32801  
Attn: Joe Perri

Vanasse Hangen Brustlin, Inc.  
225 E. Robinson Street, Suite 300  
Orlando, FL. 32801  
Attn: David Mulholland

## 26.0. HEADINGS

Headings are given to the sections of the Agreement solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Agreement.

## 27.0. CONTRACT LANGUAGE AND INTERPRETATION

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective functions and capacities.

If the CONSULTANT discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the CONSULTANT shall immediately notify CFX and request clarification of CFX's interpretation of this Agreement.

The Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

## 28.0. ASSIGNMENT

This Agreement may not be assigned without the written consent of CFX.

## 29.0. SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

## 30.0. INTEGRATION

This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no other agreements between the



parties in connection with the subject matter hereof. No waiver, amendment, or modification of these terms hereof will be valid unless in writing, signed by all parties and only to the extent therein set forth.

31.0. ATTACHMENTS


- Exhibit "A", Scope of Services
- Exhibit "B", Method of Compensation
- Exhibit "C", Details of Cost and Fees
- Exhibit "D", Potential Conflict Disclosure Form
- Exhibit "E", Project Organization Chart
- Exhibit "F", Project Location Map

[ SIGNATURES TO FOLLOW ]

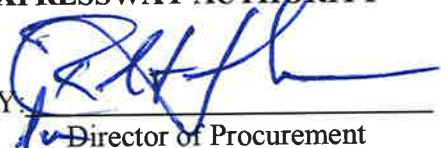
IN WITNESS WHEREOF, the CONSULTANT and CFX have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written. This Contract was awarded by CFX's Board of Directors at its meeting on December 13, 2018.

**VANASSE HANGEN BRUSTLIN, INC.**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

BY:   
Authorized Signature

  
DAVID MULHOLLAND  
SE REGIONAL MGR

BY:   
Director of Procurement

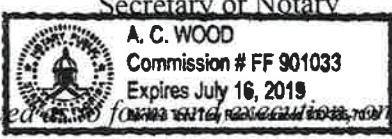
Print Name: Paul W Yeagain, P.E.

Print Name: Robert Johnson

Title: Managing Director

Effective Date: 3-21-2019

ATTEST:   
Secretary or Notary (Seal)



State of Florida  
County of Orange  
The foregoing instrument was acknowledged before me  
this 21<sup>st</sup> day of February, 2019 by Paul W. Yeagain,  
who is personally known to me.

  
General Counsel for CFX

'19 MAR 6 PM 3:22

**Exhibit “A”**  
**Negotiated**  
**Scope of Services**

# **Professional Engineering Design Services**

## **Project 599-545: Three-line Dynamic Message Sign Replacement Project**

Scope of Services

Prepared by

**CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY**

Central Florida Expressway Authority

April 27, 2018

## 1.0 GENERAL

### 1.1 PROJECT BACKGROUND

The Authority's Three-line Dynamic Message Signs (DMS) are a critical component of CFX mainline operations. Each 3-Line DMS displays important information related to traffic operations for each traveler. The DMS is located on existing structures throughout CFX's system. The messages displayed vary from travel time updates, to roadway alerts, to emergency information. In order to improve functionality, system reliability, and increase ease of maintenance, the Authority has elected to replace the twenty-six (26) **twenty (20)** existing three-line DMS.

This Scope of Services describes the design work necessary to meet the following project objectives:

- Replacement of approximately twenty-six (26) **twenty (20)** three-line DMS. **Addition of two (2) new three line DMS installations upon CFX direction (included in Contract Allowances).**
- Evaluate and recommend a manufacture for the replacement DMS signs. The three manufacturers that are to be evaluated are Daktronics, SES America, and Telegra. The designer is to provide a report that justifies their recommendation to CFX.
- Structurally evaluate each existing three-line DMS structure to determine if each existing structure can be utilized for the proposed DMS. Design new structures on a case-by-case basis if existing structure cannot be re-used.
- Evaluate all existing DMS locations to determine if the catwalk is meeting current FDOT design standards. New or extensions of the existing catwalk may be required based upon this evaluation.
- Conduct an analysis of existing DMS coverage to determine if any additional DMS are required throughout the system. Major interchanges and highly congested sections of the mainline are areas of concern. **The analysis will focus on the five (5) locations previously identified as part of the proposal effort based on daily traffic counts provided by CFX.**
- Propose new 334 ITS cabinets for the new DMS.
- Evaluate and recommend a method and manufacturer for a proposed UPS system which backs up the proposed and existing three-line DMS. The three options that are to be evaluated are Zinc-5, Liquid propane generator, and gas generator. The designer is to provide a report that justifies their recommendation to CFX.
- Replacement of existing analog CCTV cameras and lowering arms that are viewing the proposed DMS.
- **Design a micro-grid electrical system along SR 528 using backup generators at 3 utility power service locations at ICP, Dallas Blvd and SR 520.**
- **MOT plans development using schematics and coordination with other local and FDOT agencies**

The Authority shall herein be defined as the Central Florida Expressway Authority (CFX) and/or their representative/designate.

### 1.2 PROJECT DESCRIPTION

The Authority requires professional design services to support the systemwide replacement of the Authority's existing three-line DMS system. These requirements are described in detail below.

The scope of this project includes all site design necessary to replace the twenty-six (26) three-line DMS that are shown within Appendix A.

The upgraded signs shall be installed on the existing sign structures utilized by the existing three-line DMS whenever possible. As part of this project, the Designer shall perform a structural evaluation on each existing three-line DMS structure and determine whether it is structurally appropriate to accommodate the proposed DMS. The Designer shall also consider the static sign panels on the existing sign structure when performing their evaluation.

One of the primary goals of this project is to deploy a three-line DMS system that minimizes the cost of system maintenance and provides greater accessibility to the DMS components. As such, it is critical that the design evaluates the existing DMS sign structure to verify if the existing catwalk meets current FDOT standards. The Designer shall design all power services, sign controllers, network equipment, UPS, and other auxiliaries for installation in a base cabinet accessible from ground level without a lane or shoulder closure. All data communication between ground-mounted cabinet and the sign face shall be accomplished using a fiber optic interconnect. Design of appropriate surge protection device placement shall be included.

The Designer shall review and recommend to CFX a three-line DMS from the following manufacturers: Daktronics, SES America, and Telegra. The recommended model will be reviewed by CFX and approved based upon the information provided by the designer. This evaluation shall occur on the onset of the project to allow for the designer to maintain the current schedule requirements. This evaluation will compare the three manufacturers based upon reliability from other projects, cost value of their system, and maintenance requirements. The DMS design within the plan set shall include but not limited to, device layout, structural evaluation, network architecture, power interconnect, new structural grounding array, civil support infrastructure, inside plant design, and value engineering. Wherever possible, the Designer shall maximize the use of existing power service and fiber optic infrastructure. The Designer's fee estimate shall include provisions to design up to 2226 three-line DMS sites.

The Designer shall also include the evaluation and recommendation of a UPS/Generator system to back up the proposed and existing DMSs throughout the system. The evaluation shall be between the following methods: Zinc-5, Liquid propane generator, and a gas generator. It is the responsibility of the designer to provide a written recommendation that compares the reliability, cost estimate and maintenance requirements of each of the UPS systems. CFX will review the recommendation and provide direction of which system to implement within the plan set. The designer is to provide these upgrades to all proposed and existing DMS locations. The Designer's fee estimate shall include provisions to design up to 47 36 UPS/Generator systems.

To provide a higher level of service for traffic related incidents and for real time verification of DMS messages, CFX is requesting the replacement of any analog cameras that are used to view the current DMS signs with High Definition CCTV cameras as specified within CFX specifications. These updates will also require the replacement of the existing lowering device that is affixed to the analog camera. The Designer's fee estimate shall include provision to design up to

The Designer shall research and develop plans, where necessary, of possible additional DMS locations that are agreed upon by CFX based upon the designer's input. The DMS design shall include, but not be limited to, device layout, foundation designs based on existing CFX standards, network architecture, utility coordination, power interconnect, "last-mile" connectivity with the fiber optic network backbone, feeder fiber and conduit utilization, civil support infrastructure, and value engineering. The Designer's fee estimate shall include provision to design up to 2 DMS signs and structures.

## 2.0 SERVICES PROVIDED

This Scope of Services will require the Designer to perform the following tasks. Each item is detailed in the following sections followed by a summary of required submittals.

- Design Methodology Report
- Site Construction Plans
- Technical Specifications
- Construction Cost Estimate

### 2.1 DESIGN METHODOLOGY REPORT

The Designer shall submit a Design Methodology Report for CFX review and approval. The Design Methodology Reports shall be submitted at least four (4) weeks before the 75% plans and include the following:

- Provide a written recommendation for the DMS manufacturer
- Provide a written recommendation for the UPS system method and possible manufacturers
- Document the power requirements of a typical ITS Device site for each of the evaluated DMS UPS system. The documentation shall contain a typical cabinet layout and power requirements per component, typical breaker panel assignments, and load center sizing requirements. The Designer is to provide a detailed list of power requirements within a typical cabinet, this shall include the voltage drop calculation which shows the ten (10) amp load being carried to the furthest device to appropriately size the breakers, disconnects and transformers for the DMS replacements.
- Document which analog cameras and lowering devices that are to be replaced based upon the review of the existing sites.

Prior to the submission of the Design Methodology Report, the Designer shall identify all problem areas and special requirements that are determined to affect the development of the 75% plans. The Designer must also obtain approval of CCTV locations before providing CCTV bucket truck surveys. All problem areas and special requirements are to be documented in the Design Methodology Report. An approved Design Methodology Report shall be required prior to the submission of 100% plans.

### 2.2 SITE CONSTRUCTION PLANS

Site construction plans are required for Project 599-XXX545. The Designer shall prepare site construction plans utilizing aerial rasters and/or topographic electronic files provided by CFX as the basemap. In areas of concurrent construction, the Designer shall use the fiber optic component of the approved for construction plans of the applicable project as the basemap. The Designer shall update these plans with changes resulting from Projects 719, 719A, 599-500, 599-501, 599-503, 599-511, 599-520, 599-525, 408-127, 408-128, 414-314, 414-507, 414-510, 429-200, 429-518, 429-200A, 429-201, 429-202, 429-203, 429-204, 429-205, and 429-206; any changes noted since the completion of the FON plans; and any other inaccuracies noted in the existing documentation of the FON. The Designer shall be aware that final as-built documentation for recent construction projects may not be available and shall therefore field-verify all critical infrastructure during the design process. The designer is to use the projects listed above and other standard plans, notes, and details to prepare the site construction plans.

Site construction plans shall show the exact location and construction method for all proposed devices and details for mounting the devices on structures. The site construction plans shall be developed on aerial rasters at a scale of 1" equals 100 feet, unless the roadway geometry contained on the aerials is obsolete. In that case, plans shall be based upon the latest facility improvement plans plotted at a scale of 1" equals 100 feet. Site construction plans shall also include superimposed insets at a scale of approximately 1" equals 10 feet to detail proposed construction, but shall label these details "Not to Scale." Where plan sheets cannot fit all necessary details due to device co-location, the Designer shall provide a separate sheet to detail the device layout. The Designer shall identify existing physical features and utilities that will impact the construction and installation of the equipment. The Designer shall be responsible for identifying and resolving all utility conflicts during the design by avoiding the conflict or by direct coordination with the utility owner. The Designer shall display in the plans, all locations where fiber optic cable and/or tone wire is being installed in existing or proposed conduit. The Designer shall display in the plans all locations requiring new route marker installation along the corridors with tone wire replacement. The Designer shall detail with plan sheets all power service runs where the detail needs to be expanded beyond the device plan sheet to the utility company demarcation.

The design must demonstrate that any proposed device structure does not conflict with known existing utilities. The design shall demonstrate that existing highway signage is not obstructed by new or relocated camera poles. Topographic survey, if approved by CFX, shall be performed where necessary to identify potential conflicts but should be minimized. The Designer must propose the means and method to accurately transfer the device site designs to the field for construction, such as offsets from two fixed points that will survive concurrent construction activity.

Site construction plans shall also include the following:

- Roadway geometry
- Rights-of-Way
- Existing utilities within the right-of-way including the CFX's FON, with any potential conflicts identified (conflict matrix)
- Physical features affecting construction/installation (sign structures, light poles, fences, drainage structures, etc.)
- Manhole/Pull box locations and stub-out details
- Device layout
- Device installation details
- CCTV camera orientation
- Tone Wire installation details
- Conduit installation details
- Fiber optic cable route marker details
- Power route marker details
- Fiber count per conduit
- Communications interconnect
- Data collection sensor mounting details
- Three-line DMS structural mounting details
- Connection List sheets detailing all interconnections for each device
- Connectivity with the FON backbone conduits



- Fiber cable design to include link loss budget calculations, per Corning standard recommended procedure
- Fiber cable routing summaries, fiber cable allocation chart, splice details and splice tables as needed.
- Data collection sensor mounting details
- Traffic Monitoring sensor mounting details, if mounted on DMS structure
- Dynamic Message Sign details (as necessary for device co-locations)
- Power interconnect, service point details, and voltage drop calculations
- 5-Ohm grounding system for ITS devices.
- Maintenance of traffic (minimize disruptions to customers)
- System Overview showing new and existing ITS device locations on a map
- System Overview showing the power services and locations on a map
- Table of quantities
- Special notes/Pay Item Notes
- System block diagrams
- Surge Protection Devices (SPD) installation details
- Data collection sensor mounting details, including details showing integration of DCS equipment into the DMS housing
- Camera pole, lowering system, foundation and mounting details
- Data collection sensor mounting details.
- Cabinet Details including new pole mount and base mount cabinets, existing pole mount and base mount cabinets, and NEMA enclosures
- Updates to CFX standard details to ensure conformance with project requirements
- Any power and fiber optic cable, conduit, splicing, or other infrastructure necessary to provide fully operational cameras to match existing CFX CCTV system
- Any power and fiber optic cable, conduit, splicing, or other infrastructure necessary to provide fully operational DCS to match existing CFX DCS subsystem
- Power and fiber optic cable, conduit, splicing, or other infrastructure necessary to provide fully operational DMS to match existing CFX DMS subsystem.

The Designer shall take the following information into consideration when developing the site construction plans:

- Minimizing utility conflicts and adjustments.
- Maximizing roadway visibility/field of view of any necessary CCTV cameras.
- Maximizing transponder read effectiveness of Data Collection sensors.
- Maximizing data collection effectiveness of traffic monitoring station sensors.
- Traffic impact.
- Accessibility and ease of equipment maintenance.
- Safety of equipment maintenance personnel and the traveling public.
- Environmental conditions.
- CFX guide signing plans (present and future)
- Concurrent/future CFX projects.

- Colocation of devices where advantageous. However, any construction dependencies between other CFX projects shall be kept to an absolute minimum.
- When creating the power design, the Designer shall be mindful of system redundancy. While device co-location is desirable, the Designer shall make sure such co-location does not occur to the detriment of the overall ITS system. Power and fiber connections shall be made from the same side of the road whenever possible. Under no circumstances shall a single power service support devices that are spliced to the fiber on separate sides of the road.

Designer shall submit 75%, 100%, and Bid Set plans for the review and approval by CFX. The 75% plans shall contain at a minimum the location of all proposed devices, power service for each device (finalized and documented with utility owners), fiber optic interconnect (including conduit, pullboxes, fiber optic cable, splice details, splice tables, fiber allocation charts), definition of pay items, details, and general notes. The Designer's 100% plans shall address all 75% comments as well as provide all final quantities and design elements. CFX reserves the right to influence the design based upon planned ITS, facility, and roadway improvement projects or other requirements as identified by CFX.

After 75% plans are submitted to CFX, the Designer and CFX representatives shall jointly survey the proposed device locations and utility power service demarcations (e.g. load centers, poles, meters, etc.) to avoid unforeseen problem areas, as well as jointly reviewing the problem areas and special requirements solutions. At each milestone review, representatives from each organization having ownership, control or jurisdiction of highways, bridges, land, utilities, waterways, rights-of-way and other facilities shall provide input during a site survey and any major project issues shall be investigated and resolved by the Designer.

The Designer shall be responsible for coordinating all utility conflict resolutions with the appropriate agencies. Before Bid Plans can be accepted the designer must receive written notice from the power service provider detailing the approval of each power service location. Site construction plans shall be prepared in accordance with the latest standards listed herein and all applicable national, state, county and local codes, laws and regulations. The Designer shall sign and seal Bid Set and Approved for Construction site construction plans by a licensed professional Civil or Electrical Engineer registered in the state of Florida, as appropriate. All site construction plans shall be subject to CFX review and approval.

The Designer shall be responsible for providing structural calculations and plan details for all structures and foundations required as well as for mounting devices to existing or proposed structures. These calculations and plan details must be signed and sealed by a licensed professional Structural Civil Engineer registered in the State of Florida. The Designer shall be responsible for providing voltage drop calculations that are signed and sealed by a professional Electrical Engineer registered in the State of Florida. All design calculations are subject to CFX review and approval. CFX approved design calculations are required for the approval of all site construction plans. All calculations shall be submitted with the 75%, 100%, and bid plans.

Construction plans shall show the locations of all existing and proposed ITS devices and their associated power and fiber infrastructure where the project limits of this project overlap with an existing, future, or concurrent project.

## 2.3 TECHNICAL SPECIFICATIONS

The Designer shall review CFX's existing ITS specifications at the 75%, 100%, and bid set submission phases. These specifications shall include the technical specifications specific to related equipment in

the field, mainline toll plazas, and central control locations (i.e., CFX Headquarters, FDOT RTMC), as well as reviewing CFX standard specifications required for construction. The Designer shall research each part number listed in the CFX standard ITS specifications to verify that the validity of each part number. In the event a part has been superseded or is no longer available, the Designer shall recommend the appropriate part number to CFX for its approval. The Technical Specifications shall provide CFX the ability to procure equipment on a competitive basis. Unless substantial benefit for the CFX can be demonstrated by the Designer and approval is granted by the CFX, the Technical Specifications shall be based on national, industry-standard open architecture/protocol/design standards and shall not contain proprietary requirements. The Technical Specifications shall include but not be limited to the following requirements for all equipment:

- A descriptive listing of overall functions that will be required of the equipment.
- Equipment interface requirements with associated/attached devices (existing or proposed).
- Technical requirements stating the required specific technical performance standards based on national open standards.
- Installation requirements for each device.
- Maintenance requirements for proper system operation.
- Warranty requirements detailing the transfer of all equipment manufacturers' warranties to CFX.
- Testing requirements for demonstrating proper installation and system integration that shall be the basis for the development of a System Acceptance Test Plan.
- Equipment reliability requirements as necessary to maintain an overall system network reliability as established by CFX.
- Training requirements required by CFX for system operation.

The Designer shall sign and seal bid set Technical Specifications by a licensed professional Civil or Electrical Engineer registered in the state of Florida, as appropriate. If the Designer recommends revisions to part numbers listed in the standard specifications, The Designer shall submit product description sheets, specifications and operation/maintenance manuals from equipment Vendors for each specified device that specifically addresses equipment adherence to the Technical Specifications with the bid submittal. The Designer shall obtain a statement of conformance from each Vendor signed by a duly authorized officer of the company. The Technical Specifications shall be subject to the review and approval of CFX. Additional Technical Specifications may be developed by the Designer if required by project specific designs.

## 2.4 CONSTRUCTION COST ESTIMATE

The Designer shall develop construction cost estimates at the 75%, 100% and Bid Set Plan Submission Phases, subject to the review and approval of CFX. These estimates shall be based on the table of quantities developed during the preparation of the site construction plans, as well as all make-ready or other work associated with the project. All pay items shall use consistent descriptions in the plan sets, specifications, and cost estimate. A description of how the Unit Cost of each item was determined shall be provided with each cost estimate.

## 2.5 QUALITY CONTROL

The Designer shall be responsible for providing continuous quality control and quality assurance (QA/QC) during the project. The Designer shall produce construction documents, studies and reports that have been thoroughly checked. The documents produced shall be prepared with the degree of care that will meet or exceed the tests of "standard practice" or "due care" as established by

recognized industry wide professional organizations such as the National Society of Professional Engineers (NSPE). The Designer's QA/QC responsibilities shall not be limited to responding to CFX comments but also provide for a complete review of project deliverables prior to their submittal. CFX reserves the right to reject a submittal in its entirety if QA/QC is not evident relative to addressing CFX comments.

The Designer shall prepare and submit to CFX a Project Quality Control (QC) Plan. The QC Plan shall describe how the required production, project staff and review time will be planned and scheduled to accomplish the required quality control. The plan will include a plans production manual detailing guidelines for the production of ITS plans. This QA/QC time and effort is an essential part of the design effort if quality workmanship is to be achieved. The Designer's management shall be responsible for providing the proper organization and staff to perform all QA/QC tasks associated with the production of a project according to the QC Plan in a complete and thorough manner. The QC plan shall, at a minimum, describe a process of applying quality control to each deliverable at every stage of production of the deliverable, including a final QC review by a resource that was not used to produce the deliverable. The QC Plan will be reviewed to determine if it meets CFX needs and requirements. The QC Plan shall be completed and submitted to CFX within five (5) calendar days after receipt of Notice to Proceed. An approved QC Plan is required as a prerequisite for the approval of all submittals. The designer shall certify with each submittal that a thorough QC review has been performed. CFX shall retain the option to request documentation of QC activities at any time.

## 2.6 PROJECT MANAGEMENT AND COORDINATION

### 2.6.1 Schedule (General Items)

The schedules shall provide 15 working days for CFX review of all submittals and 10 working days for CFX review of re-submittals. The Designer may continue design efforts while design submittals are being reviewed. Doing so, however, in no way relieves the Designer of the responsibility to answer and incorporate review comments into the design, nor does it entitle the Designer to any additional compensation as a result of making changes due to review comments.

When there is an actual or potential delay in the schedule or if the Designer proposes to change the sequence or duration of any activities, an updated schedule and accompanying narrative must be submitted to CFX for approval.

### 2.6.2 Project Schedule

The following list represents the schedule of major project milestones for a project duration of 270 calendar days:

- Notice to Proceed (Assume a start date of June X, 2018)Jan X, 2019)
- Project Kickoff Meeting - Within 5 working days after receipt of the Notice to Proceed.
- Detailed Schedule – Submitted at the Project Kickoff Meeting. The schedule shall contain activities in sufficient detail to demonstrate the Designer has a reasonable work plan to complete the project. Long-term activities shall be broken down into manageable segments where each activity does not exceed twenty (20) working days.
- Quality Control Plan – within 5 calendar days after receipt of Notice to Proceed, submitted at the Project Kickoff Meeting.
- Complete Design Phase – 210 calendar days after receipt of Notice to Proceed.

### 2.6.3 MEETINGS AND PROGRESS REPORTING

The Designer shall attend a Kick-off Meeting where the Designer will submit a schedule and project plan identifying key staff and their responsibilities. The Designer shall meet with CFX on an as-needed basis to obtain design information and at least once a month to provide written progress reports including an updated schedule that describes the work performed on each task. The Designer will schedule a meeting with CFX to review the Preliminary Roll Plot Submittal. During this meeting the designer is to detail their initial design, including any alternatives to the scope. CFX will make judgment on whether work of sufficient quality and quantity has been accomplished by comparing the reported percent complete against actual work accomplished. The Designer shall submit draft minutes of these meetings to CFX within 5 working days after the meeting. The designer shall provide final minutes, conformed to CFX comments, within 2 days of receipt of CFX comments.

The Designer shall establish and maintain an Action Item Data Base. This database will be used to support the closure of action items in a timely manner. An updated list of action items with status and required resolution dates shall be included as part of the monthly progress report. The Action Item Data Base format shall be submitted at the Kick-off Meeting for review and approval by CFX.

### 2.6.4 PROJECT COORDINATION AND KEY PERSONNEL

CFX and the Designer will each designate a Project Manager who shall be the representative of their respective organizations for the project. The final direction on all matters of this project shall remain with CFX Project Manager. The Designer's Project Manager shall be the point of contact for all project coordination and shall be familiar with all aspects of the project, including production of deliverables, contract administration, coordination with subconsultants, and invoices. The Designer may assign a technical representative for major subconsultants for attendance at project meetings and for technical coordination, subject to CFX approval.

The Designer shall identify key project staff to CFX. The Designer shall make no changes in key personnel without written notification and approval from CFX.

The Designer shall be responsible for coordinating all site construction plans with CFX expansion projects in the 5-Year Work Plan currently under design or construction. The Designer shall coordinate with the CFX expansion project designers to resolve all conflicts and design issues.

## 2.7 SUBMITTALS

The Designer shall be responsible for making submittals to CFX for review. CFX's review time shall start when all required deliverables for each submittal have been received and end with the return shipping of the review comments. All construction and installation plans shall be accurate, legible, complete in design and drawn to the appropriate scale. All construction plans submitted for review shall be 11" x 17" plan sheets. The number of copies of materials to be furnished for each submittal is as follows:

<u>SUBMITTAL/ITEM</u>	<u>NO. OF COPIES</u>
Project Schedule	3
Quality Control Plan	3
Design Methodology Report	5

Site Construction Plans	5
Site Design Calculations	5
Technical Specifications	5
Construction Cost Estimate	5

The exact quantity of plans to be submitted may vary and shall be discussed with CFX prior to printing. In addition to physical copies of each submittal, the designer shall provide electronic PDF copies on a CD-ROM of each interim submittal.

## 2.8 COMPUTER AUTOMATION

The Designer shall be required to develop the plans utilizing computer automation systems. The Designer shall be required to submit final completed CADD design files in Microstation™ format on a CD-ROM. The Working Units for the design file shall be 100 Master units (MU) and 10 Sub-units (SU) for a total working area of 4,294,967 (MU sq.). The global origin for a 2D design file shall be the lower left hand corner of the design plane. The Designer shall be responsible for any translation of a non-Microstation design file to Microstation™ format. Upon CFX approval, the Designer may use Microsoft Visio™ for plans provided all electronic files are provided to CFX. The Designer shall develop CADD standards for this project to be approved by CFX. These standards shall contain design file information including, but not limited to, levels, line weight, line style, color and a file naming convention. All translated files shall conform to the CADD standards developed for the project.

The Designer shall be required to submit electronic files of all final deliverable reports and cost estimates in Microsoft Word™/Microsoft Excel™, and Adobe Acrobat™ (.pdf) format on CD-ROM. Designer shall submit all project schedules in Microsoft Project™ format on CD-ROM or via email. The Designer shall to submit electronic files of all presentations in Microsoft PowerPoint™ format on CD-ROM. When requested by CFX, the Designer shall provide electronic files of interim submittals.

## 2.9 APPLICABLE CODES AND STANDARDS

All installation work, equipment, cable, conduit/duct and associated electrical work for this contract shall be designed in conformity with the current requirements and practices of the latest version of each of the following:

- FDOT Utility Accommodations Manual
- FDOT Roadway and Traffic Design Standards
- Florida DOT Standard Specifications for Road and Bridge Construction
- National Electric Code (NEC)
- Applicable Electronic Industries Association (EIA), Telecommunications Industry Association (TIA) and Bellcore Standards
- Manual of Uniform Traffic Control Devices (MUTCD)
- ANSI/IEEE Standards Publication
- Occupational Safety and Health Act (OSHA)
- All applicable Federal, State and Local Laws, Ordinances, Rules and Regulations
- CFX Design Standards and Specifications

All design plans shall be signed and sealed by a licensed professional Engineer registered in the State of Florida of the appropriate discipline (i.e., Electrical, Civil, Structural) as dictated by the nature of the design.

## 2.10 RESOURCES AVAILABLE

CFX has existing documentation available to assist the selected Designer in the services required. CFX does not warrant or guarantee the accuracy of the documentation, and the use of such documentation is at the sole risk of the Designer.

The following resources are available to the Designer in electronic format:

- CFX Systemwide Aerial Rasters
- Fiber Optic Network Electronic Splice Details and Cable Terminations
- Fiber Optic Conduit System and Manhole Standard Specifications
- CFX Construction Specifications CFX Design Standards
- CFX GIS roadway centerline, FON conduit routing, and manhole numbering in MicroStation format  
Construction Plans for CFX Projects 719, 719A, 599-500, 599-501, 599-503, 599-511, 599-520, 599-525, 408-127, 408-128, 414-314, 414-507, 414-510, 429-200, 429-518, 429-200A, 429-201, 429-202 and 429-203.
- Construction Plans for CFX Expansion projects currently approved for construction.
- CFX ITS OSP Insight documentation
- **CFX ITS DMS Sign Cross Sections for Existing DMS Structures**

The following resources are available to the Designer in hardcopy format:

- Interim (30%, 60%, 90%, 100%) design plans for CFX expansion projects. Submission levels will vary with the design progress of each project.
- CFX ITS Master Plan
- Sign Structure Inspection Reports
- **CFX ITS Electrical System As-Builts for SR 528 Corridor**

## 2.11 SURVEY

No survey is required for this project.

## 2.12 GEOTECHNICAL SERVICES

Existing soil boring data and geotechnical reports would be made available for review for use in making recommendations in foundation design for some of the pole locations. Equipment to be used and assumed required number of borings are itemized on the estimate expenses.

## 2.13 ADDITIONAL SERVICES

Additional services may be assigned to the Consultant in accordance with the Contract and this Scope of Services. No work will be accomplished under additional services without prior written authorization to the Consultant to perform the work.

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: November 18, 2021 *MC*  
RE: October 2021 Financial Reports

Attached please find the October 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 OCTOBER 31, 2021 AND YEAR-TO-DATE**

	FY 22 MONTH ACTUAL	FY 22 MONTH BUDGET	FY 22 YEAR-TO-DATE ACTUAL	FY 22 YEAR-TO-DATE BUDGET	FY 22 YEAR-TO-DATE VARIANCE	FY 22 YEAR-TO-DATE % VARIANCE	FY 21 - 22 YEAR-TO-DATE COMPARISON
<b>REVENUES</b>							
TOLLS	\$ 52,504,702	\$ 43,108,212	\$ 199,680,483	\$ 171,103,388	\$ 28,577,095	16.7%	34.0%
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	530,717	424,142	1,539,456	1,530,387	9,069	0.6%	-32.0%
TRANSPONDER SALES	158,695	76,108	697,427	304,975	392,452	128.7%	143.6%
OTHER OPERATING	142,432	132,383	505,490	404,533	100,957	25.0%	64.8%
INTEREST	38,479	196,704	443,635	786,818	(343,182)	-43.6%	-90.4%
MISCELLANEOUS	64,249	63,454	274,762	253,817	20,945	8.3%	10.3%
<b>TOTAL REVENUES</b>	<b>\$ 53,439,275</b>	<b>\$ 44,001,004</b>	<b>\$ 203,141,253</b>	<b>\$ 174,383,917</b>	<b>\$ 28,757,335</b>	<b>16.5%</b>	<b>29.6%</b>
<b>O M &amp; A EXPENSES</b>							
OPERATIONS	\$ 4,914,198	\$ 5,567,647	\$ 18,006,609	\$ 18,956,908	\$ 950,300	5.0%	14.2%
MAINTENANCE	816,576	954,649	2,799,985	3,091,842	291,857	9.4%	-18.8%
ADMINISTRATION	563,742	626,396	2,395,819	2,650,868	255,049	9.6%	1.1%
OTHER OPERATING	228,819	222,624	298,428	333,915	35,488	10.6%	24.1%
<b>TOTAL O M &amp; A EXPENSES</b>	<b>\$ 6,523,336</b>	<b>\$ 7,371,316</b>	<b>\$ 23,500,840</b>	<b>\$ 25,033,534</b>	<b>\$ 1,532,694</b>	<b>6.1%</b>	<b>7.7%</b>
<b>NET REVENUES BEFORE DEBT SERVICE</b>	<b>\$ 46,915,938</b>	<b>\$ 36,629,688</b>	<b>\$ 179,640,413</b>	<b>\$ 149,350,384</b>	<b>\$ 30,290,029</b>	<b>20.3%</b>	<b>33.1%</b>
<b>COMBINED NET DEBT SERVICE</b>	<b>\$ 18,048,271</b>	<b>\$ 18,048,746</b>	<b>\$ 72,282,706</b>	<b>\$ 72,194,985</b>	<b>\$ (87,721)</b>	<b>-0.1%</b>	<b>-1.2%</b>
<b>NET REVENUES AFTER DEBT SERVICE</b>	<b>\$ 28,867,668</b>	<b>\$ 18,580,942</b>	<b>\$ 107,357,707</b>	<b>\$ 77,155,399</b>	<b>\$ 30,202,308</b>	<b>39.1%</b>	<b>73.7%</b>

The monthly Treasurer's Report is provided as interim information for management's use. It is prepared on a modified cash basis and has not been audited, nor should it be deemed final. For audited financial statements, please see CFX's Comprehensive Annual Financial Reports.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SUMMARY OF OPERATIONS, MAINTENANCE AND ADMINISTRATION  
COMPARISON OF ACTUAL TO BUDGET FOR FISCAL YEAR 2021  
FOR THE MONTH ENDING OCTOBER 31, 2021 AND YEAR-TO-DATE**

	<u>FY 2022 ACTUAL</u>	<u>FY 2022 BUDGET</u>	<u>VARIANCE</u>	<u>FY 22 YEAR-TO-DATE % VARIANCE</u>
Operations	\$ 18,006,609	\$ 18,956,908	\$ 950,300	5.0%
Maintenance	2,799,985	3,091,842	291,857	9.4%
Administration	2,395,819	2,650,868	255,049	9.6%
Other Operating	<u>298,428</u>	<u>333,915</u>	<u>35,488</u>	<u>10.6%</u>
Total O M & A	\$ 23,500,840	\$ 25,033,534	\$ 1,532,694	6.1%
 Capital Expenditures				
Operations	\$ -	\$ 16,667	\$ 16,667	100.0%
Maintenance	1,247	3,000	1,753	58.4%
Administration	<u>-</u>	<u>7,500</u>	<u>7,500</u>	<u>100.0%</u>
Total Capital Expenditures	\$ 1,247	\$ 27,167	\$ 25,919	95.4%

The monthly Treasurer's Report is provided as interim information for management's use. It is prepared on a modified cash basis and has not been audited, nor should it be deemed final. For audited financial statements, please see CFX's Comprehensive Annual Financial Reports.



**Central Florida Expressway Authority  
Operations - Comparison of Actual to Budget  
For the Four Months Ending October 31, 2021**

	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Budget Variance</u>	<u>Variance Percentage</u>
Toll Operations	223,760	245,537	21,777	8.87%
Image Review	3,238,652	3,390,929	152,276	4.49%
Special Projects	35,716	81,451	45,734	56.15%
Information Technology	1,301,604	1,443,487	141,883	9.83%
E-PASS Service Center	7,550,044	7,427,605	(122,439)	-1.65%
Business Relations	45,318	51,426	6,107	11.88%
Public Outreach/Education	271,001	288,903	17,901	6.20%
<b>Subtotal CFX</b>	<b><u>\$12,666,097</u></b>	<b><u>\$12,929,337</u></b>	<b><u>\$263,240</u></b>	<b><u>2.04%</u></b>
Plazas	5,340,512	6,044,238	703,727	11.64%
<b>Subtotal Toll Facilities</b>	<b><u>\$5,340,512</u></b>	<b><u>\$6,044,238</u></b>	<b><u>\$703,727</u></b>	<b><u>11.64%</u></b>
<b>Total Operations Expenses</b>	<b><u><u>\$18,006,609</u></u></b>	<b><u><u>\$18,973,575</u></u></b>	<b><u><u>\$966,967</u></u></b>	<b><u><u>5.10%</u></u></b>



**Central Florida Expressway Authority  
Maintenance - Comparison of Actual to Budget  
For the Four Months Ending October 31, 2021**

	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Budget Variance</u>	<u>Variance Percentage</u>
Maintenance Administration	845,159	937,780	92,621	9.88%
Traffic Operations	495,185	544,418	49,233	9.04%
Routine Maintenance	1,460,888	1,612,644	151,755	9.41%
<b>Total Maintenance Expenses</b>	<b><u><u>\$2,801,232</u></u></b>	<b><u><u>\$3,094,842</u></u></b>	<b><u><u>\$293,610</u></u></b>	<b><u><u>9.49%</u></u></b>





**Central Florida Expressway Authority  
Administration - Actual to Budget by Cost Center  
For the Four Months Ending October 31, 2021**

	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Budget Variance</u>	<u>Variance Percentage</u>
General	111,338	134,152	22,813	17.01%
Administrative Services	695,875	734,799	38,923	5.30%
Communications	157,278	238,209	80,932	33.97%
Human Resources	88,908	89,532	625	0.70%
Supplier Diversity	75,385	79,514	4,129	5.19%
Accounting	480,588	517,840	37,252	7.19%
Construction Administration	19,759	22,024	2,265	10.28%
Risk Management	204,529	196,989	(7,540)	-3.83%
Procurement	193,691	211,028	17,337	8.22%
Legal	212,047	217,987	5,940	2.72%
Internal Audit	0	47,000	47,000	100.00%
525 Magnolia	17,789	17,772	(17)	-0.09%
Engineering	23,141	24,097	957	3.97%
Records Management	115,491	127,423	11,933	9.36%
<b>Grand Total Expenses</b>	<b><u><u>\$2,395,819</u></u></b>	<b><u><u>\$2,658,368</u></u></b>	<b><u><u>\$262,549</u></u></b>	<b><u><u>9.88%</u></u></b>

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
CALCULATION OF NET REVENUES AS DEFINED BY THE BOND RESOLUTIONS  
PREVIOUS YEAR BUDGET TO ACTUAL COMPARISON  
FOR THE MONTH ENDING OCTOBER 31, 2021 AND YEAR-TO-DATE**

	FY 22 YEAR-TO-DATE ACTUAL	FY 22 YEAR-TO-DATE BUDGET	FY 22 YEAR-TO-DATE VARIANCE	FY 21 YEAR-TO-DATE ACTUAL	FY 21 YEAR-TO-DATE BUDGET	FY 21 YEAR-TO-DATE VARIANCE	YEAR-TO-DATE VARIANCE COMPARISON
<b>REVENUES</b>							
TOLLS	\$ 199,680,483	\$ 171,103,388	\$ 28,577,095	\$ 149,029,905	\$ 99,200,000	\$ 49,829,905	\$ (21,252,810)
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	1,539,456	1,530,387	9,069	2,262,334	2,505,533	(243,199)	252,268
TRANSPONDER SALES	697,427	304,975	392,452	286,321	292,250	(5,929)	398,381
OTHER OPERATING	505,490	404,533	100,957	306,663	378,054	(71,391)	172,348
INTEREST	443,635	786,818	(343,182)	4,627,504	2,018,396	2,609,108	(2,952,290)
MISCELLANEOUS	274,762	253,817	20,945	249,019	247,717	1,302	19,643
<b>TOTAL REVENUES</b>	<b>\$ 203,141,253</b>	<b>\$ 174,383,917</b>	<b>\$ 28,757,335</b>	<b>\$ 156,761,746</b>	<b>\$ 104,641,950</b>	<b>\$ 52,119,796</b>	<b>\$ (23,362,460)</b>
<b>O M &amp; A EXPENSES</b>							
OPERATIONS	\$ 18,006,609	\$ 18,956,908	\$ 950,300	\$ 15,768,004	\$ 17,648,408	\$ 1,880,404	\$ (930,104)
MAINTENANCE	2,799,985	3,091,842	291,857	3,447,942	3,702,472	254,530	37,327
ADMINISTRATION	2,395,819	2,650,868	255,049	2,369,596	2,479,418	109,822	145,227
OTHER OPERATING	298,428	333,915	35,488	240,447	285,604	45,157	(9,669)
<b>TOTAL O M &amp; A EXPENSES</b>	<b>\$ 23,500,840</b>	<b>\$ 25,033,534</b>	<b>\$ 1,532,694</b>	<b>\$ 21,825,989</b>	<b>\$ 24,115,902</b>	<b>\$ 2,289,913</b>	<b>\$ (757,219)</b>
<b>NET REVENUES BEFORE DEBT SERVICE</b>	<b>\$ 179,640,413</b>	<b>\$ 149,350,384</b>	<b>\$ 30,290,029</b>	<b>\$ 134,935,757</b>	<b>\$ 80,526,048</b>	<b>\$ 54,409,709</b>	<b>\$ (24,119,680)</b>
<b>COMBINED NET DEBT SERVICE</b>	<b>\$ 72,282,706</b>	<b>\$ 72,194,985</b>	<b>\$ (87,721)</b>	<b>\$ 73,140,899</b>	<b>\$ 73,172,081</b>	<b>\$ (31,182)</b>	<b>\$ (56,539)</b>
<b>NET REVENUES AFTER DEBT SERVICE</b>	<b><u>\$ 107,357,707</u></b>	<b><u>\$ 77,155,399</u></b>	<b><u>\$ 30,202,308</u></b>	<b><u>\$ 61,794,858</u></b>	<b><u>\$ 7,353,967</u></b>	<b><u>\$ 54,440,891</u></b>	<b><u>\$ (24,238,583)</u></b>

The monthly Treasurer's Report is provided as interim information for management's use. It is prepared on a modified cash basis and has not been audited, nor should it be deemed final. For audited financial statements, please see CFX's Comprehensive Annual Financial Reports.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**CALCULATION OF NET REVENUES AS DEFINED BY THE BOND RESOLUTIONS**  
**PREVIOUS YEAR COMPARISON**  
**FOR THE MONTH ENDING OCTOBER 31, 2021 AND YEAR-TO-DATE**

	FY 22 MONTH ACTUAL	FY 21 MONTH ACTUAL	FY 21 - 22 SAME MONTH COMPARISON	FY 22 YEAR-TO-DATE ACTUAL	FY 21 YEAR-TO-DATE ACTUAL	FY 21 - 22 YEAR-TO-DATE COMPARISON
<b>REVENUES</b>						
TOLLS	\$ 52,504,702	\$ 41,125,940	\$ 11,378,761	\$ 199,680,483	\$ 149,029,905	\$ 50,650,578
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	530,717	540,788	(10,071)	1,539,456	2,262,334	(722,878)
TRANSPONDER SALES	158,695	77,791	80,904	697,427	286,321	411,106
OTHER OPERATING	142,432	98,699	43,733	505,490	306,663	198,827
INTEREST	38,479	389,405	(350,926)	443,635	4,627,504	(4,183,869)
MISCELLANEOUS	64,249	62,308	1,941	274,762	249,019	25,743
<b>TOTAL REVENUES</b>	<b>\$ 53,439,275</b>	<b>\$ 42,294,931</b>	<b>\$ 11,144,343</b>	<b>\$ 203,141,253</b>	<b>\$ 156,761,746</b>	<b>\$ 46,379,507</b>
<b>O M &amp; A EXPENSES</b>						
OPERATIONS	\$ 4,914,198	\$ 4,433,681	\$ 480,517	\$ 18,006,609	\$ 15,768,004	\$ 2,238,605
MAINTENANCE	816,576	1,773,051	(956,475)	2,799,985	3,447,942	(647,957)
ADMINISTRATION	563,742	604,280	(40,538)	2,395,819	2,369,596	26,223
OTHER OPERATING	228,819	286,059	(57,240)	298,428	240,447	57,981
<b>TOTAL O M &amp; A EXPENSES</b>	<b>\$ 6,523,336</b>	<b>\$ 7,097,071</b>	<b>\$ (573,735)</b>	<b>\$ 23,500,840</b>	<b>\$ 21,825,989</b>	<b>\$ 1,674,851</b>
<b>NET REVENUES BEFORE DEBT SERVICE</b>	<b>\$ 46,915,938</b>	<b>\$ 35,197,860</b>	<b>\$ 11,718,078</b>	<b>\$ 179,640,413</b>	<b>\$ 134,935,757</b>	<b>\$ 44,704,656</b>
<b>COMBINED NET DEBT SERVICE</b>	<b>\$ 18,048,271</b>	<b>\$ 18,241,667</b>	<b>\$ (193,396)</b>	<b>\$ 72,282,706</b>	<b>\$ 73,140,899</b>	<b>\$ (858,193)</b>
<b>NET REVENUES AFTER DEBT SERVICE</b>	<b><u>\$ 28,867,668</u></b>	<b><u>\$ 16,956,193</u></b>	<b><u>\$ 11,911,474</u></b>	<b><u>\$ 107,357,707</u></b>	<b><u>\$ 61,794,858</u></b>	<b><u>\$ 45,562,849</u></b>

The monthly Treasurer's Report is provided as interim information for management's use. It is prepared on a modified cash basis and has not been audited, nor should it be deemed final. For audited financial statements, please see CFX's Comprehensive Annual Financial Reports.

# E.3.

## Executive Director's Report

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## Executive Director Report December 2021

### TRANSPORTATION PARTNERSHIPS

#### Orlando Economic Partnership

CFX participated in the Orlando Economic Partnership Washington DC Transportation Advocacy Fly-In on November 17 and 18. USDOT officials, congress members and congressional staff shared information about the Bipartisan Infrastructure Law. CFX will be seeking TIFIA loans for large projects in the production pipeline. (More than \$260 million was saved through TIFIA for CFX's portions of the Wekiva Parkway.) Staff also advocated for more transit funding for Central Florida.

#### Orange County Public Schools

CFX has been working with Orange County Public Schools to develop a series of learning days focused on STEM careers. The first learning day is being scheduled in the spring and will focus on automated vehicle technology and will include tours of BEEP in Lake Nona and the Connected and Autonomous Vehicle Research Lab at the University of Central Florida.

### PROJECT UPDATES

#### Industry Forum

CFX will host an Industry Forum on Thursday, January 13th at 9:00am. The forum will be held in-person at CFX as well as virtually.

CFX continues to follow CDC recommendations for safe, in-person meetings we have a limit of 60 in person participants. We are asking each firm to limit their in-person attendance to 1 employee and ask others to join the forum virtually.

At this event, CFX will share the most current procurement schedules for upcoming capital projects (design, CEI and construction phases). Also included will be information on CFX's minority participation program and CFX's procurement process.

#### Sanford International Airport Direct Connect

CFX advertised for letters of interest on November 21 for a concept, feasibility and mobility study for the proposed SR 417 to the Sanford International Airport Connector. Responses are due on December 17. Approval for the contract award will be requested at the March 10 Board Meeting.

### SAFETY

HB 2221 has been filed by former CFX Board Member; now Florida House Representative Fred Hawkins, Jr. This bill would add eight Florida Highway Patrol officers to CFX's dedicated law enforcement troop. CFX reimburses Florida Highway Safety and Motor Vehicles for all costs associated with the Florida

Highway Patrol dedicated to the CFX system. The bill was passed in its first committee last week. A senate companion bill is expected to be filed in the coming weeks.

## CUSTOMER SERVICE

### ReLoad Service

Drive up customer service is rolling out across all cash lanes throughout the CFX system over the next 6 months. Customers can get a free E-PASS and add dollars to their account with cash, credit or debit card.

### Visitor Toll Pass Update

The new Visitor Toll Pass phone app and self-service dispensers make the program much easier to expand to other airports in the future. The smart alternative to costly rental car toll programs, Visitor Toll Pass is a FREE temporary toll pass for rental car customers traveling through the Orlando International Airport. With Visitor Toll Pass, rental car customers always pay the lowest toll rate throughout Florida with no hidden or extra fees.

## TRANSPORTATION INNOVATION

### Florida Automated Vehicle Summit

The Florida Automated Vehicle Summit was held November 29-December 1. CFX hosted the Summit in partnership with the Tampa Hillsborough Expressway Authority, Miami Dade Expressway Authority and Jacksonville Transportation Authority. Nearly 550 attendees attended the 9<sup>th</sup> Annual Summit – from elected officials advancing future-ready legislative policies, to engineers and developers exhibiting the latest and greatest in automated technology, to transportation professionals and students.

Dynamic demonstrations and exhibits were also a large part of the summit. We have received tremendous feedback on the success of the event. The 10<sup>th</sup> Annual FAV Summit will be hosted by the Jacksonville Transportation Authority in December 2022 at the Omni Resort Amelia Island.

## DASHBOARD

### Customer Service Call Center

CFX call center customer satisfaction scores continue to remain high with an average of 4.7 points on a 1 to 5 point scale. Call wait times for September averaged 52 seconds and call wait times for October averaged 15 seconds.

### Image Review Processing

All license plate images have been reviewed within 2 weeks for the past five months.

### ReLoad Customer Service Lane Activity

New customer accounts have been on the rise for August, September and October. The increase of new accounts opened in the Reload Lanes is a result of the soft launch of the Reload service in additional cash lanes at the Conway Plaza.

## MEETINGS AND PRESENTATIONS

October 14-15 TEAMFL  
October 15 Lake Nona Lift Station Workshop with the City of Orlando  
October 19 Southport Connector PD&E Public Information  
October 19 October ASHE Board  
October 22 University of Florida Transportation Institute External Advisory Board  
October 21 Calle Orange Festival E-PASS promo  
October 22 UCF Football Game E-PASS promo  
October 25 Orange County Public Schools/CFX STEM Program Planning  
October 26 ASPIRE Policy Committee  
October 26 ASHE Central Florida  
November 2 I-Drive Chamber Annual Meeting and 50th Anniversary Celebration  
November 4 Women in Tolling Council  
November 6-7 Lake Eola Fall Fiesta E-PASS promo  
November 8-10 APTA TRANSform Conference & EXPO  
November 10 MetroPlan Orlando Board  
November 12 Wekiva River Basin Commission  
November 18 Orlando Economic Partnership Transportation Advocacy  
November 18 Northeast Connector Ph. 1 PD&E Public Hearing  
Nov. 29-Dec.1 Florida Automated Vehicles Summit  
December 7 IBTTA Board of Directors

## 2045 MASTER PLAN PRESENTATIONS

November 9 Town of Oakland  
November 15 City of Oviedo  
November 16 City of Belle Isle  
December 2 City of Eustis  
December 2 East Orlando Chamber  
December 6 City of Winter Springs  
December 9 City of St. Cloud



# PERFORMANCE DASHBOARD

## SEPTEMBER 2021

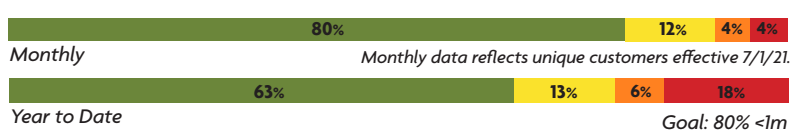
Fiscal year runs from July 1 - June 30

### CUSTOMER SERVICE

#### CALL CENTER | Average Customer Call Time

Call Center	Activity		Monthly Avg. Wait Time	
	Actual	6 mo. Avg	Actual	Target
Call Center	112,085	120,711	0:52	<1m

#### CALL CENTER: % MINUTE INTERVALS

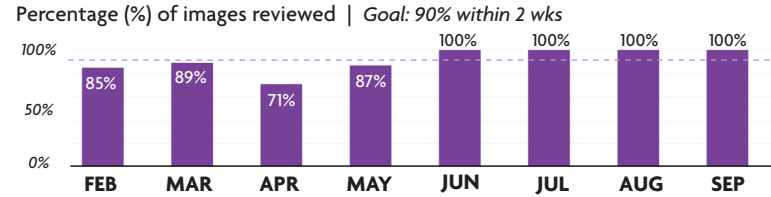


#### CALL CENTER | Satisfaction Survey (Rating Scale 1-5) | Goal: >4.5

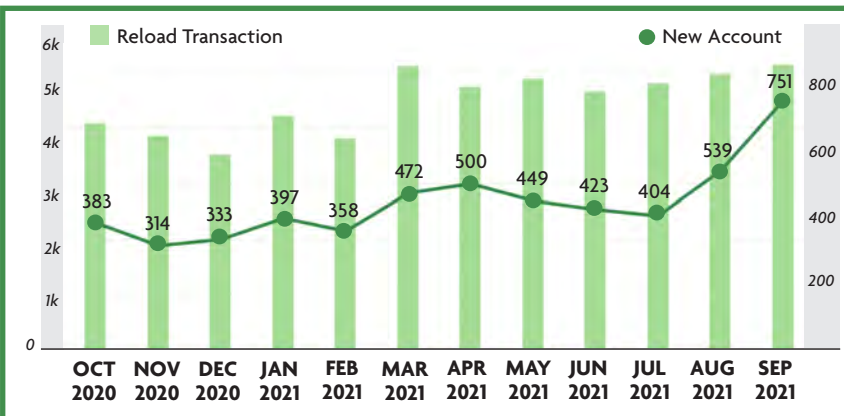
Agent Courtesy	4.8
Agent Knowledge	4.8
Easy to Resolve	4.7
Overall Call Experience	4.7
Satisfied with E-PASS	4.6
<b>Average</b>	<b>4.6</b>

Historical averages: JUN 4.6, JUL 4.6, AUG 4.7, SEP 4.7

#### IMAGE REVIEW PROCESS



### 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	\$107.0	\$87.5	45%	81%		Feb. 2023
SR 538 Widening, Ronald Reagan Pkwy to Cypress Pkwy	\$92.8	\$35.6	30%	38%		Nov. 2023
SR 417 Widening, International Dr. to John Young Pkwy	\$81.6	\$18.3	27%	22%		July 2023
SR 417 Widening, John Young Pkwy to Landstar Blvd.	\$116.8	\$18.4	21%	15%		Oct. 2023
SR 417 Widening, Landstar to Boggy Creek Rd.	\$77.8	\$249K	8%	2%		Dec. 2023
SR 417 Widening, Narcoossee Rd. to SR 528	\$92.2	\$23K	5%	1%		Feb. 2024

LEGEND: % Time - % Spent ≤ 10 (Green) 11-20 (Yellow) ≥ 21 (Red)

### FINANCIALS

#### FINANCIALS

FY to Date	Actual	Budget	VAR
Total Revenue	\$149.7	\$130.4	15%
OM&A Expenses	\$17.0	\$17.7	4%
Net Revenue	\$78.5	\$58.6	34%

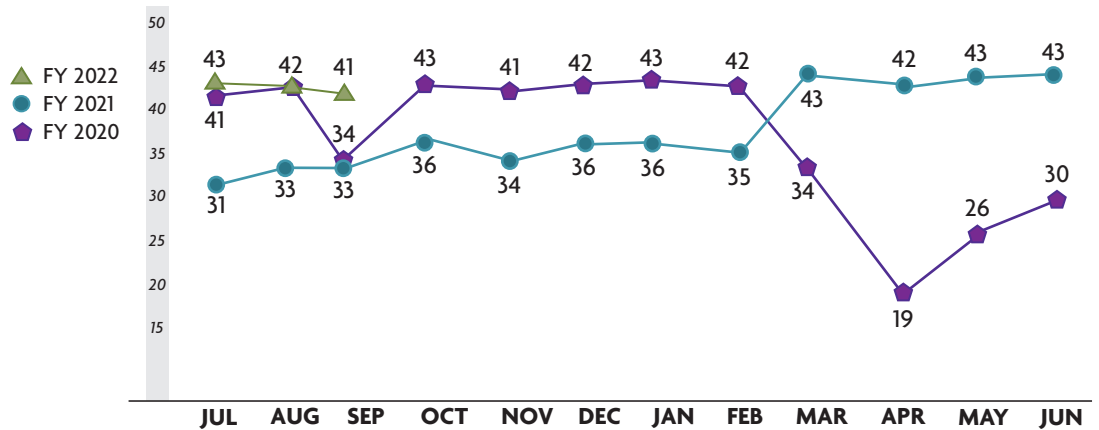
LEGEND: >= 0 (Green) -0.1 to -10 (Yellow) < -10.1 (Red)

#### DEBT SERVICE

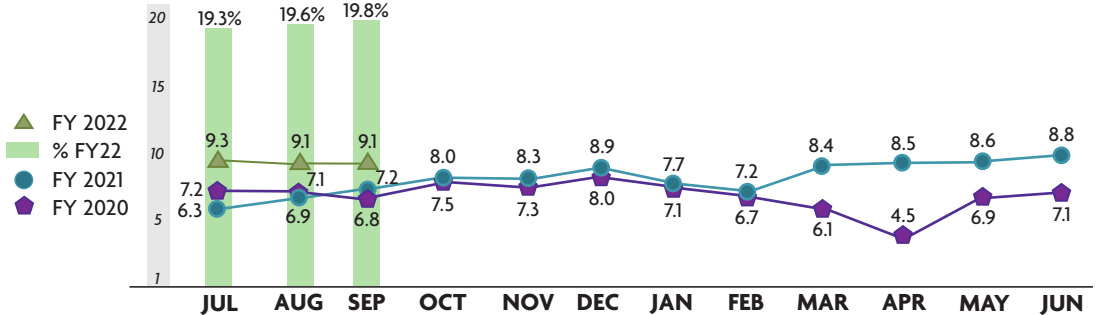
FY to Date	Actual	Budget
Senior Lien	2.20	2.12
Subordinate Lien	2.15	2.06

LEGEND: >= 1.45 (Green) 1.20 to 1.44 (Yellow) < 1.20 (Red)

#### TOTAL REVENUE TRANSACTIONS ON CFX SYSTEM (millions)



#### NUMBER AND % OF UNPAID IN LANE TRANSACTIONS (millions)







# PERFORMANCE DASHBOARD

## OCTOBER 2021

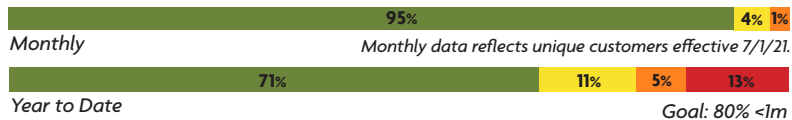
Fiscal year runs from July 1 - June 30

### CUSTOMER SERVICE

#### CALL CENTER | Average Customer Call Time

Call Center	Activity		Monthly Avg. Wait Time	
	Actual	6 mo. Avg	Actual	Target
Call Center	106,890	116,547	0:15	<1m

#### CALL CENTER: % MINUTE INTERVALS



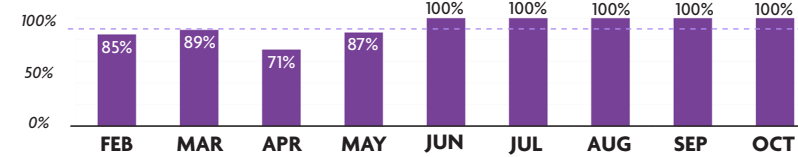
#### CALL CENTER | Satisfaction Survey (Rating Scale 1-5) | Goal: >4.5

Agent Courtesy	4.8
Agent Knowledge	4.7
Easy to Resolve	4.7
Overall Call Experience	4.7
Satisfied with E-PASS	4.6
<b>Average</b>	<b>4.6</b>

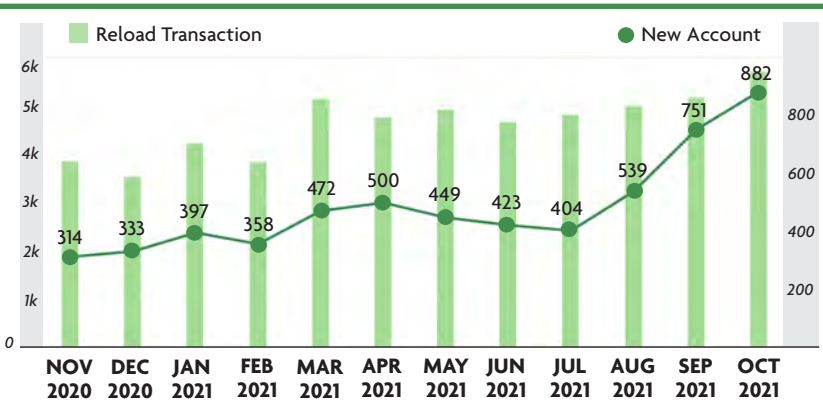
Historical averages: JUN 4.6, JUL 4.6, AUG 4.7, SEP 4.7, OCT 4.7

#### IMAGE REVIEW PROCESS

Percentage (%) of images reviewed | Goal: 90% within 2 wks



### 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	\$107.0	\$91.0	48%	85%	Green	Feb. 2023
SR 538 Widening, Ronald Reagan Pkwy to Cypress Pkwy	\$92.8	\$40.0	33%	43%	Green	July 2023
SR 417 Widening, International Dr. to John Young Pkwy	\$81.6	\$20.2	31%	25%	Green	July 2023
SR 417 Widening, John Young Pkwy to Landstar Blvd.	\$116.8	\$24.0	25%	20%	Green	Oct. 2023
SR 417 Widening, Landstar to Boggy Creek Rd.	\$77.8	\$5.4	12%	7%	Green	Dec. 2023
SR 417 Widening, Narcoossee Rd. to SR 528	\$92.2	\$1.9	9%	2%	Green	Feb. 2024

LEGEND: % Time - % Spent ≤ 10 Green 11-20 Yellow ≥ 21 Red

### FINANCIALS

#### FINANCIALS

FY to Date	Actual	Budget	VAR
Total Revenue	\$203.1	\$174.4	16%
OM&A Expenses	\$23.5	\$25.0	6%
Net Revenue	\$107.4	\$77.2	39%

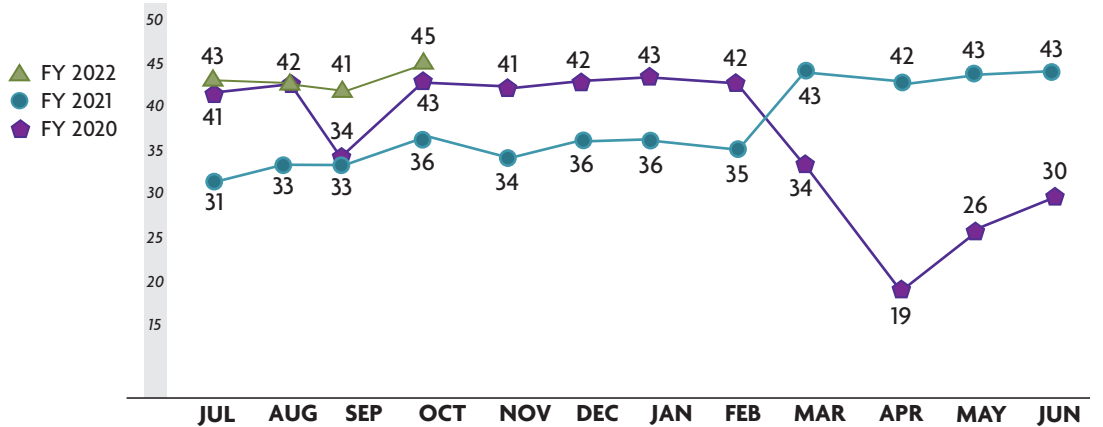
LEGEND: >= 0 Green -0.1 to -10 Yellow < -10.1 Red

#### DEBT SERVICE

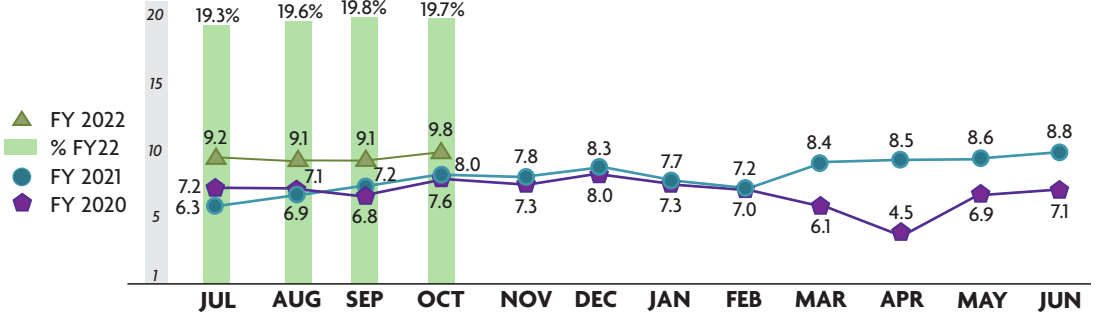
FY to Date	Actual	Budget
Senior Lien	2.25	2.12
Subordinate Lien	2.19	2.06

LEGEND: >= 1.45 Green 1.20 to 1.44 Yellow < 1.20 Red

#### TOTAL REVENUE TRANSACTIONS ON CFX SYSTEM (millions)



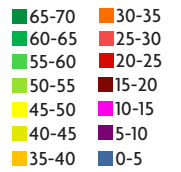
#### NUMBER AND % OF UNPAID IN LANE TRANSACTIONS (millions)



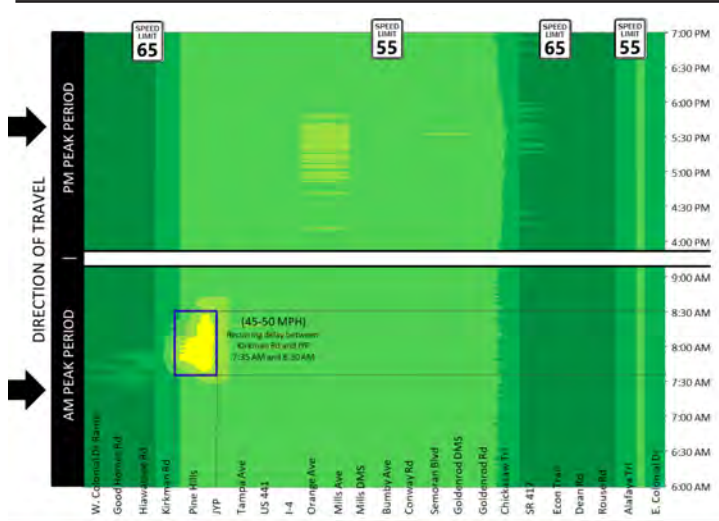
# TRAFFIC CONGESTION HEAT MAPS

A Quarterly Update  
July - September 2021

Map Scale in Miles Per Hour



## SR 408 Eastbound

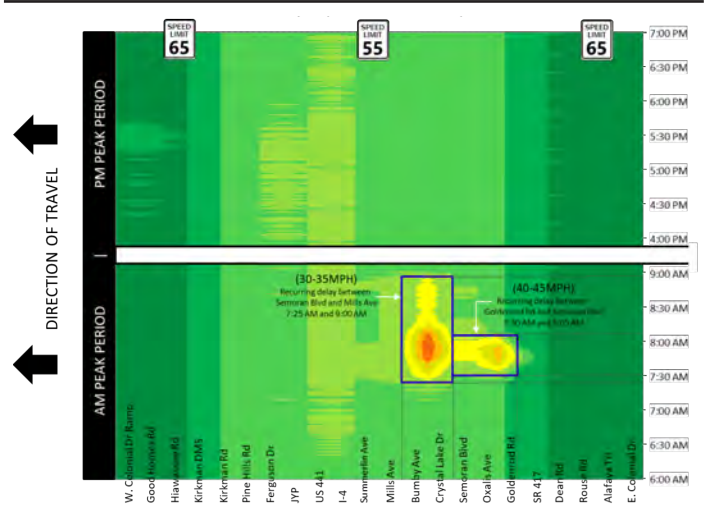


1

**Projects:**

1. (AM) Monitoring monthly - friction due to transition from 4 lanes to 3 lanes between *Kirkman Road* and *Ortman Drive*.

## SR 408 Westbound



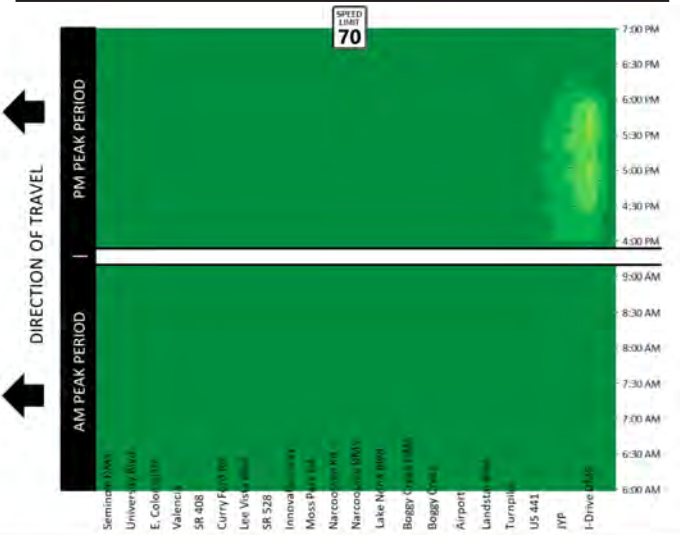
1

2

**Projects:**

1. (AM) Monitoring monthly – friction due to westbound SR 408 transitioning from 5 lanes to 4 lanes between *Crystal Lake Drive* and *Bumby Avenue*.
2. (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

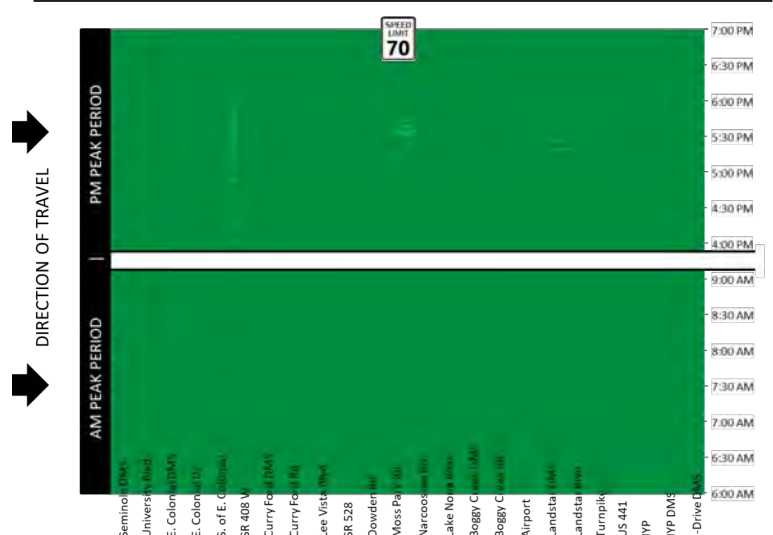


1

**Projects:**

1. (PM) Construction underway – minor congestion reported, widen SR 417 from *International Drive* to *John Young Parkway*. Construction completion 2023.

## SR 417 Southbound



**Projects:**

No peak hour congestion reported.

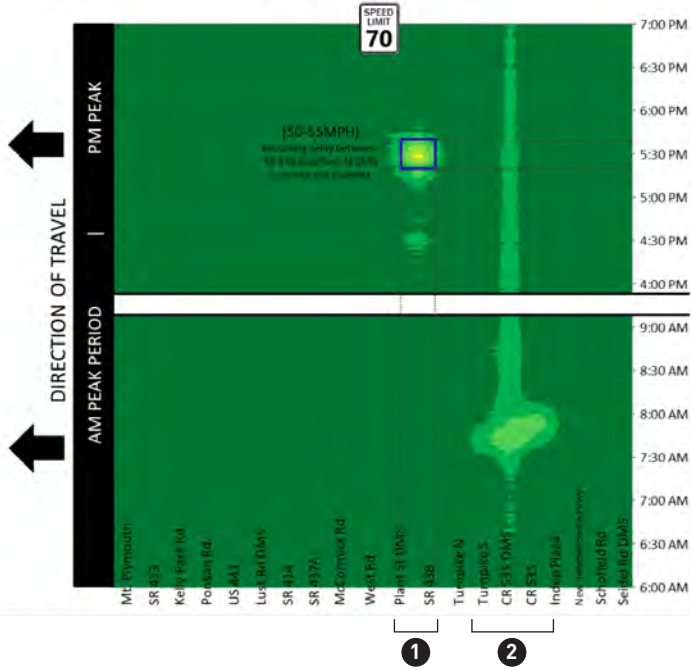
# TRAFFIC CONGESTION HEAT MAPS

A Quarterly Update  
July - September 2021

**Map Scale in Miles Per Hour**

65-70	30-35
60-65	25-30
55-60	20-25
50-55	15-20
45-50	10-15
40-45	5-10
35-40	0-5

**TOLL 429 SR 429 Northbound**



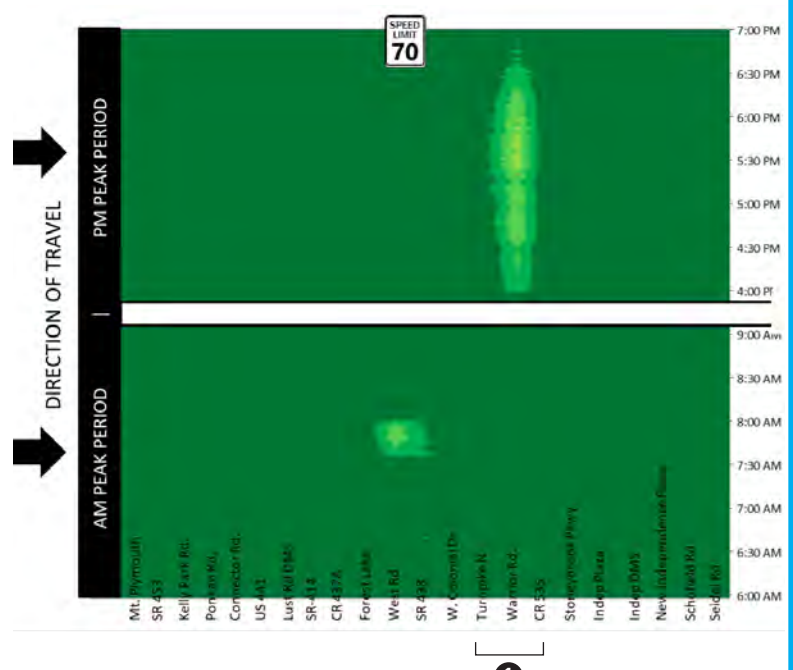
1

2

**Projects:**

1. (PM) Design underway - widen SR 429 from Florida's Turnpike to West Road. Construction completion 2024.
2. Design underway - minor congestion reported, widen SR 429 from CR 535 to Florida's Turnpike. Construction completion 2024.

**TOLL 429 SR 429 Southbound**

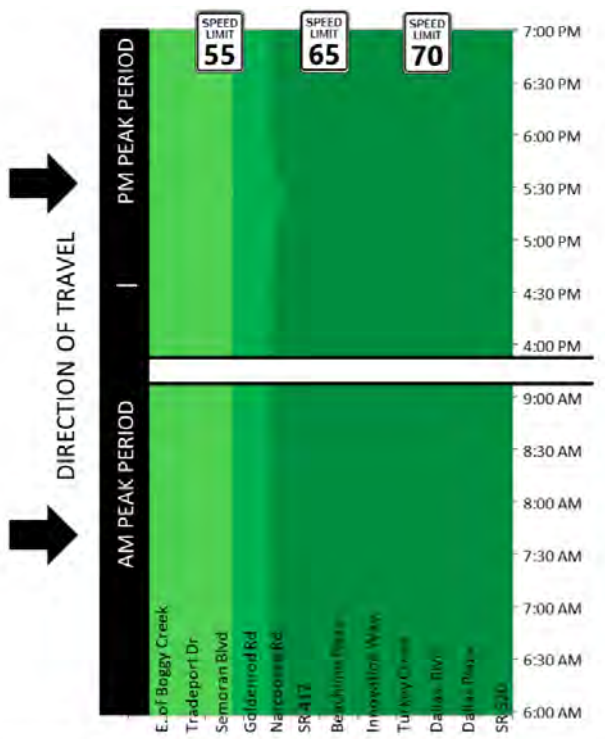


1

**Projects:**

1. (PM) Design underway - minor congestion reported, widen SR 429 from CR 535 to Florida's Turnpike. Construction completion 2024.

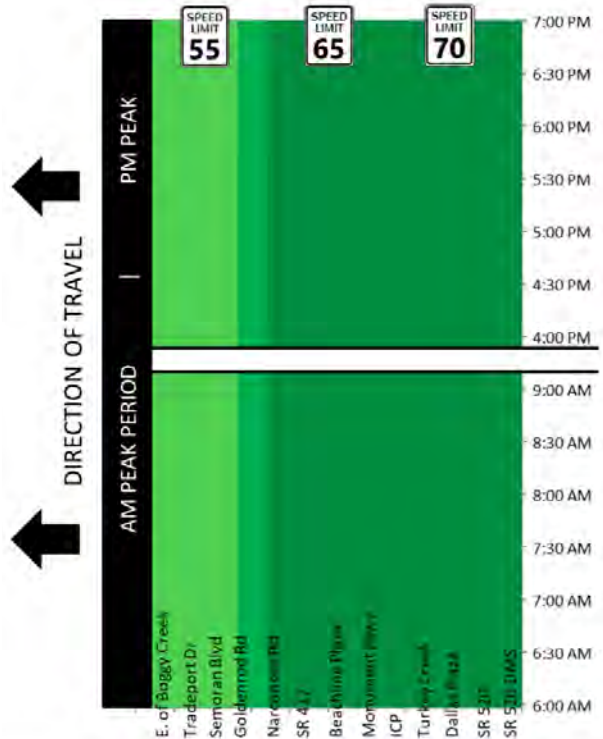
**TOLL 528 SR 528 Eastbound**



**Projects:**

No peak hour congestion reported.

**TOLL 528 SR 528 Westbound**



**Projects:**

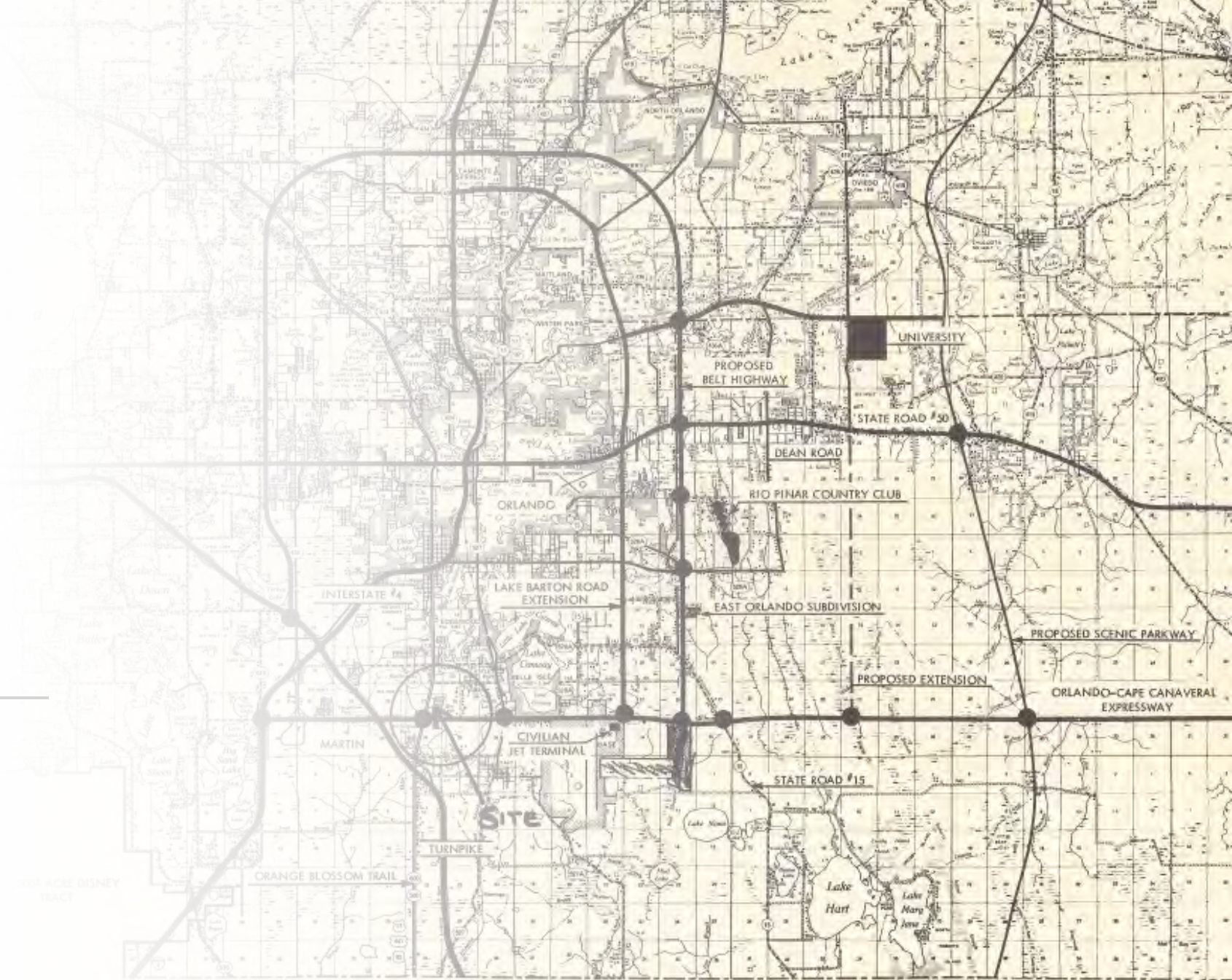
No peak hour congestion reported.





# Planning and Building a Community

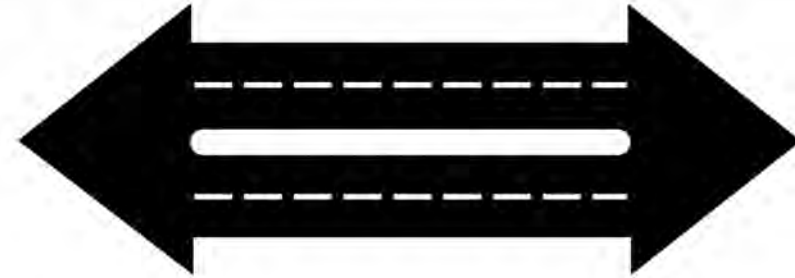
---





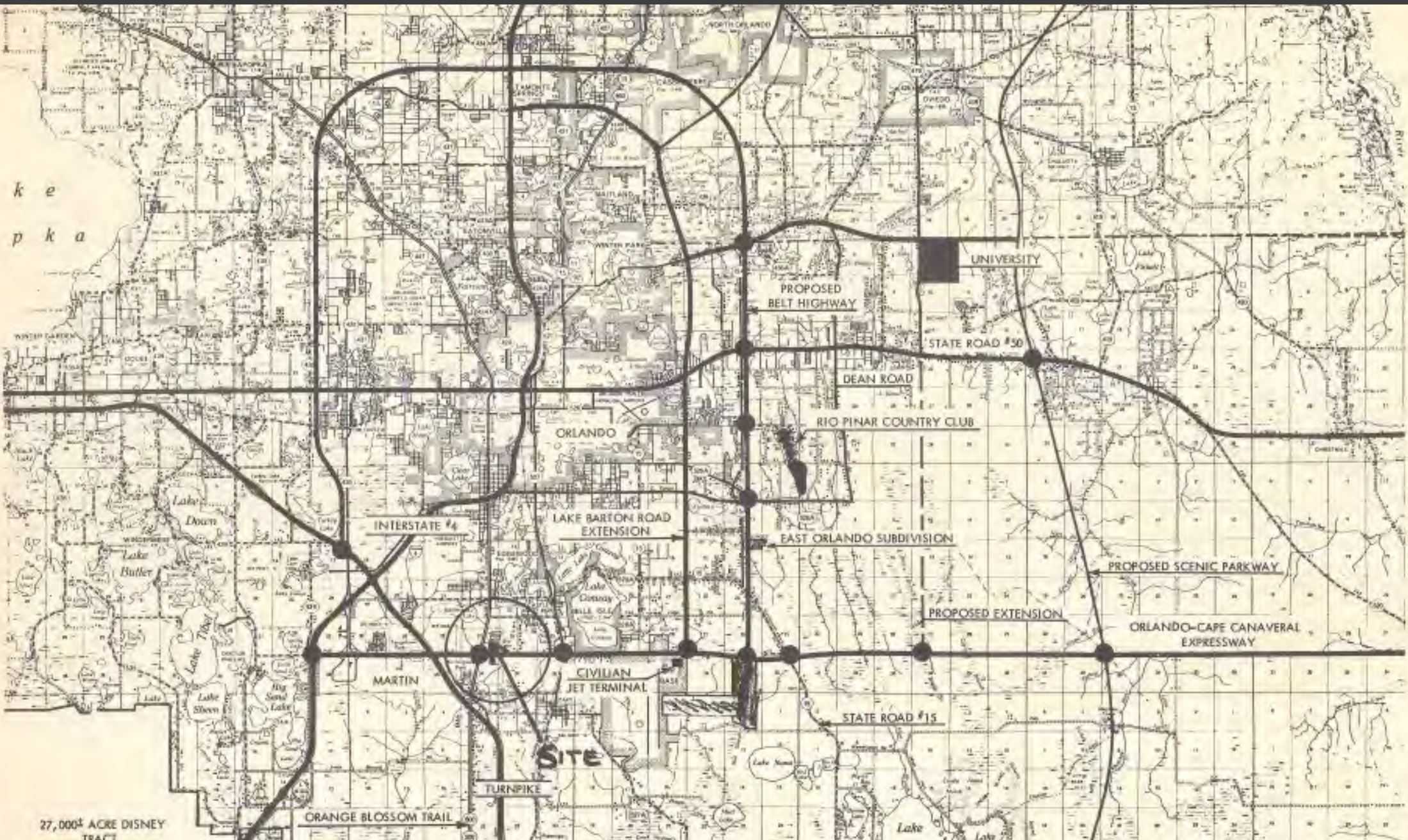
# Planning and Building a Community

---



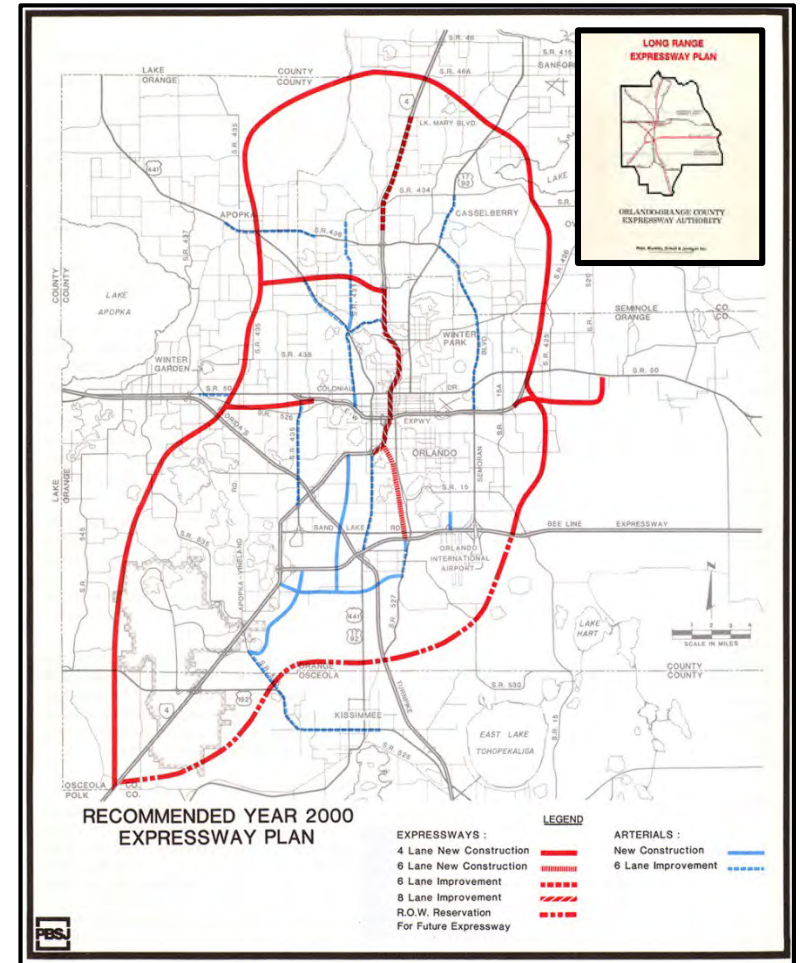
## **ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY**





k e  
p k a

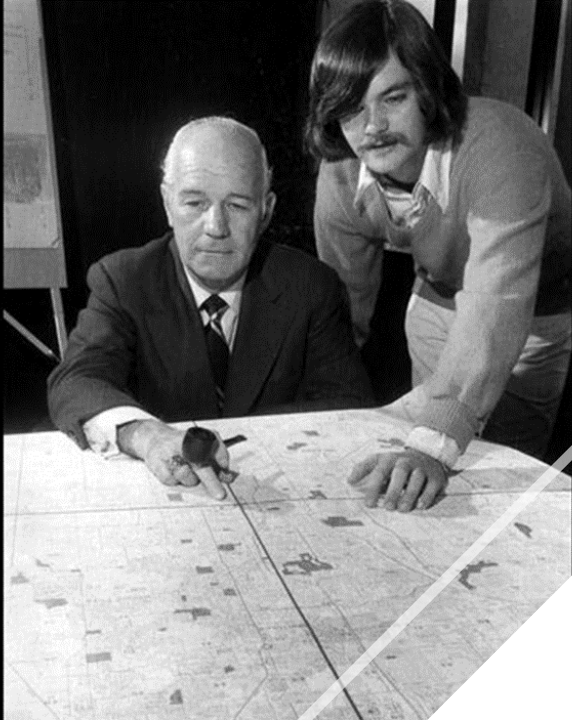
27,000<sup>±</sup> ACRE DISNEY TRACT



1969 Orlando Urban Area Transportation Plan

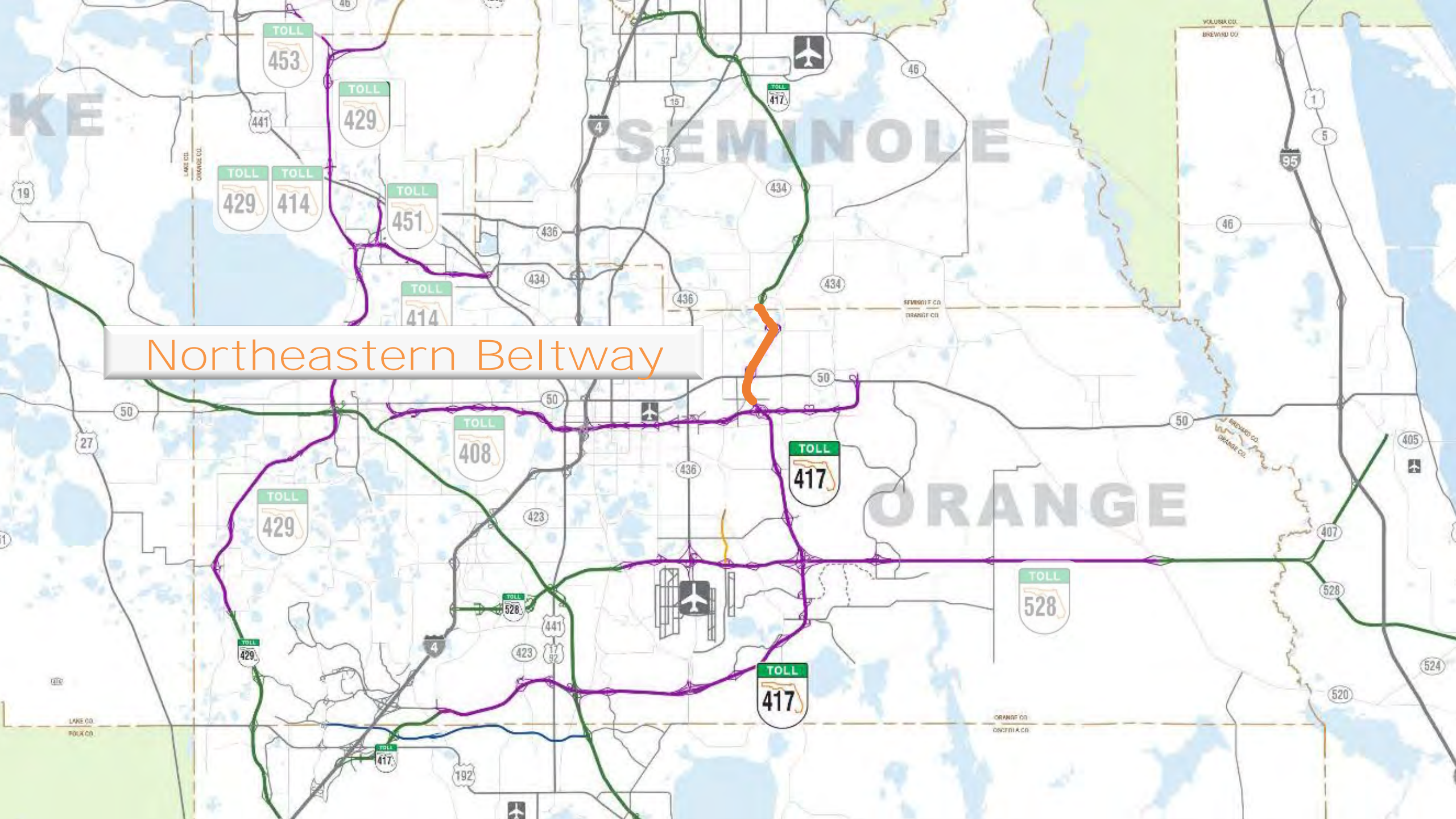
1983 Expressway Authority Long Range Expressway Plan



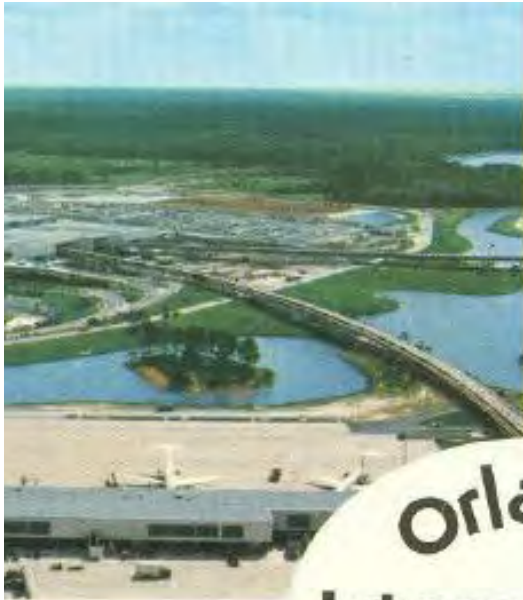


University of Central  
Florida

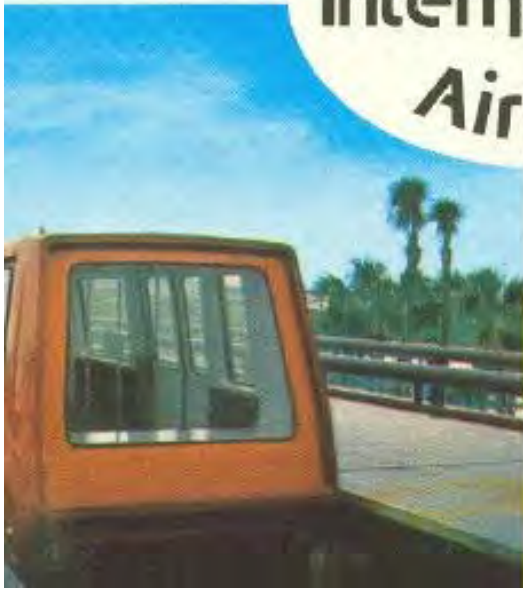


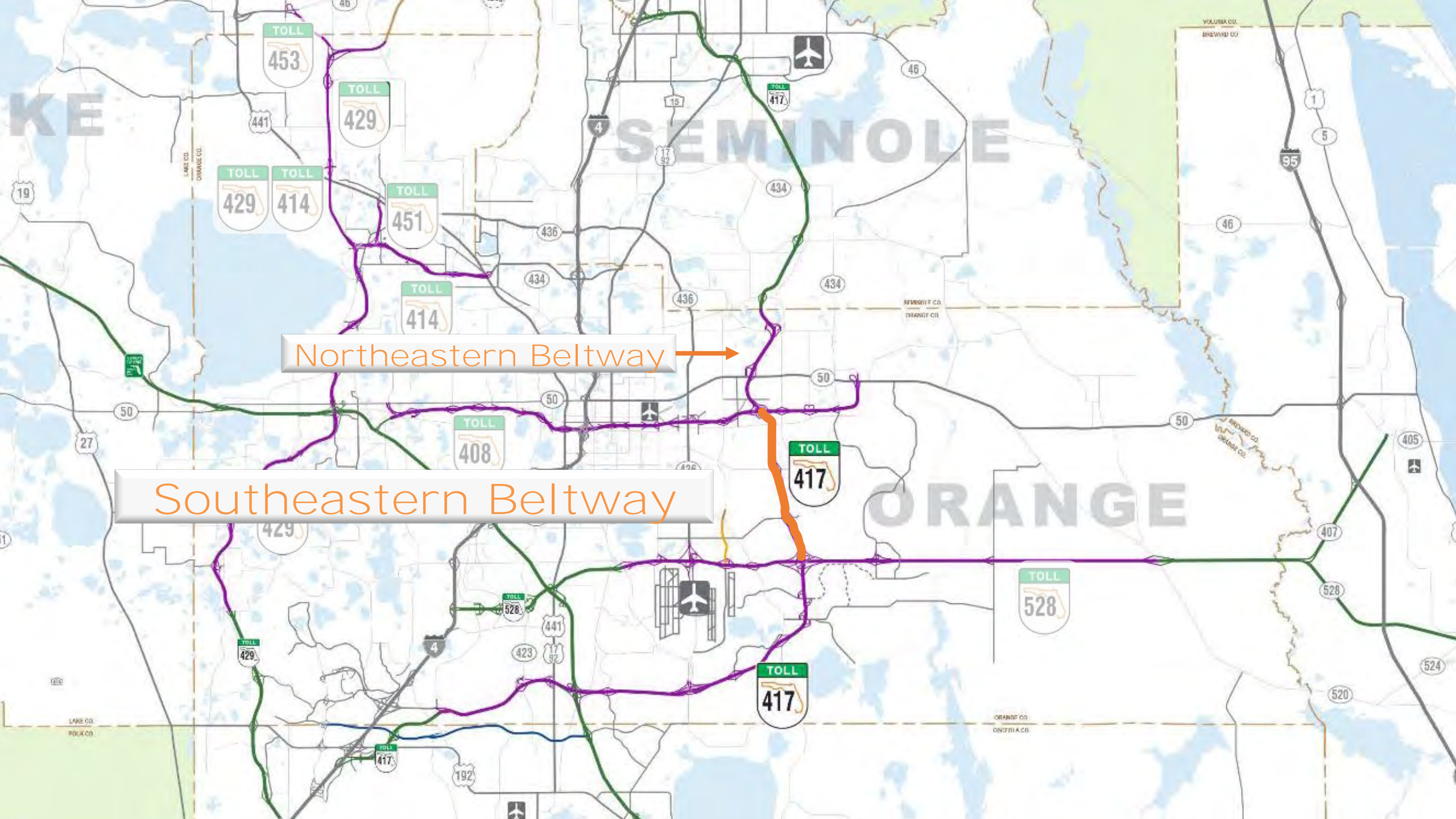


Northeastern Beltway



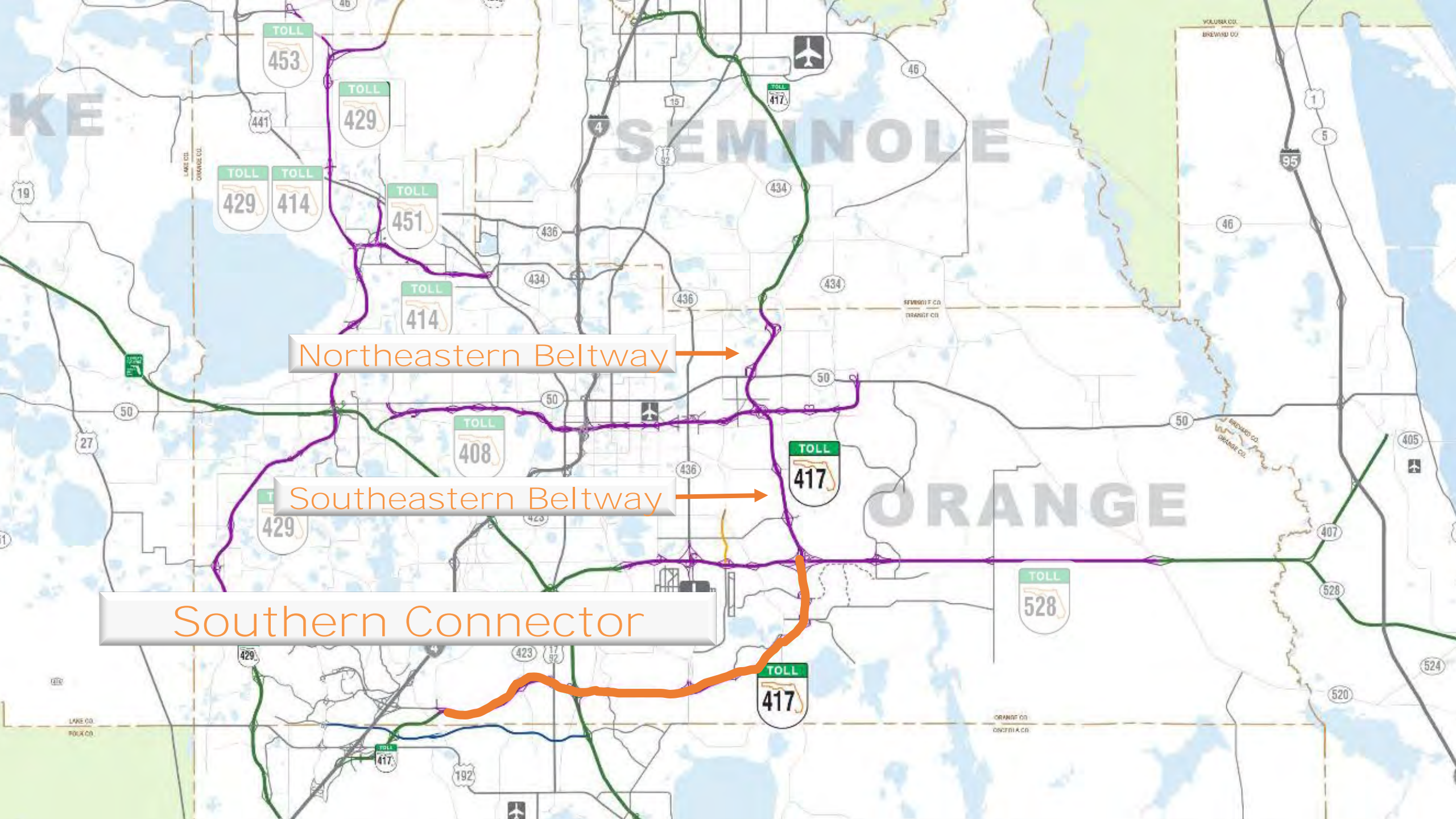
Orlando  
International  
Airport





Northeastern Beltway →

Southeastern Beltway



Northeastern Beltway →

Southeastern Beltway →

Southern Connector



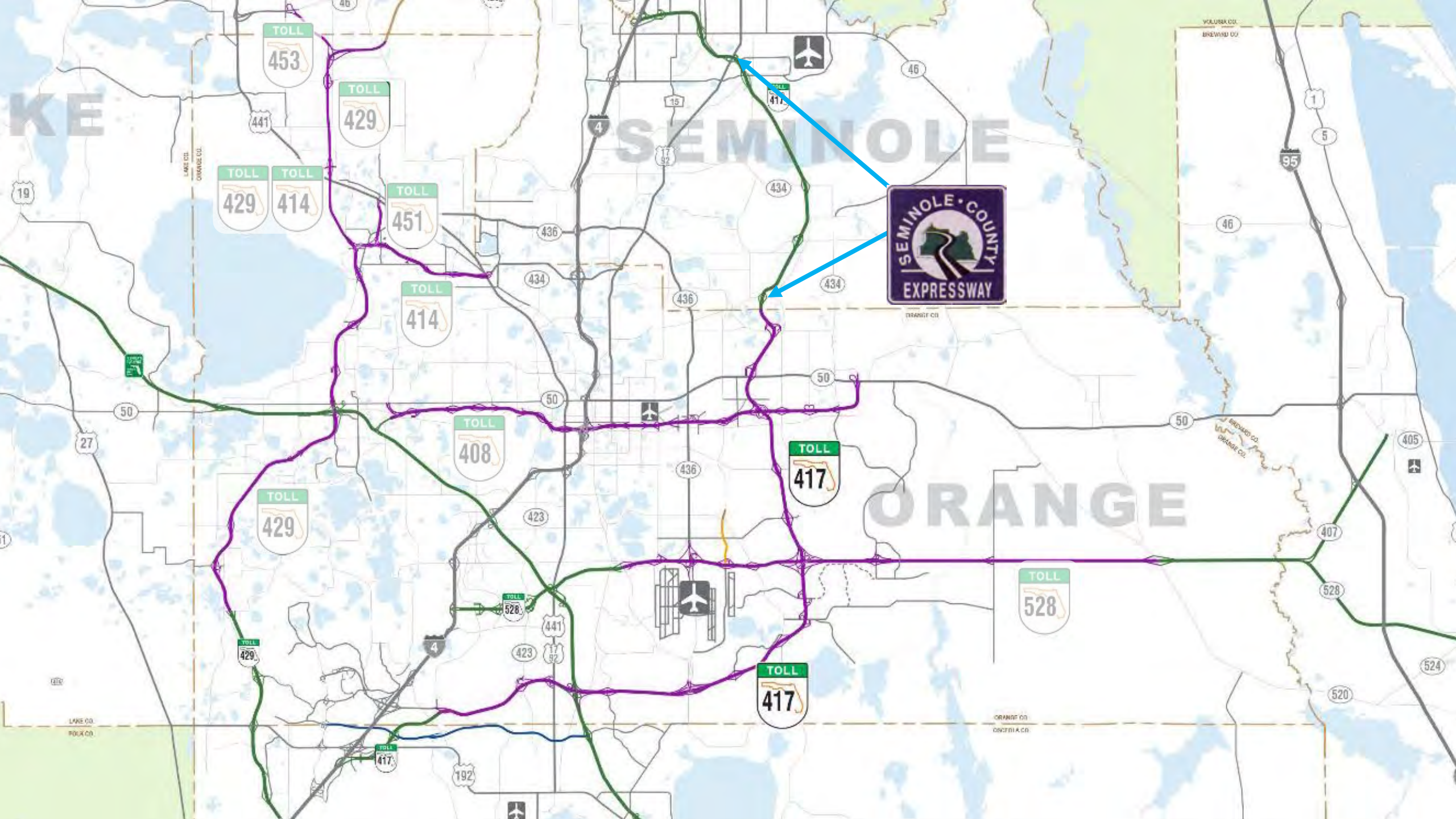
# GREENEWAY

OPENING CELEBRATION



*Sponsors*

- Martin K. Eby Construction Co., Inc.
- Post, Buckley, Schuh & Jernigan, Inc.
- ZHA Incorporated
- Hubbard Construction Company
- Beiswenger Hoch and Associates, Inc.
- Dura-Stress, Inc.
- Greiner, Inc.
- Public Financial Management, Inc.
- Dyer, Riddle, Mills & Precourt, Inc.
- Science Applications International Corporation
- 3M Traffic Control Materials Division
- Syntonic Technology, Inc.
- PaineWebber Incorporated
- GAI Consultants-Southeast, Inc.
- Moreland Altobelli Associates, Inc.
- Dayco-Astaldi Construction Corporation of
- Mitsubishi Heavy Industries
- Wilbur Smith Associates

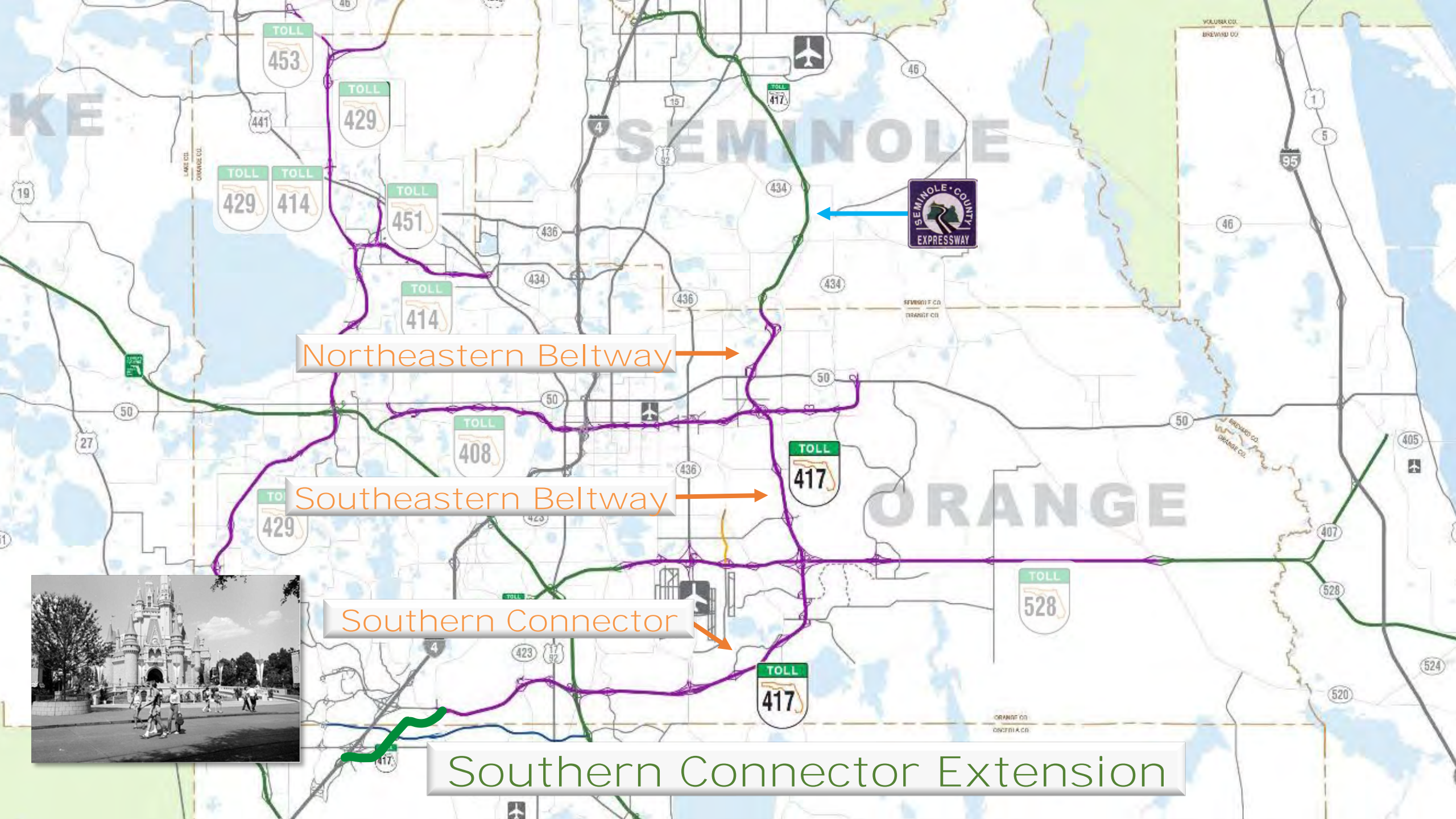


KE

SEMINOLE

ORANGE





Northeastern Beltway

Southeastern Beltway

Southern Connector

Southern Connector Extension



TOLL 453  
TOLL 429  
TOLL 414  
TOLL 429  
TOLL 414

TOLL 451

TOLL 414

TOLL 408

TOLL 417

TOLL 417

TOLL 528



Seminole Expressway Extension

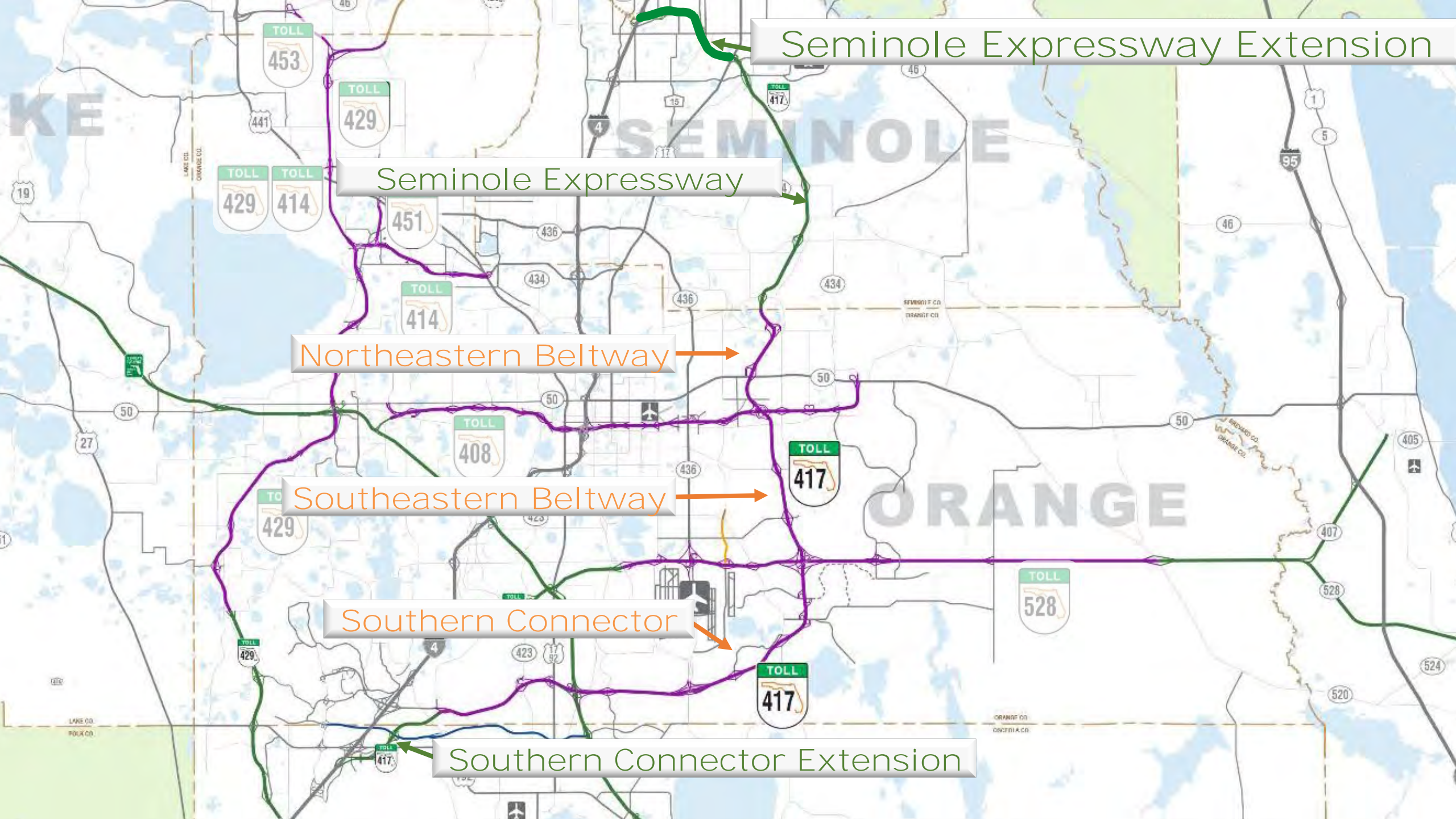
Seminole Expressway

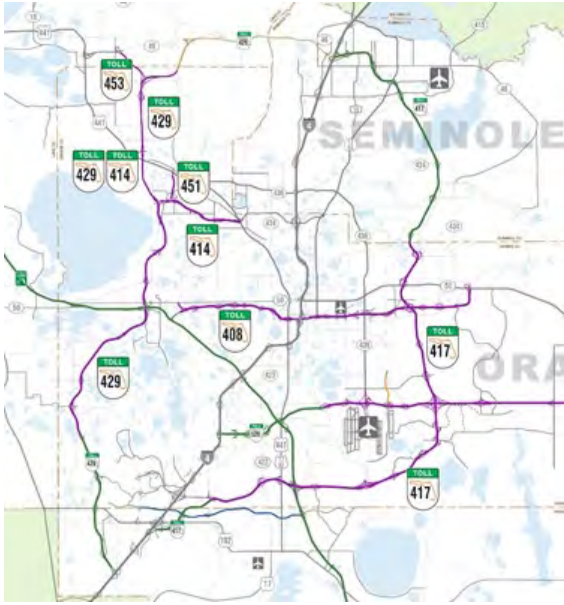
Northeastern Beltway

Southeastern Beltway

Southern Connector

Southern Connector Extension





TODAY'S OUTER BELTWAY

---

F.

Regular Agenda Items

**F. 1.**

**This item was  
removed from  
the agenda at  
the board  
meeting.**

**F. 2.**

The logo for the Central Florida Expressway Authority is centered in the upper half of the image. It consists of a white rectangular box with two horizontal orange bars, one above and one below the text. The text is arranged in four lines: 'CENTRAL' in black, 'FLORIDA' in black, 'EXPRESSWAY' in orange, and 'AUTHORITY' in black. The background of the entire slide is a photograph of a multi-level highway interchange with concrete pillars and green-painted beams, reflected in a body of water under a clear blue sky.

**CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY**

**FY 2021 FINANCIAL STATEMENTS**

Michael Carlisle, Director of Accounting and Finance

**— December 9, 2021 —**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Required Auditor Communications  
Fiscal Year Ended June 30, 2021

Presented by:  
Joel A. Knopp, CPA  
Shareholder





# Audit Overview



# Required Communications

- No significant findings or difficulties encountered
- No corrected or uncorrected misstatements noted
- No “second opinion” consultations with other accountants
- No new accounting standards were implemented
- Management representations were received

# Services and Deliverables

- **Auditor's Report on Financial Statements (Pages 1 – 2)**
  - Unmodified Opinion
- **Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters (Pages 53 – 54)**
  - No internal control findings related to financial reporting and no compliance findings

# Services and Deliverables *(cont.)*

- **Auditor's Report on Compliance with Bond Covenants (Page 55)**
  - No compliance findings
- **Accountant's Examination Report on Investment Compliance (Page 56)**
  - No compliance findings
- **Management Letter (Pages 57 – 58)**
  - No management letter comments

# Financial Highlights



# Financial Highlights - Overview

(in thousands)

	Year Ended 6/30/21	Year Ended 6/30/20
Total Assets and Deferred Outflows	\$ 6,744,000	\$ 6,668,000
Total Liabilities and Deferred Inflows	\$ 3,855,000	\$ 4,007,000
Net Position	\$ 2,889,000	\$ 2,661,000
Operating Revenue	\$ 507,000	\$ 467,000
Operating Expenses	\$ 144,000	\$ 150,000
Operating Income	\$ 363,000	\$ 317,000
Change in Net Position	\$ 228,000	\$ 204,000
% Incr (Decr) in Operating Revenue	8.6%	(1.9%)
% Incr (Decr) in Operating Expense	(4.0%)	10.4%



# Financial Highlights - Balance Sheets

(in thousands)

	2021	2020
Unrestricted Assets	\$ 609,000	\$ 430,000
Restricted Assets	558,000	743,000
Capital Assets	5,271,000	5,102,000
Deferred Outflows of Resources	<u>306,000</u>	<u>393,000</u>
Total Assets and Deferred Outflows	<u>\$ 6,744,000</u>	<u>\$ 6,668,000</u>
Revenue Bonds Outstanding	3,469,000	3,398,000
Other Liabilities	381,000	603,000
Deferred Inflows of Resources	<u>5,000</u>	<u>6,000</u>
Total Liabilities and Deferred Inflows	3,855,000	4,007,000
Total Net Position	<u>2,889,000</u>	<u>2,661,000</u>
Total Liabilities, Deferred Inflows, and Net Position	<u>\$ 6,744,000</u>	<u>\$ 6,668,000</u>



# Financial Highlights - Operation Overview

(in thousands)

	2021	2020
Operating Revenues	\$ 507,000	\$ 467,000
Investment and Other Income	<u>6,000</u>	<u>23,000</u>
Total Revenues	<u>513,000</u>	<u>490,000</u>
Operating Expenses	144,000	150,000
Interest Expense	141,000	134,000
Other Expense	<u>-</u>	<u>2,000</u>
Total Expenses	<u>285,000</u>	<u>286,000</u>
Change in Net Position	228,000	204,000
Net Position, Beginning of Year	<u>2,661,000</u>	<u>2,457,000</u>
Net Position, End of Year	<u>\$ 2,889,000</u>	<u>\$ 2,661,000</u>
Debt Service Ratio	2.03	2.02





# Recommended Motion

Acceptance of Fiscal Year 2021 Financial Statements.

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

**Financial Statements and  
Supplementary Information**

**For Years Ended June 30, 2021 and 2020**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## Table of Contents

	<u>Page</u>
Independent Auditor's Report.....	1 - 2
Management's Discussion and Analysis.....	3 - 10
<b>BASIC FINANCIAL STATEMENTS</b>	
Balance Sheets.....	11 - 12
Statements of Revenues, Expenses and Changes in Net Position.....	13
Statements of Cash Flows.....	14 - 15
Notes to Financial Statements.....	16 - 48
<b>REQUIRED SUPPLEMENTARY INFORMATION</b>	
Trend Data on Infrastructure Condition.....	49
Schedule of CFX's Proportionate Share of the Net Pension Liability – Florida Retirement System (FRS) and Retiree Health Insurance Subsidy (HIS) Program.....	50
Schedule of CFX Contributions – Florida Retirement System (FRS) and Retiree Health Insurance Subsidy (HIS) Program.....	51
<b>OTHER SUPPLEMENTARY INFORMATION</b>	
Calculation of the Composite Debt Service Ratio, as Defined by the Bond Resolutions and Related Documents.....	52
<b>REPORTS ON COMPLIANCE AND INTERNAL CONTROL</b>	
Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i> .....	53 - 54
Independent Auditor's Report on Compliance with Bond Covenants.....	55
Independent Accountant's Report.....	56
Management Letter.....	57 - 58



## INDEPENDENT AUDITOR'S REPORT

To the Members of the  
Central Florida Expressway Authority  
Orlando, Florida

### **Report on the Financial Statements**

We have audited the accompanying financial statements of the Central Florida Expressway Authority ("CFX") as of and for the years ended June 30, 2021 and 2020, and the related notes to the financial statements, which collectively comprise CFX's basic financial statements, as listed in the table of contents.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### ***Auditor's Responsibility***

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### ***Opinion***

In our opinion, the financial statements referred to in the first paragraph present fairly, in all material respects, the financial position of CFX as of June 30, 2021 and 2020, and the changes in its financial position and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

To the Members of the  
Central Florida Expressway Authority

***Other Matters***

*Required Supplementary Information*

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis, trend data on infrastructure condition information, and pension schedules, as listed in the table of contents, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audits of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

*Supplementary Information*

Our audits were conducted for the purpose of forming an opinion on the financial statements that collectively comprise CFX's basic financial statements. The calculation of composite debt service ratio, as listed in the table of contents, is presented for purposes of additional analysis and is not a required part of the financial statements. This information is the responsibility of management and was derived from, and relates directly to, the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audits, of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated, in all material respects, in relation to the financial statements as a whole.

**Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated October 27, 2021, on our consideration of CFX's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering CFX's internal control over financial reporting and compliance.

***MSL, P.A.***

Certified Public Accountants

Orlando, Florida  
October 27, 2021

## MANAGEMENT'S DISCUSSION AND ANALYSIS

As financial management of the Central Florida Expressway Authority (CFX), we offer readers of these financial statements this narrative overview and analysis of the financial activities of CFX for the fiscal years ended June 30, 2021 and 2020. This discussion and analysis is designed to assist the reader in focusing on the significant financial issues and activities and to identify any significant changes in financial position. We encourage readers to consider the information presented here in conjunction with the financial statements as a whole.

### Financial Highlights

Operating income for CFX was \$363,298,000 (an increase of 15%) and \$317,094,000 (a decrease of 7%) for fiscal years 2021 and 2020, respectively. The increase in operating income in fiscal year 2021 is primarily due to higher toll traffic. The decrease in operating income in fiscal year 2020 is primarily due to a decrease in toll traffic which was part of the fallout from restrictions created by the COVID-19 virus that plagued the global economy, and an increase to preservation expenses.

Net income produced an increase in net position of \$227,906,000 and \$203,751,000 for fiscal years 2021 and 2020, respectively. The term "net position" refers to the difference of assets and deferred outflows less liabilities and deferred inflows. At the close of fiscal year 2021, CFX had a net position of \$2,888,556,000, an increase of 9% over fiscal year 2020. At the close of fiscal year 2020, CFX had a net position of \$2,660,650,000, an increase of 8% over fiscal year 2019. CFX's overall financial position has improved, as shown by the increase in net position.

### Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to CFX's financial statements, which is comprised of the basic financial statements and the notes to the financial statements, and supplementary information presented. Since CFX is comprised of a single enterprise fund, fund level financial statements are not shown.

**Basic financial statements** - The basic financial statements are designed to provide readers with a broad overview of CFX's finances, in a manner similar to a private-sector business.

The balance sheets present information on all CFX's assets and deferred outflows and liabilities and deferred inflows, with the difference between them reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial condition of CFX is improving or deteriorating. Net position increases when revenues exceed expenses. Increases to assets without a corresponding increase to liabilities results in increased net position, which indicates an improved financial condition.

The statements of revenues, expenses and changes in net position present information showing how a government's net position changed during the fiscal year. All changes in net position are reported as soon as the underlying event occurs, regardless of timing of related cash flows. Thus, revenues and expenses are reported in these statements for some items that will only result in cash flows in future fiscal periods (e.g., earned but unused vacation leave).

**Notes to the financial statements** - The notes provide additional information that is essential to a full understanding of the data provided in the basic financial statements.

**Other information** - In addition to the basic financial statements and accompanying notes, this report also presents certain *supplementary information* concerning CFX's composite debt service ratio, as defined by the bond resolutions, as well as trend data on infrastructure condition and pension schedules.

## **Financial Analysis**

Net position may serve, over time, as a useful indicator of a government's financial position. In the case of CFX, assets and deferred outflows exceeded liabilities and deferred inflows by \$2,888,556,000 at the close of the most recent fiscal year. This represents an increase of \$227,906,000 (9%) over the previous year, which is attributable to operations. Unrestricted net position increased from \$567,069,000 at June 30, 2020 to \$744,567,000 at June 30, 2021, an increase of \$177,498,000 (31%). This increase was also due to operations and funding CFX's capital plan with bond construction funds.

By far, the largest portion of CFX's net position reflects its investment in capital assets (e.g., right-of-way, roads, bridges, buildings, toll equipment, etc.), less any related debt used to acquire those assets that is still outstanding. CFX uses these capital assets to provide service and, consequently, these assets are not available for liquidating liabilities or for other spending.

Of the \$5,271,214,000 in capital assets, net of accumulated depreciation, \$39,998,000 represents the roadway, toll plaza and equipment on the Goldenrod Road Extension. This project, which opened to traffic in March 2003, was jointly funded by CFX, the Greater Orlando Aviation Authority, the City of Orlando, Orange County, Florida, and private developers, with CFX serving as the lead agency on the project. The Goldenrod Road Extension extends from the previous terminus of Goldenrod Road at Narcoossee Road south to Cargo Road. This facility intersects SR 528 (Martin B. Andersen Beachline Expressway), east of the Orlando International Airport, at a system interchange. Each partner contributing to this project will be repaid through toll revenues generated by this road. After all operational expenses are met and the partners are reimbursed for their contributions, the toll plaza will be demolished, and the roadway will be transferred to the City of Orlando. CFX will retain ownership of the interchange to SR 528 and certain portions of the right-of-way. Since this project is a non-system project, it is accounted for on a single line in the statements of revenues, expenses and changes in net position, in the non-operating revenues (expenses) section. The toll revenue on this non-system project is not pledged to CFX's bond indebtedness.

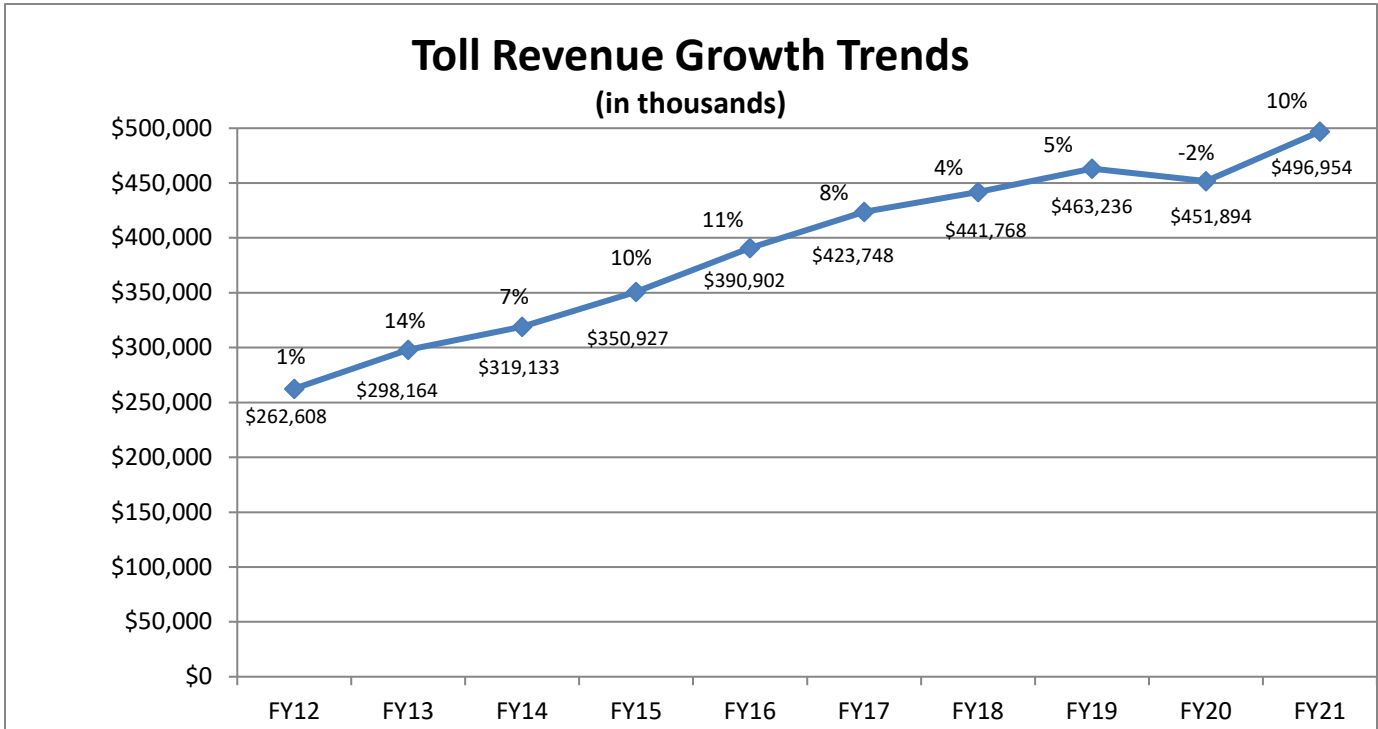
## Central Florida Expressway Authority's Net Position

	June 30,		
	2021	2020	2019
	(in thousands)		
Current and other assets	\$ 798,296	\$ 608,923	\$ 447,334
Non-current restricted assets	368,481	563,838	236,992
Capital assets	5,271,214	5,101,819	4,831,730
Total assets	<u>6,437,991</u>	<u>6,274,580</u>	<u>5,516,056</u>
Deferred outflows of resources	306,065	392,764	356,066
Total assets and deferred outflows	<u>6,744,056</u>	<u>6,667,344</u>	<u>5,872,122</u>
Current liabilities:			
Payable from unrestricted assets	57,994	56,176	58,415
Payable from restricted assets	188,927	179,062	134,743
Revenue bonds outstanding (net of current portion)	3,389,071	3,325,414	2,738,514
Other long-term liabilities	214,419	440,336	477,510
Total liabilities	<u>3,850,411</u>	<u>4,000,988</u>	<u>3,409,182</u>
Deferred inflows of resources	5,089	5,706	6,041
Total liabilities and deferred inflows	<u>3,855,500</u>	<u>4,006,694</u>	<u>3,415,223</u>
Net position:			
Net investment in capital assets	2,126,023	2,064,051	1,922,707
Restricted	17,966	29,530	39,106
Unrestricted	744,567	567,069	495,086
Total net position	<u>\$ 2,888,556</u>	<u>\$ 2,660,650</u>	<u>\$ 2,456,899</u>



CFX's toll revenues increased 10% and decreased 2% during the fiscal years ended June 30, 2021 and 2020, respectively. The decrease in fiscal year 2020 was caused by restrictions put in place due to the global pandemic.

Toll revenue represents approximately 98% of all operating revenues. CFX's toll revenue annual growth rate has averaged 7% over the last 10 years.



## Central Florida Expressway Authority's Changes in Net Position

### Central Florida Expressway Authority's Changes in Net Position

	Years Ended June 30,		
	2021	2020	2019
	(in thousands)		
Revenues:			
Toll revenues	\$ 496,954	\$ 451,894	\$ 463,236
Transponder sales	1,396	820	648
Other operating revenue	9,262	14,650	12,313
Investment income	4,142	21,237	14,082
Goldenrod Road Extension - net	1,308	1,491	1,518
Poinciana Parkway - net	-	-	1,862
Other non-operating revenue	409	452	374
Gain on capital assets	177	-	-
Capital Contribution	-	-	12,294
Total revenues	<u>513,648</u>	<u>490,544</u>	<u>506,327</u>
Expenses:			
Operations	65,807	64,937	62,123
Maintenance	18,552	18,022	17,753
Administrative	8,993	8,910	8,447
Depreciation	18,615	15,384	14,194
Preservation	20,929	31,002	21,586
Other	11,418	12,015	12,068
Interest expense	141,428	134,089	121,608
Loss on capital assets	-	2,434	1,306
Total expenses	<u>285,742</u>	<u>286,793</u>	<u>259,085</u>
Change in net position	227,906	203,751	247,242
Net position, beginning of year	<u>2,660,650</u>	<u>2,456,899</u>	<u>2,209,657</u>
Net position, end of year	<u>\$ 2,888,556</u>	<u>\$ 2,660,650</u>	<u>\$ 2,456,899</u>

CFX's Operations, Maintenance and Administration ("OM&A") expenses for fiscal year 2021 increased 2.0% from fiscal year 2020 and ended the year 1.7% under budget. CFX came in under budget due primarily to the following reasons: 1) There were several roadway maintenance programs that came in under budget 2) due to a variety of reasons such as lower bank and interoperable fees and a reduced workforce, the operation of the plazas came in under budget.

Transponder sales increased by 70% between fiscal years 2020 and 2021 due to a significant focus on branding and marketing of E-PASS and the release of the new Uni transponder.

Investment income decreased by 80% between fiscal years 2020 and 2021. This decrease was expected given the current investment rate climate with treasury yields and other secured investments seeing significant reductions over the past year and a half.

Other operating revenue consists of various fees that are collected, such as statement fees, Pay By Plate fees and fees received for collecting revenue on behalf of other entities. Other operating revenue increased by 19% between fiscal years 2019 and 2020 but decreased by 37% between fiscal years 2020 and 2021. In fiscal year 2021, CFX replaced its previous Pay By Plate structure with a Pay By Plate toll rate. This made the actual toll equitable to CFX's cost to collect and took away added on fees.

Preservation expense includes such items as resurfacing and restriping. The budgeted amounts are based on projected requirements to keep the roadway in good condition and, therefore, the expenses related to preservation can vary significantly from year to year. Preservation expense increased 44% in fiscal year 2020 and then decreased 32% in fiscal year 2021. Fiscal year 2021's expense is comparable to where it was two years ago. These peaks and valleys are expected as the system matures, and sections need additional attention.

Other expenses are expenses that were not part of CFX's OM&A budget, but also were not capitalized. These expenses are expected to fluctuate from year to year depending upon the amount spent on non-capitalized projects. Other expenses decreased by 1% between fiscal years 2019 and 2020 and then decreased by 5% between fiscal year 2020 and 2021. Despite the recent small decreases, this level of expense is greater than what has been seen historically due to additional program support and a rise in new pilot programs and feasibility studies that are not eligible to be capitalized.

There were losses in capital assets in fiscal year 2020 and a small gain in fiscal year 2021. There have been various bridges, signs and toll plaza lanes removed and/or demolished to make way for road widening, extension and interchange projects over the past few fiscal years. The largest contributing factor to the fiscal year 2020 loss is writing off signs that needed to be replaced. In fiscal year 2021 some accumulated depreciation was written off, which resulted in the small gain.

## **Capital Asset and Debt Administration**

**Capital Assets** - CFX's investment in capital assets amounted to \$5,271,214,000 net of accumulated depreciation as of June 30, 2021, an increase of \$169,395,000 (3%) over June 30, 2020. CFX's investment in capital assets amounted to \$5,101,819,000 net of accumulated depreciation as of June 30, 2020, an increase of \$270,89,000 (6%) over June 30, 2019. Capital assets include right-of-way, roads, bridges, buildings, equipment and furniture. A schedule of the change in CFX's capital assets is in Note 4 of the financial statements.

Major capital asset events during fiscal year 2021 included the following:

- Completion of the 408/I-4 interchange project.
- Completion of the toll collection system upgrade and replacement project.
- Completion of SR 417 widening from Econlockhatchee Trail to the Orange/Seminole County line.
- Several SR 417 widening projects were started.
- Widening on SR 538 from Ronald Reagan Parkway to the Cypress Parkway was started.

**Modified Approach for Infrastructure Assets** - CFX has elected to use the modified approach for infrastructure reporting. This means that, in lieu of reporting depreciation on infrastructure, CFX reports as preservation expense the costs associated with maintaining the existing roadway in good condition. CFX's policy is to maintain the roadway condition at a Maintenance Rating Program rating of 80 or better. The Florida Department of Transportation ("FDOT") annually inspects CFX's roadways and has determined in fiscal year 2021 that all its roadways exceed this standard. Pursuant to its bond covenants, CFX maintains a renewal and replacement fund for these preservation expenditures. For fiscal year 2020, projected expenses for preservation were \$51,040,000 with \$31,002,000 being spent. For fiscal year 2021, projected expenses for preservation were \$33,064,000 with \$20,929,000 being spent. The expenses were lower than projected in fiscal year 2021 due to slower than anticipated start dates on several projects.

**Long-term Debt** - CFX has outstanding bonds payable of \$3,469,181,000 (net of unamortized bond premiums and discounts) as of June 30, 2021.

During fiscal year 2021, CFX issued \$155,915,000 of fixed rate refunding revenue bonds (Series 2020A) for the purpose of refunding the series 2010B and 2013C bonds. Also, CFX issued \$548,175,000 of fixed rate revenue refunding bonds (Series 2021) for the purpose refunding the remaining series 2008 variable rate bonds. Also, CFX issued \$88,135,000 of fixed rate refunding revenue bonds (Series 2021B) for the purpose of refunding a portion of the series 2012 bonds. Finally, CFX issued \$53,145,000 of fixed rate refunding revenue bonds (Series 2021C) for the purpose of refunding a portion of the series 2013B bonds.

The annual requirements to amortize all revenue bonds and revenue refunding bonds outstanding as of June 30, 2021, along with more detailed information on long-term debt activity, can be found in Note 5, Long-Term Debt, which begins on page 32 of the financial statements. Of the approximately \$3.5 billion in outstanding bonds, \$0 are variable rate bonds as CFX was able to eliminate all variable rate bond debt in fiscal year 2021.

To determine the fair market value of its interest rate exchange agreements in prior years, CFX's swap advisor performed a calculation based upon expected forward LIBOR swap rates and discounted cash flows. In the event of a termination, on a current market-to-market basis, CFX would have had to make an estimated termination payment of approximately \$230,129,177 as of June 30, 2020 on the swaps related to the Series 2008B Bonds. That liability was reduced to zero as of June 30, 2021.

	<u>June 30, 2021</u>	<u>June 30, 2020</u>
Series 2008B	<u>\$ 0</u>	<u>\$ 230,129,177</u>

CFX's debt service ratio changed to 2.03 for fiscal year 2021 from 2.02 for fiscal year 2020 and 2.33 in fiscal year 2019. Fiscal Year 2021 had a marginal increase resulting from an increase in toll revenue but also an increase in debt service payments. The decrease in fiscal year 2020 is due to a reduction in toll revenue and an increase in debt service payments.

CFX has a Lease-Purchase Agreement (LPA) with the FDOT whereby the FDOT is required to reimburse CFX for the maintenance and operation costs associated with certain portions of the roadways and toll plazas on CFX's System. During fiscal years 2012 and 2013, FDOT did not reimburse CFX for the operations portion of their obligation because the Governor of Florida exercised his line-item veto authority to remove that line from the state's budget. During fiscal year 2013, CFX and FDOT amended the LPA under which the FDOT agreed to uphold its obligation for operations and maintenance costs provided CFX agrees to repay those funds to the

FDOT within 60 days. CFX plans to repay those funds in accordance with its Master Bond Resolution, which permits such payments provided that CFX is able to fund its OM&A budget, debt service requirements, required reserve deposits, and renewal and replacement fund requirements. The FDOT reimbursement is taken into consideration when calculating CFX's debt service ratio.

CFX's bond ratings as of June 30, 2021 are as follows:

	<u>Ratings</u>
Standard & Poor's	A+
Moody's	A1
Fitch	A+

### **Requests for Information**

This financial report is designed to provide a general overview of CFX's finances for all those with an interest in its finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Chief Financial Officer, Central Florida Expressway Authority, 4974 ORL Tower Road, Orlando, FL 32807.

## **BASIC FINANCIAL STATEMENTS**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**Balance Sheets**

<b>Assets and Deferred Outflows of Resources</b>	<b>June 30,</b>	
	<b>2021</b>	<b>2020</b>
	(in thousands)	
<b>Current assets:</b>		
Cash and cash equivalents	\$ 321,307	\$ 148,759
Investments	232,435	248,708
Accrued interest and accounts receivable	37,559	17,263
Prepaid expenses	3,586	3,699
Due from governmental agencies	8,524	7,173
Inventory	1,499	1,655
<b>Total current unrestricted assets</b>	<b>604,910</b>	<b>427,257</b>
<b>Restricted assets:</b>		
Current restricted assets:		
Cash and cash equivalents	188,927	179,062
<b>Total current assets</b>	<b>793,837</b>	<b>606,319</b>
<b>Noncurrent assets:</b>		
Restricted assets:		
Cash and cash equivalents	171,147	243,411
Investments	197,270	320,362
Accrued interest receivable and prepaid expenses	64	65
<b>Total noncurrent restricted assets</b>	<b>368,481</b>	<b>563,838</b>
Prepaid bond insurance	4,459	2,604
<b>Total noncurrent assets before capital assets</b>	<b>372,940</b>	<b>566,442</b>
Capital assets not being depreciated:		
Infrastructure	4,851,847	4,465,708
Construction in progress	224,079	505,997
Capital assets - net of accumulated depreciation:		
Property and equipment	195,288	130,114
<b>Total capital assets - net of accumulated depreciation</b>	<b>5,271,214</b>	<b>5,101,819</b>
<b>Total noncurrent assets</b>	<b>5,644,154</b>	<b>5,668,261</b>
<b>Total assets</b>	<b>6,437,991</b>	<b>6,274,580</b>
Deferred outflow of resources	306,065	392,764
<b>Total assets and deferred outflows of resources</b>	<b>\$ 6,744,056</b>	<b>\$ 6,667,344</b>

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**Balance Sheets (continued)**

Liabilities, Deferred Inflows of Resources, and Net Position	June 30,	
	2021	2020
	(in thousands)	
<b>Current liabilities payable from unrestricted assets:</b>		
Accounts payable and accrued liabilities	\$ 16,843	\$ 18,838
Unearned toll revenue	21,091	18,136
Unearned other revenue	14,790	15,085
Current portion of due to governmental agencies	5,270	4,117
<b>Total current liabilities payable from unrestricted assets</b>	57,994	56,176
<b>Current liabilities payable from restricted assets:</b>		
Accounts payable and accrued liabilities	48,609	43,475
Interest payable	60,208	62,887
Current portion of revenue bonds payable	80,110	72,700
<b>Total current liabilities payable from restricted assets</b>	188,927	179,062
<b>Total current liabilities</b>	246,921	235,238
<b>Noncurrent liabilities:</b>		
Derivative financial instrument	-	230,129
Revenue bonds payable - less current portion	3,389,071	3,325,414
Due to governmental agencies - less current portion	202,407	200,210
Net pension liability	12,012	9,997
<b>Total noncurrent liabilities</b>	3,603,490	3,765,750
<b>Total liabilities</b>	3,850,411	4,000,988
Deferred inflow of resources	5,089	5,706
<b>Total liabilities and deferred inflows of resources</b>	3,855,500	4,006,694
<b>Net position:</b>		
Net investment in capital assets	2,126,023	2,064,051
Restricted for:		
Operation, maintenance and administrative reserve	12,552	12,552
Renewal and replacement reserve	5,414	16,978
<b>Total restricted net position</b>	17,966	29,530
Unrestricted	744,567	567,069
<b>Total net position</b>	2,888,556	2,660,650
<b>Total liabilities, deferred inflows of resources, and net position</b>	\$ 6,744,056	\$ 6,667,344

See notes to financial statements.



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**Statements of Revenues, Expenses and Changes in Net Position**

	June 30,	
	2021	2020
	(in thousands)	
<b>Operating revenues:</b>		
Toll revenues	\$ 496,954	\$ 451,894
Transponder sales	1,396	820
Fees and other	9,262	14,650
	507,612	467,364
<b>Operating expenses:</b>		
Operations	65,807	64,937
Maintenance	18,552	18,022
Administrative	8,993	8,910
Depreciation	18,615	15,384
Preservation	20,929	31,002
Other expenses	11,418	12,015
	144,314	150,270
<b>Operating income</b>	363,298	317,094
<b>Nonoperating revenues (expenses):</b>		
Investment income	4,142	21,237
Gain (loss) on capital assets	177	(2,434)
Other nonoperating	409	452
Goldenrod Road Extension - net	1,308	1,491
Interest expense	(141,428)	(134,089)
	(135,392)	(113,343)
<b>Change in net position</b>	227,906	203,751
<b>Net position at beginning of year</b>	2,660,650	2,456,899
<b>Net position at end of year</b>	\$ 2,888,556	\$ 2,660,650

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**Statements of Cash Flows**

	June 30,	
	2021	2020
	(in thousands)	
<b>Operating activities:</b>		
Receipts from customers and users	\$ 491,228	\$ 467,529
Payments to suppliers	(117,283)	(123,582)
Payments to employees	(6,406)	(6,226)
	<b>367,539</b>	<b>337,721</b>
<b>Capital and related financing activities:</b>		
Acquisition and construction of capital assets	(182,688)	(267,248)
Proceeds from issuance of bonds	965,652	676,071
Interest paid on revenue bonds	(152,807)	(104,434)
Payment to refunded bond escrow agent	-	(108,504)
Payment of principal on revenue bonds	(60,114)	(63,025)
Payment of principal on government advances	(245)	(250)
Payments on interest rate swap terminations	(171,167)	-
Payment of bond issuance expense	(5,768)	-
Refunding payments on bonds	(794,231)	-
	<b>(401,368)</b>	<b>132,610</b>
<b>Investing activities:</b>		
Purchase of investments	(424,617)	(557,592)
Proceeds from sales and maturities of investments	563,982	402,643
Interest received	4,613	22,240
	<b>143,978</b>	<b>(132,709)</b>
<b>Net increase (decrease) in cash and cash equivalents</b>	<b>110,149</b>	<b>337,622</b>
<b>Cash and cash equivalents at beginning of year</b>	<b>571,232</b>	<b>233,610</b>
<b>Cash and cash equivalents at end of year</b>	<b>\$ 681,381</b>	<b>\$ 571,232</b>
Cash and cash equivalents - unrestricted	\$ 321,307	\$ 148,759
Restricted cash and cash equivalents - current	188,927	179,062
Restricted cash and cash equivalents - noncurrent	171,147	243,411
	<b>\$ 681,381</b>	<b>\$ 571,232</b>

See notes to financial statements.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**Statements of Cash Flows (continued)**

	June 30,	
	2021	2020
	(in thousands)	
<b>Reconciliation of operating income to net cash provided by operating activities:</b>		
Income from operations	\$ 363,298	\$ 317,094
Adjustments to reconcile operating income to net cash provided by operating activities:		
Depreciation	18,615	15,384
Goldenrod Road Extension and other miscellaneous	1,706	2,268
Changes in assets and liabilities:		
Accounts receivable	(20,766)	(2,349)
Due from governmental agencies	(1,351)	5,764
Prepaid expenses	114	(148)
Inventory	156	(393)
Deferred outflows - pension-related	(122)	49
Accounts payable and accrued liabilities	(1,995)	574
Due to governmental agencies	3,595	(2,349)
Unearned toll revenue	2,955	589
Unearned other revenue	(295)	(343)
Net pension liability	2,015	1,685
Deferred inflows - pension-related	(386)	(104)
<b>Net cash provided by operating activities</b>	<b>\$ 367,539</b>	<b>\$ 337,721</b>
<b>Noncash investing, capital, and financing activities:</b>		
Increase (decrease) in fair value of investments	\$ (8,231)	\$ 5,955
Increase (decrease) in fair value of derivative financial instrument	(58,955)	\$ 52,645

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 1 - Organization and Summary of Significant Accounting Policies**

**Reporting Entity** - The Central Florida Expressway Authority (CFX) is an agency of the state, created by the Florida Legislature. On June 20, 2014, the Governor of Florida signed the bill to create CFX, which assumed the governance and control of the former Orlando-Orange County Expressway Authority, including its assets, personnel, contracts, obligations, liabilities, facilities and tangible and intangible property. CFX is an independent, locally controlled transportation authority responsible for the construction, maintenance and operation of toll roads in Seminole, Lake, Osceola and Orange Counties, and may also acquire, construct and equip rapid transit, trams and fixed guideways within the rights-of-way of the expressway system. The governing board of CFX is made up of ten members, consisting of: (a) one member each appointed by the respective chairs of the county commissions of Brevard, Lake, Osceola and Seminole Counties; (b) one member of the Orange County Commission appointed by the mayor of Orange County; (c) three citizens appointed by the Governor; (d) the Mayor of Orange County; and (e) the Mayor of the City of Orlando. The Florida Turnpike Enterprise Executive Director serves as a non-voting advisor. CFX is authorized to issue revenue bonds to finance portions of the System and to execute the refunding of existing revenue bonds.

For financial reporting purposes, CFX is a stand-alone entity; there are no component units included in the accompanying financial statements, and CFX is not considered a component unit of another entity.

**Basis of Accounting** - CFX prepares its financial statements on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America for proprietary funds, which are similar to those for private business enterprises. Accordingly, revenues are recorded when earned and expenses are recorded when incurred.

The assets, deferred outflows, liabilities, deferred inflows, and net position of CFX are reported in a self-balancing set of accounts, which include restricted and unrestricted resources, representing funds available for support of CFX's operations. When both restricted and unrestricted resources are available for use, it is CFX's policy to use restricted resources first for their intended purpose, and then unrestricted resources, as they are needed.

**Operating Revenues and Expenses** - CFX's operating revenues and expenses consist of revenues earned and expenses incurred relating to the operation and maintenance of its System. The Goldenrod Road Extension, which is a project outside the normal course of operations, and all other revenues and expenses are reported as nonoperating revenues and expenses.

**Lease-Purchase Agreement** - Under the requirements of the Lease-Purchase Agreement between CFX and the FDOT, dated December 23, 1985, as amended and supplemented, CFX is reimbursed by the FDOT for the maintenance costs of SR 528, portions of SR 408, improvements to the Airport Interchange at SR 528 and State Road 436 (Semoran Boulevard), and the cost of operations of the Conway and Pine Hills Plazas. However, the reimbursements received are recorded as advances from the FDOT and are included in due to governmental agencies, since they are to be repaid to the FDOT from future toll revenues after the requirements for retirement of bonds and all other obligations have been met.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 1 - Organization and Summary of Significant Accounting Policies (Continued)**

While CFX's position has been that the FDOT's obligations under the Lease-Purchase Agreement were not subject to appropriation, the Governor vetoed the operations component of the reimbursement for fiscal year 2013. CFX entered into a Memorandum of Agreement with FDOT on February 14, 2013 where it was agreed that commencing in fiscal year 2014 the operations and maintenance payments made by the FDOT will be refunded to the FDOT within sixty days of payment.

**Cash and Cash Equivalents** - For purposes of the statements of cash flows, demand deposit accounts with commercial banks, and cash invested in commercial money market funds (including restricted assets) are considered cash equivalents. For investments that are held separately from the pools, those which are highly liquid (including restricted assets), with an original maturity of 90 days or less when purchased or so near their maturity that they present insignificant risk of changes in value because of changes in interest rates, are considered to be cash equivalents.

**Investments** - Investments consist of unrestricted and restricted investments, and are carried at fair value, as determined in an active market.

**Accounts Receivable** - The accrued interest and accounts receivable primarily consists of amounts billed to individuals via one or more Pay by Plate invoices for tolls not paid at the point of System use. This item also includes interest earned but not paid by the end of the fiscal year, or amounts due from individuals or other entities for prepaid items or for services provided. This amount is recorded at the net realizable value; therefore, a provision for doubtful accounts has been made for the estimated amount of uncollectible Pay by Plate invoices based on historical information.

**Inventory** - Inventory, which consists of E-PASS transponders that will be distributed to customers, is carried at the lower-of-cost or market and is valued using the first-in, first-out (FIFO) method.

**Restricted Assets** - Restricted assets of CFX represent bond proceeds designated for construction, and other monies required to be restricted for debt service, operations, maintenance, administration, renewal and replacement.

**Deferred Outflows / Inflows of Resources** - In addition to assets, CFX reports a separate section for deferred outflows of resources on its balance sheets. Deferred outflows of resources represent a consumption of net position that applies to future periods and will not be recognized as an outflow of resources (expense) until then. CFX has three items that qualify for reporting as deferred outflows of resources.

*Accumulated Decrease in Fair Value of Hedging Derivatives* - As described in Note 5, CFX has entered into interest rate swap agreements that qualify as effective cash flow hedges in connection with variable rate bonds. The fair value of the swaps is presented on the balance sheets as a deferred outflow of resources and a derivative financial instrument liability in the amount of \$0 and \$230,129,000 at June 30, 2021 and 2020, respectively, with changes in valuation applied to these balance sheet accounts. Should the swaps be terminated prior to their expected conclusion, or if the hedges cease to significantly reduce risk, accumulated gains or losses will be reported on the operating statement.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 1 - Organization and Summary of Significant Accounting Policies (Continued)**

***Deferred Outflows / Inflows of Resources (Continued)***

*Deferred Outflow on Refunding of Revenue Bonds* - The difference between the re-acquisition price and the net carrying amount of refunded bonds is presented on the balance sheets at June 30, 2021 and 2020 as a deferred outflow of resources in the amount of \$301,415,000 and \$158,106,000, respectively, and is amortized as an adjustment to interest expense on a straight-line basis over the life of the refunded bonds or the life of the refunding bonds, whichever is shorter.

*Deferred Outflows Related to Pensions* - These deferred outflows of resources are an aggregate of items related to pensions as calculated in accordance with GASB Statement No. 68, *Accounting and Financial Reporting for Pensions*. The deferred outflows related to pensions totaled \$4,650,000 and \$4,528,000 at June 30, 2021 and 2020, respectively, and will be recognized as either pension expense or a reduction in the net pension liability in future reporting years. Details on the composition of the deferred outflows of resources related to pensions are further discussed in Note 8.

In addition to liabilities, CFX reports a separate section for deferred inflows of resources on its balance sheets. Deferred inflows of resources represent an acquisition of net position that applies to future periods and will not be recognized as an inflow of resources until then. CFX has two items that qualify for reporting as deferred inflows of resources.

*Deferred Inflow on Interest Rate Exchange* - During the fiscal year ended June 30, 2007, CFX entered into six mandatory, cash-settled interest rate exchange agreements, the purpose of which was to lock in the interest rate associated with the Series 2007A Bonds. The result of these agreements was an \$8,078,000 net payment to CFX on June 28, 2007, which is presented on the balance sheets at June 30, 2021 and 2020 as a deferred inflow of resources in the amount of \$4,847,000 and \$5,078,000, respectively, and is amortized as an adjustment to interest expense over the life of the bonds.

*Deferred Inflows Related to Pensions* - These deferred inflows of resources are an aggregate of items related to pensions as calculated in accordance with GASB Statement No. 68, *Accounting and Financial Reporting for Pensions*. The deferred inflows related to pensions at June 30, 2021 and 2020 totaled \$242,000 and \$628,000, respectively, and will be recognized as a reduction to pension expense in future reporting years. Details on the composition of the deferred outflows of resources related to pensions are further discussed in Note 8.

***Capital Assets***

*Cost Basis* - Capital assets are recorded at historical cost with the exception of donated capital assets, which are reported at acquisition value. The cost of property and equipment includes costs for infrastructure assets (right-of-way, highways and bridges substructure, and highways and bridges), toll equipment, buildings, toll facilities, other related costs (including software) and furniture and equipment. Highways and bridges substructure includes road sub-base, grading, land clearing, embankments and other related costs. Costs for infrastructure assets include construction costs, design and engineering fees, administrative and general expenses paid from construction monies, and bond interest expense incurred during the period of construction.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 1 - Organization and Summary of Significant Accounting Policies (Continued)**

**Capital Assets (Continued)**

*Capitalization Policy* - Costs to acquire additional capital assets, and to replace existing assets or otherwise prolong their useful lives, are capitalized for toll equipment, buildings, toll facilities, other related costs, and furniture and equipment. Under CFX's policy of accounting for infrastructure assets pursuant to the "modified approach," property costs represent a historical accumulation of costs expended to acquire rights-of-way and to construct, improve and place in operation the various projects and related facilities. It is CFX's policy to capitalize amounts equal to or in excess of \$5,000.

*Depreciation Policy* - Depreciation of toll equipment, buildings, toll facilities, other related costs, signs, software, and furniture and equipment is computed using the straight-line method with a half-year convention over the estimated useful lives of the assets as follows:

Software	3 years
Furniture and equipment	7 years
Toll equipment	8 years
Signs	20 years
Buildings, toll facilities and other	30 years

Under the modified approach, infrastructure assets are considered to be "indefinite lived" assets; that is, the assets themselves will last indefinitely and are, therefore, not depreciated. Costs related to maintenance, renewal and replacement for these assets are not capitalized, but instead are considered to be period costs and are included in preservation expense.

*Construction in Progress* - Construction in progress represents costs incurred by CFX for in-process activities designed to expand, replace or extend useful lives of existing property and equipment.

**Retainage Payable** - Retainage payable represents amounts billed to CFX by contractors/consultants for which payment is not due pursuant to retained percentage provisions in various contracts until performance is accepted by CFX.

**Compensated Absences** - Accumulated vacation pay, vested sick pay, and other compensation payable to employees is recorded and included in accounts payable and accrued liabilities. The balance of compensated absences had a net increase of \$212,000 from June 30, 2020 to June 30, 2021.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 1 - Organization and Summary of Significant Accounting Policies (Continued)**

**Bond Premium, Discount, and Prepaid Bond Insurance Costs** - Bond premium, discount, and prepaid bond insurance costs associated with the issuance of bonds are amortized on a straight-line basis over the life of the bonds, which approximates the effective interest method. Bond premiums and discounts are presented as an addition and a reduction, respectively, of the face amount of revenue bonds payable whereas prepaid bond insurance costs are recorded as assets.

**Restricted Net Position** - Restricted net position is comprised of amounts reserved for operations, maintenance, administrative expenses and renewals and replacements in accordance with bond covenants.

**Pensions** - In the balance sheets, net pension liability represents CFX's proportionate share of the net pension liability of the cost-sharing pension plans in which it participates. This proportionate amount represents a share of the present value of projected benefit payments to be provided through the cost-sharing pension plan to current active and inactive employees that is attributed to those employees' past periods of service (total pension liability), less the amount of the cost-sharing pension plan's fiduciary net position.

CFX participates in both the Florida Retirement System (FRS) defined benefit pension plan and the Retiree Health Insurance Subsidy Program (HIS) defined benefit pension plan administered by the Florida Division of Retirement (collectively, FRS/HIS).

For purposes of measuring CFX's net pension liability, deferred outflows of resources and deferred inflows of resources related to pensions, and pension expense, information about the fiduciary net position of FRS/HIS and additions to/deductions from FRS/HIS's fiduciary net position have been determined on the same basis as they are reported by FRS/HIS. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

**Budgets and Budgetary Accounting** - CFX abides by the following procedures in establishing budgetary data:

On or before February 1 of each year, CFX completes a review of its financial condition for the purpose of estimating whether the gross revenues, together with series payments, system payments and supplemental payments, if any, for the ensuing fiscal year will be sufficient to provide at least 120% of the annual debt service requirements of the bonds and that gross revenues will be sufficient to pay all other amounts required by the Master Bond Resolution, as amended and restated.

In the event that CFX determines that revenues will not be sufficient to satisfy the above payments, CFX will conduct a study to determine the toll revenue rate increase required to restore the revenue deficiency.

All schedules of toll revenues and revisions thereof are filed with the FDOT.

On or before April 1 of each year, a preliminary budget is prepared for maintenance, operations and administrative expenses for the ensuing fiscal year. The preliminary budget is reviewed by the FDOT and modified, if necessary.



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 1 - Organization and Summary of Significant Accounting Policies (*Continued*)**

***Budgets and Budgetary Accounting (Continued)***

On or before July 1 of each year, a final budget of maintenance, operations and administrative expenses is adopted subject to approval by the FDOT.

CFX may adopt an amended or supplemental annual budget for the remainder of a fiscal year subject to approval by the FDOT.

***Reclassifications*** - Certain amounts in the 2020 financial statements have been reclassified to conform to the 2021 classifications.

**Note 2 - Deposits and Investments**

**Cash and Cash Equivalents, and Investment Portfolio**

Pursuant to Section 218.415, Florida Statutes, CFX has formally adopted a comprehensive investment policy most recently reviewed on April 2, 2018, which establishes permitted investments, asset allocation limits and issuer limits, credit rating requirements and maturity limits to protect CFX's cash and investment assets. CFX maintains a common cash and investment pool for the use of all funds. In addition, cash and investments are separately held by CFX's bond proceeds/construction, debt service, capitalized interest, and debt service reserve funds.

The following chart outlines the types of permitted investments, credit quality risk rating requirements by security type, the maximum concentration of credit risk by percentage of the total portfolio that may be invested in a single issuer and in total by security type and maturity limits prescribed to mitigate interest rate risk exposure:

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Permitted Investments**

Sector	Sector Maximum (%)	Per Issuer Maximum (%)	Minimum Ratings Requirement <sup>1</sup>	Maximum Maturity	Master Bond Resolution Permitted Investments
U.S. Treasury	100%	100%	N/A	5.50 Years (5.50 Years avg. life <sup>4</sup> 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% <sup>3</sup>	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% <sup>2</sup>	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% <sup>3</sup>	N/A	5.50 Years Avg. Life <sup>4</sup>	
Asset-Backed Securities (ABS)	25%	5%	Highest ST or LT Rating (A-1+/P-1, AAA/Aaa, or equivalent)	5.50 Years Avg. Life <sup>4</sup>	
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% <sup>2</sup>	5%	Highest ST Rating Category (A-1/P-1, or equivalent)	270 Days	X
Bankers' Acceptances (BAs)	10% <sup>2</sup>	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	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	

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

Sector	Sector Maximum (%)	Per Issuer Maximum (%)	Minimum Ratings Requirement <sup>1</sup>	Maximum Maturity	Master Bond Resolution Permitted Investments
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:**

<sup>1</sup> Rating by at least one SEC-registered Nationally Recognized Statistical Rating Organization ("NRSRO"), unless otherwise noted. ST=Short-term; LT=Long-term.

<sup>2</sup> Maximum allocation to all corporate and bank credit instruments is 50% combined.

<sup>3</sup> Maximum exposure to any one Federal agency, including the combined holdings of Agency debt and Agency MBS, is 40%.

<sup>4</sup> 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).

Additionally, investments in any derivative products or the use of reverse repurchase agreements are specifically prohibited, unless permitted in Section XV of CFX's Investment Policy.

**Deposits**

On June 30, 2021, the carrying amount of CFX's various deposits accounts was \$681,380,292. CFX's cash deposits are held by banks that qualify as public depositories under the Florida Security for Public Deposits Act, as required by Chapter 280, Florida Statutes.

**Investments**

**Concentration of Credit Risk** – The following is the percent of any issuer with whom CFX had invested more than 5% of the total portfolio as of June 30, 2021 and 2020:

Issuer	2021	2020
Federal National Mortgage Association	8.31%	N/A
Federal Home Loan Mortgage Corporation	13.75%	N/A

**Interest Rate Risk** - CFX's Investment Policy states that portfolios shall be managed in such a manner that funds are available to meet reasonably anticipated cash flow requirements in an orderly manner. To the extent possible, an attempt will be made to match investment maturities with known cash needs. Investments of current operating funds shall have maturities of no longer than 24 months. Investments of debt obligation reserves, construction funds and other non-operating funds shall have a term appropriate to the need for funds and in accordance with debt covenants. The purchase of investments for core funds with maturities longer than five and a half (5.5) years requires CFX's approval prior to purchase. However, final maximum maturity for any investment is limited to ten (10) years.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 2 - Deposits and Investments (Continued)**

CFX uses the distribution of maturities to manage interest rate risk. As of June 30, 2021, 35% of CFX's investments had a maturity of less than 6 months, 5% had a maturity of 6 to 12 months, 28% had a maturity of 1 to 2 years, 23% had a maturity of 2 to 3 years, 4% had a maturity of 3 to 4 years, and 5% had a maturity of over 4 years. As of June 30, 2020, 23% of CFX's investments had a maturity of less than 6 months, 36% had a maturity of 6 to 12 months, 19% had a maturity of 1 to 2 years, 17% had a maturity of 2 to 3 years, 2% had a maturity of 3 to 4 years, and 3% had a maturity of over 4 years.

Total distributions of maturities are as follows:

	<b>As of June 30, 2021</b>					
	<b>(in thousands)</b>					
	Less than 6 months	6 - 12 months	1 - 2 years	2 - 3 years	3+ years	Total
US Treasury Securities	\$ 30,392	\$ 2,361	\$ 58,670	\$ 6,704	\$ 2,476	\$ 100,603
Federal Instruments	-	2,463	30,636	49,806	16,112	99,017
Corporate Note	19,430	-	27,581	29,086	4,873	80,970
Commercial Paper	100,868	13,987	-	-	-	114,855
Municipal Bond Note	-	976	2,644	5,923	704	10,247
Corp. Asset Backed Sec.	-	167	1,012	8,290	14,545	24,014
<b>Total</b>	<b>\$ 150,690</b>	<b>\$ 19,954</b>	<b>\$ 120,543</b>	<b>\$ 99,809</b>	<b>\$ 38,710</b>	<b>\$ 429,706</b>

	<b>As of June 30, 2020</b>					
	<b>(in thousands)</b>					
	Less than 6 months	6 - 12 months	1 - 2 years	2 - 3 years	3+ years	Total
US Treasury Securities	\$ 17,008	\$ 170,446	\$ 80,621	\$ 49,585	\$ -	\$ 317,660
Federal Instruments	-	6,354	6,709	18,787	13,754	45,604
Corporate Note	7,426	24,875	18,893	20,079	2,279	73,552
Commercial Paper	103,123	2,993	-	-	-	106,116
Municipal Bond Note	-	-	-	1,766	57	1,823
Corp. Asset Backed Sec.	-	282	3,015	6,189	14,829	24,315
<b>Total</b>	<b>\$ 127,557</b>	<b>\$ 204,950</b>	<b>\$ 109,238</b>	<b>\$ 96,406</b>	<b>\$ 30,919</b>	<b>\$ 569,070</b>

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 2 - Deposits and Investments (Continued)**

**Credit Risk and Fair Value Measurement** - Total CFX deposits and investments are as follows:

	<b>June 30, 2021</b>	<b>Fair Value Measurements Using (in thousands)</b>	
		<b>Quoted Prices in Active Markets for Identical Assets or Liabilities (Level 1)</b>	<b>Quoted Prices in Active Markets for Similar Assets or Liabilities (Level 2)</b>
United States Treasury Securities	\$ 100,603	\$ 100,603	
Commercial Paper	114,855	114,855	
Federal Instrumentalities	99,017	99,017	
Money Market Mutual Funds	224,405	224,405	
Municipal Bond Note	10,247	10,247	
Corporate Note	80,970	80,970	
Corporate Asset Backed Securities	24,014	-	\$ 24,014
Total investments by fair value measure	654,111	<u>\$ 630,097</u>	<u>\$ 24,014</u>
Total deposits	<u>456,975</u>		
Total deposits and investments	1,111,086		
Restricted	<u>557,344</u>		
Unrestricted	<u>\$ 553,742</u>		

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 2 - Deposits and Investments (Continued)**

	June 30, 2020	Fair Value Measurements Using (in thousands)	
		Quoted Prices in Active Markets for Identical Assets or Liabilities (Level 1)	Quoted Prices in Active Markets for Similar Assets or Liabilities (Level 2)
United States Treasury Securities	\$ 317,660	\$ 317,660	
Commercial Paper	106,116	106,116	
Federal Instrumentalities	45,604	45,604	
Money Market Mutual Funds	152,540	152,540	
Municipal Bond Note	1,823	1,823	
Corporate Note	73,551	73,551	
Corporate Asset Backed Securities	24,316	-	\$ 24,316
Total investments by fair value measure	721,610	\$ 697,294	\$ 24,316
Total deposits	418,692		
Total deposits and investments	1,140,302		
Restricted	742,835		
Unrestricted	\$ 397,467		

Securities classified in Level 1 of the fair value hierarchy are valued using prices quoted in active markets for identical assets or liabilities. Securities classified in Level 2 of the fair value hierarchy are valued using prices quoted in active markets for similar assets or liabilities.

Federal Instrumentalities, and U.S. Government Supported Corporate Debt Notes/Bonds are rated "AA+" by Standard & Poor's. The investments in Municipal Obligations are rated "AA" by Standard & Poor's. The Corporate Notes Standard & Poor's credit ratings are "AAA", "AA+", "AA", "AA-", "A+", and "A". The Commercial Paper is rated "A-1+" and "A-1" by Standard & Poor's. The Florida PRIME and Money Market Mutual Funds are rated "AAAm" by Standard & Poor's.

**Custodial Credit Risk** - All CFX depositories are members of the State of Florida collateral pool. The State of Florida collateral pool is a multiple, financial institution collateral pool with the ability to make additional assessments to satisfy the claims of governmental entities if any member institution fails. This ability provides protection, which is similar to depository insurance.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 2 - Deposits and Investments (Continued)**

CFX's Investment Policy requires execution of a third-party custodial safekeeping agreement for all purchased securities and requires that securities be designated as an asset of CFX.

As of June 30, 2021 and 2020, all of CFX's securities were held in a bank's trust/custodial department in CFX's name.

**Restricted Cash and Investments** - Cash, cash equivalents and investments restricted in accordance with bond provisions and other agreements are as follows:

	<b>June 30,</b>	
	<b>2021</b>	<b>2020</b>
	<b>(in thousands)</b>	
Reserve funds:		
Operations, maintenance and administrative reserve	\$ 12,552	\$ 12,552
Renewal and replacement reserve	5,414	16,978
Total reserve funds	17,966	29,530
Bond funds:		
Principal and interest accounts	138,114	137,740
Reserve accounts	128,186	127,990
Total bond funds	266,300	265,730
Construction funds:		
2019 construction funds	273,078	447,576
Total construction funds	273,078	447,576
Total restricted cash, cash equivalents and investments	557,344	742,836
Portion related to cash and cash equivalents	360,073	422,474
Portion related to investments	\$ 197,271	\$ 320,362

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 3 - Due From Governmental Agencies**

Due from governmental agencies consists of the following:

	<b>June 30,</b>	
	<b>2021</b>	<b>2020</b>
	<i>(in thousands)</i>	
E-ZPass - E-Zpass Customers' use of E-PASS Roads	\$ 1,583	\$ 571
Florida Department of Transportation - Operations and Maintenance Reimbursement	1,054	1,114
Florida Department of Transportation - SunPass Customers' use of E-PASS Roads	4,594	4,373
Florida's Turnpike Enterprise - SR 417 Widening Reimbursement	-	178
Lee County - LeeWay Customers' use of E-PASS Roads	5	3
Orange County - Fines/Fees	298	242
Orange County - JPA Reimbursement	-	389
Orlando Utilities Commission - SR 528/436 Widening Reimbursement	-	292
Osceola County - CR 532 Widening Reimbursement	990	10
	<b>\$ 8,524</b>	<b>\$ 7,172</b>
Less current portion	<b>(8,524)</b>	<b>(7,172)</b>
	<b>\$ -</b>	<b>\$ -</b>



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 4 - Capital Assets**

Capital assets are summarized as follows (in thousands):

	June 30, 2020	Additions	Reductions	Transfers	June 30, 2021
Infrastructure (non-depreciable):					
Right-of-way	\$ 923,498	\$ 395	\$ -	\$ 68,382	\$ 992,275
Highways and bridges	3,542,210	757	(310)	316,915	3,859,572
Total infrastructure (non-depreciable)	<u>4,465,708</u>	<u>1,152</u>	<u>(310)</u>	<u>385,297</u>	<u>4,851,847</u>
Construction in progress (non-depreciable):					
Right-of-way	68,938	346	-	(68,382)	902
Highways and bridges	363,657	155,916	-	(312,910)	206,663
Buildings and toll facilities	1,183	2,459	-	(3,228)	414
Toll equipment	49,270	8,633	-	(57,788)	115
Furniture, equipment and other	22,949	18,827	-	(25,791)	15,985
Total construction in progress (non-depreciable)	<u>505,997</u>	<u>186,181</u>	<u>-</u>	<u>(468,099)</u>	<u>224,079</u>
Property and equipment (depreciable):					
Toll equipment	101,986	-	(1,312)	57,788	158,462
Buildings and toll facilities	164,025	-	-	3,228	167,253
Furniture, equipment and other	85,767	489	(188)	21,786	107,854
Total property and equipment (depreciable)	<u>351,778</u>	<u>489</u>	<u>(1,500)</u>	<u>82,802</u>	<u>433,569</u>
Less accumulated depreciation for:					
Toll equipment	(96,102)	(5,887)	1,364	-	(100,625)
Buildings and toll facilities	(77,044)	(5,073)	-	-	(82,117)
Furniture, equipment and other	(48,518)	(7,655)	634	-	(55,539)
Total accumulated depreciation	<u>(221,664)</u>	<u>(18,615)</u>	<u>1,998</u>	<u>-</u>	<u>(238,281)</u>
Total property and equipment being depreciated, net	<u>130,114</u>	<u>(18,126)</u>	<u>498</u>	<u>82,802</u>	<u>195,288</u>
Total capital assets	<u>\$ 5,101,819</u>	<u>\$ 169,207</u>	<u>\$ 188</u>	<u>\$ -</u>	<u>\$ 5,271,214</u>

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 4 - Capital Assets (Continued)**

	June 30, 2019	Additions	Reductions	Transfers	June 30, 2020
Infrastructure (non-depreciable):					
Right-of-way	\$ 913,613	\$ 91	\$ (333)	\$ 10,127	\$ 923,498
Highways and bridges	3,371,577	4,108	(2,160)	168,685	3,542,210
Total infrastructure (non-depreciable)	<u>4,285,190</u>	<u>4,199</u>	<u>(2,493)</u>	<u>178,812</u>	<u>4,465,708</u>
Construction in progress (non-depreciable):					
Right-of-way	8,065	71,000	-	(10,127)	68,938
Highways and bridges	348,888	183,454	-	(168,685)	363,657
Buildings and toll facilities	1,305	189	-	(311)	1,183
Toll equipment	46,015	4,082	-	(827)	49,270
Furniture, equipment and other	8,708	24,432	-	(10,191)	22,949
Total construction in progress (non-depreciable)	<u>412,981</u>	<u>283,157</u>	<u>-</u>	<u>(190,141)</u>	<u>505,997</u>
Property and equipment (depreciable):					
Toll equipment	102,204	-	(1,045)	827	101,986
Buildings and toll facilities	163,649	65	-	311	164,025
Furniture, equipment and other	76,005	811	(1,240)	10,191	85,767
Total property and equipment (depreciable)	<u>341,858</u>	<u>876</u>	<u>(2,285)</u>	<u>11,329</u>	<u>351,778</u>
Less accumulated depreciation for:					
Toll equipment	(93,709)	(3,425)	1,032	-	(96,102)
Buildings and toll facilities	(71,878)	(5,166)	-	-	(77,044)
Furniture, equipment and other	(42,712)	(6,776)	970	-	(48,518)
Total accumulated depreciation	<u>(208,299)</u>	<u>(15,367)</u>	<u>2,002</u>	<u>-</u>	<u>(221,664)</u>
Total property and equipment being depreciated, net	<u>133,559</u>	<u>(14,491)</u>	<u>(283)</u>	<u>11,329</u>	<u>130,114</u>
Total capital assets	<u>\$ 4,831,730</u>	<u>\$ 272,865</u>	<u>\$ (2,776)</u>	<u>\$ -</u>	<u>\$ 5,101,819</u>

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 4 - Capital Assets (Continued)**

**Goldenrod Project** - On March 24, 1999, CFX signed the Goldenrod Road Extension Development Agreement (the "Agreement") for the extension of Goldenrod Road to SR 528 (the "Extension"). The Agreement is between CFX and other local agencies and governments, including the City of Orlando (the "City"), Greater Orlando Aviation Authority ("GOAA") and Orange County (the "County"). Under the Agreement, each of the parties agreed to contribute a set amount toward construction of the Extension. The contributions made by each party for construction are as follows:

City of Orlando	\$ 2,000,000
GOAA	\$ 4,500,000
Orange County	\$ 1,000,000
CFX	\$ 38,010,458

CFX's responsibilities under the Agreement were to acquire, design and construct the right-of-way for the Extension. Construction of the Extension began in January 2001 and opened to traffic in March 2004. Under the terms of the Agreement, toll revenues generated from the Extension will be distributed, first to operating cost, then to repay the contributions to each contributing party.

The construction costs of the roadway, toll plaza and toll equipment are included in CFX's capital assets. These assets will remain the property of CFX until the final payments of all contributions are made. Upon the final repayment of all contributions, ownership of the roadway will revert to the City and the City will be responsible for all future maintenance costs. CFX will retain ownership of the interchange to SR 528 and certain portions of the right-of-way. Since this project is a non-System project, it is reported net in the non-operating section of the statements of revenues, expenses and changes in net position. The toll revenues generated from the Extension are not pledged to CFX's bond indebtedness.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 5 - Long-Term Debt**

**Revenue Bonds Payable** - A summary of changes in revenue bonds payable is as follows (in thousands):

	June 30, 2020	Additions	Deletions	June 30, 2021
Bonds Payable:				
Series 2008B1	\$ 129,875	\$ -	(129,875)	\$ -
Series 2008B2	117,395	-	(117,395)	-
Series 2008B3	148,490	-	(148,490)	-
Series 2008B4	98,965	-	(98,965)	-
Series 2010B	60,760	-	(60,760)	-
Series 2012	134,315	-	(108,635)	25,680
Series 2013A	242,320	-	-	242,320
Series 2013B	115,725	-	(68,990)	46,735
Series 2013C	102,820	-	(102,820)	-
Series 2016A	149,495	-	(795)	148,700
Series 2016B	621,990	-	(1,960)	620,030
Series 2017	339,275	-	(645)	338,630
Series 2018	219,035	-	(3,515)	215,520
Series 2019A	129,550	-	(1,180)	128,370
Series 2019B	441,390	-	(3,905)	437,485
Series 2021	-	548,175	-	548,175
Total Bonds Payable	<u>3,051,400</u>	<u>548,175</u>	<u>(847,930)</u>	<u>2,751,645</u>
Direct Borrowings:				
Series 2012A	42,195	-	(6,415)	35,780
Series 2020A	-	155,915	-	155,915
Series 2021B	-	88,135	-	88,135
Series 2021C	-	53,145	-	53,145
Total Direct Borrowings	<u>42,195</u>	<u>297,195</u>	<u>(6,415)</u>	<u>332,975</u>
	3,093,595	845,370	(854,345)	3,084,620
Add unamortized bond premium	304,519	120,282	(40,240)	384,561
Less current portion of revenue bonds payable	(72,700)	(80,110)	72,700	(80,110)
Revenue bonds payable - net of current portion	<u>\$ 3,325,414</u>	<u>\$ 885,542</u>	<u>\$ (821,885)</u>	<u>\$ 3,389,071</u>

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 5 - Long-Term Debt (Continued)**

	<u>June 30, 2019</u>	<u>Additions</u>	<u>Deletions</u>	<u>June 30, 2020</u>
Bonds Payable:				
Series 2008B1	\$ 130,135	\$ -	(260)	\$ 129,875
Series 2008B2	117,685	-	(290)	117,395
Series 2008B3	148,790	-	(300)	148,490
Series 2008B4	99,165	-	(200)	98,965
Series 2010B	67,330	-	(6,570)	60,760
Series 2012	157,835	-	(23,520)	134,315
Series 2013A	242,320	-	-	242,320
Series 2013B	135,450	-	(19,725)	115,725
Series 2013C	103,740	-	(920)	102,820
Series 2016A	150,250	-	(755)	149,495
Series 2016B	623,850	-	(1,860)	621,990
Series 2017	339,885	-	(610)	339,275
Series 2018	221,045	-	(2,010)	219,035
Series 2019A	-	129,550	-	129,550
Series 2019B	-	441,390	-	441,390
Total Bonds Payable	<u>2,537,480</u>	<u>570,940</u>	<u>(57,020)</u>	<u>3,051,400</u>
Direct Borrowings:				
Series 2012A	48,200	-	(6,005)	42,195
	2,585,680	570,940	(63,025)	3,093,595
Add unamortized bond premium	215,859	105,131	(16,471)	304,519
Less current portion of revenue bonds payable	<u>(63,025)</u>	<u>(72,700)</u>	<u>63,025</u>	<u>(72,700)</u>
Revenue bonds payable - net of current portion	<u>\$ 2,738,514</u>	<u>\$ 603,371</u>	<u>\$ (16,471)</u>	<u>\$ 3,325,414</u>

In the 2002 legislative session, the Florida Legislature amended Chapter 348, Part V (now Part III of the "Expressway Act") to, among other things, revise and expand the powers of CFX to finance or refinance its projects, including the power to refund bonds previously issued on behalf of CFX by the State of Florida Division of Bond Finance of the State Board of Administration (Division of Bond Finance), through the issuance of its own bonds or other obligations. Consistent with the authority granted in the Expressway Act, CFX adopted an Authority Bond Resolution on July 2, 2002, authorizing the issuance of up to \$2,000,000,000 of additional bonds or other indebtedness to finance projects of CFX. Although not required, the first issuance of bonds by CFX under the Authority Bond Resolution was validated by the Circuit Court of the Ninth Judicial Circuit of Florida, in Orange County, Florida, on September 20, 2002.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 5 - Long-Term Debt (Continued)**

On January 28, 2003, the Division of Bond Finance adopted a resolution formally recognizing CFX as the issuer of bonds under that certain Master Junior Lien Bond Resolution pursuant to which the Division of the Bond Finance had previously issued bonds on behalf of CFX. CFX further adopted, on February 3, 2003, an Amended and Restated Master Bond Resolution pursuant to which CFX amended and restated the Authority Bond Resolution and the Master Junior Lien Resolution into a single, consolidated, single-lien resolution to govern the existing outstanding bonds and future bond indebtedness of CFX. All bonds or other obligations issued under the Amended and Restated Master Bond Resolution are payable from, and secured by, a pledge of net revenues from the operation of the System.

As notated in Note 1, on June 20, 2014, the Governor of Florida signed a bill to create CFX, which assumed the governance and control of the former Orlando-Orange County Expressway Authority, including its assets, personnel, contracts, obligations, liabilities, facilities and tangible and intangible property. Central Florida Expressway Authority assumed all the debt of the former Orlando-Orange County Expressway Authority pursuant to Chapter 2014-171, Public Laws of Florida.

**Fixed Rate Debt**

The Central Florida Expressway Authority Taxable Refunding Revenue Bond, Series 2021C, was originally issued on June 24, 2021 and was outstanding in the aggregate principal amount of \$53,145,000 and \$0 on June 30, 2021 and 2020 respectively. The bond was issued in the form of a bank loan directly with the bondholder, Citizens First Bank. The bond is due in annual installments beginning on July 1, 2022 through July 1, 2025 in amounts ranging from \$1,420,000 to \$25,180,000 plus interest. Interest on the 2021C Bond is due and paid semiannually. The 2021C Bond is payable from, and secured by, a pledge of net revenues from the operation of the expressway System. The purpose of the Series 2021C Bond was to refund a portion of the Series 2013B Bonds for net present value savings of \$2,222,586 which represents \$2,253,553 of lower debt service payments over the life of the debt. The deferred outflow on the refunding for accounting purposes was \$2,633,478.

The Central Florida Expressway Authority Taxable Convertible Refunding Revenue Bond, Series 2021B, was originally issued on June 24, 2021 and was outstanding in the aggregate principal amount of \$88,135,000 and \$0 on June 30, 2021 and 2020 respectively. The bond was issued in the form of a bank loan directly with the bondholder, Key Government Finance, Inc. The bond is due in annual installments beginning on July 1, 2022 through July 1, 2025 in amounts ranging from \$1,780,000 to \$28,820,000 plus interest. Interest on the 2021B Bonds is due and paid semiannually. The 2021B Bond is payable from, and secured by, a pledge of net revenues from the operation of the expressway System. The purpose of the Series 2021B Bonds was to refund a portion of the Series 2012 Bonds for net present value savings of \$5,639,891, which represents \$5,726,942 of lower debt service payments over the life of the debt. The deferred outflow on the refunding for accounting purposes was \$8,697,527.

The Central Florida Expressway Authority Refunding Revenue Bonds, Series 2021, were originally issued on April 22, 2021 and were outstanding in the aggregate principal amount of \$548,175,000 and \$0 on June 30, 2021 and 2020 respectively, all of which were serial bonds. The outstanding serial bonds are due in annual installments beginning on July 1, 2022 through July 1, 2040 in amounts ranging from \$4,300,000 to \$62,120,000, plus interest. The 2021 Bonds are payable from, and secured by, a pledge of net revenues from the operation of the

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 5 - Long-Term Debt (Continued)**

**Fixed Rate Debt (Continued)**

expressway System. Interest on the 2021 Bonds is due and paid semiannually. The purpose of the Series 2021 Bonds was to lower the risk profile of CFX's debt by refunding the remaining portions of the Series 2008B variable Bonds and terminate the Swaps associated with them, for net present value savings of \$1,193,124, which represents \$525,607 of higher debt service payments over the life of the debt.

The Central Florida Expressway Authority Refunding Revenue Bond, Series 2020A, was originally issued on August 18, 2020 and was outstanding in the aggregate principal amount of \$155,915,000 and \$0 on June 30, 2021 and 2020 respectively. The bond was issued in the form of a bank loan directly with the bondholder, STI Institutional & Government, Inc. The bond is due in annual installments beginning on July 1, 2021 through July 1, 2032 in amounts ranging from \$1,230,000 to \$56,400,000 plus interest. The 2020A Bond is payable from, and secured by, a pledge of net revenues from the operation of the expressway System. Interest on the 2020A Bond is due and paid semiannually. The purpose of the Series 2020A Bond was to refund portions of the Series 2010B and 2013C Bonds for net present value savings of \$11,219,373, which represents \$12,322,473 of lower debt service payments over the life of the debt. The deferred outflow on the refunding for accounting purposes was \$1,046,259.

The Central Florida Expressway Authority Revenue Bonds, Series 2019A, were originally issued on December 5, 2019 and were outstanding in the aggregate principal amount of \$128,370,000 and \$129,550,000 on June 30, 2021 and 2020 respectively, including \$64,755,000 of serial bonds and \$63,615,000 of term bonds. The outstanding serial bonds are due in annual installments beginning on July 1, 2021 through July 1, 2039 in amounts ranging from \$2,125,000 to \$5,015,000, plus interest. Two term bonds were issued in the amounts of \$28,535,000 and \$35,080,000 and mature July 1, 2044 and July 1, 2049, respectively. The 2019A Bonds are payable from, and secured by, a pledge of net revenues from the operation of the expressway System. Interest on the 2019A Bonds is due and paid semiannually. The purpose of the Series 2019A Bonds was to purchase the Poinciana Parkway System from Osceola County.

The Central Florida Expressway Authority Revenue Bonds, Series 2019B, were originally issued on December 5, 2019 and were outstanding in the aggregate principal amount of \$437,485,000 and \$441,390,000 on June 30, 2021 and 2020, including \$214,370,000 of serial bonds and \$223,115,000 of term bonds. The outstanding serial bonds are due in annual installments beginning on July 1, 2021 through July 1, 2039 in amounts ranging from \$7,020,000 to \$16,895,000, plus interest. Two term bonds were issued in the amounts of \$98,015,000 and \$125,100,000 and mature July 1, 2044 and July 1, 2049, respectively. The 2019B Bonds are payable from, and secured by, a pledge of net revenues from the operation of the expressway System. Interest on the 2019B Bonds is due and paid semiannually. The purpose of the Series 2019B Bonds was to fund a portion of the Five-Year Work Plan.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 5 - Long-Term Debt (Continued)**

**Fixed Rate Debt (Continued)**

The Central Florida Expressway Authority Revenue Bonds, Series 2018, were originally issued on November 29, 2018 and were outstanding in the aggregate principal amount of \$215,520,000 and \$219,035,000 on June 30, 2021 and 2020 respectively, including \$122,025,000 of serial bonds and \$93,495,000 of term bonds. The outstanding serial bonds are due in annual installments beginning on July 1, 2021 through July 1, 2040 in amounts ranging from \$3,690,000 to \$9,325,000, plus interest. Two term bonds were issued in the amounts of \$30,865,000 and \$62,630,000 and mature July 1, 2043 and July 1, 2048, respectively. The 2018 Bonds are payable from, and secured by, a pledge of net revenues from the operation of the expressway System. Interest on the 2018 Bonds is due and paid semiannually. The purpose of the Series 2018 Bonds was to fund a portion of the Five-Year Work Plan.

The Central Florida Expressway Authority Refunding Revenue Bonds, Series 2017, were originally issued on December 28, 2017 and were outstanding in the aggregate principal amount of \$338,630,000 and \$339,275,000 on June 30, 2021 and 2020 respectively, including \$240,520,000 of serial bonds and \$98,110,000 of term bonds. The outstanding serial bonds are due in annual installments beginning on July 1, 2021 through July 1, 2042 in amounts ranging from \$675,000 to \$56,340,000, plus interest. The term bond is due on July 1, 2041. The 2017 Bonds are payable from, and secured by, a pledge of net revenues from the operation of the expressway System. Interest on the 2017 Bonds is due and paid semiannually. The purpose of the Series 2017 Bonds was to refund all of the Series 2007A, 2010A, and 2010C Bonds and a portion of the 2010B Bonds, for net present value savings of \$39,795,910, which represents \$61,030,269 of lower debt service payments over the life of the debt. The deferred outflow on the refunding for accounting purposes was \$26,266,627.

The Central Florida Expressway Authority Refunding Revenue Bonds, Series 2016B, were originally issued on November 2, 2016 and were outstanding in the aggregate principal amount of \$620,030,000 and \$621,990,000 on June 30, 2021 and 2020 respectively, all of which were serial bonds. The outstanding serial bonds are due in annual installments beginning on July 1, 2021 through July 1, 2040 in amounts ranging from \$2,035,000 to \$66,520,000, plus interest. The 2016B Bonds are payable from, and secured by, a pledge of net revenues from the operation of the expressway System. Interest on the 2016B Bonds is due and paid semiannually. The purpose of the Series 2016B Bonds was to refund portions of the Series 2007A, 2010A, 2010B and 2010C Bonds for net present value savings of \$65,239,436, which represents \$92,180,668.91 of lower debt service payments over the life of the debt. The deferred outflow on the refunding for accounting purposes was \$75,028,080.



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 5 - Long-Term Debt (Continued)**

**Fixed Rate Debt (Continued)**

The Central Florida Expressway Authority Refunding Revenue Bonds, Series 2016A, were originally issued on April 26, 2016 and were outstanding in the aggregate principal amount of \$148,700,000 and \$149,495,000 on June 30, 2021 and 2020 respectively, all of which were serial bonds. The outstanding serial bonds are due in annual installments beginning on July 1, 2021 through July 1, 2032 and July 1, 2036 through July 1, 2037 in amounts ranging from \$835,000 to \$28,000,000, plus interest. The 2016A Bonds are payable from, and secured by, a pledge of net revenues from the operation of the expressway System. Interest on the 2016A Bonds is due and paid semiannually. The purpose of the Series 2016A Bonds was to refund a portion of the Series 2007A Bonds for net present value savings of \$27,251,546, which represents \$40,378,823 of lower debt service payments over the life of the debt. The deferred outflow on the refunding for accounting purposes was \$5,296,435.

The Central Florida Expressway Authority Refunding Revenue Bonds, Series 2013B, were originally issued on January 2, 2013 and were outstanding in the aggregate principal amount of \$46,735,000 and \$115,725,000 on June 30, 2021 and 2020, respectively, all of which were serial bonds. The outstanding serial bonds are due in annual installments on July 1, 2021 through July 1, 2023 in amounts ranging from \$2,475,000 to \$22,625,000, plus interest. The 2013B Bonds are payable from, and secured by, a pledge of net revenues from the operation of the expressway System. Interest on the 2013B Bonds is due and paid semiannually. The Series 2013B Bonds were issued for the purpose of refunding the Series 2003C2 and 2003C4 Bonds and to fund the termination payments related to the associated swaps. The refunding resulted in a deferred outflow of \$42,223,850, most of which was related to the swap termination payments. The difference between the cash flow of the old debt and the cash flow of the new debt was \$5,959,376 higher post-refunding, which represents \$4,868,985 on a net present value basis. The purpose of this refunding was to lower the risk profile of CFX's debt at an attractive rate.

The Central Florida Expressway Authority Refunding Revenue Bonds, Series 2013A, were originally issued on April 3, 2013 and were outstanding in the aggregate principal amount of \$242,320,000 on June 30, 2021 and 2020, including \$110,545,000 of serial bonds and \$131,775,000 of term bonds. The serial bonds are due in annual installments beginning on July 1, 2026 through July 1, 2032 in amounts ranging from \$7,065,000 to \$24,875,000, plus interest. The term bond is due on July 1, 2035. The 2013A Bonds are payable from, and secured by, a pledge of net revenues from the operation of the expressway System. Interest on the 2013A Bonds is due and paid semiannually. The purpose of the Series 2013A Bonds was to refund the Series 2003B Bonds for net present value savings of \$35,842,015, which represents \$60,831,999 of lower debt service payments over the life of the debt. The deferred outflow on the refunding for accounting purposes was \$2,750,505.

The Central Florida Expressway Authority Refunding Revenue Bonds, Series 2012, were originally issued on November 29, 2012 and were outstanding in the aggregate principal amount of \$25,680,000 and \$134,315,000 on June 30, 2021 and 2020 respectively, all of which were serial bonds. The serial bonds are due on July 1, 2022 for \$25,680,000 plus interest. The 2012 Bonds are payable from, and secured by, a pledge of net revenues from the operation of the expressway System. Interest on the 2012 Bonds is due and paid semiannually. See below for the purpose, economic and accounting impacts of the refunding.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 5 - Long-Term Debt (Continued)**

**Fixed Rate Debt (Continued)**

The Central Florida Expressway Authority General Reserve Fund Obligation Bond, Series 2012A, was originally issued on November 29, 2012 and was outstanding in the aggregate principal amount of \$35,780,000 and \$42,195,000 on June 30, 2021 and 2020 respectively. The bond was issued in the form of a subordinate bank loan directly with the bondholder, SunTrust Bank. The bond is due in annual installments beginning on July 1, 2020 through July 1, 2025 in amounts ranging from \$6,415,000 to \$8,485,000, plus interest. The 2012A Bond is payable from, and secured by, a pledge of the general fund, which is junior and subordinate to the net revenues from the operation of the expressway System pledged to senior lien parity bonds. Interest on the 2012A Bond is due and paid semiannually.

Collectively, the purpose of the Series 2012 and 2012A Bonds was to refund the Series 2003C1 and 2003C3 Bonds and to fund the termination payments on the associated swaps. The refunding resulted in a deferred outflow of \$60,159,863, most of which was related to the swap termination payments. The difference between the cash flow of the old debt and the cash flow of the new debt was \$7,202,160 higher post-refunding, which represents \$4,712,369 on a net present value basis. The purpose of this refunding was to lower the risk profile of CFX's debt at an attractive rate.

**Variable Rate Debt**

On April 22, 2021, CFX issued the Central Florida Expressway Authority Refunding Revenue Bonds, Series 2021 Bonds which refunded and retired all outstanding variable rate debt.

On May 1, 2008, CFX issued Central Florida Expressway Authority Variable Rate Refunding Revenue Bonds, Series 2008B1, 2008B2, 2008B3 and 2008B4 (collectively, "2008B Bonds"), for the purpose of refunding the Series 2005A, 2005B, 2005C, 2005D, and 2005E Bonds (collectively, "2005 Bonds"), of which \$0 was outstanding on June 30, 2021 and \$129,875,000, \$117,395,000, \$148,490,000, and \$98,965,000 was outstanding on June 30, 2020. The 2008B Bonds were issued in four sub-series in the initial aggregate principal amount of \$499,105,000, including Series 2008B1 in the initial principal amount of \$131,025,000; Series 2008B2 in the initial principal amount of \$118,500,000; Series 2008B3 in the initial principal amount of \$149,760,000; and 2008B4 in the initial principal amount of \$99,820,000.

The Series 2008B Bonds were dated the date of their original issuance and delivery and had a maturity date of July 1, 2040. The Series 2008B Bonds were initially issued in a variable rate mode, with the interest rate on the Series 2008B Bonds resetting on a weekly basis and interest payable on a monthly basis.

In fiscal year 2012, the Series 2008B3 and 2008B4 Bonds were converted to a bank rate mode and directly placed with the bondholder. In fiscal year 2015, the Series 2008B1 Bonds were converted to a bank rate mode and directly placed with the bondholder. In fiscal year 2016, the Series 2008B2 Bonds were converted to a bank rate mode and directly placed with the bondholder. All 2008B bonds remain in bank purchase mode. The bank rate also resets on a weekly basis and is tied to the SIFMA index plus a spread.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 5 - Long-Term Debt (Continued)**

**Variable Rate Debt (Continued)**

The 2008B Bonds were subject to optional and mandatory redemption and optional and mandatory tender for purchase prior to maturity. Amortization installments for the mandatory redemption of the 2008B Bonds began on July 1, 2014. All outstanding 2008B Bonds were redeemed on April 22, 2021 and are no longer outstanding.

The annual requirements to amortize all revenue bonds and revenue refunding bonds outstanding as of June 30, 2021, are summarized as follows (all amounts in thousands). The totals below are net of capitalized interest funds available for debt service.

	Bonds Payable			Direct Borrowings		
	Principal	Interest	Total P&I Due	Principal	Interest	Total P&I Due
2022	\$ 18,855	\$ 119,666	\$ 138,521	\$ 61,255	\$ 3,699	\$ 64,954
2023	77,545	125,016	202,561	11,435	3,404	14,839
2024	54,355	120,520	174,875	38,915	2,988	41,903
2025	33,285	117,120	150,405	63,150	2,442	65,592
2026	48,580	115,074	163,654	63,795	1,786	65,581
2027-2031	577,905	499,246	1,077,151	65,590	4,932	70,522
2032-2036	756,845	346,612	1,103,457	28,835	441	29,276
2037-2041	753,160	182,288	935,448	-	-	-
2042-2046	260,770	66,944	327,714	-	-	-
2047-2051	170,345	15,392	185,737	-	-	-
	<u>\$ 2,751,645</u>	<u>\$ 1,707,879</u>	<u>\$ 4,459,524</u>	<u>\$ 332,975</u>	<u>\$ 19,691</u>	<u>\$ 352,666</u>

**Hedging Derivative Instruments – Cash Flow Hedges**

**Variable-to-Fixed Rate Interest Rate Swaps** - On July 13, 2004, CFX entered into five forward-starting, synthetic fixed rate swap agreements totaling \$499,105,000 (“2004 Swaps”), attributable to the \$199,645,000 Series 2005A Bonds, the \$149,760,000 Series 2005B Bonds, the \$99,820,000 Series 2005C Bonds, the \$24,940,000 Series 2005D Bonds, and the \$24,940,000 Series 2005E Bonds. On May 1, 2008, all Series 2005 Bonds were redeemed, and the 2004 Swaps were then associated with the Series 2008B Refunding Bonds described above. On April 22, 2021, CFX issued the Central Florida Expressway Authority Refunding Revenue Bonds, Series 2021 Bonds which terminated all interest rate swaps.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 5 - Long-Term Debt (Continued)**

*Debt Service Reserve Requirements* – CFX has purchased surety policies from bond insurers for the outstanding 2012, 2013A, 2013B, 2016A, and 2021 Bonds. The Series 2016B and Series 2017 Bonds are secured by reserves comprised of a combination of cash and a surety policy. The Series 2018, 2019A, and 2019B Series Bonds are secured by a cash reserve. The 2012A, 2020A, 2021B and 2021C Bonds are not secured by a reserve. Bond covenants do not require minimum ratings for providers of surety policies.

*Defeased Bonds* - In June of 2021 CFX utilized proceeds from the issuance of the Series 2021B and 2021C Refunding Bonds to fund an escrow to provide for the payment of principal and interest on the refunded Series 2012 and 2013B Bonds as of their call date of July 1, 2022 and July 1, 2023.

Principal maturities on those defeased bonds, based on July 1 payments each year, are as follows (in thousands):

Year Ending June 30,	2012 Bonds	2013B Bonds	Total
2022	\$ 84,060	\$ -	84,060
2023	-	48,360	48,360
	\$ 84,060	\$ 48,360	\$ 132,420

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 5 - Long-Term Debt (Continued)**

**Due to Governmental Agencies**

Due to governmental agencies consists of the following (in thousands):

	<u>June 30, 2020</u>	<u>Additions</u>	<u>Deletions</u>	<u>June 30, 2021</u>
Advances from FDOT for construction, operations and maintenance of certain plazas and roadways	\$ 1,507	\$ 1,424	(1,507)	\$ 1,424
Loans and advances for specific projects	200,455	2,413	(246)	202,622
Toll revenue due to other state agencies	2,364	99,506	(98,239)	3,631
	<u>204,326</u>	<u>103,343</u>	<u>(99,992)</u>	<u>207,677</u>
Less current portion	<u>(4,117)</u>	<u>(5,270)</u>	<u>4,117</u>	<u>(5,270)</u>
Due to other governments net of current portion	<u>200,209</u>	<u>98,073</u>	<u>(95,875)</u>	<u>202,407</u>

The following is a schedule by years of the minimum future payments on the amounts due to governmental agencies (all amounts in thousands):

<u>Year Ending June 30,</u>	<u>Amount</u>
2022	\$ 5,270
2023	-
2024	-
2025	-
2026	-
Thereafter	<u>202,407</u>
	<u>\$ 207,677</u>

Amounts included in “thereafter” are payable based on future events, as described below:

Included in the Loans and Advances for specific projects is \$4,421,000 for advances from the Greater Orlando Aviation Authority, the City of Orlando and Orange County for the extension of Goldenrod Road. The extension is a non-System project, and revenues from this project are utilized solely to pay expenses for the extension and to reimburse the funding partners, including CFX, for their original contribution to the project. Also included in Loans and Advances for specific projects is \$197,985,482 for a Transportation Infrastructure Finance and Innovation Act (TIFIA) loan from the US Department of Transportation. This loan was secured from qualifying expenses for the acquisition of right-of-way and construction of the Wekiva Parkway. Principal repayments begin in 2028 and continue through 2049.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 6 - Leases**

**Operating Leases** - CFX leases excess capacity of the Fiber Optic Network (FON) to Sprint Communications Company L.P. The original historic cost of this FON of \$19,172,000 is not depreciated because its expected life exceeds 100 years. This is a ten-year lease with two five-year renewal options followed by three three-year renewal options. The annual rate of \$464,640, adjusted annually by the local Consumer Price Index, is presented as miscellaneous nonoperating revenues. If CFX terminates this agreement because of licensee's (Sprint's) default, the licensee shall pay CFX, as liquidated damages, an amount equal to the minimum total fees and charges for the remaining agreement term. There is no termination clause for the licensee except by default of CFX. The first three-year renewal was executed at the end of fiscal year 2021. The minimum future rentals for the remaining three fiscal years are \$464,640 per year for the first two years and \$425,920 for the third year, for a total of \$1,355,200.

**Note 7 - Commitments and Contingencies**

**Commitments** - Outstanding construction and other significant commitments for improvements, maintenance and operation of the System totaled approximately \$831,701,000 at June 30, 2021.

**Pending Litigation** - Various lawsuits and claims arising in the ordinary course of CFX's operations are pending against CFX.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 8 - Retirement Plans**

**Plan Descriptions**

*Florida Retirement System (FRS) Pension Plan* - Most employees of CFX participate in the State of Florida Retirement System (the "FRS"), a multiple-employer, cost-sharing, defined-benefit retirement plan, or defined-contribution retirement plan, administered by the Florida Department of Administration, Division of Retirement. As a general rule, membership in the FRS is compulsory for all employees working in a regular, established position for a state agency, county government, district school board, state university, community college or a participating city or special district within the state of Florida. The FRS provides retirement and disability benefits, annual cost-of-living adjustments and death benefits to plan members and beneficiaries. Employees are classified in either the regular service class or the senior management service class ("SMSC"). The SMSC is for members who fill senior-level management positions. Employees classified as SMSC may opt out of participation in the FRS. Benefits are established by Chapter 121, Florida Statutes, and Chapter 60S, Florida Administrative Code. Amendments to the law can be made only by an act of the Florida Legislature.

*Retiree Health Insurance Subsidy (HIS) Program* – Employees of CFX also participate in the Retiree Health Insurance Subsidy (HIS) Program, which is a cost-sharing, multiple-employer defined-benefit pension plan established and administered in accordance with Section 112.363, Florida Statutes. The benefit is a monthly payment to assist retirees of the state-administered retirement systems in paying their health insurance costs. Eligible retirees and beneficiaries receive a monthly HIS payment equal to the number of years of service credited at retirement multiplied by \$5. The minimum payment is \$30 and the maximum payment is \$150 per month, pursuant to Section 112.363, Florida Statutes. To be eligible to receive a HIS benefit, a retiree under one of the state-administered retirement systems must provide proof of eligible health insurance coverage, which can include Medicare.

*Public Employee Optional Retirement Program* - Employees may participate in the Public Employee Optional Retirement Program (the "Investment Plan"), a defined-contribution retirement program, in lieu of participation in the defined-benefit retirement plan ("Pension Plan"). If the Investment Plan is elected, active membership in the defined-benefit retirement plan is terminated. Eligible members of the Investment Plan are vested at one year of service and receive a contribution for self-direction in an investment product with a third-party administrator selected by the State Board of Administration. The contribution rates for both fiscal 2021 and 2020 were 6.3% for regular class and 7.67% for senior management class.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 8 - Retirement Plans (Continued)**

**Benefits Provided** – For employees in FRS, benefits are computed on the basis of age, average final compensation and service credit. Regular class and senior management class employees who were enrolled in the FRS prior to July 1, 2011 and retire at or after age 62 with at least six years of credited service, or 30 years of service, regardless of age, are entitled to a retirement benefit payable monthly for life, based on their final average compensation of their five highest fiscal years of pay for each year of credited service. Employees enrolled on or after July 1, 2011 and who retire at or after age 65 with at least eight years of credited service, or 33 years of service, regardless of age, are entitled to a retirement benefit payable monthly for life, as explained above based on their eight highest fiscal years of pay. Using their date of enrollment as a basis, vested employees with less than the minimum years of service may retire before the minimum age and receive reduced retirement benefits. A post-retirement health insurance subsidy is also provided to eligible retired employees through the FRS defined benefit, in accordance with Florida Statutes.

In addition to the above benefits, the FRS administers a Deferred Retirement Option Program (“DROP”). This program allows eligible employees to defer receipt of monthly retirement benefit payments, while continuing employment with an FRS employer for a period not to exceed 60 months after electing to participate. Deferred monthly benefits are held in the FRS Trust Fund and accrue interest.

**Contributions** - Starting on July 1, 2011, Chapter 2011-68 of the Laws of Florida required members of the FRS not enrolled in DROP to contribute 3% of their salary to their retirement. Governmental employers are required to make contributions to the FRS based on statewide contribution rates. The fiscal year 2021 contribution rate applied to regular employee salaries was 10.00%, including 1.66% for a post-retirement health insurance subsidy (“HIS”). The fiscal year 2020 contribution rate was 8.47%, which included 1.66% for HIS. The fiscal year 2021 contribution rate applied to senior management salaries was 27.29%, including 1.66% HIS. The fiscal year 2020 contribution rate was 25.41%, which included 1.66% for HIS. The fiscal year 2021 contribution rate applied to the salaries of the employees in DROP was 16.98%, including 1.66% for HIS. The fiscal year 2020 contribution rate was 14.60%, which included 1.66% for HIS.

CFX’s actual contributions to the FRS for the fiscal years ended June 30, 2021 and 2020 were \$1,059,000 and \$936,000, respectively. Employee contributions were \$223,000 and \$218,000 for the fiscal years ended June 30, 2021 and 2020, respectively.

**Pension Liabilities, Pension Expense, and Deferred Outflows of Resources and Deferred Inflows of Resources Related to Pensions**

CFX reported a liability of \$12,012,000 and \$9,997,000, at June 30, 2021 and 2020, respectively, for its proportionate share of the net pension liability of FRS and HIS. The net pension liability as of June 30, 2021 and 2020 was measured as of June 30, 2020 and 2019, respectively, and the total pension liability used to calculate the net pension liability was determined by an actuarial valuation as of those dates. CFX’s proportion of the net pension liability was based on CFX’s historical employer contributions to the pension plans for fiscal year 2019 and 2020 relative to the historical contributions of all participating employers. At June 30, 2020, CFX’s proportion was 0.02167% and 0.02137% for FRS and HIS, respectively, which was a decrease of 0.00042% and a decrease of 0.00007% from its respective proportion measured as of June 30, 2019.



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 8 - Retirement Plans (Continued)**

At June 30, 2019, CFX's proportion was 0.0221% and 0.0214% for FRS and HIS, respectively, which was an increase of 0.0016% and an increase of 0.0012% from its respective proportion measured as of June 30, 2018.

For the year ended June 30, 2021, CFX recognized a total of \$2,472,000 pension expense with \$2,174,000 and \$298,000, for FRS and HIS, respectively. For the year ended June 30, 2020, CFX recognized a total of \$2,473,000 pension expense with \$2,208,000 and \$265,000, for FRS and HIS, respectively.

At June 30, 2021 and June 30, 2020, CFX reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources (in thousands):

	<b>As of June 30, 2021</b>	
	<b>Deferred Outflows of Resources</b>	<b>Deferred Inflows of Resources</b>
Differences between expected and actual experience	\$ 467	\$ 2
Changes of assumptions	1,983	152
Differences between projected and actual earnings on pension plan investments	561	-
Changes in proportion	675	88
CFX contributions subsequent to the measurement date	964	-
Total	\$ 4,650	\$ 242

	<b>As of June 30, 2020</b>	
	<b>Deferred Outflows of Resources</b>	<b>Deferred Inflows of Resources</b>
Differences between expected and actual experience	\$ 451	\$ 8
Changes of assumptions	2,231	195
Differences between projected and actual earnings on pension plan investments	-	419
Changes in proportion	972	4
CFX contributions subsequent to the measurement date	844	-
Total	\$ 4,498	\$ 626

\$964,000 and \$844,000 reported as deferred outflows of resources related to pensions resulting from CFX contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability in the year ending June 30, 2022 and June 30, 2021 respectively.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 8 - Retirement Plans (Continued)**

Other amounts reported as deferred outflows of resources and deferred inflows of resources related to pensions will be recognized in pension expense as follows (in thousands):

Years Ending June 30:	Amount
2022	\$ 678
2023	656
2024	609
2025	571
2026	520
Thereafter	410

**Actuarial Assumptions** – The actuarial assumptions that determined the total pension liability as of June 30, 2021 and June 30, 2020, were based on the results of an actuarial experience study for the period July 1, 2014 – June 30, 2019.

Valuation date	July 1, 2019	July 1, 2020
Measurement date	June 30, 2019	June 30, 2020
Inflation	2.60%	2.40%
Salary increases, including inflation	3.25%	3.25%
Mortality	Generational RP-2000 with Projection Scale BB	PUB2010 base table varies by member category and sex, projected generationally with Scale MP-2018
Actuarial Cost Method	Individual Entry Age	Individual Entry Age

The long-term expected rate of return, net of investment expense on pension plan investments was 6.80% and 6.90% as of June 30, 2020 and June 30, 2019 respectively. This rate was determined using a forward-looking capital market economic model. The table below shows the assumptions for each of the asset classes in which the plan was invested at that time based on the long-term target asset allocation. The allocation policy's description of each asset class was used to map the target allocation to the asset classes shown below. Each asset class assumption is based on a consistent set of underlying assumptions and includes an adjustment for the inflation assumption. The expected real rate of return is presented in arithmetic means.

Asset Class	Target Allocation	Annual Arithmetic Return
Cash	1%	2.2%
Fixed Income	19%	3.0%
Global equity	54%	8.0%
Real Estate (property)	10%	6.4%
Private equity	11%	10.8%
Strategic investments	5%	5.5%
Total	100.00%	

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**NOTES TO FINANCIAL STATEMENTS**  
**Years Ended June 30, 2021 and 2020**

**Note 8 - Retirement Plans (Continued)**

**Discount Rate** – The discount rate used to measure the total pension liability was 6.80% and 6.90% for FRS for June 30, 2020 and June 30, 2019 respectively. The discount rate used to measure the total pension liability was 2.21% and 3.50% for HIS as of June 30, 2020 and June 30, 2019 respectively. For FRS, the plan’s fiduciary net position was projected to be available to make all projected future benefit payments of current active and inactive employees. Therefore, the discount rate for calculating the total pension liability is equal to the long-term expected rate of return. Because the HIS benefit is essentially funded on a pay-as-you-go basis, the depletion date is considered to be immediate, and the single equivalent discount rate is equal to the municipal bond rate selected by the plan sponsor.

**Sensitivity of CFX’s Proportionate Share of the Net Pension Liability to Changes in the Discount Rate** – The following presents CFX’s proportionate share of the net pension liability calculated using the discount rate of 6.80% and 6.90% for FRS for June 30, 2020 and June 30, 2019 respectively. The discount rate of 2.21% and 3.50% was used for HIS for June 30, 2020 and June 30, 2019 respectively. The following also presents what CFX’s proportionate share of the net pension liability would be at June 30, 2021 and 2020 if it were calculated using a discount rate that is 1 percentage point lower or 1 percentage point higher than the respective current rate:

		As of June 30, 2021		
		FRS		
		1% Decrease 5.8%	Current Discount Rate 6.8%	1% Increase 7.8%
CFX’s proportionate share of the net pension liability (asset)		\$ 15,004,438	\$ 9,396,379	\$ 4,712,504
		HIS		
		1% Decrease 1.21%	Current Discount Rate 2.21%	1% Increase 3.21%
CFX’s proportionate share of the net pension liability (asset)		\$ 3,026,081	\$ 2,617,818	\$ 2,283,656

		As of June 30, 2020		
		FRS		
		1% Decrease 5.9%	Current Discount Rate 6.9%	1% Increase 7.9%
CFX’s proportionate share of the net pension liability (asset)		\$ 13,151,181	\$ 7,607,701	\$ 2,977,957
		HIS		
		1% Decrease 2.50%	Current Discount Rate 3.50%	1% Increase 4.50%
CFX’s proportionate share of the net pension liability (asset)		\$ 2,729,721	\$ 2,391,238	\$ 2,109,321

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
NOTES TO FINANCIAL STATEMENTS  
Years Ended June 30, 2021 and 2020**

**Note 8 - Retirement Plans (Continued)**

**Change in Net Pension Liability** - The following is a summary of changes in net pension liability (in thousands):

	June 30, 2020	Additions	Deletions	June 30, 2021	Due Within One year
Net pension liability	\$ 9,997	\$ 6,782	\$ 4,767	\$ 12,012	\$ -

	June 30, 2019	Additions	Deletions	June 30, 2020	Due Within One year
Net pension liability	\$ 8,312	\$ 6,883	\$ 5,198	\$ 9,997	\$ -

**Pension Plan Fiduciary Net Position** – Detailed information about FRS and HIS fiduciary net position is available in the separately issued FRS financial report. The latest available report may be obtained by writing to the Department of Management Services, Office of the Secretary, 4050 Esplanade Way, Tallahassee, FL 32399-0950 or from the website:

[http://www.dms.myflorida.com/workforce\\_operations/retirement/publications](http://www.dms.myflorida.com/workforce_operations/retirement/publications)

**Note 9 - Risk Management**

CFX is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters for which CFX purchases commercial insurance.

No settlements have exceeded coverage levels in place during 2019, 2020 and 2021.

CFX is covered by the State of Florida's State Group Insurance program, a risk management pool to which risk is transferred in exchange for annual premium payments.

**Note 10 – Subsequent Events**

On July 1, 2021, CFX used legally available moneys on hand to defease all its then-outstanding Refunding Revenue Bonds, Series 2013A balance of \$242,320,000.

On July 28, 2021, CFX issued Central Florida Expressway Authority Senior Lien Revenue Series 2021D Bonds in the principal amount of \$198,435,000. The bonds were issued as new funds with the purpose to fund portions of the Five-Year Work Plan.

**REQUIRED SUPPLEMENTARY INFORMATION**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**Trend Data on Infrastructure Condition**

CFX elected to use the modified approach to account for maintenance of its infrastructure assets starting in fiscal year 1997. The FDOT annually inspects CFX’s roadways. The FDOT utilizes the Maintenance Rating Program (the “MRP”) to assess the condition of the System. Copies of the MRP manual may be obtained from the State Maintenance Office, 605 Suwannee Street, Mail Station 52, Tallahassee, FL 32399-0450. The MRP manual provides a uniform evaluation system for maintenance features of the State Highway System. The roadways are rated on a 100-point scale, with 100 meaning that every aspect of the roadway is in new and perfect condition. CFX’s System, as a whole, is given an overall rating, indicating the average condition of all roadways operated by CFX. The assessment of condition is made by visual and mechanical tests designed to reveal any condition that would reduce highway-user benefits below the maximum level of service. CFX’s policy is to maintain the roadway condition at a MRP rating of 80 or better. The results of the last five completed inspections are as follows:

<b>Evaluation Period</b>	
<u>Fiscal Year</u>	<u>Rating</u>
2021	93%
2020	91%
2019	91%
2018	92%
2017	89%

The budget-to-actual expenditures for preservation for the past five years are as follows:

<u>Fiscal Year</u>	<u>Budget</u>	<u>Actual</u>
	<i>(in thousands)</i>	
2021	\$ 33,064	\$ 20,929
2020	51,040	31,002
2019	44,000	21,586
2018	31,850	33,837
2017	38,487	22,447

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**Schedule of CFX's Proportionate Share of the Net Pension Liability**

**Florida Retirement System (FRS) Defined Benefit Pension Plan**  
*(in thousands)*

CFX Fiscal Year Ending June 30,	Plan Sponsor Measurement Date June 30,	CFX's Proportion of the FRS Net Pension Liability	CFX's Proportionate Share of the FRS Net Pension Liability	CFX's Covered Payroll	CFX's Proportionate Share of the FRS Net Pension Liability as a Percentage of Covered Payroll	FRS Plan Fiduciary Net Position as a Percentage of Total Pension Liability
2021	2020	0.0022%	\$ 9,396	\$ 5,100	184.24%	78.85%
2020	2019	0.0220%	7,608	4,712	161.46%	82.61%
2019	2018	0.0205%	6,180	4,250	145.41%	84.26%
2018	2017	0.0201%	5,958	4,093	145.57%	83.89%
2017	2016	0.0191%	4,812	3,746	128.46%	84.88%
2016	2015	0.0174%	2,249	3,212	70.02%	92.00%
2015	2014	0.0157%	959	2,987	32.11%	96.09%
2014	2013	0.0091%	1,566	2,985	52.46%	88.54%

**Retiree Health Insurance Subsidy (HIS) Program Defined Benefit Pension Plan**  
*(in thousands)*

CFX Fiscal Year Ending June 30,	Plan Sponsor Measurement Date June 30,	CFX's Proportion of the HIS Net Pension Liability	CFX's Proportionate Share of the HIS Net Pension Liability	CFX's Covered Payroll	CFX's Proportionate Share of the HIS Net Pension Liability as a Percentage of Covered Payroll	HIS Plan Fiduciary Net Position as a Percentage of Total Pension Liability
2021	2020	0.0214%	\$ 2,618	\$ 7,441	35.18%	3.00%
2020	2019	0.0214%	2,391	7,147	33.45%	2.63%
2019	2018	0.0202%	2,134	6,585	32.41%	2.15%
2018	2017	0.0189%	2,021	6,023	33.55%	1.64%
2017	2016	0.0173%	2,018	5,345	37.75%	0.97%
2016	2015	0.0157%	1,603	4,769	33.61%	0.50%
2015	2014	0.0152%	1,418	4,507	31.46%	0.99%
2014	2013	0.0154%	1,343	4,482	29.96%	1.78%

Notes:

- 1) This schedule is intended to show information for ten years; however, data was unavailable prior to 2014. Additional years' information will be presented as it becomes available.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**Schedule of CFX Contributions**

**Florida Retirement System (FRS) Defined Benefit Pension Plan**  
*(in thousands)*

Fiscal Year Ending June 30,	FRS Contributions in Relation to the		FRS Contribution Deficiency (Excess)	CFX's Covered Payroll	FRS Contributions as a Percentage of Covered Payroll
	Contractually Required Contribution	Contractually Required Contribution			
2021	\$ 835	\$ 835	\$ -	\$ 5,426	15.39%
2020	720	720	-	5,100	14.12%
2019	685	685	-	4,712	14.54%
2018	585	585	-	4,250	13.76%
2017	524	524	-	4,093	12.80%
2016	465	465	-	3,746	12.41%
2015	424	424	-	3,212	13.20%
2014	344	344	-	2,987	11.52%

**Retiree Health Insurance Subsidy (HIS) Program Defined Benefit Pension Plan**  
*(in thousands)*

Fiscal Year Ending June 30,	HIS Contributions in Relation to the		HIS Contribution Deficiency (Excess)	CFX's Covered Payroll	HIS Contributions as a Percentage of Covered Payroll
	Contractually Required Contribution	Contractually Required Contribution			
2021	\$ 130	\$ 130	\$ -	\$ 7,811	1.66%
2020	124	124	-	7,441	1.67%
2019	119	119	-	7,147	1.67%
2018	109	109	-	6,585	1.66%
2017	100	100	-	6,023	1.66%
2016	89	89	-	5,345	1.67%
2015	60	60	-	4,769	1.26%
2014	52	52	-	4,507	1.15%

Notes:

- 1) This schedule is intended to show information for ten years; however, data was unavailable prior to 2014. Additional years' information will be presented as it becomes available.



## **OTHER SUPPLEMENTARY INFORMATION**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**Calculation of the Composite Debt Service Ratio, as Defined**  
**by the Bond Resolutions and Related Documents**

	Years Ended June 30,	
	2021	2020
	(in thousands)	
<b>Schedule 1</b>		
<b>Revenues:</b>		
Tolls	\$ 496,955	\$ 451,894
Fees tied to revenue collection	7,164	12,140
Transponder sales	1,396	820
Other operating	1,353	1,778
Interest	9,507	10,817
Miscellaneous	745	732
<b>Total revenues</b>	517,120	478,181
<b>Expenses:</b>		
Operations	65,807	64,937
Maintenance	18,552	18,022
Administration	8,993	8,910
Other operating	3,303	3,580
<b>Total expenses</b>	96,655	95,449
Add deposits into OMA reserve	-	756
Less advances allowable for operations and maintenance expenses received from FDOT	(7,174)	(7,601)
<b>Net expenses</b>	89,481	88,604
<b>Net revenues, as defined, inclusive of advances received from the FDOT</b>	\$ 427,639	\$ 389,577
<b>Senior lien debt service payments</b>	\$ 211,164	\$ 192,866
<b>Senior lien debt service ratio of net revenues to debt service payments</b>	2.03	2.02
<b>Subordinate Payments</b>	\$ 8,163	\$ 7,555
<b>Subordinate Debt Service Ratio*</b>	1.95	1.94

\*These calculations are done according to the Master Subordinate Lien Resolution.

**Note:** Revenues and expenses are presented on this schedule on the accrual basis in accordance with accounting principles generally accepted in the United States of America. Certain amounts included on the statement of revenues, expenses, and changes in net position are not part of net revenues, as defined, and are, therefore, excluded from this schedule.

**REPORTS ON COMPLIANCE  
AND INTERNAL CONTROL**



**INDEPENDENT AUDITOR’S REPORT ON INTERNAL CONTROL OVER  
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS  
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN  
ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

To the Members of the  
Central Florida Expressway Authority  
Orlando, Florida

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the basic financial statements, as listed in the table of contents, of the Central Florida Expressway Authority (“CFX”) as of and for the year ended June 30, 2021, and have issued our report thereon dated October 27, 2021.

**Internal Control over Financial Reporting**

In planning and performing our audit of the financial statements, we considered CFX’s internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of CFX’s internal control. Accordingly, we do not express an opinion on the effectiveness of CFX’s internal control.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

To the Members of the  
Central Florida Expressway Authority

### **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether CFX's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Pursuant to provisions of Chapter 10.550, *Rules of the Auditor General*, we reported certain matters to management in a separate management letter and Independent Accountant's Report dated October 27, 2021.

### **Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of CFX's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering CFX's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

**MSL, P.A.**

Certified Public Accountants

Orlando, Florida  
October 27, 2021



**INDEPENDENT AUDITOR'S REPORT  
ON COMPLIANCE WITH BOND COVENANTS**

To the Members of the  
Central Florida Expressway Authority  
Orlando, Florida

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the basic financial statements, as listed in the table of contents, of the Central Florida Expressway Authority ("CFX") as of and for the year ended June 30, 2021, and have issued our report thereon dated October 27, 2021.

**Other Matter**

In connection with our audit, nothing came to our attention that caused us to believe that CFX failed to comply with the terms, covenants, provisions, or conditions of Sections 5.2, 5.5 to 5.7, 5.9, 5.10, 5.12, and 5.17, inclusive of the Amended and Restated Master Bond Resolution dated February 3, 2003, insofar as they relate to accounting matters. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding CFX's noncompliance with the above-referenced terms, covenants, provisions, or conditions of the Amended and Restated Master Bond Resolution, insofar as they relate to accounting matters.

**Restricted Use Relating to the Other Matter**

This communication related to compliance with the aforementioned Amended and Restated Master Bond Resolution and is intended solely for the information and use of CFX members, management, and the bondholders and is not intended to be, and should not be, used by anyone other than these specified parties.

**MSL, P.A.**

Certified Public Accountants

Orlando, Florida  
October 27, 2021



## INDEPENDENT ACCOUNTANT'S REPORT

To the Members of the  
Central Florida Expressway Authority  
Orlando, Florida

We have examined the compliance of the Central Florida Expressway Authority ("CFX") with the requirements of Section 218.415, Florida Statutes, during the fiscal year ended June 30, 2021. Management is responsible for CFX's compliance with those requirements. Our responsibility is to express an opinion on CFX's compliance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence about CFX's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on CFX's compliance with specified requirements.

In our opinion, CFX complied, in all material respects, with the aforementioned requirements for the fiscal year ended June 30, 2021.

***MSL, P.A.***

Certified Public Accountants

Orlando, Florida  
October 27, 2021



## MANAGEMENT LETTER

To the Members of the  
Central Florida Expressway Authority  
Orlando, Florida

### Report on the Financial Statements

We have audited the financial statements of Central Florida Expressway Authority (“CFX”) as of and for the fiscal year ended June 30, 2021, and have issued our report thereon dated October 27, 2021.

### Auditor’s Responsibility

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States of America; and Chapter 10.550, *Rules of the Auditor General*.

### Other Reporting Requirements

We have issued our Independent Auditor’s Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Governmental Auditing Standards*; Independent Auditor’s Report on Compliance with Bond Covenants; and Independent Accountant’s Report on an examination conducted in accordance with AICPA *Professional Standards*, AT-C Section 315, regarding compliance requirements in accordance with Chapter 10.550, *Rules of the Auditor General*. Disclosures in those reports, which are dated October 27, 2021, should be considered in conjunction with this management letter.

### Prior Audit Findings

Section 10.554(1)(i)1., *Rules of the Auditor General*, requires that we determine whether or not corrective actions have been taken to address findings and recommendations made in the preceding annual financial audit report. There were no findings or recommendations made in the preceding annual financial report.

### Official Title and Legal Authority

Section 10.554(1)(i)4., *Rules of the Auditor General*, requires that the name or official title and legal authority for the primary government and each component unit of the reporting entity be disclosed in this management letter, unless disclosed in the notes to the financial statements. The legal authority is disclosed in the notes to the financial statements.



To the Members of the  
Central Florida Expressway Authority

### **Financial Condition**

Sections 10.554(1)(i)5.a. and 10.556(7), *Rules of the Auditor General*, require us to apply appropriate procedures and report the results of our determination as to whether or not CFX has met one or more of the conditions described in Section 218.503(1), *Florida Statutes*, and identification of the specific condition(s) met. In connection with our audit, we determined that CFX did not meet any of the conditions described in Section 218.503(1), *Florida Statutes*.

Pursuant to Sections 10.554(1)(i)5.b. and 10.556(8), *Rules of the Auditor General*, we applied financial condition assessment procedures for CFX. It is management's responsibility to monitor CFX's financial condition, and our financial condition assessment was based, in part, on representations made by management and the review of financial information provided by same.

Section 10.554(1)(i)2., *Rules of the Auditor General*, requires that we communicate any recommendations to improve financial management. In connection with our audit, we did not have any such recommendations.

### **Special District Component Units**

Section 10.554(1)(i)5.c., *Rules of the Auditor General*, requires that we determine whether or not a special district that is a component unit of a county, municipality, or special district, provided the financial information necessary for proper reporting of the component unit, within the audited financial statements of the county, municipality, or special district in accordance with Section 218.39(3)(b), *Florida Statutes*. There were no special district component units that were required to provide financial information to CFX for the fiscal year ended June 30, 2021.

### **Additional Matters**

Section 10.554(1)(i)3., *Rules of the Auditor General*, requires us to communicate noncompliance with provisions of contracts or grant agreements, or abuse, that have occurred, or are likely to have occurred, that have an effect on the financial statements that is less than material but which warrants the attention of those charged with governance. In connection with our audit, we did not note any such findings.

### **Purpose of this Letter**

Our management letter is intended solely for the information and use of the Legislative Auditing Committee, members of the Florida Senate and the Florida House of Representatives, the Florida Auditor General, federal and other granting agencies, the members of CFX's Board, and applicable management, and is not intended to be, and should not be, used by anyone other than these specified parties.

**MSL, P.A.**

Certified Public Accountants

Orlando, Florida  
October 27, 2021

**F. 3.**

The logo for the Central Florida Expressway Authority is centered in the upper portion of the image. It consists of a white rectangular box with two horizontal orange bars, one above and one below the text. The text is arranged in four lines: "CENTRAL" in black, "FLORIDA" in black, "EXPRESSWAY" in orange, and "AUTHORITY" in black. The background of the entire slide is a photograph of a multi-level highway interchange with concrete pillars and green-painted overpasses, situated over a body of water with palm trees in the distance.

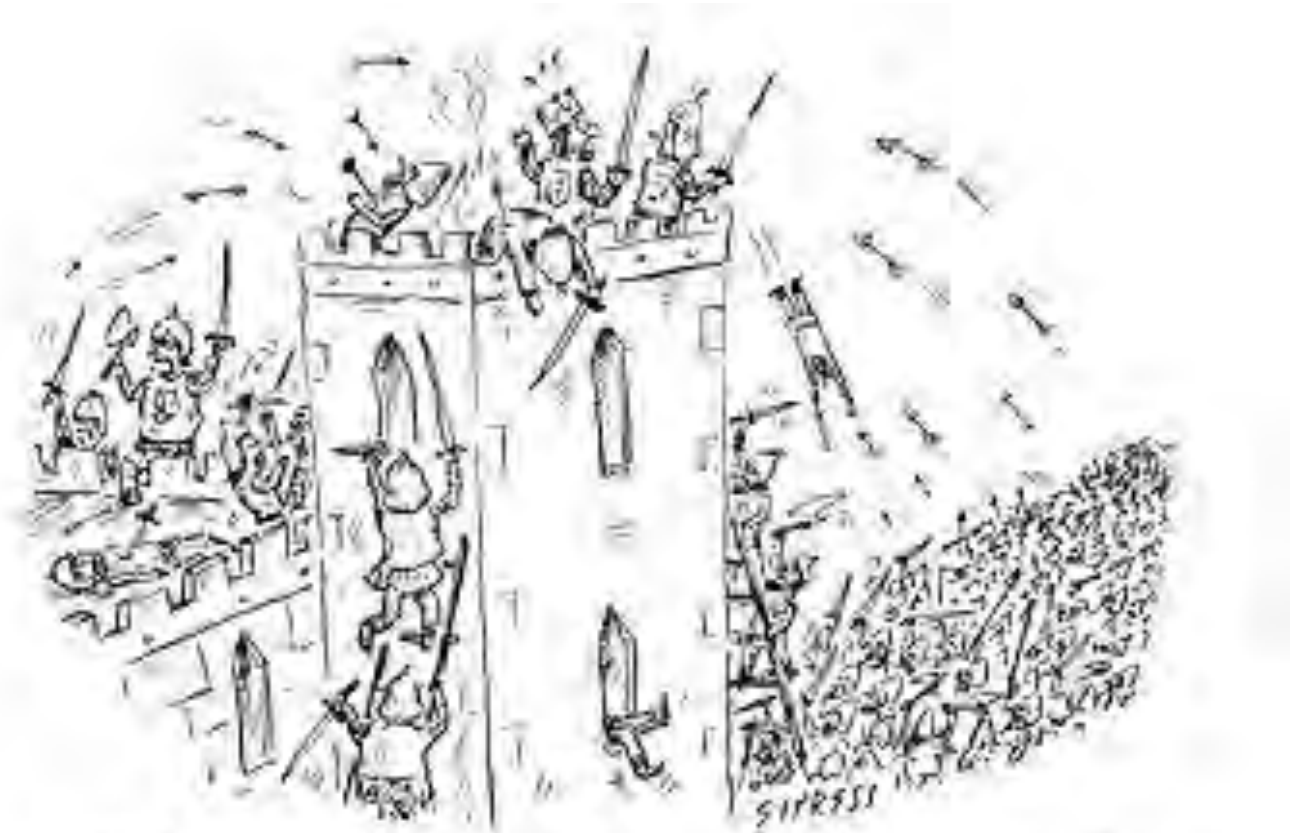
CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY

# 2020-2023 STRATEGIC PLAN

Michelle Maikisch, Chief Of Staff/Public Affairs Officer

— December 9, 2021 —

Why a  
Strategic  
Plan?



*“What do you mean, ‘we never got around to developing a strategic plan’?”*

# Overview

2040 MASTER PLAN  
FIVE-YEAR WORK PLAN  
2017-2022 STRATEGIC PLAN  
*Adopted April 2016*



2020-2023 STRATEGIC PLAN  
PERFORMANCE  
MEASURES + RESULTS  
*Adopted August 2019*

# Establishing the Foundation of CFX Strategic Plan

## VISION

To provide the region with a world-class, integrated mobility network that drives economic prosperity and quality of life.



## MISSION

To build, operate and maintain a mobility network through accountability, fiscally sound practices and with a community focus.

*On July 27, 2015, employees voted on the words that best describe CFX's core values.*

# The Five Priorities of the Strategic Plan

Build a  
Customer  
Driven  
Organization

Deliver a  
World-Class  
Mobility  
Network

Deliver a  
Financially  
Sound &  
Vibrant  
Organization

Focus on  
Community  
& Social  
Responsibility

Deliver on  
Core Values

# CFX Strategic Plan 2020-2023

PRIORITY	Build a Customer-Driven Organization	Deliver a world-class mobility network	Deliver Financially Sound & Vibrant Organization	Focus on Community & Social Responsibility	Deliver on Core Values
GOAL	Service Excellence	Innovative solutions to support commerce and quality of life	Recognized for efficiency, excellence and a model for compliance	Respected Leader and Partner in Region	Highly Qualified, Energized and Engaged Team
<b>STRATEGIES</b> <i>Approaches to Achieve Goal</i>	<ul style="list-style-type: none"> <li>Streamline, simplify customer touchpoints and interaction</li> <li>Expand portfolio of E-PASS customer services</li> <li>Explore new payment options</li> <li>Broaden distribution of E-PASS products</li> <li>New customer acquisition</li> <li>Expand self-service offerings</li> <li>Broaden understanding of toll road benefits</li> </ul>	<ul style="list-style-type: none"> <li>Implement multimodal policy</li> <li>Integrate sustainability principles into 2045 Master Plan</li> <li>Pursue engineering and construction innovative opportunities</li> <li>Enhance congestion-management strategies</li> <li>Explore advanced technologies</li> <li>Identify additional Incident management resources</li> <li>Identify innovative safety initiatives</li> </ul>	<ul style="list-style-type: none"> <li>Maintain effective internal controls</li> <li>Maintain prudent investment and debt-management strategies</li> <li>Identify and implement risk mitigation strategies</li> <li>Proactively plan for asset replacement</li> <li>Explore opportunities for diversifying revenues</li> </ul>	<ul style="list-style-type: none"> <li>Expand relationships with regional and state partners</li> <li>Expand types of public engagement platforms</li> <li>Advance smart, safe driving education campaigns</li> <li>Broaden CFX Serves: Community &amp; Volunteerism</li> </ul>	<ul style="list-style-type: none"> <li>Support employee health, wellness and work-life balance</li> <li>Promote outcomes and accountability through performance management</li> <li>Foster employee retention and advancement</li> <li>Create employee information hub</li> </ul>
<b>TACTICS</b> <i>Tools Used</i>	<ul style="list-style-type: none"> <li>Service metrics benchmarks</li> <li>Surveys, focus groups and secret shops</li> <li>Customer journey evaluations</li> <li>User-friendly, mobile options</li> <li>Customer acquisition marketing</li> <li>Business accounts marketing</li> <li>Explore E-PASS as payment option with regional partners</li> </ul>	<ul style="list-style-type: none"> <li>2045 Master Plan &amp; Five-Year Work Plan</li> <li>Set sustainability benchmarks</li> <li>Set Incident response benchmarks</li> <li>Partner with leading technology providers, automotive manufactures, law enforcement agencies</li> </ul>	<ul style="list-style-type: none"> <li>Benchmarks to industry standards</li> <li>Technology to optimize operational costs</li> <li>Identify new non-toll revenue streams</li> </ul>	<ul style="list-style-type: none"> <li>Newsletters, email and meetings</li> <li>Community partnerships and sponsorships</li> <li>Identify volunteerism activities</li> <li>Public safety campaigns and media partnerships</li> </ul>	<ul style="list-style-type: none"> <li>Strengthen wellness program</li> <li>Annual performance review tools</li> <li>Mentoring program plan</li> <li>Education and professional development trainings</li> <li>Employee surveys and workshops</li> <li>Sharepoint expansion</li> </ul>
<b>PERFORMANCE MEASURES</b>	<ul style="list-style-type: none"> <li>Exceed benchmark service metrics</li> <li>Customer satisfaction: 90%</li> <li>New customer accounts: 25%</li> <li>10% conversion ratio: Pay By Plate to E-PASS</li> <li>New business accounts: 20%</li> <li>Electronic wallet or digital payment platforms</li> <li>E-PASS self-service increase: 10%</li> <li>Pilot new offerings</li> <li>Implement E-PASS as payment option with identified partner</li> </ul>	<ul style="list-style-type: none"> <li>Pilot multimodal projects</li> <li>Pilot sustainability projects</li> <li>Reduce response clearance time</li> <li>Expand Wrong Way Driving Program system wide</li> <li>Participate in connected vehicle pilots</li> <li>Implement innovative safety initiative</li> <li>Increase recognitions for innovations, excellence in engineering, construction and landscaping</li> </ul>	<ul style="list-style-type: none"> <li>Debt/Service ratios; Compliance with covenants</li> <li>Maintain strong credit rating</li> <li>Meet objectives: Florida Transportation Commission (FTC)</li> <li>Create Risk Management Department</li> <li>Launch non-toll revenue initiative</li> <li>Implement operation software update</li> </ul>	<ul style="list-style-type: none"> <li>Document volunteerism hours</li> <li>Increase event participation</li> <li>Speaking invitations and stakeholder meetings</li> <li>Safety campaign metrics</li> </ul>	<ul style="list-style-type: none"> <li>10% participation in wellness program</li> <li>Increase employee participation in professional development programs</li> <li>10% participation in trainings</li> <li>Implement mentoring program</li> <li>Track utilization of Sharepoint</li> </ul>

**CFX Vision:** To provide the region with a world-class, integrated mobility network that drives economic prosperity and quality of life.



# CFX Strategic Plan 2020-2023

PRIORITY	STRATEGIES <i>Approaches to Achieve Goal</i>	TACTICS <i>Tools Used</i>	PERFORMANCE MEASURES
<p><b>Build a Customer-Driven Organization</b></p> <p><b>GOAL</b></p> <p><b>Service excellence</b></p>	<ul style="list-style-type: none"> <li>• Streamline, simplify customer touchpoints and interaction</li> <li>• Expand portfolio of E-PASS customer services</li> <li>• Explore new payment options</li> <li>• Broaden distribution of E-PASS products</li> <li>• New customer acquisition</li> <li>• Expand self-service offerings</li> <li>• Broaden understanding of toll road benefits</li> </ul>	<ul style="list-style-type: none"> <li>• Service metrics benchmarks</li> <li>• Surveys, focus groups and secret shops</li> <li>• Customer journey evaluations</li> <li>• User-friendly, mobile options</li> <li>• Customer acquisition marketing</li> <li>• Business accounts marketing</li> <li>• Explore E-PASS as payment option with regional partners</li> </ul>	<ul style="list-style-type: none"> <li>• Exceed benchmark service metrics</li> <li>• Customer satisfaction: 90%</li> <li>• New customer accounts: 25%</li> <li>• 10% conversion ratio: Pay By Plate to E-PASS</li> <li>• New business accounts: 20%</li> <li>• Electronic wallet or digital payment platforms</li> <li>• E-PASS self-service increase: 10%</li> <li>• Pilot new offerings</li> <li>• Implement E-PASS as payment option with identified partner</li> </ul>

# CFX Strategic Plan 2020-2023

PRIORITY	STRATEGIES <i>Approaches to Achieve Goal</i>	TACTICS <i>Tools Used</i>	PERFORMANCE MEASURES
<p><b>Deliver a World-Class Mobility Network</b></p> <p><b>GOAL</b></p> <p><b>Innovative solutions to support commerce and quality of life</b></p>	<ul style="list-style-type: none"> <li>• Implement multimodal policy</li> <li>• Integrate sustainability principles into 2045 Master Plan</li> <li>• Pursue engineering and construction innovative opportunities</li> <li>• Enhance congestion-management strategies</li> <li>• Explore advanced technologies</li> <li>• Identify additional Incident management resources</li> <li>• Identify innovative safety initiatives</li> </ul>	<ul style="list-style-type: none"> <li>• 2045 Master Plan &amp; Five-Year Work Plan</li> <li>• Set sustainability benchmarks</li> <li>• Set Incident response benchmarks</li> <li>• Partner with leading technology providers, automotive manufactures, law enforcement agencies</li> </ul>	<ul style="list-style-type: none"> <li>• Pilot multimodal projects</li> <li>• Pilot sustainability projects</li> <li>• Reduce response clearance time</li> <li>• Expand Wrong Way Driving Program system wide</li> <li>• Participate in connected vehicle pilots</li> <li>• Implement innovative safety initiative</li> <li>• Increase recognitions for innovations, excellence in engineering, construction and landscaping</li> </ul>

# CFX Strategic Plan 2020-2023

## PRIORITY

**Deliver a Financially Sound & Vibrant Organization**

## GOAL

**Recognized for efficiency, excellence and a model for compliance**

<b>STRATEGIES</b> <i>Approaches to Achieve Goal</i>	<b>TACTICS</b> <i>Tools Used</i>	<b>PERFORMANCE MEASURES</b>
<ul style="list-style-type: none"><li>• Maintain effective internal controls</li><li>• Maintain prudent investment and debt-management strategies</li><li>• Identify and implement risk mitigation strategies</li><li>• Proactively plan for asset replacement</li><li>• Explore opportunities for diversifying revenues</li></ul>	<ul style="list-style-type: none"><li>• Benchmarks to industry standards</li><li>• Technology to optimize operational costs</li><li>• Identify new non-toll revenue streams</li></ul>	<ul style="list-style-type: none"><li>• Debt/Service ratios; Compliance with covenants</li><li>• Maintain strong credit rating</li><li>• Meet objectives: Florida Transportation Commission (FTC)</li><li>• Create Risk Management Department</li><li>• Launch non-toll revenue initiative</li><li>• Implement operation software update</li></ul>

# CFX Strategic Plan 2020-2023

## PRIORITY

**Focus on Community & Social Responsibility**

## GOAL

**Respected leader and partner in region**

<b>STRATEGIES</b> <i>Approaches to Achieve Goal</i>	<b>TACTICS</b> <i>Tools Used</i>	<b>PERFORMANCE MEASURES</b>
<ul style="list-style-type: none"><li>• Expand relationships with regional and state partners</li><li>• Expand types of public engagement platforms</li><li>• Advance smart, safe driving education campaigns</li><li>• Broaden CFX Serves: Community &amp; Volunteerism</li></ul>	<ul style="list-style-type: none"><li>• Newsletters, email and meetings</li><li>• Community partnerships and sponsorships</li><li>• Identify volunteerism activities</li><li>• Public safety campaigns and media partnerships</li></ul>	<ul style="list-style-type: none"><li>• Document volunteerism hours</li><li>• Increase event participation</li><li>• speaking invitations and stakeholder meetings</li><li>• Safety campaign metrics</li></ul>

# CFX Strategic Plan 2020-2023

<b>PRIORITY</b> <b>Deliver on Core Values</b>	<b>STRATEGIES</b> <i>Approaches to Achieve Goal</i>	<b>TACTICS</b> <i>Tools Used</i>	<b>PERFORMANCE MEASURES</b>
<b>GOAL</b> <b>Highly qualified, energized and engaged team</b>	<ul style="list-style-type: none"> <li>• Support employee health, wellness and work-life balance</li> <li>• Drive outcomes and accountability through performance management</li> <li>• Foster employee retention and advancement</li> <li>• Create employee information hub</li> </ul>	<ul style="list-style-type: none"> <li>• Research options to expand wellness program</li> <li>• Annual performance review tools</li> <li>• Mentoring program plan</li> <li>• Education and professional development trainings</li> <li>• Employee surveys and workshops</li> <li>• SharePoint expansion</li> </ul>	<ul style="list-style-type: none"> <li>• Participation in wellness program</li> <li>• Employee participation in professional development programs</li> <li>• Participation in trainings</li> <li>• Implement mentoring program</li> <li>• Track utilization of SharePoint</li> </ul>

# Coming Up

April 2022: 2020-2023 CFX Strategic Plan Performance Results &  
Recommendation for 2023 – 2026 CFX Strategic Plan

May 2022: Board Adoption 2023 – 2026 CFX Strategic Plan

The logo for the Central Florida Expressway Authority is centered in the upper half of the image. It consists of a white rectangular box with two horizontal orange bars, one above and one below the text. The text is in a serif font, with 'CENTRAL FLORIDA' and 'AUTHORITY' in black, and 'EXPRESSWAY' in orange.

**CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY**

The title '2020-2023 STRATEGIC PLAN' is positioned at the bottom of the image. It is written in a large, white, sans-serif font and is set against a dark, semi-transparent horizontal bar that spans the width of the page. The background of the entire image is a photograph of a multi-level highway interchange with concrete pillars and green-painted beams, reflected in a body of water under a clear blue sky.


**2020-2023 STRATEGIC PLAN**

**F. 4.**





CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY



SR 429 Widening from West Road to SR 414  
Will Hawthorne, PE, Director of Engineering  
— December 9, 2021 —



# Project Highlights

8 Bridge  
Widenings

1 Bridge  
Replacement

4.8 Miles

2.1 Miles Sound  
Walls





# Project Timeline

Anticipated  
Notice to Proceed  
*February 2022*

Projected  
Completion  
*4<sup>th</sup> Quarter 2024*

# Bids Received

---



<b>SEMA Construction, Inc.</b>	<b>\$127,180,000.00</b>
The Middlesex Corp.	\$135,850,412.14
Hubbard Construction Company	\$136,224,388.50
Superior Construction Company	\$136,668,939.91
Sacyr Construccion SA, Inc.	\$139,954,921.00
Prince Construction	\$148,372,429.00

*Engineer's Estimate:*                      **\$130,399,577.58**

*Work Plan Estimate:*                      **\$107,856,000.00**

# Recommended Motion

Award of the contract to SEMA Construction, Inc. for the SR 429 Widening from West Road to SR 414 in the amount of \$127,180,000.00.

# Recommended Motion

Award of the contract to SEMA Construction, Inc. for the SR 429 Widening from West Road to SR 414 in the amount of \$127,180,000.00.

# CONTRACT



AND

**SEMA CONSTRUCTION, INC.**

**SR 429 WIDENING FROM WEST ROAD TO SR 414**

**PROJECT NO. 429-153, CONTRACT NO. 001839**

**CONTRACT DATE: DECEMBER 09, 2021**

**CONTRACT AMOUNT: \$127,180,000.00**

**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 429 WIDENING FROM WEST ROAD TO SR 414**

**PROJECT NO. 429-153, CONTRACT NO. 001839**

**DECEMBER 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-18
	(See Technical Specifications Table of Contents for listing of individual specifications sections.)	
SP	SPECIAL PROVISIONS	SP-1 to SP-60
	(See Special Provisions Table of Contents for listing of each special provision.)	
	Addendum No. 1	Addendum No. 3
	Addendum No. 2	Addendum No. 5
	Addendum No. 3	
	Addendum No. 4	
	Addendum No. 5	
P	PROPOSAL	P-1 to P-20
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2
PCB	PUBLIC CONSTRUCTION BOND	PCB-1 to PCB-4
Plans		

## CONTRACT

This Contract No. 001839 (the "Contract"), made this 9<sup>th</sup> day of December 2021, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and SEMA CONSTRUCTION, INC., of 6200 Hazeltine National Drive, Suite 100, Orlando, FL. 32825, 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. 429-153, SR 429 Widening from West Road to SR414, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 960 calendar days. The Contract Amount is \$127,180,000.00. This Contract was awarded by the Governing Board of CFX at its meeting on December 9, 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  
Aneth Williams  
\_\_\_\_\_  
Print Name

DATE: \_\_\_\_\_

SEMA CONSTRUCTION, INC.

By: \_\_\_\_\_  
Signature  
\_\_\_\_\_  
Print Name  
\_\_\_\_\_  
Title

ATTEST: \_\_\_\_\_ (Seal)

DATE: \_\_\_\_\_

Approved as to form and execution, only.

\_\_\_\_\_  
General Counsel for CFX  
\_\_\_\_\_  
Diego "Woody" Rodriguez  
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:

<b>Contract Amount</b>	<b>Workers' Comp/ Employer's Liability</b>	<b>General Liability (per occurrence/ aggregate)</b>	<b>Automobile Liability</b>
Up to \$3 million	Statutory / \$500,000	\$1,000,000 / \$2,000,000	\$1,000,000
\$3 million and Up	Statutory / \$1,000,000	\$5,000,000 / \$10,000,000	\$5,000,000

5.11.2 Worker's Compensation and Employer's Liability Insurance: The Contractor shall maintain coverage for its employees in accordance with the laws of the State of Florida. The amount of coverage shall not be less than the limits of insurance as required in subarticle 5.11.1.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the Contractor, its employees, agents and subcontractors.

5.11.3 Comprehensive General Liability Insurance: Coverage shall be maintained by the Contractor providing Comprehensive General Liability Insurance as provided on Insurance Services Office form GC 00 01 or an equivalent thereof. Limits of Liability for Bodily Injury Liability and/or Property Damage Liability shall not be less than the limits of insurance as required in Section 5.11.1.

The policy shall contain an endorsement providing for Aggregate Limits of Liability to be on a per Project basis. This endorsement shall state that Aggregate Limits as specified herein apply separately and specifically to this Project.

Products and Completed Operations coverage, evidenced by a Certificate of Insurance, shall be maintained for a period of not less than two (2) years following completion of the Work to which the Contract applies.

If watercrafts are to be used in the performance of any Work under the Contract, watercraft operations shall be covered under the Comprehensive General Liability policy providing limits in accordance with the General Liability requirements.

If the Project involves Work or operations by the Contractor within the limits of the railroad right-of-way, including any encroachments thereon from Work or operations in the vicinity of the railroad right-of-way, the railroad shall be named as an Additional Insured under this policy.

CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy. Insurance Services Office endorsement CG 20 10 (11 85 edition date) or both CG 20 10 and CG 20 37(10 01 edition dates) forms (if later edition dates are used), shall be used to meet these requirements and a photocopy of same shall be provided with the Certificate.

- 5.11.4 Comprehensive Automobile Liability Insurance: The Contractor shall maintain coverage applicable to the ownership, maintenance, use, loading and unloading of any owned, non-owned, leased or hired vehicle issued on Insurance Services Office form CA 00 01 or its equivalent. The amount of coverage shall not be less than the limits of insurance as required in subarticle 5.11.1.

This policy shall include coverage for liability assumed under contract (if not provided for under the Comprehensive General Liability policy). In the event the Contractor does not own automobiles, the Contractor shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or through a separate Business Auto Liability policy.

CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

- 5.11.5 Umbrella/Excess Liability Insurance: If an Umbrella or Excess Liability Insurance policy is used to attain the required limits of liability, the sum of the limits provided by the Primary insurance and the Umbrella or Excess Liability insurance must at least equal the Limits of Liability as required by subarticle 5.11.1

The Umbrella/Excess Liability Insurance policy or Excess policy shall afford coverage equivalent to the required coverage as set forth in this Article 5.11. Policy inception date must also be concurrent with the inception dates of the underlying General Liability and Automobile Liability policies.

Umbrella or Excess policy Certificate of Insurance shall stipulate the underlying limits of liability applicable. A photocopy of the endorsement so evidencing shall be attached to the Certificate.

CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

- 5.11.6 Builder's Risk: If this Contract includes: (1) construction of a new above-ground structure or structures, (2) any addition, improvement, alteration, or repair to an existing structure or structures, or (3) the installation of machinery or equipment into an existing structure or structures, the Contractor shall maintain builders' risk insurance providing coverage to equally protect the interests of CFX, the Contractor and subcontractors of any tier.

Coverage shall be written on a completed value form in an amount at least equal to 100% of the estimated completed value of the project plus any subsequent modifications of that sum. The coverage shall be written on an "all-risk" basis and shall, at a minimum, cover the perils insured under the Insurance Services Office CP 10 30 Special Causes of Loss Form and shall include property in transit and property stored on or off premises that shall become part of the project.

The Contractor agrees not to maintain a wind or flood sub-limit less than 25% of the estimated completed value of the project. The Contractor agrees any flat deductible(s) shall not exceed \$25,000, and any windstorm percentage deductible (when applicable) shall not exceed five-percent (5%).

The coverage shall not be subject to automatic termination of coverage in the event the project/building is occupied in whole or in part, or put to its intended use, or partially accepted by CFX. If such restriction exists the Contractor shall request that the carrier endorse the policy to amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, CFX's interest in the project ceases, or the project is accepted and insured by CFX.

- 5.11.7 Railroad Insurance: When the Contractor performs Work on, adjacent to, over or under a railroad, railroad property or railroad right-of-way, the Contractor shall furnish CFX (for transmittal to the railroad company) an insurance certificate with the railroad named as the insured which (with respect to the operations the

Contractor or any of its subcontractors perform) will provide for Railroad Protective Liability insurance providing coverage for bodily injury, death and property damage of a combined single limit of Five Million Dollars (\$5,000,000.00) per occurrence, with an aggregate limit of Ten Million Dollars (\$10,000,000.00) for the term of the policy. The policy shall be written on the ISO/RIMA (CG 00 3S 11 85) with Pollution Exclusions Amendment (CG 28 31 11 85) endorsement deleting Common Policy Conditions (CG 99 01) if Common Policy Conditions are included in the policy and Broad Form Nuclear Exclusion (IC 00 21). CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

- 5.11.8 Pollution Legal/Environmental Legal Liability Insurance (CPL) - The Contractor agrees to maintain Contractor's Pollution Legal/Environmental Legal Liability Insurance on a per-project basis. Coverage shall be for pollution losses arising from all services performed to comply with this contract. Coverage shall apply to sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants, or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in Bodily Injury or Property Damage.

If policy is written on a Claims Made form, a retroactive date prior to or equal to the effective date of the Contract is required, and coverage must be maintained for 3 years after completion of contract or "tail coverage" must be purchased. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the Contractor agrees to purchase the SERP with a minimum reporting period of not less than three years. Purchase of the SERP shall not relieve the Contractor of the obligation to provide replacement coverage.

Coverage should include and be for the at least the minimum limits listed below:

- 1) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- 2) Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensation damages.

3) Cost of Cleanup/Remediation.

Limits

Each Occurrence - \$ 2,000,000

General Aggregate - \$ 4,000,000

For acceptance of Pollution Legal/Environmental Legal Liability coverage included within another policy coverage required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Pollution Legal/Environmental Legal Liability and other coverage combined.

If the CGL and CPL policy is issued by the same issuer, a total pollution exclusion shall be attached to the Contractor's CGL policy and an appropriate premium credit provided from the issuer to the Contractor.

CFX, its employees, members, officers, agents, consultants and successors shall be named as Additional Insured under this policy.

5.11.9 Professional Liability- If the construction method is "design-build" the Contractor agrees to maintain Professional Liability on a per-project basis. The Contractor agrees that the policy shall include a minimum three-year extended reporting period. The Contractor agrees that the Retroactive Date equals or precedes the execution date of this Contract or the performance of services specified hereunder. The Contractor agrees to provide coverage with limits and deductibles as prescribed below.

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.

<b>Contract Amount</b>	<b>Minimum Limit</b>	<b>Maximum Deductible</b>
Up to \$1 million	50% of project cost, minimum of \$100,000 per occurrence	10% of project cost or \$25,000, whichever is smaller
\$1 million and Up	\$1,000,000	\$100,000

## 5.12 Contract Bond (Public Construction Bond) Required

5.12.1 General Requirements of the Bond: The Contractor shall furnish to CFX and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by CFX. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to CFX. The name, address and telephone number of the surety agent shall be clearly stated on the face of the Public Construction Bond.

5.12.2 Continued Acceptability of Surety: In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after CFX's initial approval of the company, then CFX may require that the Contractor immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to CFX. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the Contractor from its payment of premium on the defaulting bond, will be borne by CFX.

## 5.13 Contractor's Responsibility for Work

Until final acceptance by CFX, the Work shall be under the charge and custody of the Contractor. The Contractor shall take every necessary precaution against injury or damage to the Work by the action of the elements or from any other cause whatsoever arising either from the execution or non-execution of the Work and shall rebuild, repair, restore and make good, without additional compensation, all injury or damage to any portion of the Work including extensive or catastrophic damages.

The Contractor 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](mailto:publicrecords@CFXWay.com), and 4974 ORL Tower Road, Orlando, FL. 32807).**

CONTRACTOR acknowledges that CFX is a body politic and corporate, an agency of the State of Florida, and is subject to the Public Records Act codified in Chapter 119, Florida Statutes. To the extent that the CONTRACTOR is in the possession of documents fall within the definition of public records subject to the Public Records Act, which public records have not yet been delivered to CFX, CONTRACTOR agrees to comply with Section 119.0701, Florida Statutes, and to:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the CONTRACTOR or keep and maintain public records required by the public agency to perform the service. If the CONTRACTOR transfers all public records to the public agency upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event the CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act.

#### 5.26 Inspector General

It is the duty of every CONTRACTOR and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to section 20.055, Florida Statutes. The corporation, partnership, or person entering into an Agreement with the Central Florida Expressway Authority understands and will comply with subsection. 20.055(5), Florida Statutes.

#### 5.27 Convicted Vendor List

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

#### 5.28 Discriminatory Vendor List

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

#### 5.29 Severability

If any section of the Contract Documents that are incorporated into this Contract be judged void, unenforceable or illegal, then the illegal provision will be, if at all possible, interpreted or re-drafted into a valid, enforceable, legal provision as close to the parties' original

intention, and the remaining portions of the Contract will remain in full force and effect and will be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

#### 5.30 Companies Pursuant to Florida Statute Section 287.135

Pursuant to Section 287.135(3)(a)4, if the company is found to have submitted a false certification as provided under subsection (5); been placed on the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or been engaged in business operations in Cuba or Syria, the contract may be terminated for cause at the option of CFX.

Pursuant to Section 287.135(3)(b), if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the contract may be terminated for cause at the option of CFX.

Submitting a false certification shall be deemed a material breach of contract or renewal. CFX shall provide notice, in writing, to the Contractor of CFX's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the CFX's determination of false certification was made in error then CFX shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes and as allowed by law.

END OF SECTION 5

## SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

### 6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without 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:  
GS-108

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; 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. 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 15<sup>th</sup> of any month, the bid index will be the index for the month prior to the bid. Should a project bid after the 14<sup>th</sup> of the month, the bid index will be the index for the month of the bid.

Price adjustments will be based on the monthly bulk average price for gas and diesel as derived by the FDOT. These average indexes shall be determined by averaging bulk fuel prices on the first day of each month as quoted by major oil companies that are reasonably expected to furnish fuel for projects in the State of Florida. Average price indices for gasoline and diesel will be available on the FDOT Construction Office website before the 15<sup>th</sup> of each month, at the following URL: <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 15<sup>th</sup> of any month, the bid index will be the index for the month prior to the bid. Should a project bid after the 14<sup>th</sup> of the month, the bid index will be the index for the month of the bid.

CFX will determine the API for each month by checking the FDOT Contracts Office web site which averages quotations in effect on the first day of the month at all terminals that could reasonably be expected to furnish bituminous material to projects in the State of Florida.

Payment on progress estimates will be adjusted to reflect adjustments in the prices for bituminous materials in accordance with the following:

$$\text{\$ Adjustment} = (\text{ID})(\text{Gallons})$$

Where ID = Index Difference = [CAPI - 0.95(BAPI)] when the API has decreased between the month of bid, as defined above, and month of this progress estimate.

Where ID = Index Difference = [CAPI - 1.05(BAPI)] when the API has increased between the month of bid, as defined above, and month of this progress estimate.

Payment will be made on the current progress estimate to reflect the index difference at the time work was performed.

For asphalt concrete items payable by the ton, and not containing Reclaimed Asphalt Pavement (RAP), the number of gallons will be determined assuming a mix design with 6.25% liquid asphalt weighing 8.58 lb/gal. For asphalt concrete items payable by the ton, that do contain Reclaimed Asphalt Pavement (RAP), the number of gallons will be determined assuming a mix design with 5% liquid asphalt weighing 8.58 lb/gal.

Asphalt concrete items payable by the square yard will be converted to equivalent tons assuming a weight of 100 lb/yd<sup>2</sup> per inch.

7.2.1.2 For FC-5 with granite, the number of gallons will be determined assuming a mix design with 5.5% liquid asphalt weighing 8.58 lb/gal.

7.2.2 Non-Duplication of Payment: In cases where the basis of payment clause in these Specifications relating to any unit price in the bid schedule requires that the unit price cover and be considered compensation for certain work or material essential to the item, CFX will not measure or pay for this same work or material under any other pay item that may appear elsewhere in these Specifications.

### 7.3 Compensation for Altered Quantities

7.3.1 General: When a change or combination of changes in the Plans results in an increase or decrease in the original Contract quantities and the Work added or deleted is of the same general character as that shown on the original Plans, the Contractor shall accept payment in full at the original Contract unit prices for the actual quantities of Work done. No allowance will be made for any loss of anticipated profits because of increase or decreases in quantities provided, however, that increased or decreased Work covered by a Supplemental Agreement will be paid for as stipulated in the Supplemental Agreement.

Compensation for alterations in Plans or quantities of Work requiring Supplemental Agreements shall be stipulated in such agreement, except when the Contractor proceeds with the Work without change of price being agreed upon. The Contractor shall be paid for such increased or decreased quantities at the Contract unit prices bid in the Proposal for the items of Work. If no Contract unit price is provided in the Contract, the Contractor agrees to do the Work in accordance with Subarticle 2.3.2 of these General Specifications.

7.3.2 Payment Based on Plan Quantity:

7.3.2.1 Error in Plan Quantity: When the pay quantity for an item is designated to be the original plan quantity, such quantity will be revised only in the event that the quantity increases or decreases by more than 5% of the original plan quantity or the

amount due for the item increases or decreases by more than \$5,000, whichever is smaller. In general, such revisions will be determined by final measurement or plan calculations (or both) as additions to or deductions from plan quantities. Changes resulting in pay quantity increase or decrease in excess of 25% will be in accordance with the criteria for significant changes as defined in subarticle 2.3.1 of these General Specifications.

If the Contractor determines that the plan quantity for any item is in error and additional or less compensation is due, the Contractor shall submit evidence of such error to CFX in the form of acceptable and verifiable measurements and calculations. Similarly, if CFX determines an error or errors exist, it will make its measurements and calculations available to the Contractor. The plan quantity will not be revised solely on the basis of the Contractor's method of construction.

For earthwork items, the claimant must note any differences in the original ground surfaces from that shown in the original plan cross-sections that would result in a substantial error to the plan quantity, and must be properly documented by appropriate verifiable level notes, acceptable to both the Contractor and CFX, and provide sufficient opportunity to verify the data prior to disturbance of the original ground surface by construction operations. The claimant shall support any claim based upon a substantial error for differences in the original ground surface by documentation as provided above.

7.3.2.2 Authorized Changes in Limits of Work: When the pay quantity for an item is designated to be the original plan quantity and a plan change is authorized resulting in an increase or decrease in the quantity of an item, the plan quantity will be revised accordingly provided that such change will increase or decrease the amount due for more than \$100. In general, such revisions will be determined by final measurement or plan calculations or both, subject to the provisions of Subarticle 2.3.2 of these General Specifications.

7.3.2.3 Specified Adjustments to Pay Quantities: The limitations detailed in Subarticles 7.3.2.1 and 7.3.2.2 do not apply when 1) the Specifications provide that the pay quantity for an item to be paid for on the basis of area of finished Work is to be adjusted according to the ratio of measured thickness to nominal thickness, 2) the Specifications provide for a deduction due to test results falling outside of the allowable specification tolerance or 3) paying for extra length fence posts as detailed in the Standard Specifications Section 550, Fencing, sub article 550-6.3, Payment Rates for Extra-Length Posts.

### 7.3.3 Lump Sum Quantities:

7.3.3.1 Error in Plan Quantity: When the pay quantity for an item is designated to be

a lump sum and the Plans show an estimated quantity, the lump sum compensation will be adjusted only in the event that either the Contractor submits satisfactory evidence or CFX determines and furnishes satisfactory evidence that the plan quantity shown is substantially in error as defined in 7.3.2.1.

7.3.3.2 Authorized Changes in the Work: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated plan quantity, compensation for that item will be adjusted proportionately when a plan change results in a significant increase or decrease in the quantity from the estimated plan quantity. When the Plans do not show an estimated plan quantity or the Specifications do not provide adjustments for contingencies, any authorized plan changes resulting in a significant increase or decrease in the cost of acceptably completing the item will be compensated for by establishing a new unit price through a Supplemental Agreement as provided in Subarticle 2.3.2. of these General Specifications.

7.3.4 Deviation from Plan Dimensions: If the Contractor fails to construct any item to plan or to authorized dimensions within the specified tolerances, the CEI, at his discretion will: require the Contractor to reconstruct the work to acceptable tolerances at no additional cost to CFX; accept the work and provide the Contractor no pay; or accept the work and provide the Contractor a reduced final pay quantity or reduced unit price. CFX will not make reductions to final pay quantities for those items designated to be paid on the basis of original plan quantity or a lump sum quantity under the provisions of this Article unless such reduction results in an aggregate monetary change per item of more than \$100, except that for earthwork items, the aggregate change must exceed \$5,000 or 5% of the original plan quantity, whichever is smaller. If, in the opinion of the CEI, the Contractor has made a deliberate attempt to take advantage of the construction tolerances as defined in Article 120-12.1 of the Standard Specifications to increase borrow excavation in fill sections or to decrease the required volume of roadway or lateral ditch excavation or embankment, CFX will take appropriate measurements and will apply reductions in pay quantities. CFX will not use the construction tolerance, as defined in Article 120-12.1, as a pay tolerance. The construction tolerance is not to be construed as defining a revised authorized template.

7.4 Force Account Work: Work performed in addition to that set forth in the original Contract and which is paid for on the basis of actual cost of the Materials and labor, plus a fixed percentage of such costs, and at agreed rental rates for major Equipment used.

7.4.1 Method of Payment: All Work done on a force account basis performed by such labor, tools and Equipment as necessary to accomplish the Work, and authorized by CFX, will be paid for in the following manner:

(a) Labor:

Payment for labor and burden shall be based on actual costs of alteration, change, additional or unforeseen Work, plus a markup of 25%, agreed upon in writing before starting such Work, for every hour that the labor is actually engaged in such Work. Such amount shall be considered as full compensation for general supervision and the furnishing and repairing of small tools used on the Work. Agreed wage rates shall not be in excess of the rates paid for comparable Work on the Project.

(b) Materials and Supplies:

Payment for Materials and supplies, directly related to the alteration, change, additional or unforeseen Work, accepted by CFX and used on the Project shall be based on actual costs of such Materials incorporated into the Work, including Contractor paid transportation charges (exclusive of Equipment as hereinafter set forth), plus a markup of 17.5%. Material is defined as any item used in the Work that remains a part of the Project. The cost of supplies may be the pro-rata portion caused by the alteration, change, additional or unforeseen Work.

(c) Equipment:

The use of each piece of such machinery or Equipment and rental rates must be agreed upon in writing before the force account Work is begun.

Payment for Contractor owned machinery or Equipment (other than small tools) shall be determined as described below, plus a markup of 7.5%. Payment for rented Equipment shall be based on invoice cost plus 7.5%.

The portion of the cost for machinery or Equipment shall be based on the lesser of actual cost or "Rental Rate Blue Book for Construction Equipment" (RRBB) or "Rental Rate Blue Book for Older Construction Equipment" (RRBBOCE) as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at time of bid) using all instructions and adjustments contained therein and as modified below.

On all projects, CFX will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the RRBB and/or RRBBOCE. Allowable Machinery and Equipment Rates will be established as set out below:

- 1.) Reimbursement for the Equipment being operated shall be at a rate of 100% of the RRBB and/or 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. 5.**



CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY



# Reload 2.0

Jim Greer, Chief Technology & Operating Officer

— December 9, 2021 —



Reload is a drive-up service center where customers can get a FREE E-PASS Sticker, purchase a Uni, add funds (Reload) to their E-PASS account using cash or credit/debit card.

- Launched 2016
- > \$12M Collected
- > 46,000 New Customers

# Reload Program Value

---



**IT'S EASY:** **R**

- 1 Look for the "Reload" sign**
  - SR 429 at the Forest Lake toll plaza
  - SR 417 at the John Young Parkway toll plaza
  - SR 408 at the Conway toll plazaOpen 7 days a week between 6 a.m. and 8 p.m.  
More Reload Lanes Coming Soon
- 2 Drive through the Reload lane with your payment option ready**  
(Cash, check, or credit/debit accepted)
  - Get a Uni or FREE E-PASS Sticker
  - Reload your account!
- 3 Enjoy non-stop travel and exclusive customer benefits**
  - Toll discounts only with E-PASS
  - Save up to 30% on tolls over cash
  - No monthly account fees

Get E-PASS or Uni in the Reload Lanes and Start Saving on Tolls Today!



Learn more at [GetEpass.com](http://GetEpass.com)

Life's better with **E-PASS**

GetEpass.com | 407-423-7277 or 1-800-353-7277 | @CFXway

**Saving you even more time**

**DRIVE-UP CUSTOMER SERVICE**

**RELOAD LANES**




Enjoy drive-up customer service at the

- SR 429 Forest Lake toll plaza
- SR 417 John Young Parkway toll plaza
- SR 408 Conway toll plaza

**YOU CAN**

Get a Uni or FREE E-PASS Sticker

Reload your E-PASS account with cash, check or credit/debit



**MORE RELOAD LANES COMING SOON**

- Customers save with E-PASS products on all CFX roads
- Convenient option for cash preferred customers
- Efficient method to sign-up new customers



# Customer Enhancements

---

- New software system
- All cash lanes available for Reload
- Reduced transaction times
- Retail option for purchasing products



**R RELOAD  
HERE**

**I can help you...**

- ✓ Open a new E-PASS account
- ✓ Reload your E-PASS account with cash, credit/debit or check
- ✓ Get  + 

The sign features a large orange 'R' in a purple circle at the top left. Below it, the text 'RELOAD HERE' is in bold purple. Underneath, 'I can help you...' is in bold purple. The bottom section is a purple box with white text and icons. It lists three services: opening a new E-PASS account, reloading an E-PASS account with cash, credit/debit, or check, and getting an E-PASS and a uni card. The E-PASS logo and uni card are shown as small images.





## Reload Lane Metrics

---

- New Accounts
- Payments
- Transponder Distribution
  - Sale vs. Free
- Transactions by Type
  - Hourly, Daily, Weekly





# Project Schedule

---

- **Soft Launch Approach**
  - Conway Plaza
  - Phased Launch 13 Plazas - 93 Lanes
  - Completion Estimated Mid 2022
- **Public Outreach Campaign**



**F. 6.**

**THERE ARE NO  
BACKUP MATERIALS  
FOR THIS ITEM**