

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**AGENDA
BOARD MEETING
June 9, 2022
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 MAY 12, 2022 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. **SR 414 EXPRESSWAY EXTENSION PROJECT DEVELOPMENT AND ENVIRONMENT (PD&E) STUDY - Dana Chester, Manager of Engineering and Sunserea Gates, Senior Project Manager, VHB**
(action item)
2. **NORTHEAST CONNECTER PHASE I PROJECT DEVELOPMENT AND ENVIRONMENT (PD&E) STUDY - Dana Chester, Manager of Engineering and Dan Kristoff, Project Manager, RS&H**
(action item)

(CONTINUED ON PAGE 2)

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

3. STRATEGIC PLAN UPDATE – *Michelle Maikisch, Chief of Staff/Public Affairs Officer (info item)*

G. BOARD MEMBER COMMENT

H. ADJOURNMENT

This meeting is open to the public.

Section 286.0105, Florida Statutes states that if a person decides to appeal any decision made by a board, agency, or commission with respect to any matter considered at a meeting or hearing, they will need a record of the proceedings, and that, for such purpose, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Persons who require translation services, which are provided at no cost, should contact CFX at (407) 690-5000 x5316 or by email at Iranetta.Dennis@CFXway.com at least three (3) business days prior to the event.

In accordance with the Americans with Disabilities Act (ADA), if any person with a disability as defined by the ADA needs special accommodations to participate in this proceeding, then they should contact the Central Florida Expressway Authority at (407) 690-5000 no later than two (2) business days prior to the proceeding.

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

C.

APPROVAL OF
BOARD MEETING MINUTES

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES
BOARD MEETING
May 12, 2022

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

A. CALL TO ORDER

The meeting was called to order at approximately 9:02 a.m. by Chairman Parks.

Board Members Present:

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

Board Member Appearing Telephonically:

Jay Madara, Gubernatorial Appointment

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 comments from members of the audience.
- There were no written public comments received by the deadline.

C. APPROVAL OF APRIL 14, 2022 BOARD MEETING AND BOARD WORKSHOP MINUTES

A motion was made by Commissioner Siplin and seconded by Commissioner Constantine to approve the April 14, 2022 Board Meeting and Board Workshop Minutes as presented. The motion carried unanimously with seven (7) members in attendance voting AYE by voice vote. One (1) board member, Mr. Madara voting AYE by phone. Two (2) board members, Mayor Demings and Mr. Maier were not present.

D. APPROVAL OF CONSENT AGENDA

The Consent Agenda was presented for approval.

CONSTRUCTION

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

Project 429-152	Prince Contracting	\$ 477,784.46
Project 528-143	SEMA Construction	\$ 333,190.80
2. Approval of Ardaman & Associates, Inc. as a Subconsultant to AE Engineering, Inc. for Construction Engineering and Inspection Services for SR 429 Widening from Stonybrook West Parkway (South) to Florida's Turnpike, Project No. 429-154, Contract No. 001698

ENGINEERING

3. Approval of Supplemental Agreement No. 4A 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 \$158,345.33)
4. Approval of First Contract Renewal with The Balmoral Group, LLC for Miscellaneous Design Consultant Services, Contract No. 001497 (Agreement Value: \$1,000,000.00)
5. Approval of Supplemental Agreement No. 1 with Volkert, Inc. for Professional Engineering Consultant Services for the Project Development and Environment (PD&E) Study of the Southport Connector Project, Project No. 599-233, Contract No. 001632 (Agreement Value: not-to-exceed \$669,810.55)

FINANCE

6. Approval of Contract Award to MSL, P.A. for External Auditing Services, Contract No. 001828 (Agreement Value: \$246,000.00)

7. Approval of Contract Award to PFM Asset Management, LLC for Investment Advisor Services, Contract No. 001900 (Agreement Value: \$675,000.00)

INTERNAL AUDIT

8. Acceptance of Internal Audit Reports:
 - a. Customer Service Center Performance Assessment
 - b. Infinity Ransomware Simulation

LEGAL

9. Approval of Revised Committee Charters:
 - a. Audit Committee
 - b. Environmental Stewardship Committee
 - c. Finance Committee
 - d. Operations Committee
 - e. Right of Way Committee

MAINTENANCE

10. Approval of Supplemental Agreement No. 10 with AutoBase, Inc. for Road Ranger Safety Service Patrol, Contract No. 001437 (Agreement Value: \$294,000.00)
11. Extension of Board Approval for Contract with Louis Berger Hawthorne Services, Inc. for Toll Facilities Maintenance Services, Contract No. 001860 (Agreement Value: \$221,000.00 per month)
12. Approval of Supplemental Agreement No. 1 with Jorgensen Contract Services, LLC for Roadway and Bridge Maintenance Services - SR 453, SR 429, SR 414 and SR 451, Contract No. 001861 (Agreement Value: not-to-exceed \$105,000.00)
13. Approval of Aero Groundtek, LLC as a Subcontractor to Jorgensen Contract Services, LLC for Roadway and Bridge Maintenance Services - SR 453, SR 429, SR 414 and SR 451, Contract No. 001861
14. Approval of Safety Systems Barricades Corporation as a Subcontractor to Jorgensen Contract Services, LLC for Roadway and Bridge Maintenance Services - SR 453, SR 429, SR 414 and SR 451, Contract No. 001861
15. Approval of Cooperative Purchase Agreement with Ayres Associates, Inc. for Systemwide Overhead Sign Inspection Services, Contract No. 001915 (Agreement Value: not-to-exceed \$950,000.00)
16. Approval of Contract Award to Traffic Engineering and Management, LLC d/b/a Control Specialist for Traffic Signal Maintenance Services, Contract No. 001916 (Agreement Value: \$750,000.00)

17. Approval of Cooperative Purchase Agreement with D&A Building Services, Inc. for Janitorial Staffing Services, Contract No. 001917 (Agreement Value: not-to-exceed \$750,000.00)
18. Approval of Contract Award to 4 Corner Resources LLC for Janitorial Staffing Services, Contract No. 001918 (Agreement Value: \$475,000.00)

TECHNOLOGY/TOLL OPERATIONS

19. Approval of Purchase Order to CDW-G, LLC for Palo Alto Firewall (Agreement Value: \$185,825.00)

TRAFFIC OPERATIONS

20. Approval of Purchase Order to Control Technologies for Blynscy Traffic Detectors, Project No. 599-561 (Agreement Value: \$ 299,582.78)

A motion was made by Mayor Dyer and seconded by Mr. Martinez to approve the Consent Agenda as presented. The motion carried unanimously with seven (7) members in attendance voting AYE by voice vote. One (1) board member, Mr. Madara voting AYE by phone. Two (2) board members, Mayor Demings and Mr. Maier were not present.

Mayor Demings arrived at this time 9:04 a.m.

E. REPORTS

1. CHAIRMAN'S REPORT

Chairman Parks commented on the following:

- On May 12th -13th the TEAMFL meeting will be held in Ft Myers; and
- In June there will be a 2045 Master Plan Workshop after the regular board meeting.

Mr. Maier arrived at this time 9:06 a.m.

2. TREASURER'S REPORT

Commissioner Constantine reported that as of the end of March, CFX's toll revenue year-to-date was \$452,200,000, which is 16% over budget and 27% over prior year.

Total Operations, Maintenance and Administration expenses were \$68,300,000, which is 3% under budget.

After debt service, the total net revenue available for projects for the year was \$233,000,000.

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 thanked Board Member Jay Madara for creating the CFX partnership with Orange County Public Schools. On April 21st, CFX hosted the Orange County Public High Schools' learning days for 42 students from 22 high schools.
- UCF College of Engineering and computer science professor, Dr. Al-Deek and his team have been honored by the National Transportation Research Board for their work on CFX's wrong way driving program. Ms. Kelley thanked Dr. Al-Deek for his ground-breaking research which greatly contributed to CFX's wrong way driving program, resulting in over 1,070 documented turn arounds to date.

F. REGULAR AGENDA ITEMS

1. APPROVAL OF NOMINATION FOR APPOINTMENT OF MAURICE "MO" PEARSON TO THE ENVIRONMENTAL STEWARDSHIP COMMITTEE BY BOARD MEMBER CHRISTOPHER "CJ" MAIER

A motion was made by Mr. Maier and seconded by Commissioner Constantine to approve the appointment of Mr. Maurice "Mo" Pearson to the Environmental Stewardship Committee. The motion carried unanimously with nine (9) board members in attendance voting AYE by voice vote. One (1) board member, Mr. Madara voting AYE by phone.

2. PROPOSAL BY BOARD MEMBER COMMISSIONER LEE CONSTANTINE

Commissioner Constantine detailed specifics of the proposed Resolution of Support regarding the Split Oak National Forest.

Discussion ensued regarding road expansion, additional language and enforceability. Questions were asked by the Board Members which were answered by Ms. Kelley and Commissioner Constantine.

A motion was made by Commissioner Constantine and seconded by Mayor Dyer to approve the Resolution of Support with the language of linear facilities, utilization of bridging along the 1.3-mile expressway and dog friendly trails language added as instructed. The motion carried unanimously with nine (9) board members in attendance voting AYE by voice vote. One (1) board member, Mr. Madara voting AYE by phone.

3. **BUDGET – FY 2023 THROUGH 2027 FIVE-YEAR WORK PLAN / FY 2023 OPERATIONS, MAINTENANCE & ADMINISTRATION**

Ms. Lisa Lombard, Chief Financial Officer, and Mr. Glenn Pressimone, Chief of Infrastructure presented the final budget for approval. They made minor revisions since the workshop which they detailed. The Finance Committee has recommended that this budget be presented to the Board for approval.

Ms. Lombard provided a summary of spending in FY 2023. Mr. Pressimone detailed the FY 2023-2027 Work Plan, the Work Plan funding distribution, the ongoing widening projects, major interchange projects and additional projects.

Mr. Madara left the meeting at this time.

Ms. Lombard described the budget for FY 2023 including the revenues, the Operation, Maintenance and Administration Budget, debt service ratio, capital planning model results and projected senior lien coverage ratio. She stated that the budget is fully fundable.

A motion was made by Commissioner Arrington and seconded by Commissioner Siplin to approve the Budget, Fiscal Years 2023-2027 Five-Year Work Plan and Fiscal Year 2023 Operations, Maintenance and Administration. The motion carried unanimously with nine (9) board members in attendance voting AYE by voice vote. One (1) board member, Mr. Madara was not in attendance.

G. **BOARD MEMBER COMMENT**

The following Board Members commented:

- Commissioner Constantine;
- Commissioner Arrington; and
- Chairman Parks.

Chairman Parks announced that the next Board Meeting is scheduled for June 9, 2022.

H. **ADJOURNMENT**

Chairman Parks adjourned the meeting at approximately 9:53 a.m.

Commissioner Sean Parks
Chairman
Central Florida Expressway Authority

Mimi Lamaute
Recording Secretary
Central Florida Expressway Authority

Minutes approved on _____, 2022.

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

DRAFT

D.

Consent Agenda

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

CONSENT AGENDA June 9, 2022

ADMINISTRATIVE SERVICES

1. Approval of Third Contract Renewal with Corcoran & Associates, Inc. d/b/a Corcoran Partners for Government Relations & Advocacy Services Contract No. 001541 (Agreement Value: \$45,000.00)

CONSTRUCTION

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

Project 417-141	Hubbard Construction Company	\$ 70,064.61
Project 538-165	The Lane Construction Corporation	\$ 543,350.83
3. Approval of Contract Award to Masci General Contractor, Inc. for SR 417 Resurfacing from SR 528 to Berry Dease Road, Project No. 417-760, Contract No. 001907 (Agreement Value: \$16,029,260.78)
4. Approval of Revised Purchase Order to Dura-Stress, Inc. for Owner Direct Material Purchase for the Poinciana Parkway Widening Project, Project 538-165 (Agreement Value: not-to-exceed \$2,042,969.50)

ENGINEERING

5. Approval of Supplemental Agreement No. 4 with CDM Smith, Inc. for Traffic and Earnings Consultant Services, Contract No. 001300 (Agreement Value: not-to-exceed \$1,000,000.00)
6. Approval of Supplemental Agreement No. 5.a with RS&H, Inc. for SR 417 Widening from John Young Parkway to Landstar Boulevard – Post Design Services, Project No. 417-142, Contract No. 001313 (Agreement Value: not-to-exceed \$120,012.70)
7. Approval of Supplemental Agreement No. 2 with HDR Engineering, Inc. for Design Services for SR 516 Lake/Orange Expressway – Seg. 1, Project No. 516-236, Contract No. 001670 (Agreement Value: not-to-exceed \$337,982.63)
8. Approval of The Transtec Group, Inc. as a Subconsultant to HDR Engineering, Inc. for Design Services for SR 516 Lake/Orange Expressway – Seg. 1, Project No. 516-236, Contract No. 001670
9. Approval of Supplemental Agreement No. 2 with BCC Engineering, LLC for Design Consultant Services for SR 516 Lake/Orange Expressway from West of Cook Road to Lake/Orange County Line – Seg. 2, Project No. 516-237, Contract No. 001686 (Agreement Value: not-to-exceed \$1,255,506.91)
10. Approval of Contract Award to Bentley Architects + Engineers, Inc. for Design Services for SR 528 West Mainline Data Collection Gantries, Project No. 528-172, Contract No. 001845 (Agreement Value: \$700,000.00)
11. Approval of Contract Award to Jacobs Engineering Group, Inc. for Concept, Feasibility and Mobility (CF&M) Study for the SR 417 (Seminole Expressway) to Orlando Sanford International Airport Connector, Project No. 417-246, Contract No. 001868 (Agreement Value: \$900,000.00)

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

12. Approval of Final Ranking and Authorization for Negotiations for Design Services for 408 Eastbound (EB) Lane Addition, Orange Blossom Trail (US 441) to I-4, Project No. 408-315A, Contract No. 001905
13. Approval of Final Ranking and Authorization for Negotiations for Design Services for SR 534/SR 417 Systems and Service Interchanges – Seg. 1, Project No. 534-241, Contract No. 001908

LEGAL

14. Approval of the Slope Easement Agreement and the Second Temporary Construction Easement with Randall Park Community Development District, Project No. 528-1240, Parcel No. 104

MAINTENANCE

15. Approval of Fourth Contract Renewal with Rockhopper Services, Inc. for Systemwide Aquatic Vegetation Control Services Contract No. 001412 (Agreement Value: \$200,400.00)
16. Approval of Fourth Contract Renewal with Chavez's Lawn Services, Inc. for Mowing and Landscaping Services of the Poinciana Parkway Contract No. 001650 (Agreement Value: \$250,000.00)
17. Approval of Contract Award to Louis Berger Hawthorne Services, Inc. for Systemwide Facilities Maintenance Services, Contract No. 001910 (Agreement Value: \$12,430,000.00)
18. Approval of Cooperative Purchase Agreement with Universal Protection Service, LLC d/b/a Allied Universal Security Services, LLC for Security Guard Services, Contract No. 001920 (Agreement Value: not-to-exceed \$750,000.00)
19. Approval of Subcontractors to Louis Berger Hawthorne Services, Inc. for Roadway and Bridge Maintenance Services – SR 429, SR 414, and SR 453, Contract No. 001821

RISK MANAGEMENT

20. Approval of Bridges and Plazas Insurance Policy with Zurich American Insurance Company (Agreement Value: \$935,000.00)

TECHNOLOGY/TOLL OPERATIONS

21. Approval of Purchase Order to Temple, Inc. for Field Ethernet Switch Equipment, Project 599-432 (Agreement Value: \$189,924.00)

TRAFFIC OPERATIONS

22. Approval of Second Contract Renewal with AECOM Technical Services, Inc. for General Systems Consultant Services, Contract No. 001215 (Agreement Value: \$2,750,000.00)
23. Approval of Purchase Order to PC Solutions & Integration, Inc. for Firewall and Core and Network Switch Replacement (Agreement Value: \$312,816.94)

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

The following items are for information only:

- A. The following is a list of advertisement(s) from May 9, 2022 through June 5, 2022:
1. 534-243: SR 534 East of Jim Branch Creek to Narcoossee Road – Seg. 3 – Design
 2. 538-165A: SR 538 Pond 4-2 Re-Shaping – Construction
 3. Traffic & Earnings Consultant

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. 408-167: SR 408 Lighting Replacements (LAMS System) I-4 to SR 417 – Construction
 2. 408-175: SR 408 West Bound Widening I-4 to Chickasaw – Design
 3. 408-430: CFX HQ 2nd Floor Retrofits – Construction
 4. 408-566: Video Wall Replacement
 5. 414-208: SR 414 Expressway Extension Design – Design
 6. 528-757: SR 528 Farm Access Bridge 1 Removal - Construction
 7. 599-171: Systemwide Median Protection Improvements – Construction
 8. 599-416C: McCoy Road Facility Building Reconstruction – Construction
 9. 599-645: Systemwide Trailblazers Upgrades – Construction
 10. 599-649: Systemwide One-Way Sign Replacements – Construction
 11. 599-765: Systemwide Toll Plaza Facia and Roof Replacements – Construction
 12. Bond Counsel Services
 13. Communication and Public Outreach Services
 14. Coral Hills Mainline Photovoltaic (PV) Deployment – Design/Build Contract
 15. Disclosure Counsel Services
 16. Financial Advisor Services
 17. Out Parcel Mowing – SR 414, SR 429, SR 451 & SR 453
 18. Pressure Washing of Bridges - SR 414, SR 429, SR 451 & SR 453
 19. Public Information Services

CONSENT AGENDA ITEM

#1

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: May 19, 2022

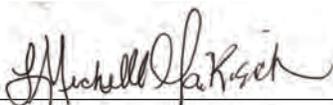
SUBJECT: Approval of Third Contract Renewal with Corcoran & Associates, Inc. d/b/a
Corcoran Partners for Government Relations & Advocacy Services
Contract No. 001541

Board approval is requested for the third renewal of the referenced contract with Corcoran Partners in the amount of \$45,000.00 for one year beginning on August 1, 2022 and ending July 31, 2023. The original contract was for one year with renewal options.

The work to be performed includes advising and assisting with matters involving legislative initiatives and monitoring.

Original Contract	\$ 45,000.00
First Renewal	\$ 45,000.00
Second Renewal	\$ 45,000.00
Third Renewal	<u>\$ 45,000.00</u>
Total	\$180,000.00

This contract is included in the OM&A Budget.

Reviewed by: 
Michelle Maikisch
Chief of Staff/Public Affairs Officer

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 3 AGREEMENT
CONTRACT NO. 001541**

THIS CONTRACT RENEWAL NO. 3 AGREEMENT (“Renewal Agreement”), is made and entered into this 9th day of June 2022, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and Corcoran & Associates, Inc. dba Corcoran Partners, a Florida corporation, register 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, on August 1, 2019, CFX and the Consultant entered into a Contract Agreement (the “Original Agreement”), whereby CFX retained the Consultant to provide government relations and lobbying 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 Consultant agree to exercise the third renewal of said Initial CFX Contract, which renewal shall begin on August 1, 2022 and end on July 31, 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 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 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. 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.

CORCORAN & ASSOCIATES, INC.
dba CORCORAN PARTNERS

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY

By: _____

By: _____
Aneth Williams, Director of Procurement

Print Name: _____

Title: _____

ATTEST: _____ (SEAL)

Secretary or Notary

If Individual, furnish two witnesses:

By: _____

Print Name: _____

By: _____

Print Name: _____

Approved as to form and legality by legal
counsel to the Central Florida Expressway
Authority on this ___ day of _____,
2022 for its exclusive use and reliance.

By: _____
Diego "Woody" Rodriguez, General Counsel

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 2 AGREEMENT
CONTRACT NO. 001541**

THIS CONTRACT RENEWAL NO. 2 AGREEMENT (“Renewal Agreement”), is made and entered into this 8th day of May 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and Corcoran & Associates, Inc. d/b/a Corcoran Partners, a Florida corporation, register 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, on August 1, 2019, CFX and the Consultant entered into a Contract Agreement (the “Original Agreement”), whereby CFX retained the Consultant to provide government relations and lobbying 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 Consultant agree to exercise the second renewal of said Initial CFX Contract, which renewal shall begin on August 1, 2021 and end on July 31, 2022 (“Renewal Term”), unless otherwise extended as provided in the Original Contract.
3. **Compensation for Renewal Term.** The Consultant shall be compensated for any and all services performed during the Renewal Term under this Renewal Agreement in accordance with the compensation schedule of the Original Agreement in an amount up to \$45,000.00 (“Renewal Compensation”). The Renewal Compensation shall be in addition to the original compensation paid by CFX to the Consultant pursuant to the terms of the Original Agreement, and any supplements or amendments thereto.
4. **Effect on Original Agreement.** All terms and conditions of said Original Agreement and any supplements and amendments thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Renewal Agreement and the Original Agreement, or any existing supplements or amendments thereto, the provisions of this Renewal Agreement, shall take precedence. 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.

CORCORAN & ASSOCIATES, INC.
dba CORCORAN PARTNERS

By: 

Print Name: Michael Corcoran

Title: CEO

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY

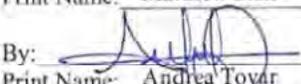
By: **Aneth Williams** Digitally signed by Aneth Williams
Date: 2021.04.28 16:15:43 -04'00'
Aneth Williams, Director of Procurement

ATTEST: _____ (SEAL)

Secretary or Notary

If Individual, furnish two witnesses:

By: 
Print Name: Matthew Blair

By: 
Print Name: Andrea Toyar

Approved as to form and legality by legal counsel to the Central Florida Expressway Authority on this 22 day of April, 2021 for its exclusive use and reliance.

By: **Woody Rodriguez**
Diego "Woody" Rodriguez, General Counsel

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 1 AGREEMENT
CONTRACT NO. 001541**

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 1st day of June 2020, by and between Central Florida Expressway Authority, hereinafter called "CFX" and Corcoran Partners, herein after called the "Consultant."

WITNESSETH

WHEREAS, CFX and the Consultant entered into a Contract Agreement (the "Original Agreement") dated August 1, 2019, whereby CFX retained the Consultant to provide government relations and lobbying services and

WHEREAS, pursuant to Article 2 of the Original Agreement, CFX and Consultant wish to renew the Original Agreement for a period of one (1) year;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, CFX and Consultant agree to the first renewal of said Original Agreement beginning the 1st day of August 2020 and ending the 31st day of July 2021 at the cost of \$45,000.00, which increases the total amount of the Original Agreement.

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

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

CORCORAN PARTNERS

Authorized Signature

Date: 6/1/20

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY

BY: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.07.01 16:45:40 -0400
Director of Procurement

WITNESSES: _____ (SEAL)
Secretary or Notary

Individual furnish two witness:

Witness (1) Angela P. [Signature]
Witness (2) [Signature]

Legal Approval as to Form
Diego "Woody"
Rodriguez Digitally signed by Diego
"Woody" Rodriguez
Date: 2020.07.01 07:58:53 -0400
General Counsel for CFX

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
COOPERATIVE PURCHASE AGREEMENT
GOVERNMENT RELATIONS & LOBBYIST SERVICES
CONTRACT NO. 001541**

19 AUG 25 11:43 AM

This Agreement is made this 1st day of August 2019, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called CFX and CORCORAN & ASSOCIATES INC dba CORCORAN & JOHNSON, 1104 East Twiggs Street, Suite 300, Tampa, Florida 33602, hereinafter the "CONSULTANT," 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 CONSULTANT to provide government relations & lobbying services by way of advising and assisting CFX with matters involving State governmental or regulatory bodies as may be assigned to the Consultant by CFX; and

WHEREAS, on or about November 1, 2015, the CONSULTANT entered an agreement with Tampa-Hillsborough County Expressway Authority under its Contract No. O-01215 to provide substantially the same services as required by CFX; and

WHEREAS, a Request for Proposals seeking qualified Consultants to perform such services for CFX was not required because the CONSULTANT has an existing contract with TAMPA-HILLSBOROUGH COUNTY EXPRESSWAY AUTHORITY for substantially the same services to be provided hereunder and CFX has decided to contract with CONSULTANT for the performance of the services described herein under the same conditions previously negotiated by TAMPA-HILLSBOROUGH COUNTY EXPRESSWAY AUTHORITY; and

WHEREAS, the CONSULTANT agrees to provide the services under the same terms, conditions and rates as included in its contract with TAMPA-HILLSBOROUGH COUNTY EXPRESSWAY AUTHORITY, 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 TAMPA-HILLSBOROUGH COUNTY EXPRESSWAY AUTHORITY CONTRACT

The parties adopt the terms and conditions in the CONSULTANT’s existing contract with the TAMPA-HILLSBOROUGH COUNTY EXPRESSWAY AUTHORITY under its Contract No. O-01215, including the Master Services Agreement, by reference as though set forth fully herein, hereinafter referred to as the “Authority”, subject to the substitutions or revisions described below.

2.1 References to “AUTHORITY” in the Tampa-Hillsborough County Expressway Authority contract shall be replaced with the “Central Florida Expressway Authority” or “CFX”.

2.2 The term “Executive Director” in the Scope of Services shall be replaced with “Chief of Staff/Public Affairs Officer”.

2.3 In the Authority’s contract in Section 3 on page 4, shall be revised by removing the text marked by strikeouts and adding the underlined text as follows:

This Agreement shall begin upon the date set as the “Effective Date” and shall continue in effect for a period of three (3) years ... The term of the Contract will be one (1) year beginning August 1, 2019. 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 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 30 days prior to the expiration of the initial Contract terms.

2.4 In the Authority’s contract in Section 4 on page 5, entitled “Compensation and Payment” shall be revised by removing the text marked by strikeouts and adding the underlined text as follows:

The Consultant, Corcoran & Johnson Government Relations ~~shall be paid an Annual Flat Rate Fee of \$105,000 in year one of the contract for services rendered,~~ CFX TAMPA-HILLSBOROUGH COUNTY EXPRESSWAY AUTHORITY will assign work by task work order to the CONSULTANT. Work performed by the CONSULTANT prior to issuance of a task work order may not be compensated by CFX. The work described herein will be assigned at CFX’s sole discretion, no minimum guarantees are expressed or implied to the amount of

task to be assigned to the CONSULTANT. The Contract amount shall not exceed \$45,000.00 during the term.

In addition, ~~CFX TAMPA HILLSBOROUGH COUNTY EXPRESSWAY AUTHORITY~~ will reimburse the CONSULTANT for reasonable out-of-pocket expenses incurred in the performance of work authorized hereunder and in accordance with State laws, rules, regulations, CFX policies and procedures, but only with prior written approval.

2.5 In the Authority's contract in Section 4 on page 6, sub section 4.03 – 4:05 shall be deleted.

2.6 In the Authority's Contract on page 3, Section K entitled "Public Records" shall be revised by removing the text marked by strikeouts and adding the underlined text as follows:

1. ~~CFX COUNTY~~ is public agency subject to Chapter 119, Florida Statutes. The ~~Contractor~~ CONSULTANT 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 COUNTY~~ in order to perform the services. (b) providing the public with access to public records on the same terms and conditions that the ~~CFX COUNTY~~ 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 COUNTY~~ all public records in possession of the ~~Contractor~~ CONSULTANT 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 COUNTY~~ in a format that is compatible with the information technology systems of the ~~CFX COUNTY~~.

The parties agree that if the Consultant fails to comply with a public records request, then ~~CFX COUNTY~~ 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 CONSULTANT in conjunction with this Contract (including without limitation CONSULTANT Records and Proposal Records, if and as applicable), CONSULTANT shall immediately notify CFX. Thereafter, CONSULTANT shall follow CFX's instructions with regard to such request. To the extent that such request seeks non-exempt public records, CFX shall direct CONSULTANT to provide such records for inspection and copying in compliance with Chapter 119. A subsequent refusal

or failure by CONSULTANT to timely grant such public access will be grounds for immediate, unilateral cancellation of the Contract by CFX.

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

Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, Florida 32807
(407) 690-5000
PublicRecords@CFXWay.com

ADDITIONAL TERMS REQUIRED BY CFX

3. 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 equipment, supplies, labor and incidentals necessary to perform this Agreement in the manner and to the full extent as required by CFX.

4. CONSULTANT INSURANCE.

CONSULTANT shall carry and keep in force during the period of this Agreement, the required amount of coverage as stated in the CONSULTANT's Authority Contract.

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.

5. CONSULTANT'S RECORDS.

The CONSULTANT shall maintain records in accordance with generally accepted accounting practices to document its costs and expenditures under this Agreement. The CONSULTANT hereby grants CFX and its duly authorized representative's permission to audit and review any

and all of the CONSULTANT's records pertaining to the Agreement. The CONSULTANT shall furnish CFX all invoices and statements for which it requests reimbursement.

6. PERSONAL SERVICE CONTRACT.

This Agreement is not assignable by the CONSULTANT without the expressed written consent of CFX.

7. ENTIRE AGREEMENT.

It is agreed that neither party has made any statement, promise or agreement, nor taken upon itself any engagement whatsoever, verbally or in writing, in conflict with the terms of this Agreement, or in any way that modifies, carries, alters, enlarges or invalidates any provision hereof.

8. 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, without first notifying CFX and securing its consent in writing.

9. PERMITS, LICENSES, ETC. Throughout the term of the Contract, 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.

10. 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).

11. 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."

12. 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 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. 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 life of the Contract and any renewals hereof, CONSULTANT desires to subcontract any portion(s) of the work to a subcontractor 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 subcontractor, 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 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.

14. 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.

15. NOTIFICATION of CONVICTION of CRIMES

CONSULTANT shall notify CFX if any of CONSULTANT's dedicated management team or other individuals assigned to CFX 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. CFX reserves the right to require replacement of any individual for any reason with or without cause.

16. NONDISCRIMINATION

CONSULTANT, 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.

17. DISPUTES AND TERMINATION

All services shall be performed by the CONSULTANT 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.

18. 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.

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.

20. 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 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, 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.

21. 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 CONSULTANT 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.

22. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT

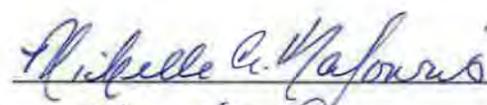
CONSULTANT shall initiate settlement of all outstanding liabilities and claims arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of CFX.

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.

CORCORAN & JOHNSTON GOVERNMENT RELATIONS

By:  _____

Title: Patrick _____

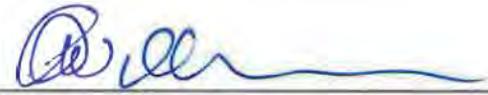
Attest:  _____ (Seal)



MICHELLE A KAZOURIS
Commission # GG 121994
Expires August 7, 2021
Denial Due Budget/Notary Services

Date: 8/23/19 _____

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By:  _____
Director of Procurement

19 AUG 26 4:11:26

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

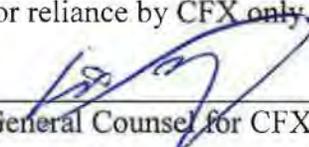
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General Counsel for CFX

EXHIBIT "A"
Contract No. O-01215
Master Services Agreement,

AMENDMENT NO. 1 TO AGREEMENT BETWEEN
TAMPA HILLSBOROUGH EXPRESSWAY AUTHORITY
AND
CORCORAN & JOHNSTON GOVERNMENT RELATIONS
FOR
GOVERNMENT RELATIONS & LOBBYIST SERVICES
CONTRACT NO. O-01215

This AMENDMENT NO. 1 TO AGREEMENT FOR GOVERNMENT RELATIONS & LOBBYIST SERVICES ("Amendment No. 1") is made and entered into effective the 1st day of November, 2018 (the "Effective Date"), by and between TAMPA HILLSBOROUGH EXPRESSWAY AUTHORITY (the "Authority"), and CORCORAN & JOHNSTON GOVERNMENT RELATIONS ("the Consultant") as may each be individually referred to herein as a "Party" and collectively referred to herein as the "Parties."

WHEREAS, the Authority and the Consultant entered into the government relations and lobbyist services (the "Agreement") on the 1st day of November, 2015 through October 31, 2018; and

WHEREAS, the purpose of this Amendment No. 1, is to renew the Agreement for the period of November 1, 2018 through October 31, 2019; and

NOW, THEREFORE, for and in valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do agree that the Agreement is amended as follows:

1. The above recitals are true and correct and are incorporated herein.
2. The Parties agree to renew the contract for the period of November 1, 2018 through October 31, 2019.

Except as may be modified herein, all terms and conditions of the Agreement remain in full force and effect. The Agreement and Amendment No. 1, as amended, represent the entire understanding between the Parties on the issues contained in the Agreement, either written or oral, and may be amended by written instrument signed by both parties in the future.

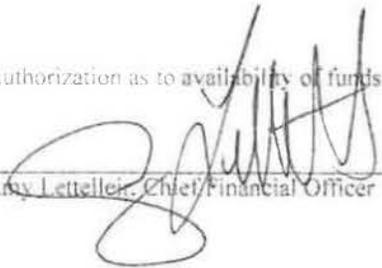
IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Amendment No. 1.

**TAMPA-HILLSBOROUGH COUNTY
EXPRESSWAY AUTHORITY**

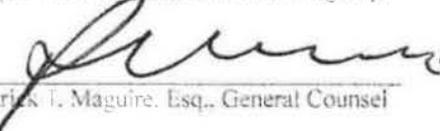
By: 
Joseph Waggoner
Executive Director

Date: 11-7-18

Authorization as to availability of funds:


Amy Lettelle, Chief Financial Officer

Approved as to form, content and legality:


Patrick T. Maguire, Esq., General Counsel

**CORCORAN & JOHNSTON
GOVERNMENT RELATIONS**

By: 
Matthew Blair, Partner & Project Manager

Date: 11-7-2018

Witness to the signature of CORCORAN & JOHNSTON

Signature: 
Michele Kazouris

AGREEMENT

Between

TAMPA-HILLSBOROUGH COUNTY EXPRESSWAY AUTHORITY

and

CORCORAN & JOHNSTON GOVERNMENT RELATIONS

For

GOVERNMENT RELATIONS & LOBBYIST SERVICES

THEA CONTRACT NO. O-01215

THIS AGREEMENT is made and entered into as of the **1st day of November, 2015** ("**Effective Date**"), by and between the **TAMPA-HILLSBOROUGH COUNTY EXPRESSWAY AUTHORITY**, a public body politic and corporate and agency of the State of Florida, organized and existing under the Laws of Florida ("**Authority**"), whose address is 1104 East Twiggs Street, Suite 300, Tampa, Florida 33602, and **CORCORAN & JOHNSTON GOVERNMENT RELATIONS, ("CONSULTANT")**, a corporation duly existing under the laws of the State of Florida, whose local address is 21748 State Road 54, Suite 102, Lutz, Florida 33549.

WHEREAS, the Authority is created and established to construct, reconstruct, improve, extend, repair, maintain, and operate the "Expressway System", pursuant to Part IV, Chapter 348, Florida Statutes; and

WHEREAS, pursuant to Section 348.54, Florida Statutes, the Authority has been granted the power to make contracts of every name and nature and to execute all instruments necessary or convenient for the conduct of its business and for carrying out the purposes of the Authority; and

WHEREAS, in response to the Authority's competitive solicitation process, the CONSULTANT submitted its proposal No. O-01215 on September 01, 2015; and

WHEREAS, the Authority has identified CONSULTANT is a highly qualified provider of the required services and requested CONSULTANT to conduct state governmental and lobbyist consulting services ("**Services**") as more particularly described in the Scope of Services attached as Exhibit "A" and incorporated herein by reference; and

WHEREAS, the Authority agrees to compensate the CONSULTANT for the Services, as authorized and described herein, and CONSULTANT agrees to perform such Services in accordance with the Fee Schedule attached as Exhibit "B" and incorporated herein by reference; and

NOW, THEREFORE, in consideration of the mutual covenants herein made and the benefits to accrue to the parties, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. RECITALS.

The above recitals are true and correct and are incorporated herein.

2. SERVICES AND PERFORMANCE.

2.01 The Authority hereby retains the Contractor pursuant to the terms set forth in this Agreement and services to be performed by or on behalf of the Contractor is hereinafter described in Exhibit "A" to this Agreement. Specific project services to be rendered by the Contractor will commence upon execution of the contract by the parties.

2.02 Before making any additions or deletions to the Services described in this Agreement or in Exhibit "A" that are essential to the completion of Services and which require additional compensation, the parties shall negotiate any changes or revisions to such Services and any necessary cost changes and shall enter into a supplemental written agreement providing for such modifications and the compensation to be paid therefore. Such supplemental agreement(s) may also be described on a Change Order and such agreement(s) that will exceed the approved Project budget are subject to the approval of the Authority's governing Board. Upon execution, any such supplemental agreement(s) and/or Change Orders shall be attached hereto and incorporated herein by reference.

2.03 The proposal submitted for this Project was evaluated, in part, based upon the qualifications of the Contractor's organization and upon the qualifications of key personnel presented in the Proposal. The Contractor agrees and acknowledges that it will provide the full complement of staff required to perform the Services, including the specific individuals named in the Proposal. The specific key personnel named in the Contractor's Proposal shall remain assigned for the duration of the Project, unless otherwise agreed to in writing by the Authority.

2.04 In the event Contractor proposes to substitute any of the key personnel, the individual(s) proposed as substitute(s) must demonstrate equal or superior qualifications and experience as required to

successfully perform such duties. The Authority shall have the sole right to determine whether key personnel proposed as substitutes are accepted and qualified to work on the Project.

2.05 The Contractor agrees to coordinate the SBE policy to achieve the established goals and other related items necessary to fulfill the requirements of the Agreement.

2.06 The Contractor shall function as an extension of the Authority's staff by providing qualified technical and professional personnel to perform the Services assigned under the terms of this Agreement. The Contractor shall be expected to operate without extensive oversight and direction and to represent, advance, and further the interests of the Authority throughout all aspects and phases of the Project.

2.07 The Contractor and its subContractors agree to provide the Services in accordance with the generally accepted standards of ethical and professional practice and in accordance with all applicable laws, rules, regulations, ordinances, codes, decrees, policies, standards or other guidelines issued by those governmental agencies which have or may claim jurisdiction over all or any portion of the Services. Contractor has represented to the Authority during the selection process that the Contractor possesses that level of skill, knowledge, experience, and expertise that is required to perform the Services.

2.08 The Contractor shall perform the Services to the reasonable satisfaction of the Authority. All questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this Agreement regarding the prosecution and fulfillment of the Services or the character, quality, amount, or value thereof, which cannot be settled by mutual agreement of the parties shall be first attempted to be resolved by non-binding mediation, then settled by recourse to litigation under Florida Law, subject to the additional provisions of Sections 9 through 11.

2.09 The Services of the Contractor have been and will be rendered as an independent contractor and not as an employee. In this regard, the Contractor shall not be deemed as an employee of the Authority for purposes of any tax or contribution levied by the Federal Social Security Act or any corresponding state law with respect to employment or compensation for employment, and the Contractor shall file all tax forms required of an independent contractor.

2.10 The Authority will be entitled at all times to be advised, at its request, as to the status of work being done by the Contractor and of the details thereof. Coordination will be maintained by the Contractor with the Authority, or other agencies interested in the Project on behalf of the Authority.

2.11 The Contractor shall permit inspections of its Services by the Authority or its designee, if requested by the Authority.

2.12 Contractor agrees to provide Project Schedules and Progress Reports in a format acceptable to the Authority at intervals established by the Authority. The Authority's Executive Director and/or its designee(s) shall meet with the Contractor's key personnel to plan for performance of work activities and staffing levels to be provided by the Contractor. The closest collaboration and cooperation shall be maintained by the Contractor with authorized representatives of the Authority, or of other agencies and organizations designated by the Authority.

2.13 All plans, tracings, reports, drawings, maps, estimates, specifications, computer records, survey notes, reports, records management programs, and any other data, deliverable, and material, and any part thereof, created, compiled, prepared or obtained by or on behalf of the Contractor pursuant to this Agreement, as well as all data collected, together with summaries and charts derived therefrom and together with all materials and data furnished to the Contractor by the Authority, are instruments of service in respect to the Project hereunder and shall upon payment to Contractor for Services rendered hereunder be and remain the property of the Authority without restriction or limitations on its use will be made available, upon request, to the Authority at any time during the performance of such services and/or upon completion or termination of this Agreement. Upon delivery to the Authority of said document(s), the Authority will become the custodian thereof in accordance with Chapter 119, Florida Statutes. The Contractor will not copyright any material and products or patent any invention developed under this Agreement. The Authority agrees that it will not make any modifications to the signed and sealed documents of the Contractor or allow or enable others to reuse such documents without the prior written consent of the Contractor, which consent shall not be unreasonably withheld.

2.14 All final plans, documents, reports, studies and other data prepared by the Contractor shall bear the professional's seal/signature, in accordance with the applicable Florida Statute that governs and Administrative Rules promulgated by the Authority of Business and Professional Regulation, and guidelines published by the Authority, in effect at the time of execution of this Agreement. In the event that changes in the Statute or Rules create a conflict with the requirements of the published guidelines, requirements of the Statute and/or Rules shall take precedence.

3. TERM.

3.01 Subject to the termination provisions set forth in this Agreement, this Agreement shall begin upon the date set as the "Effective Date" and shall continue in effect for a period of three (3) years with the option to renew for two (2) additional one (1) year terms. The renewal options, if exercised, will be in the form of a written Task Order Authorization, in the form attached as Exhibit "D", which requires

CONSULTANT's signature denoting its acknowledgement and acceptance to extend the Agreement for the subsequent one (1) year term under the same terms and conditions.

3.02 Contractor will not be permitted to commence or continue work efforts if all conditions precedent to commencement under the Agreement have not been satisfied.

3.03 In the event it becomes impracticable or impossible for the Contractor to complete the expected services within the term of this Agreement due to delays on the part of the Authority or circumstances beyond the control of the Contractor, The Agreement may be extended. An extension of the Agreement must be in writing. In the event there are delays caused by the Authority in approval of any of the materials submitted by the Contractor or if there are delays occasioned by circumstances beyond the control and without fault or negligence of the Contractor which delay the scheduled Project completion date, the Authority may grant an extension of time equal to the aforementioned Project schedule delay, as a minimum by issuance of a Time Extension Letter.

3.04 It will be the responsibility of the Contractor to ensure at all times that sufficient time remains in the Project Schedule within which to complete the services on the Project. In the event there have been delays which would affect the Project completion date, the Contractor will submit a written request to the Authority which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one another. The Authority will review the request and make a determination as to granting all or part of the requested extension.

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

4. COMPENSATION AND PAYMENT.

4.01 The Authority agrees to compensate the CONSULTANT for Services performed under this Agreement, as described in the **Fee Schedule, Exhibit "B"** to this Agreement and/or in individual executed Task Order(s) as applicable.

4.02 The Consultant, Corcoran & Johnston Government Relations shall be paid an Annual Flat Rate Fee of **\$105,000 in year one of the contract** for services rendered. The Annual Flat Rate Fee shall be paid in twelve equal monthly payments of \$8,750. The Annual Flat Rate Fee shall include all costs

associated with performance of the Consultant including out-of-pocket expenses, with the exception of travel. Any travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this contract will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.

4.03 The Sub-Consultant, Louis Betz & Associates, shall be paid for "on-call, as-needed" services rendered not to exceed \$30,000. per year. A fee of \$2,500. per month shall be paid for each month **only when services are rendered.** The Sub-Consultant, Allegra/Manci Graphics Corporation, shall be paid for "on-call, as-needed" services rendered not to exceed \$7,500. per year **only when services are rendered.** The fee shall include all costs associated with performance of the Sub-Consultant including out-of-pocket expenses, with the exception of travel. Any travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this contract will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.

4.04 Sub-Consultant services under this Agreement will be requested by the Authority on an as-needed basis. The Authority does not guarantee that any Services will be assigned to the Sub-Consultant during the term of this Agreement. The Authority has not made any representation or assurance to the Consultant or Sub-Consultant as to the total compensation to be paid to the Sub-Consultant under this Agreement. The Authority at its option may elect to have any of the Services set forth herein performed by other consultants or Authority staff.

4.05 Nothing in this Agreement shall create any contractual relationship between any sub-consultant and Authority or any obligation on the part of Authority to pay or to see to the payment of any monies due any sub-consultant, except as may be otherwise required by law.

4.06 The Consultant shall submit monthly invoices to the Authority for appropriate costs no more than thirty (30) calendar days after the end of the billing period. The amount invoiced shall be in accordance with the terms of the Fee Schedule, Exhibit "B", and shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Progress report(s) shall be submitted with each invoice. Such reports shall also include information with respect to the Consultant's utilization of SBE firms. The Authority shall have 30 days to review and render payment for all work deemed satisfactorily performed.

4.07 If a payment is not made to the Consultant within 30 days of receipt of an approved invoice, a separate interest penalty at a rate established pursuant to Section 218.74, Florida Statutes will be due and payable to the Consultant. Invoices that are returned to the Consultant because of preparation errors or uncompleted or unsatisfactory work will result in a delay in the payment and are not subject to the 30-day payment provision.

4.08 Invoices for any travel expenses, when authorized by terms of this Agreement and by the Authority's Executive Director, will be submitted in accordance with Section 112.061, Florida Statutes.

4.09 Records of costs ("Records") incurred under terms of this Agreement will be maintained by the CONSULTANT for the entire term of the Agreement and for a period of three (3) years after the later of (a) final acceptance of a project by the Authority; (b) the end of the term of the Agreement; or (c) until all claims (if any) regarding the Agreement are resolved. Final acceptance is defined as when a project or service has been satisfactorily completed, as determined by the Authority, and at which time the CONSULTANT shall be given written notice of final acceptance. Incomplete or incorrect entries in such Records shall be grounds for disallowance by the Authority of any fees, expenses, or costs based upon such entries. Records of costs incurred shall include the CONSULTANT's general accounting records and project records, together with supporting documents of the CONSULTANT and all subconsultants performing services under the Agreement, and all other records of the CONSULTANT and subconsultants that are considered necessary by the Authority for a proper audit.

4.10 Effect of Payments. No payment by the Authority shall relieve the CONSULTANT of its obligation to deliver timely the Services required under this Agreement. If after approving or paying for any service, product, or deliverable, the Authority determines that said service, product or deliverable does not satisfy the requirements of this Agreement, the Authority may reject same and, if the CONSULTANT fails to correct or cure the same within a reasonable period of time and at no additional cost to the Authority, the CONSULTANT shall return any compensation received therefore. No compensation shall be made for revisions to the Consultant's or subconsultant services or deliverables required due in any way to the error, omission, or fault of the CONSULTANT, its employees, agents, subconsultants or subcontractors. In addition to all other rights provided in this Agreement, the Authority shall have the right to set off any amounts owed by the CONSULTANT pursuant to the terms of this Agreement upon providing the CONSULTANT prior written notice thereof.

4.11 The Consultant hereby certifies, covenants and warrants that wage rates and other factual unit costs provided the Authority to support the compensation are accurate, complete and current as of the date of this Agreement. It is further agreed that the Agreement price will be adjusted to exclude any significant sums by which the Authority determines the Agreement price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such Agreement adjustments must be made within one year following the end of the Agreement. For this purpose, the end of the Agreement date of final billing or acceptance of the work by the Authority, whichever is later.

5. INDEMNITY.

5.01 The Contractor will indemnify, save, and hold harmless the Authority, its members, officers, agents, representatives, and employees from any claim, loss, suit, action, demand, liability, damage, cost, charge, and expense, including but not limited to reasonable attorneys' and paralegal fees (at trial and on appeal), to the extent caused by any negligent act, error, omission, recklessness, or intentional misconduct by the Contractor, its agents, employees, or subContractors during the performance of Services under this Agreement. The Contractor, its agents, employees or subContractors shall not be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Authority or any of its officers, agents, or employees during the performance of this Agreement.

5.02 If either party receives a notice of claim for damages that may have been caused by the Contractor in the performance of Services required of the Contractor under this Agreement, such party shall promptly evaluate the claim and report its findings to each other. The Authority and the Contractor will evaluate the claim and report their findings to each other within seven (7) working days from the date the last party received notice of such claim. The Authority's failure to notify the Contractor of a claim within seven (7) working days will not release the Contractor from any of the requirements of this section upon subsequent notification by the Authority to the Contractor of the claim.

5.03 The parties agree that one percent (1%) of the total compensation to the Contractor for performance of this Agreement is the specific consideration from the Authority to the Contractor for the Contractor's indemnity agreement.

6. INSURANCE.

6.01 The Contractor shall not commence any work until insurance of the types listed in the Insurance, Requirements, Coverages, and Limits, of Exhibit "C", to this Agreement have been obtained. Contractor agrees to provide Certificate(s) of Insurance to the Authority. Such insurance shall be maintained in full force and effect during the term of this Agreement or for a longer term as may be otherwise provided hereunder. All insurance shall be provided through companies authorized to do business in the State of Florida and considered acceptable to the Authority. All insurance coverages required of the Contractor shall be primary over any insurance or self-insurance program carried by the Authority. The Authority's approval or disapproval of Contractor's insurance shall not release the Contractor and subContractors of their respective obligations to exercise due care in the performance of their duties.

6.02 The Certificate of Insurance shall include the following statement: "The policy(ies) will not be cancelled or materially changed during the period of coverage without at least thirty (30) days prior written notice addressed to the Authority, Attention: Contracts Department, at the address set forth in this Agreement or such other address as may hereafter be specified. The Authority reserves the right to review a copy of such policy or policies upon request.

7. TERMINATION AND DEFAULT.

7.01 The Authority may terminate this Agreement unilaterally in whole or in part at any time the Authority deems it in its interest to effectuate such termination by providing thirty (30) days written notice of such intention. The Authority also reserves the right, with or without cause, to terminate any one or any combination of Services to be rendered by the Contractor without terminating the Agreement. Termination of the Agreement by the Authority shall occur as follows:

7.02 **Termination for Cause.** If the Authority determines the performance of the Contractor is not in compliance with the terms herein, the Authority may notify the Contractor of the deficiency with the requirement that the deficiency be corrected within a specified time ("Corrective Period"), but not less than 10 days. Upon Contractor's failure to correct the stated deficiency, the Agreement will be terminated at the end of the Corrective Period.

7.03 **Termination Without Cause.** If the Authority opts to terminate the Agreement or portions thereof for no stated reasons, the Authority will notify the Contractor of such termination, with instructions as to the effective date of work stoppage or specify the stage of work at which the Agreement is to be terminated.

7.04 If the Agreement is terminated under these provisions before performance is completed; the Contractor will be paid for the Services provided and expenses incurred in compliance with the requirements of this Agreement to the date of termination. Payment is to be on the basis of substantiated costs, not to exceed an amount, which is the same percentage of the contract price as the amount of Services satisfactorily completed called for by the Agreement. All Services in progress shall be deemed the property of the Authority and shall be promptly delivered at no expense to the Authority at the address set forth above, unless directed in writing to another location.

7.05 The Contractor may cancel this Agreement only by mutual consent of both parties.

8. MISCELLANEOUS PROVISIONS.

8.01 **Public Entity Crime Information Statement.** The Contractor represents that it is not currently on the convicted vendor list as provided in its Proposal under "Public Entity Crime Information

Statement." The Contractor also represents that its sub-Contractors are not currently on the convicted vendor list, and that it shall notify the Authority immediately if, during this Agreement, it or its sub-Contractor(s) is placed on said list. A person or affiliate who has been placed on the said list following a conviction for a public entity crime may not transact business with any public entity in excess of the threshold amount provided in Section 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.

8.02 **Publicity.** No information relative to the existence or the details of the Services or the Work shall be released by Contractor, either before or after completion of the Project, for publication, advertising or any commercial purposes without Authority's prior written consent.

8.03 **Public Records.** The Contractor and sub-Contractors shall comply with the provisions of Chapter 119, Florida Statutes, and shall permit public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received in conjunction with this Agreement. Specifically, if the Contractor is acting on behalf of the Authority, the Contractor must:

- (a) Keep and maintain public records that ordinarily and necessarily would be required by the Authority in order to perform the services being performed by the Contractor;
- (b) Provide the public with access to public records on the same terms and conditions that the Authority would provide the records and at a cost that does not exceed the costs provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- (d) Meet all requirements for retaining public records and transfer, at no costs, to the Authority all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provide to the Authority in a format that is compatible with the information technology systems of Authority.
- (e) The Contractor shall promptly provide the Authority with a copy of any request to inspect or copy public records in possession of the Contractor and shall promptly provide the Authority a copy of the Contractor's response to each such request.

8.03.1 Contractor's failure to grant such public access will be grounds for immediate termination of this Contract by the Authority pursuant to Section 8, Termination and Default.

8.04 **Audit Right.** Authority shall have the right to audit the books, records, and accounts of Contractor that are related to this Project. Contractor shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project.

8.05 **Record Retention.** Contractor and its sub-contractors shall make available records, at reasonable times for examination and audit by Authority, financial records, supporting documents, statistical records, and any other documents including books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form, and other supporting evidence to satisfy contract negotiation, administration, and audit requirements of the Authority and/or the governmental agencies providing grant funds pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a period of three years from completion of the Project.

8.05.1 If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by Authority to be applicable to Contractor's records, Contractor shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Contractor. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for Authority's disallowance and recovery of any payment upon such entry.

8.06 **Sub-Contractors.** The Contractor shall maintain an adequate and competent staff for the purpose of performing the Services hereunder. The Contractor may associate and utilize specialists for the purpose of rendering its Services hereunder, without additional costs to the Authority, other than those costs negotiated within the limits and terms of this Agreement. The Contractor shall require each authorized sub-Contractor or subcontractor to adhere to the appropriate provisions of this Agreement. The Contractor guarantees the payment of all just claims for materials, supplies, tools or labor and other just claims against it or any sub-Contractor in connection with this Agreement.

8.07 **Unauthorized Aliens.** The Authority will consider the employment by Contractor or its sub-Contractors of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act.

Such violation will be cause for unilateral cancellation of this Agreement, by the Authority, if the Contractor knowingly employs unauthorized aliens.

8.08 Nondiscrimination, Equal Employment Opportunity, and Americans with Disabilities Act.

During the performance of Services under this Agreement, Contractor agrees that it will comply with all federal, state, and local laws and ordinances applicable to the Services or payment for Services thereof, and will not discriminate against any employee or applicant for employment because of race, age, creed, color, gender, national origin, or disability.

8.08.1 Contractor agrees that it will comply with all federal, state and local laws and ordinances applicable to the Services or payment for Services thereof and will not unlawfully discriminate against any person in its operation and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the American with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by Authority, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.

8.08.2 Contractor's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

8.08.3 Contractor shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, Contractor shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, terminal, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

8.08.4 Contractor shall take affirmative action to ensure that applicants are employed and employees are treated without regard to race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or

recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

8.08.5 Contractor shall in all solicitations or advertisements for employees placed by or on behalf of Contractor state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin, or state that Contractor is an "Equal Opportunity Employer".

8.08.6 Contractor agrees to and shall post in conspicuous places, available to employees and applicants or employment notices setting forth the provisions of these Equal Employment Opportunity Clauses.

8.09 **E-Verify.** Contractor shall utilize the U.S. Department of Homeland Security's E-Verify System (www.uscis.gov) in accordance with the terms governing use of the system to confirm the employment eligibility of:

- (a) All persons employed by the Contractor during the term of the Contract to perform employment duties within Florida; and
- (b) All persons, including subcontractors, assigned by the Contractor to perform work pursuant to this Agreement with the Authority.

8.09.1 Contractor shall provide proof of registration in the E-Verify system to the Authority upon execution of this Agreement. Documentation evidencing Contractor's registration in the E-Verify system shall be incorporated herein and made a part hereof as Exhibit "E."

8.10 **Drug-Free Workplace.** Contractor agrees and certifies that it either has or that it will establish a drug-free work place.

8.11 **SBE Policy.** The Contractor agrees to enhance contracting opportunities for Small Business Enterprises, as defined in the Authority's SBE Policy adopted on February 25, 2002, (as amended), as contained in Attachment 1 of Exhibit "A" and incorporated herein by reference. Contractor agrees to comply with the Authority's SBE Policy in its efforts to achieve its anticipated level of SBE participation, as proposed in its Proposal on Form 5, Anticipated SBE Participation Statement.

8.11.1 In the event the Contractor is found to be in non-compliance with the Authority's SBE Policy, or fails to perform good faith efforts to include SBE Firms on the project to meet or exceed Contractor's commitment as submitted with its Proposal on Form 5, Anticipated SBE Participation Statement, the Authority may impose sanctions against the Contractor including, but not limited to:

- (a) Withholding payments to the Contractor under the Contract until the Contractor remedies the "Anticipated SBE Participation Statement" deficiency;
- (b) Termination of the Contract;
- (c) Debarment of the Contractor from bidding on future Authority projects.

8.11.2 The Contractor understands that it is the responsibility of the Authority to monitor Contractor's compliance with the SBE Policy. In that regard, the Contractor agrees to furnish to the Authority monthly reports, using forms and/or formats acceptable to the Authority, on the progress of its SBE participation.

8.12 **Entire Agreement.** This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto.

8.13 **Severability.** It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be invalid.

8.14 **Successors and Assigns.** Authority and Contractor bind themselves, their successors, assigns, executors, administrators and other legal representatives to the other party hereto and to successors, assigns, executors, administrators and other legal representatives of such other party in respect to all terms and conditions of this Agreement.

8.15 **Assignment:** The Contractor shall not sublet, assign, or transfer any Services or obligation under this Agreement without the prior written consent of the Authority. Responsibility for sublet, assigned or transferred Services shall remain with the Contractor.

8.16 **Contingency Fee.** Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, Authority shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

8.17 **Waiver of Breach and Materiality.** Failure by Authority to enhance any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any other subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

8.18 **Scrutinized Companies:** In executing this Agreement, Contractor certifies that it is not listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, or engaged in business operations in Cuba or Syria.

8.18.1 Pursuant to Section 287.135(5), Florida Statutes, Contractor agrees that the Authority may immediately terminate this Agreement for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473 Florida Statutes, or becomes engaged in business operations in Cuba or Syria during the term of this Agreement.

8.19 **Venue.** The parties agree that venue lies in Hillsborough County, Florida, for any action brought under the terms of, or to enforce, this Agreement; and the Contractor hereby waives any and all privileges and rights it may have under Chapter 47, Florida Statutes, relating to venue, as it now exists or may hereafter be amended, and any and all such privileges and rights it may have under any other statute, rule or case law, including, but not limited to those grounded on convenience.

8.20 **Governing Law.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Judicial Circuit of Hillsborough County, Florida, the venue situs, and shall be governed by the laws of the State of Florida.

8.21 **Legal Fees and Costs.** The parties agree that in the event that it should become necessary for either party to employ an attorney to enforce any of its rights hereunder, the prevailing party shall be entitled to reimbursement of all costs and expenses, including attorney's fees and paralegal fees (at both trial and appellate court levels) which may reasonably be incurred or paid at any time or times by it in connection therewith.

8.22 **Counterparts.** This Agreement may be executed in several counterparts and each counterpart shall constitute an original of this Agreement.

8.23 **Truth-in-Negotiation.** Signature of this Agreement by Contractor shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current as of the date of this Agreement. The original Agreement price and any additions thereto shall be adjusted to exclude any significant sums, by which the Authority determines the Agreement price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such Agreement adjustments shall be made within one (1) year following the end of this Agreement.

8.24 **Access to Records.** The Contractor and subContractors shall comply with the provisions of Chapter 119, Florida Statutes, and shall permit public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement. Upon receipt of any such public record request, the Contractor shall immediately notify the Authority of such request and fully cooperate with the Authority in responding to such request.

9. **WAIVER OF JURY TRIAL AGREEMENT.**

9.01 Each party, by the execution hereof, knowingly, voluntarily and intentionally waive, for themselves and their respective successors and assigns, (including sub-Contractors and joint venture parties) any right which any one of them may have to a trial by jury in respect to any litigation, action, suit or proceeding (whether at law or in equity) based on this agreement and any amendment or addition to the agreement, or any course of conduct, course of dealing (whether oral or written) or actions of any party or their respective officers, principals, partners, employees, agents or representatives in connection with the agreement, whether arising in contract, tort or otherwise. No party shall seek to consolidate any such litigation, action, suit or proceeding in which a jury trial cannot be or has not been waived with any other action in which a jury trial has been waived. This provision is a material and mutual inducement to enter into this agreement.

9.02 If for any reason the foregoing waiver is declared or found by a court of competent jurisdiction to be invalid, illegal or unenforceable, then the provisions of Section 10 – Binding Arbitration shall govern.

9.03 The Contractor shall provide and require in any agreements with subContractors and material suppliers for this provision to be included in whole as it appears in this contract. Further, notwithstanding the requirement of the preceding sentence, the waiver of jury trial set forth in this section shall be deemed

incorporated into any and all agreements between the Contractor and subContractors and/or material suppliers for the provision of services or materials under this agreement.

10. BINDING ARBITRATION (IF WAIVER OF JURY TRIAL IS UNENFORCEABLE).

10.01 If the provisions of Section 9 - "Waiver of Jury Trial," are found to be unenforceable, all claims, disputes and controversies between the Authority and the Contractor shall be decided and resolved by binding arbitration. The arbitration shall occur in Tampa, Florida, and shall be conducted by a three (3) member panel. For arbitration of claims between the Authority and the Contractor arising out of or in any way related to a claim of the Contractor(s) against the Authority, the Contractor agrees to resolve those claims pursuant to the Arbitration provisions of the Authority's contract with the applicable Contractor(s), which the Contractor has familiarized itself with and adopts herein by this reference. For arbitration of claims between the Authority and the Contractor, not arising out of or in any way related to a claim of the Contractor(s) against the Authority, the Contractor shall pick one arbitrator who is not an employee of or doing business with the Contractor. The Authority shall pick one arbitrator who is not an employee of or doing business with the Authority. The two selected arbitrators shall select the third arbitrator with concurrence of the Parties, unless additional parties are involved in the arbitration through consolidation or joinder and obtain authorization from the Authority and the Contractor to select a representative arbitrator. In that event, the parties shall arrive at a reasonable method for selecting the arbitrators.

11. PROCEDURE FOR BINDING ARBITRATION.

11.01 Notice of the demand for arbitration will be filed in writing with the other party to the contract. Arbitration shall be conducted in accordance with the Florida Evidence Code. 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.

11.02 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 Authority and Contractor has been obtained for such inclusion, which consent shall make specific reference to this Paragraph.

11.03 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, and all dispute resolution procedures set out herein as preconditions to such arbitration.

11.04 Therefore, notwithstanding Section 11.02(c) above, if a claim, dispute or other matter in question between Authority and Contractor involves the work of a SubContractor, either the Authority or the 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 Authority, Engineer, Contractor, or any of their Contractors that does not otherwise exist.

11.05 In connection with the arbitration proceeding all participants shall be afforded pre-hearing discovery in accordance with the rules of evidence of the Florida Evidence Code. The time frames and requirements of the Florida Evidence Code may be shortened or modified by the arbitration panel at their discretion or on motion by a party if acceptable to the arbitration panel or by agreement between the parties.

12. NOTICES.

12.01 All notices or other communications regarding this Agreement shall be made in writing and shall be deemed properly delivered to the addressee at the address set forth in this Agreement or such other address as may hereafter be specified in writing by (a) hand delivery, (b) courier service or overnight service, (c) facsimile transmittal, (d) mailing of such notice or (e) by email transmission.

13. CAPTIONS.

13.01 Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, extend or describe the scope of this contract or the intent of any provision hereof.

14. ATTACHMENTS.

14.01 The documents listed below, hereto after known collectively as the "Contract Documents" are expressly agreed to be incorporated herein by reference, the same as though fully written herein or attached hereto, and made a part of without being limited thereto, this "Agreement" consists of the following:

- Exhibit "A" Scope of Services
- Exhibit "B" Fee Schedule
- Exhibit "C" Insurance Requirements, Coverages, and Limits.

Exhibit "D" Task Order Form

Exhibit "E" Proof of E-Verify Registration

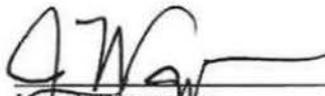
Exhibit "F" Corcoran & Johnston Proposal – RFP No. O-01215

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IN WITNESS WHEREOF, the parties have caused this instrument to be signed and witnessed by their respective duly authorized officials all as the dates set forth below.

**TAMPA-HILLSBOROUGH COUNTY
EXPRESSWAY AUTHORITY**

By: 
Curtis Stokes
Chairman

Attest: 
Joseph Waggoner
Executive Director

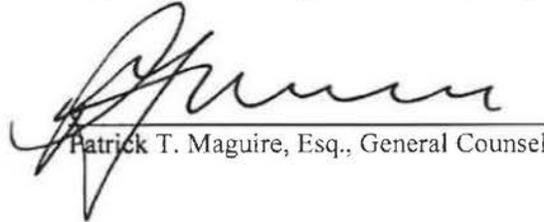
Date: 10/21/15

Date: 10/21/15

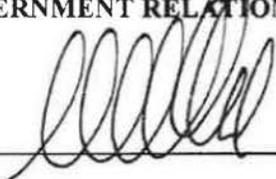
Authorization as to availability of funds:

Approved as to form, content and legality:


Lynne Paul, Chief Financial Officer

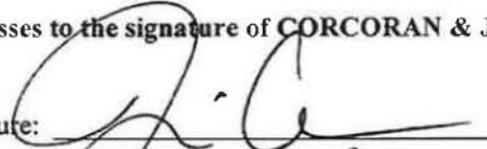

Patrick T. Maguire, Esq., General Counsel

**CORCORAN & JOHNSTON
GOVERNMENT RELATIONS**

By: 

Date: 10/9/15

Witnesses to the signature of CORCORAN & JOHNSTON GOVERNMENT RELATIONS:

Signature: 
Printed name: Jessica Corcoran

Signature: 
Printed name: Robert M. Fane

SCOPE OF SERVICES

for

GOVERNMENT RELATIONS & LOBBYIST SERVICES

THEA CONTRACT NO. O-01215

The Scope of Services to be provided by the Consultant includes, but is not limited to:

- a. Advise and assist with respect to matters involving state governmental or regulatory bodies;
- b. Attend all legislative sessions considering issues affecting the Authority or its business interests and appropriate legislative meetings;
- c. Attend all committee meetings, hearings and conferences that may be considering issues affecting the Authority;
- d. Review and report on all pertinent, pending legislation and appropriations affecting the Authority. This review shall also include all appropriate committee meetings, hearings and conferences;
- e. Research and assist in preparing draft bills selected for pursuit by the Authority;
- f. Prepare and coordinate responses to legislative inquiries;
- g. Submit requests for funding for various transportation projects to the Florida legislature, The Florida Department of Transportation and other appropriate governmental agencies;
- h. Provide specialized assistance in expediting and processing applications submitted to state regulatory bodies;
- i. Monitoring all state legislative and agency proposals to determine possible impacts or opportunities to the Authority;
- j. Proactively identifying, prioritizing and monitoring issues and opportunities for the Authority with respect to items under consideration by the state legislature and/or other state agencies or local entities;
- k. Travel to the Authority, as necessary to meet with the Authority staff and the Board in the development, review, and follow-up of legislative issues. (Travel must be approved in advance by the Executive Director. Travel will be reimbursed in accordance with the rates specified in Section 112.061, Florida Statutes);
- l. Prepare and present written periodic reports or as requested to the Executive Director; and
- m. Perform other similar assignments as directed by the Authority.

The Authority may suggest revisions to this Scope of Work, highlighting or de-emphasizing certain facets or activities, as the Authority's priorities emerge and new information becomes available.

In addition, the Consultant will provide the Services on a non-exclusive basis. The Authority, at its sole discretion, may have the Services performed by Authority staff, Board Members or other consultant(s).

[END OF DOCUMENT]

CONSENT AGENDA ITEM

#2

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

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

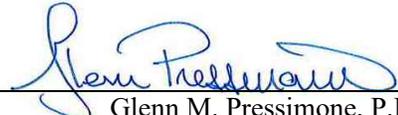
DATE: May 20, 2022

SUBJECT: Construction Contract Modifications

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

Project No.	Contractor	Contract Description	Original Contract Amount (\$)	Previous Authorized Adjustments (\$)	Requested (\$) June 2022	Total Amount (\$) to Date*	Time Increase or Decrease
417-141	Hubbard Construction Company	SR 417 Widening from International Drive to John Young Parkway	\$ 81,671,607.60	\$ 129,937.77	\$ 70,064.61	\$ 81,871,609.98	0
538-165	The Lane Construction Corporation	SR 538 Widening, Ronald Reagan Parkway to Cypress Parkway	\$ 92,628,420.00	\$ 1,791,190.51	\$ 543,350.83	\$ 94,962,961.34	50
TOTAL					\$	613,415.44	

* Includes Requested Amount for this current month.

Reviewed By: 
Glenn M. Pressimone, P.E., Chief of Infrastructure

Project 417-141: SR 417 Widening from International Drive to John Young Parkway
Hubbard Construction Company
SA No.: 417-141-0622-02

Adjustments to Pay Item Quantities from Plan Revisions 1-8

Adjust contract pay item quantities per Plan Revisions 1, 2, 3, 4, 5, 6, 7, and 8.

INCREASE THE FOLLOWING ITEMS:

Pipe Culvert, Optional Material, Round 18" S/CD	\$	1,813.44
Conduit, Furnish & Install, Open Trench	\$	326.04
Conduit, Furnish & Install, Directional Bore	\$	2,579.92
Fiber Optic Cable Inventory	\$	292.00
Fiber Optic Splice Housing Inventory	\$	292.00
Multi-Conductor Communication Cable (Remove)	\$	322.32
Fiber Optic Cable (Remove)	\$	31.32
Large Fiber Optic Pull Box, 36" Dia, (F&I)	\$	19,580.00
Pull Box (Remove-All Types)	\$	2,864.00
Concrete Manhole 4 x 4 x 4 (F&I)	\$	11,099.00
Concrete Manhole 4 x 6.5 x 6.5 (Doghouse) (F&I)	\$	21,542.00
FO Conduit, 3-1" HDPE SDR 11 (Trench or Plow) (F&I)	\$	872.48
FO Conduit, 1-2" HDPE SDR 11 (Trench or Plow) (F&I)	\$	610.60
FO Conduit, 2-2" HDPE SDR 11 (Trench or Plow) (F&I)	\$	4,517.64
Tubular Route Marker (Power)	\$	241.38
FO Conduit, 6" BSP SCH40 Outer Duct w/9-1" SDR11 (Trench or Plow) (F&I)	\$	2,905.84
Electrical Service Wire, Furnish & Install	\$	1,398.60
Electrical Service Disconnect (Remove)	\$	878.00
Electrical Conductors (Insulated) (No.1) (F&I)	\$	1,146.65
Electrical Conductors (Insulated) (No.6) (F&I)	\$	352.35
Electrical Conductors (Remove)	\$	99.63
Prestressed Concrete Pole, F&I, Type P-II Pedestal	\$	1,868.95
Lighting Conductors, F&I, Insulated, No. 8-6	\$	120.96
Lighting Conductors, F&I, Insulated, No.4 to No.2	\$	135.70
Lighting Conductors, F&I, Insulated, No.1 to No.0	\$	678.96
Luminaire, F&I, Underdeck, Wall Mount	\$	22,688.40
Sheet Piling Steel, F&I Permanent	\$	76,226.80
	\$	<u>175,484.98</u>

DECREASE THE FOLLOWING ITEMS:

Conduit, Furnish & Install, Above Ground	\$	(2,818.29)
Fiber Optic Cable (12SM Fiber) (F&I)	\$	(3,545.35)
Fiber Optic Cable (72SM Fiber) (F&I)	\$	(480.48)
Fiber Optic Cable (24MM Fiber) (F&I)	\$	(3,930.00)
Junction Box, Furnish & Install, Mounted	\$	(3,248.00)
Concrete Manhole (Remove)	\$	(2,067.00)
FO Conduit, 3-1" HDPE SDR11 (Directional Bore) (F&I)	\$	(1,082.79)
FO Conduit, 9-1" HDPE SDR11 (Trench or Plow) (F&I)	\$	(478.50)
FO Conduit, 2-2" HDPE SDR11 (Directional Bore) (F&I)	\$	(1,576.26)
FO Conduit, 4" HDPE SDR11 Outer Duct w/3-1" HDPE SDR11 (Directional Bore) (F&I)	\$	(1,004.36)
Tubular Route Marker (Fiber)	\$	(362.10)
Electrical Power Transformer (Remove)	\$	(946.00)
Luminaire, F&I, Replace Existing Luminaire, Roadway, Pendant	\$	(12,808.80)
Concrete Class IV, Endwalls	\$	(9,529.50)
Reinforcing Steel (Miscellaneous)	\$	(512.12)
Prestressed Soil Anchors	\$	(20,558.58)
Prestressed Soil Anchor, Performance Test	\$	(2,125.83)
Prestressed Soil Anchor, Creep Test	\$	(1,488.09)
Steel Piling, HP 16 x 141	\$	(126,038.77)
Treated Timber, Structural	\$	(3,871.99)

Sound/Noise Barrier - Architectural Column	\$ (33,951.20)
Sound/Noise Barrier - Inc. Foundation, Permanent	\$ (105,425.25)
Retaining Wall System, Permanent, Excluding Barrier	\$ (120,061.50)
	<u>\$ (457,910.76)</u>

Subtotal: Adjustments to Pay Item Quantities from Plan Revisions 1-8 \$ (282,425.78)

John Young Parkway Bridge Bearing Revisions

Delete the neoprene bearing devices for NB 417 over John Young Parkway End Bent 2 girders. The Contractor had shop drawings prepared and submitted for these replacement bearings.

DECREASE THE FOLLOWING ITEM:

Neoprene Pad Replacement, Abutment \$ (128,417.55)

ADD THE FOLLOWING ITEMS:

Shop Drawings for Replacement Bearings John Young Parkway \$ 18,042.31

SUBTOTAL THIS CHANGE: \$ (110,375.24)

Noise Wall 7 Foundation (Post 22)

Existing unforeseen drainage pipe was found to be in conflict with proposed auger cast pile foundation at Noise Wall 7 Post 22. A spread footing foundation was constructed to avoid conflict with this existing drainage.

ADD THE FOLLOWING ITEM:

Noise Wall 7 Foundation (Post 22) \$ 29,255.88

Stop Work Order Retaining Walls and Noise Walls

On April 8, 2021, a stop work order was provided to the Contractor to delete noise walls, critical walls, and MSE walls along Southbound SR 417 to accommodate future Brightline corridor. A portion of this work had already commenced, resulting in additional work to restore these areas back to the pre-existing conditions as well as costs for materials procured and labor.

ADD THE FOLLOWING ITEMS:

Stop Work Order Retaining Walls and Noise Walls \$ 197,687.79

Temporary Sod Walls 3, 4, & 5 Work Zone \$ 95,515.23

\$ 293,203.02

Fuel Price Index Adjustments

The contract contains provisions for fuel price index adjustments. Adjustments were made only if the current month fuel price is greater than or less than 5% of the bid/base fuel price. In accordance with the contract specifications, the engineer has calculated this adjustment for the period of February 2021 - March 2022. During this period of time \$32,859,131.29 of construction was performed/produced.

ADD THE FOLLOWING ITEM:

Fuel Price Index Adjustments: February 2021 to March 2022 \$ 116,833.86

Bituminous Price Index Adjustments

The contract contains provisions for bituminous price index adjustments. In accordance with the contract specifications, the engineer has calculated this adjustment for the period of February 2021 to March 2022. Monthly adjustments were made only if the current month bituminous price is greater than or less than 5% of the bid/base bituminous price.

ADD THE FOLLOWING ITEM:

Bituminous Price Index Adjustments: February 2021 to March 2022 \$ 23,572.87

TOTAL AMOUNT FOR PROJECT 417-141

\$ 70,064.61

Project 538-165: SR 538 Widening, Ronald Reagan Parkway to Cypress Parkway
The Lane Construction Corporation
SA 538-165-0622-05

Redesign and Construction for the Potential Southport Extension Project

The Design-Build firm incurred costs to re-design and construct the southern portion of the project to accommodate for the potential Southport Extension Project.

ADD THE FOLLOWING ITEMS:

Redesign of the Segment 4 Plans for the Potential Southport Extension Project	\$ 214,132.40
Construction of the Segment 4 Plans for the Potential Southport Extension Project	\$ 54,764.03
Compensable Time Costs per General Specification 2.3.2.1	\$ 274,454.40
	<u>\$ 543,350.83</u>

Subtotal: Redesign and Construction for Potential Southport Extension \$ 543,350.83

TOTAL AMOUNT FOR PROJECT 538-165 **\$ 543,350.83**

**CONSENT AGENDA ITEM
#3**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: May 12, 2022

SUBJECT: Approval of Contract Award to Masci General Contractor, Inc. for
SR 417 Resurfacing from SR 528 to Berry Dease Road
Project No. 417-760, Contract No. 001907

An Invitation to Bid for the above referenced project was advertised on March 20, 2022. Three (3) responses were received by the April 21, 2022 deadline.

Bid results were as follows:

	<u>Bidder</u>	<u>Bid Amount</u>
1.	Masci General Contractor, Inc.	\$16,029,260.78
2.	Hubbard Construction Company	\$18,903,233.00
3.	Middlesex Paving, LLC	\$19,716,435.70

The engineer's estimate for this project is \$19,885,035.33. Included in the Five-Year Work Plan is \$13,683,000.00.

The work to be performed includes providing all labor, materials, equipment, and incidentals necessary to perform milling and resurfacing of SR 417 from SR 528 to Berry Dease Road.

Board award of the contract to Masci General Contractor, Inc. in the amount of \$16,029,260.78 is requested.

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

Reviewed by:



Will Hawthorne, PE
Director of Engineering



Glenn Pressimone, PE

CONTRACT



**CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY**

AND

**MASCI GENERAL CONTRACTOR,
INC.**

**SR 417 RESURFACING FROM
SR 528 TO BERRY DEASE ROAD**

PROJECT NO. 417-760, CONTRACT NO. 001907

**CONTRACT DATE: JUNE 09, 2022
CONTRACT AMOUNT: \$16,029,260.78**

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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

FOR

SR 417 RESURFACING FROM SR 528 TO BERRY DEASE ROAD

PROJECT NO. 417-760, CONTRACT NO. 001907

JUNE 2022

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TS	TECHNICAL SPECIFICATIONS	TS-1 to TS-15
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SP	SPECIAL PROVISIONS	SP-1 to SP-31
	(See Special Provisions Table of Contents for listing of each special provision.)	
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P	PROPOSAL	P-1 to P-14
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2
PCB	PUBLIC CONSTRUCTION BOND	PCB-1 to PCB-4
Plans		

CONTRACT

This Contract No. 001907 (the “Contract”), made this 9th day of June 2022, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and MASCI GENERAL CONTRACTOR, INC., of 1936 Lee Road, Suite 300, Winter Park, FL. 32789, hereinafter the CONTRACTOR:

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

The work to be done under this Contract includes construction of all items associated with Project No. 417-760, SR 417 Resurfacing from SR 528 to Berry Dease Road, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 305 calendar days. The Contract Amount is \$16,029,260.78. This Contract was awarded by the Governing Board of CFX at its meeting on June 09, 2022.

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: _____

MASCI GENERAL CONTRACTOR, 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
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CENTRAL FLORIDA EXPRESSWAY AUTHORITY

GENERAL SPECIFICATIONS

SECTION 1 - ABBREVIATIONS AND DEFINITIONS

1.1 General

These General Specifications are intended for use on all construction projects awarded by CFX. However, each Article, subarticle, or paragraph of the General Specifications may not be relevant or applicable to every project. It is the responsibility of the Contractor to submit to the CEI any questions regarding relevance or applicability of any article or sub-article prior to the Pre-Construction conference. The CEI will respond with a determination which will be binding and final.

1.2 Abbreviations

Whenever in these General Specifications or in other documents pertaining to the Contract the following terms and abbreviations appear, their intent and meaning shall, unless specifically stated otherwise, be interpreted as shown in this Section.

AAN	American Association of Nurserymen, Inc.
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AGC	The Associated General Contractors of America, Inc.
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 degrees by the Contractor or its subcontractors and suppliers.

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

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

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

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

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

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

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

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

5.2 Permits and Licenses

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

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

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

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

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

5.3 Patented Devices, Materials and Processes

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

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

5.4 Right-of-Way Furnished by CFX

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

5.5 Sanitary Provisions

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

5.6 Control of the Contractor's Equipment

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

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

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

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

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

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

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

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

5.7 Structures Over Navigable Waters

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

5.8 Use of Explosives

The use of explosives will not be allowed.

5.9 Preservation of Property

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

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

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

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

5.9.3 Contractor's Use of Streets and Roads

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

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

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

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

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

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

- 5.9.5 Operations Within Railroad Right of Way

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

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

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

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

5.9.6 Utilities

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.10 Responsibility for Damages, Claims, etc.

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

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

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

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

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

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

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

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

5.11 Insurance

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

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

Upon execution of the Contract, the Contractor shall furnish to CFX, Certificates of Insurance bearing an original manual signature of the authorized representative of the insurance company. No Work shall commence under the Contract unless and until the required Certificates of Insurance described herein are in effect and have been approved by CFX. The Certificate of Insurance shall be issued to CFX and shall reference the complete and correct Project number, as well as the full and complete name of each insurance company, including city and state of domicile, as listed by A.M. Best Company. All insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, or as approved by CFX, as defined by A.M. Best and Company's Key Rating Guide. Such Certificates shall provide that in the event of cancellation, non-renewal or material reduction in coverage (including any material reduction of limits of Liability), the insurer will provide thirty (30) days prior notice of such cancellation, non-renewal or material reduction by certified mail to CFX. In addition, certified true copies of all policies shall be provided to CFX upon specific written request. Renewal Certificates of Insurance for all policies shall be submitted by the Contractor so that they are received by CFX no later than thirty (30) calendar days prior to the expiration of existing insurance coverage. Failure by the Contractor to meet this required timeframe will result in suspension of partial payments on monthly estimates until the certificates are received and accepted by CFX.

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

Excluding Professional and Pollution liability insurance, no liability insurance required herein shall be written under a "claims made" form.

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation.

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

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

Neither approval by CFX of insurance supplied by the Contractor nor disapproval of that insurance, shall release the Contractor of full responsibility for liability, damages and accidents as otherwise provided by the Contract. The requirement of insurance will not be deemed a waiver of sovereign immunity by CFX.

If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide CFX with certificates of same, CFX may obtain such policies and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments. Alternately, CFX may declare CONTRACTOR in default for cause.

5.11.1 Schedule of Required Limits for Workers' Compensation, General Liability and Automobile Liability:

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

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

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

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

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

Products and Completed Operations coverage, evidenced by a Certificate of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3) Cost of Cleanup/Remediation.

Limits

Each Occurrence - \$ 2,000,000

General Aggregate - \$ 4,000,000

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

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

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

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

Total D-B Contract Price	Minimum Coverage Limits
Up to \$30 Million	\$1 Million coverage
\$30 to \$75 Million	\$2 Million coverage
More than \$75 Million	\$5 Million coverage

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

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

5.12 Contract Bond (Public Construction Bond) Required

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

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

5.13 Contractor's Responsibility for Work

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

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

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

5.14 Opening Section of Highway to Traffic

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

5.15 Scales for Weighing Materials

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

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

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

5.16 Source of Forest Products

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

5.17 Regulations of Air Pollution

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

5.17.2 Dust Control: The Contractor shall ensure that excessive dust is not transported beyond the limits of construction in populated areas. Dust control for embankment or other cleared or unsurfaced areas may be by application of water or calcium

chloride, as directed by CFX. Any use of calcium chloride shall be in accordance with Section 102 of the Technical Specifications. When included in the Plans, mulch, seed, sod or temporary paving shall be installed as early as practical. Dust control for storage and handling of dusty materials may be made by wetting, covering or other means as approved by the CEI.

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

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

5.18 Dredging and Filling

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

5.19 Erosion Control

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

5.20 Contractor's Motor Vehicle Registration

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

5.21 Internal Revenue Service Form W-9

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

5.22 Tolls and Access

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

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

5.23 Requests for References or Performance Evaluations

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

5.24 Unauthorized Aliens

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

5.25 Public Records

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

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

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

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

5.26 Inspector General

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

5.27 Convicted Vendor List

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

5.28 Discriminatory Vendor List

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

5.29 Severability

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

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

5.30 Companies Pursuant to Florida Statute Section 287.135

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

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

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

END OF SECTION 5

SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without consent of CFX. The Contractor will be permitted to sublet a portion of the Work but shall perform, with its own organization, Work amounting to not less than 50% of the total Contract amount less the total amount for those Contract items specifically designated as "Specialty Work" below or as otherwise designated as Specialty Work by CFX. The granting or denying of consent under this provision is at CFX's sole discretion. The Certification of Sublet Work request will be deemed acceptable by CFX, for purposes of CFX's consent, unless the Engineer notifies the Contractor within 5 business days of receipt of the Certification of Sublet Work that CFX is not consenting to the requested subletting. If, at any time, a subcontractor is determined to be discriminatory, debarred or suspended by the FHWA, CFX or FDOT, the determination will be considered grounds for removal from the project.

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

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

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

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

If, in the opinion of CFX, any Subcontractor employed by the Contractor is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such first or second tier subcontractor shall be immediately removed from the Project by the Contractor upon written direction

from CFX. Such subcontractor shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such subcontractor, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the subcontractor is removed. The Contractor shall indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Subcontractor based on the direction of CFX. All subcontracts shall expressly include an acknowledgment of CFX's right to remove any Subcontractor in accordance with this paragraph.

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

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

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

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

6.2 Work Performed by Equipment Rental Agreement

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

6.3 Prosecution of Work

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

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

6.3.3 Submission of 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: Ben Dreiling, PE
Director of Construction 

DATE: June 1, 2022

SUBJECT: Approval of Revised Purchase Order to Dura-Stress, Inc. for Owner Direct Material Purchase for the Poinciana Parkway Widening Project
Project 538-165

On February 9, 2021, CFX issued a purchase order to Dura-Stress, Inc. for prestressed concrete bridge girders and piles for the Poinciana Parkway Widening Project in the amount of \$6,404,884.75.

In an effort to mitigate the effects of unprecedented escalations in the cost of construction materials after execution of contracts, the Florida Department of Transportation (FDOT) established cost indices for certain materials. CFX is allowing contractors who meet the FDOT established criteria to adopt these cost indices.

Board approval is requested to revise the purchase order to Dura-Stress, Inc. in an amount not-to-exceed \$2,042,969.50 for the material pricing escalation for rebar and prestressing strands associated with fabrication of prestressed concrete bridge girders and piles incorporated into the project

Reviewed by:


Glenn Pressimone, PE



Florida Department of Transportation

RON DESANTIS
GOVERNOR

605 Suwannee Street

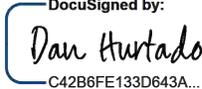
KEVIN J. THIBAUT, P.E.
SECRETARY

Tallahassee, FL 32399-0450

March 17, 2022

DCE MEMORANDUM NO. 22-05
(FHWA Approved March 17, 2022)

TO: DISTRICT CONSTRUCTION ENGINEERS

FROM: Dan Hurtado, P.E., Chief Engineer  DocuSigned by:
C42B6FE133D643A...

COPIES: Will Watts, Scott Arnold, Ananth Prasad (FTBA), Mark Musselman (ACAF), Mark Clasgens (FHWA), Ashley Anderson

SUBJECT: REBAR AND PRESTRESSING STRAND MATERIAL PRICE INDICES

Due to recent volatility in prices of rebar and prestressing strand materials beyond what the Contractor could have historically anticipated at the time of bid, the Department, at the request of the Contractor, will process a \$0.00 specification change to provide for indexing for rebar and prestressing strand as provided for in the attached modification to Specification Section 9-2.

For active construction contracts, the Contractor has up to six weeks from the date of this memo to request or decline adoption of the attached specification. If the Contractor submits such a request, material price adjustments shall be made retroactively from the beginning of the contract through final acceptance to produce a cost adjustment which will be applied to the last estimate prior to final acceptance. This adjustment will be calculated by comparing the applicable Index value at the time of letting to the Index value at the time of invoiced material acquisition for new rebar and prestressing strand materials that are permanently incorporated into the project. The Contractor must submit Contractor Certification of Quantities for all applicable materials purchased. The Contractor must submit a Certification of Quantities for each month prior to the date of this memo and monthly thereafter through the completion of the project. Contractor Certification of Quantities are attached to this memo.

If the Contractor requests to adopt the attached specification into a given contract, the specification shall apply to all pay items listed in the attached Contractor Certifications of Quantities for the entire duration of the contract, from beginning to end. If the Contractor declines adoption of the attached specification, the Contractor shall provide a written Certification that any applicable subcontractors have been notified of this memo and made aware of the Contractor's decision.

The following conditions apply:

1. Material Price Adjustments will not be made for materials which were purchased prior to award of the contract.
2. Materials must be stored in locations accessible for inspection by the Department per Section 9-5.5 of the Specifications.
3. Any materials receiving an adjustment must be incorporated into the specific contract on which material price adjustments are made.
4. The material must be approved as meeting applicable specifications.
5. For work performed by subcontractors, the unit price will be the subcontractor unit price as submitted on the accepted Form 700-010-36, Certification of Sublet - Schedule "A". Material price adjustments are not eligible for Contractor markup.
6. For work performed by the prime contractor, the unit price will be the bid unit price or, the unit price reflected in the accepted contract schedule of values.
7. The contractor is responsible for ensuring quantities are clearly identified on the invoices per the attached specification. In some cases, the quantity submitted on the Contractor Certification of Quantities will not match the invoice quantity.
8. Adoption of this Specification will apply to all pay items listed in the attached Certifications of Quantities and will cause adjustments to be made to rebar and prestressing strand. Contractors may not elect to apply this Specification to one material, but not others.
9. For contracts which had previously been approved to receive steel tariff compensation in accordance with the attached June 12, 2018 letter, the Contractor must notify the Engineer within six weeks from the date of this memo to either request adoption of the attached specification or, continue to participate in steel tariff compensation. Adoption of the attached specification will remove eligibility for steel tariff compensation in accordance with the attached letter. No contract may participate in both steel tariff compensation and the attached specification.

Construction contracts with letting dates between January 1, 2016 and June 30, 2021 are eligible to participate in this memo. Contracts final accepted on or before the date of this memo are not eligible to participate in this memo.

Payment adjustments shall be coded as Federal-aid non-participating using the appropriate the Line-Item Adjustment Type in SiteManager:

- Material Price Adjustment Steel – MPAS

This memorandum serves as blanket approval to process a \$0.00 contract change to incorporate the attached specification and should be attached to the Work Order or Supplemental Agreement.

If you have any questions, please contact Ashley Anderson, P.E. at 850-414-4184 or by email at Ashley.Anderson@dot.state.fl.us.

DH/aa

www.fdot.gov

MEASUREMENT AND PAYMENT

ARTICLE 9-2 is expanded by the following:

9-2.1.4 Material Adjustments for Rebar and Prestressing Strand: The Department will make price adjustments for rebar and prestressing strand materials included in the list of Pay Items attached to DCE Memo 22-05 in accordance with the following procedures.

Prepare separate Contractor's Certification of Quantities for each material invoice month using the Department form for Material Price Adjustment attached to DCE Memo 22-05. Submit certifications for materials purchased prior to the date of incorporation of this specification within 60-days of incorporation. Submit certifications for subsequent estimate periods to the Engineer no later than Twelve O'clock noon on Monday after the estimate cut-off or as directed by the Engineer, based on the quantity of each material purchased within the estimate period. Material certifications reflecting quantities beyond the final contract quantity shall not be accepted. Ensure each certification includes the Contract Number, Financial Project Identification (FPID) Number, Certification Date and Number, the period the certification represents, and the quantity represented by each invoice for each pay item. Submit material invoices with each certification and clearly identify the following:

- a. Pay Item Number
- b. Certification Quantity
- c. Invoice Number
- d. Invoice Date
- e. Invoice Quantity
- f. Invoice Unit Price
- g. Invoice Total

On Contracts with an original Contract Time of more than 120 days, the Department will adjust the unit price to reflect increases or decreases in material costs 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 will be made only when the invoice month material price index (IMP) varies by more than 5% from the price index prevailing in the month when the bids were received (BMP), and then only on the portion that exceeds 5%.

The Department will use factors to determine the percentage of unit price applicable to material only.

Price Adjustments will be based on the USDOL monthly Producer Price Index (PPI). The Material Price indices will be available on the Construction Office website before the 15th of each month at the following URL: <https://www.fdot.gov/construction/material-price-adjustment>

Payment on progress estimates will be adjusted to reflect adjustments in the prices for rebar and prestressing strand materials in accordance with the following:

$$\text{\$ Adjustment} = (\text{quantity})(\text{unit price})(\text{material factor})(\text{ID})$$

Where ID = Index % Difference = $[\text{IMP} - 0.95(\text{BMP})] / \text{BMP}$ when the IMP has decreased between the month of bid and the month of material invoice.

Where ID = Index % Difference = $[\text{IMP} - 1.05(\text{BMP})] / \text{BMP}$ when the IMP has increased between the month of bid and the month of material invoice.

A line-item adjustment will be made on the last progress estimate prior to the final estimate to each applicable pay item to reflect the cumulative value of all Contractor Certification of Quantities submitted throughout the duration of the contract.

Adjustments will be paid or charged to the Prime Contractor only. Any Contractor receiving an adjustment under this provision for work performed by a subcontractor shall distribute such adjustment to subcontractors who perform applicable work.

The Department reserves the right to audit the Contractor's records pertaining to the material certifications submitted for this Contract.

**CONSENT AGENDA ITEM
#5**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: May 27, 2022

SUBJECT: Approval of Supplemental Agreement No. 4 with CDM Smith, Inc.
for Traffic and Earnings Consultant Services
Contract No. 001300

Board approval of Supplemental Agreement No. 4 with CDM Smith, Inc. for the not-to-exceed amount of \$1,000,000.00 is requested. The original contract was for three years with two one-year renewals.

The work to be performed includes conducting traffic and earning services.

Original Contract	\$2,550,000.00
Supplemental Agreement No. 1	\$ 950,000.00
Supplemental Agreement No. 2	\$ 49,997.57
First Renewal	\$1,200,000.00
Supplemental Agreement No. 3	\$ 49,954.55
Second Renewal	\$1,200,000.00
Supplemental Agreement No. 4	<u>\$1,000,000.00</u>
Total	<u>\$6,999,932.12</u>

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
SUPPLEMENTAL AGREEMENT NO. 4
TO
AGREEMENT FOR TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

This Supplemental Agreement No. 4 (“Supplemental Agreement”) is entered into this _____ day of _____ 2022, by and between the Central Florida Expressway Authority (“CFX”) and CDM Smith, Inc., (“Consultant”).

WITNESSETH:

WHEREAS, CFX and the Consultant on July 13, 2017, entered into an Agreement whereby CFX retained the Consultant to provide miscellaneous construction engineering and inspection services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$1,000,000.00 in order to continue the required services through the term of the Contract; and,

WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated July 13, 2017;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$1,000,000.00 which shall make the total not-to-exceed amount of the Contract \$6,99,932.12.

CFX and Consultant agree that this Supplemental Agreement No. 4 shall not alter or change in any manner the force and effect of the original Contract except insofar as the same is altered and amended by this Supplemental Agreement No. 4; that acceptance of this Supplemental Agreement No. 4 signifies the Consultant’s waiver of all future rights for additional compensation which is not already defined herein.

Agreement for Traffic and Earnings Consultant Services
Contract No. 001300

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: _____
Aneth Williams, Director of Procurement

CDM SMITH, INC.

By: _____

Title: _____

Attest: _____ (Seal)

Approved as to form and execution, only.

Diego "Woody" Rodriguez, General Counsel



101 Southhall Lane, Suite 200
Maitland, FL 32751
tel: 407 660-2552
fax: 407 875-1161

March 30, 2022

Mr. Glenn Pressimone, P.E.
Chief of Infrastructure
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Supplemental Agreement No. 4 for the CFX General Traffic and Earnings Consultant Contract #001300

Dear Mr. Pressimone:

At their meeting on August 12, 2021, the CFX Board of Directors approved the second contract renewal with CDM Smith for the General Traffic and Earnings Consultant contract #001300 for a value of \$1,200,000. The annual budget was based on the four annual ongoing tasks with an anticipated budget of approximately \$515,000 (model development, annual reporting and bond support, general consultant engineering support, and meetings/workshops) and the remaining \$685,000 budgeted for additional funding for the SR 414 Expressway Extension PD&E Study, Northeast Connector Expressway PD&E Study, the Southport Connector Expressway PD&E Study, and Tampa Avenue Interchange, as well as funding for two new projects: SR 528 BRAM and SR 408 East Operational Improvements (partially funded).

CDM Smith has been working on these projects throughout the year. There have also been additional projects that weren't anticipated at the beginning of the year that are in the process of starting. Those projects include the SR 417-Orlando Sanford International Airport CF&M study (recently awarded), the SR 534/Osceola Parkway Extension project (advertised for design phases), recent changes to the Southport Connector Expressway PD&E to include an Interchange Justification Report (IJR), and recent meetings regarding SR 528 BRAM have led to the evaluation of a similar concept on SR 408. These four projects will require planning, traffic engineering and T&R support. CDM Smith anticipates the need for additional budget through the remainder of the contract year to complete these tasks.

The first task order is the SR 417-Orlando Sanford International Airport CF&M Study. The CFX Board authorized the evaluation of a new toll connector between SR 417/Seminole Expressway and the Orlando Sanford International Airport. CDM Smith anticipates traffic forecasting and





Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
March 30, 2022
Page 2

preparation of design traffic forecast to support the CF&M Consultant, as well as a preliminary T&R study for this project to determine project viability.

The second task order is the support of the design consultants for S.R. 534/Osceola Parkway Extension (OPE). Design traffic to support up to five design consultants will include an update of the PD&E design traffic to include post PD&E changes to the ramps, as well as the inclusion of an intermediate local access interchange at Medical City Drive. CDM Smith will develop traffic forecasts and operational analyses to determine when the new Medical City Drive interchange is required. The inclusion of the local access interchange in the campus of the S.R. 417/ OPE System interchange has added several new ramps, changes to previously designed ramps, and a collector/distributor system. CDM Smith will develop revised directional design hour volumes (DDHV) for the new interchange design. We also anticipate the need to develop a VISSIM model to review the design traffic operations in the SR 417/SR 534/Airport interchange campus, provide any recommended revisions, and coordinate with the design consultants as they develop final design plans. This will be a multi-year project so the budget requested is for the first two tasks with scheduled completion by October 1, 2022, which is the end date of our current contract.

The third task order is to amend the Southport Connector Expressway PD&E task order to include manhours and fee to complete an IJR for the Southport Connector partial interchange with Florida's Turnpike. Originally this work was to be completed by the PD&E consultant, but recent discussions has transitioned this work to this contract.

The fourth task order is an evaluation of the BRAM concept on SR 408. The current project on SR 528 has been evaluated for a proof of concept, and it has been requested that our efforts pivot to evaluating the concept on SR 408. The travel shed for the SR 408 is completely different than SR 528 and will require a more detailed review of traffic diversion as well as ridership estimates. We will continue to work with Dewberry, your General Engineering Consultants on this important study.

In addition to the four tasks described above, the SR 408 East Operational Improvements task was only partially funded with this year's authorization budget. CDM Smith is requesting funding to complete the remaining tasks, including the future safety evaluation, documentation of the VISSIM calibration report and concept traffic analysis report.

With total work authorizations through March 2022 of \$6,054,921.46, that only leaves \$9,683.90 in the contract budget for future project requests. CDM Smith will roll over unused funds from previous years authorizations of completed projects but anticipates a need to request funding of an additional \$1,000,000 for Year 5 of the contract in anticipation of additional projects requested by CFX. The following table includes a budget estimate of the additional tasks. The additional





Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
March 30, 2022
Page 3

\$1,000,000 would make the total contract value \$6,999,932.12 through October 1, 2022 with \$1,009,683.90 available for future project requests.

The table below includes the budget estimate for each future project that requires funding, which equals the \$1,000,000 being requested.

Work Task	Budget Estimate
SR 417-Orlando Sanford International Airport CF&M Study	\$265,000
S.R. 534/Osceola Parkway Extension Design Traffic Support	\$350,000
Southport Connector Expressway Amendment for IJR	\$150,000
SR 408 BRAM	\$105,000
SR 408 East Operational Improvements (remaining funding)	\$130,000
Total	\$1,000,000

We expect that the additional funds will carry the budget through the end of our current contract. Please call either of us to discuss if you require additional information or have any questions.

Respectfully submitted,

CDM Smith

Hugh W. Miller, Jr. P.E., PhD
Vice President

Carleen M. Flynn, AICP
Deputy Project Manager



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 2 AGREEMENT
CONTRACT NO. 001300**

THIS CONTRACT RENEWAL NO. 2 AGREEMENT (“Renewal Agreement”), is made and entered into this 12th day of August 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and CDM SMITH, INC., registered and authorized to conduct business in the State of Florida, hereinafter called the (“Consultant”). CFX and Consultant are referred to herein sometimes as a “Party” or the “Parties”.

WITNESSETH

WHEREAS, CFX and the Consultant entered into that certain Contract Agreement dated July 13, 2017, (collectively, the “Original Agreement”), with a Notice to Proceed date of October 2, 2017, whereby CFX retained the Consultant to perform traffic and earnings consultant services; and

WHEREAS, pursuant to Article 3 of the Original Agreement, CFX and Consultant wish to renew the Original Agreement for a period of one (1) year in accordance with the terms and conditions hereof.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises set forth in this Renewal Contract, the Parties agree as follows:

1. **Recitals**. The above recitals are true and correct and are hereby incorporated by reference as if fully set forth herein.
2. **Renewal Term**. CFX and Consultant agree to exercise the second renewal of said Initial CFX Contract, which renewal shall begin on October 2, 2021 and end on October 1, 2022 (“Renewal Term”), unless otherwise extended as provided in the Original Contract.
3. **Compensation for Renewal Term**. The Consultant shall be compensated for any and all services performed during the Renewal Term under this Renewal Agreement in accordance with **Exhibit “B”** of the Original Agreement, in an amount up to \$1,200,000.00 (“Renewal Compensation”). The Renewal Compensation shall be in addition to the original compensation paid by CFX to the Consultant pursuant to the terms of the Original Agreement, and any supplements or amendments thereto.
4. **Effect on Original Agreement**. All terms and conditions of said Original Agreement and any supplements and amendments thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Renewal Agreement and the Original Agreement, or any existing supplements or amendments thereto, the provisions of this Renewal Agreement, shall take precedence.
5. **Counterpart and Electronic Signatures**. This Renewal Agreement may be executed in multiple counterparts, including by electronic or digital signatures in compliance with Chapter 668, Florida Statutes, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have caused this Renewal Agreement to be executed by their duly authorized officers effective on the day and year set forth above.

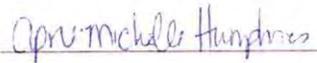
CDM SMITH, INC.

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY

By: 
Print Name: Carleen M. Flynn
Title: Client Service Leader

Digitally signed by Carleen M. Flynn
DN: cn=US, email=carleen@cdmsmith.com, o=CDM Smith, CN=Carleen M. Flynn
Date: 2021.08.17 10:15:05-0400

By: 
Aneth Williams, Director of Procurement

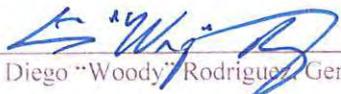
ATTEST:  (SEAL)



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
2nd day of August, 2021 for its exclusive
use and reliance.

By: _____
Print Name: _____

By: 
Diego "Woody" Rodriguez, General Counsel

By: _____
Print Name: _____

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 3
TO
AGREEMENT FOR TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

This Supplemental Agreement No. 3 (“Supplemental Agreement”) is entered into this 13th day of July 2021, by and between the Central Florida Expressway Authority (“CFX”) and CDM Smith, Inc., (“Consultant”).

WITNESSETH:

WHEREAS, CFX and the Consultant on July 13, 2017, entered into an Agreement whereby CFX retained the Consultant to provide miscellaneous construction engineering and inspection services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$49,954.55 in order to continue the required services through the term of the Contract; and,

WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated July 13, 2017;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$49,954.55 which shall make the total not-to-exceed amount of the Contract \$4,799,932.12.

CFX and Consultant agree that this Supplemental Agreement No.3 shall not alter or change in any manner the force and effect of the original Contract except insofar as the same is altered and amended by this Supplemental Agreement No.3; that acceptance of this Supplemental Agreement No.3 signifies the Consultant’s waiver of all future rights for additional compensation which is not already defined herein.

Agreement for Traffic and Earnings Consultant Services
Contract No. 001300

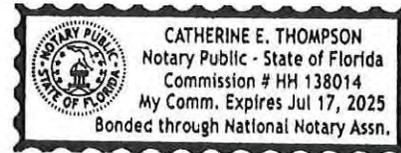
IN WITNESS THEREOF, the parties hereto have caused these presents to be executed on the day and year first written above.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2021.07.16 09:18:45 -04'00'
Director of Procurement

CDM SMITH, INC.

By: Cullen M Lynn
Title: Client Service Leader
Attest: Catherine E. Thompson (Seal)



Approved as to form and execution, only.

General Counsel for CFX

Diego "Woody" Rodriguez Digitally signed by Diego
"Woody" Rodriguez
Date: 2021.07.15 15:09:33 -04'00'



101 Southhall Lane, Suite 200
Maitland, FL 32751
tel: 407 660-2552
fax: 407 875-1161

July 8, 2021

Mr. Glenn Pressimone, P.E.
Chief of Infrastructure
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Supplemental Agreement No. 3 for the CFX General Traffic and Earnings Consultant Contract #001300

Dear Mr. Pressimone:

At their meeting on August 13, 2020, the CFX Board of Directors approved the first contract renewal with CDM Smith for the General Traffic and Earnings Consultant contract #001300 for value of \$1,200,000. The annual budget was based on the four annual ongoing tasks with an anticipated budget of approximately \$494,986 (model development, annual reporting and bond support, general consultant engineering support, and meetings/workshops) and the remaining \$728,070.82 budgeted for the SR 414 Expressway Extension PD&E Study, Northeast Connector Expressway PD&E Study, the Southport Connector Expressway PD&E Study, the Tampa Avenue Interchange and Lake Orange Connector Design Traffic Support.

CDM Smith has been working on these projects but recent events have prompted some additional unforeseen work tasks related to current projects that CDM Smith anticipates a need for additional budget through the remainder of the contract year. We are requesting an additional \$49,954.55 of authorized budget for this contract year ending October 1, 2021, the end of the fourth year of our contract, Contract #001300.

The first work task is the potential S.R. 429/Binion Road Interchange. The master planning outreach process has led to the consideration of a new half interchange on S.R. 429 near Binion Road. CDM Smith has been requested to conduct a traffic and revenue analysis on this potential new interchange, which will include travel demand model runs, existing traffic and future traffic analysis, sketch level revenue analysis and coordination with local officials.

The second work task is the revision of the Osceola Parkway Extension (OPE) design traffic to include an intermediate local access interchange at Medical City Drive. The inclusion of the local access interchange in the campus of the S.R. 417/ OPE System interchange has added several new ramps, changes to previously designed ramps, and a collector/distributor system. The project is





Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
July 8, 2021
Page 2

entering the design phase and the modified interchange design will require a revision to the forecasted traffic. CDM Smith will review the interchange design for operational characteristics, provide any recommended revisions, and develop revised directional design hour volumes (DDHV) for the new interchange design, documented in a traffic technical memorandum.

The funding would amend Authorization 2017-3.0/2018-3.5/2019-3.9/2020-3.9.1/2020-3.10 (Support for General Engineering Consultant) from \$818,182.71 to \$868,137.26. As well, the additional \$49,954.55 would make the total contract value \$4,799,932.12 through October 1, 2021.

Authorization 2017-3.0/2018-3.5/2019-3.9/2020-3.9.1/2020-3.10 - Support for General
Engineering Consultant
 $\$818,182.71 + \$49,954.55 = \$868,137.26$

We expect that the additional funds will carry the budget for the contract through the next contract reauthorization. Please call either of us to discuss if you require additional information or have any questions. We look forward to continuing work on the contract.

Respectfully submitted,

CDM Smith

Hugh W. Miller, Jr. P.E., PhD
Vice President

Carleen M. Flynn, AICP
Deputy Project Manager

HMW:cmf
Attachment



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 1 AGREEMENT
CONTRACT NO. 001300**

THIS CONTRACT RENEWAL NO. 1 AGREEMENT (“Renewal Agreement”), is made and entered into this 13th day of August 2020, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and CDM SMITH, INC., registered and authorized to conduct business in the State of Florida, hereinafter called the (“Consultant”). CFX and Consultant are referred to herein sometimes as a “Party” or the “Parties”.

WITNESSETH

WHEREAS, CFX and the Consultant entered into that certain Contract Agreement dated July 13, 2017, (collectively, the “Original Agreement”), with a Notice to Proceed date of October 2, 2017, whereby CFX retained the Consultant to perform traffic and earnings consultant services; and

WHEREAS, pursuant to Article 3 of the Original Agreement, CFX and Consultant wish to renew the Original Agreement for a period of one (1) year in accordance with the terms and conditions hereof.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises set forth in this Renewal Contract, the Parties agree as follows:

1. **Recitals**. The above recitals are true and correct and are hereby incorporated by reference as if fully set forth herein.
2. **Renewal Term**. CFX and Consultant agree to exercise the second renewal of said Initial CFX Contract, which renewal shall begin on October 2, 2020 and end on October 1, 2021 (“Renewal Term”), unless otherwise extended as provided in the Original Contract.
3. **Compensation for Renewal Term**. The Consultant shall be compensated for any and all services performed during the Renewal Term under this Renewal Agreement in accordance with **Exhibit “B”** of the Original Agreement, in an amount up to \$1,200,000.00 (“Renewal Compensation”). The Renewal Compensation shall be in addition to the original compensation paid by CFX to the Consultant pursuant to the terms of the Original Agreement, and any supplements or amendments thereto.
4. **Effect on Original Agreement**. All terms and conditions of said Original Agreement and any supplements and amendments thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Renewal Agreement and the Original Agreement, or any existing supplements or amendments thereto, the provisions of this Renewal Agreement, shall take precedence.
5. **Counterpart and Electronic Signatures**. This Renewal Agreement may be executed in multiple counterparts, including by electronic or digital signatures in compliance with Chapter 668, Florida Statutes, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have caused this Renewal Agreement to be executed by their duly authorized officers effective on the day and year set forth above.

CDM SMITH, INC.

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY

By: Carleen M Flynn
Print Name: CARLEEN M. FLYNN
Title: CLIENT SERVICE LEADER

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.09.15 11:50:50 -04'00'
Aneth Williams, Director of Procurement

ATTEST: April Michelle Humphries (SEAL)

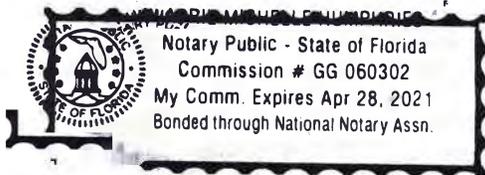
Secretary or Notary
If Individual, furnish two witnesses:

Approved as to form and legality by legal counsel
to the Central Florida Expressway Authority on
this 19th day of August, 2020 for its
exclusive use and reliance.

By: _____
Print Name: _____

By: Diego "Woody" Rodriguez Digitally signed by Diego
"Woody" Rodriguez
Date: 2020.08.19 21:04:48 -04'00'
Diego "Woody" Rodriguez, General Counsel

By: _____
Print Name: _____



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 2
TO
AGREEMENT FOR TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

This Supplemental Agreement No. 2 (“Supplemental Agreement”) is entered into this 9th day of June 2020, by and between the Central Florida Expressway Authority (“CFX”) and CDM Smith, Inc., (“Consultant”).

WITNESSETH:

WHEREAS, CFX and the Consultant on July 13, 2017, entered into an Agreement whereby CFX retained the Consultant to provide miscellaneous construction engineering and inspection services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$49,977.57 in order to continue the required services through the term of the Contract; and,

WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated July 13, 2017;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$49,977.57 which shall make the total not-to-exceed amount of the Contract \$3,549,977.57.

CFX and Consultant agree that this Supplemental Agreement No.2 shall not alter or change in any manner the force and effect of the original Contract except insofar as the same is altered and amended by this Supplemental Agreement No.2; that acceptance of this Supplemental Agreement No.2 signifies the Consultant’s waiver of all future rights for additional compensation which is not already defined herein.

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.09.17 10:04:58 -04'00'
Director of Procurement

CDM SMITH, INC.

By: Carleen M. Foyum
Title: Client Service Leader

Attest: April Michelle Humphries (Seal)



Approved as to form and execution, only.

General Counsel for CFX

Diego "Woody" Rodriguez Digitally signed by Diego "Woody"
Rodriguez
Date: 2020.09.17 10:01:43 -04'00'



101 Southhall Lane, Suite 200
Maitland, FL 32751
tel: 407 660-2552
fax: 407 875-1161

June 2, 2020

Mr. Glenn Pressimone, P.E.
Chief of Infrastructure
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Supplemental Agreement No. 2 for the CFX General Traffic and Earnings Consultant
Contract #001300

Dear Mr. Pressimone:

At their meeting on August 8, 2019, the CFX Board of Directors approved Supplemental Agreement No.1 to CDM Smith for value of \$950,000 for Traffic and Earnings Consultant services for FY 2020. The annual budget was based on the four annual ongoing tasks with an anticipated budget of approximately \$482,000 (model development, annual reporting and bond support, general consultant engineering support, and meetings/workshops) and the remaining \$468,0000 budgeted for the Northeast Connector Expressway PD&E, the SR 414 Expressway Extension PD&E and the Osceola Brevard Connector Expressway Concept, Feasibility and Mobility Study.

CDM Smith has been working on these projects as well as some additional tasks related to recent events, and we are anticipating a need for additional budget through the remainder of the contract year. We are requesting an additional \$49,977.57 of authorized budget for this contract year ending in September 2020, the end of the third year of our contract, Contract #001300.

As you know, the coronavirus disease (COVID-19) has impacted the lives of most Americans, and such has disrupted almost every aspect of our way of life including customer use of the CFX System. Since late March, CDM Smith has been monitoring weekly traffic and revenue, prepared an analysis of COVID-19 related impacts and submitted revised revenue estimates of the impacts for several scenarios concerning the progression of the disease and related economic impacts. These were first submitted on April 2, 2020, and then updated on April 22, 2020. The results were presented to the CFX Board of Directors as part of Budget Workshops, held on May 14, 202 and May 28, 2020. Several additional scenarios were developed in response to Board Member comments. The Board has requested that CDM Smith continue to monitor the traffic and revenue and provide a monthly report to the Board of Directors at their monthly meetings. CDM Smith has committed to providing these reports monthly and updating the revised revenue forecast on a quarterly basis through the duration of the crisis.





Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
June 2, 2020
Page 2

We anticipate a need for the additional budget to supplement unanticipated work completed in reaction to the COVID-19 crisis as well as work going forward and completion of the FY 2019 Annual Report. The funding would amend Authorization 2017-2.0 & 2.2 & 2.3 (System Review, Annual Report & Bond Support) from \$690,775.08 to \$740,752.65. As well, the additional \$49,977.57 would make the total contract budget \$3,549,977.57 through September 30, 2020.

Authorization 2017-2.0 & 2.2 & 2.3 (System Review, Annual Report & Bond Support)
 $\$690,775.08 + \$49,977.57 = \$740,752.65$

We expect that the additional funds will carry the budget for the contract through the next contract reauthorization. Please call either of us to discuss if you require additional information or have any questions. We look forward to continuing work on the contract.

Respectfully submitted,

CDM Smith

Hugh W. Miller, Jr. P.E., PhD
Vice President

Carleen M. Flynn, AICP
Deputy Project Manager

HMW:cmf
Attachment



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 1
TO
AGREEMENT FOR TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

This Supplemental Agreement No. 1 ("Supplemental Agreement") is entered into this 13th day of June 2019, by and between the Central Florida Expressway Authority ("CFX") and CDM Smith, Inc., ("Consultant").

WITNESSETH:

WHEREAS, CFX and the Consultant on July 13, 2017, entered into an Agreement whereby CFX retained the Consultant to provide miscellaneous construction engineering and inspection services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$950,000.00 in order to continue the required services through the term of the Contract; and,

WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated July 13, 2017;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$950,000.00 which shall make the total not-to-exceed amount of the Contract \$3,500,000.00.

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

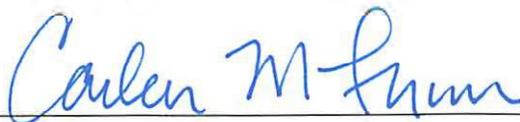
IN WITNESS THEREOF, the parties hereto have caused these presents to be executed on the day and year first written above. This Supplemental Agreement No. 1 was approved by CFX Board of Directors on June 13, 2019.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: 
Director of Procurement

'19 JUN 24 PM 2:13

CDM SMITH, INC.

By: 

Title: CLIENT SERVICE LEADER

Attest: April Michelle Humphries (Seal)



Approved as to form and execution, only.

General Counsel for CFX





101 Southhall Lane, Suite 200
Maitland, FL 32751
tel: 407 660-2552
fax: 407 875-1161

June 3, 2019

'19 JUN 24 PM 2:13

Mr. Glenn Pressimone, P.E.
Chief of Infrastructure
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Request for Additional Contract Budget for the CFX General Traffic and Earnings Consultant Contract #001300

Dear Mr. Pressimone:

CDM Smith was selected by CFX as the General Traffic and Earnings Consultant in September of 2017 with an original contract budget of \$2,550,000 or \$850,000 per year for three years. The annual budget was based on the four annual ongoing tasks with an anticipated budget of approximately \$482,000 (model development, annual reporting and bond support, general consultant engineering support, and meetings/workshops) and the remaining \$368,000 per year budgeted for one additional engineering study, such as a PD&E or concept study, and any additional miscellaneous projects.

During year 1, CDM Smith had an authorization of \$556,912.88 for the four annual ongoing tasks (Tasks 1.0, 2.0, 3.0 and 4.0) but then was also authorized \$335,755.56 to complete traffic and revenue analysis on the four OCX Master Plan Concept, Feasibility and Mobility (CFM) studies, \$385,661.57 to provide traffic engineering support and T&R study for the Lake Orange Connector PD&E study, and \$197,984.73 to complete a traffic and revenue analysis of the existing section of the Poinciana Parkway. As the OCX Master Plan projects were completed, two projects were advanced to PD&E Studies in March 2018, so CDM Smith was authorized an additional \$294,997.64 to provide traffic engineering support and T&R study for the Poinciana Parkway Extension PD&E and \$253,484.36 to provide traffic engineering support and T&R study for the Osceola Parkway Extension PD&E Reevaluation. This equates to \$2,024,796.74 in year 1 authorizations.

CDM Smith is currently in the second year of the contract. Year 2 authorization included a total of \$462,886.53 for the four annual ongoing tasks and an additional \$50,540.93 to complete the Poinciana Parkway T&R study. CDM Smith also provided traffic engineering support for the Northeast Connector Expressway Extension (NECEE) study, but this was completed using remaining funds from the OCX Master Plan CFM studies authorization. The year 1 and 2 authorizations to date total \$2,538,224.20, which is 99.5% of the total contract budget of \$2,550,000. A breakdown of the current authorizations is summarized in the table on Page 2.



Mr. Glenn Pressimone, PE
 Central Florida Expressway Authority
 June 3, 2019
 Page 2

Task Number	Task Name	Year 1	Year 2	Total
1.0 & 1.1	Model Development	\$77,497.23	\$59,601.72	\$137,098.95
2.0 & 2.2	System Review, Annual Report & Bond Support	\$252,615.70	\$188,212.88	\$440,828.58
2.1 & 2.1.1	T&R for Acquisition of Poinciana Parkway	\$197,984.73	\$50,540.93	\$248,525.66
3.0 & 3.5	General Engineering Consultant Support	\$173,546.66	\$178,326.76	\$351,873.42
3.1	Osceola County Expressway Authority Projects	\$335,755.56	\$0.00	\$335,755.56
3.2	Lake Orange Connector PD&E	\$385,661.57	\$0.00	\$385,661.57
3.3	Poinciana Parkway PD&E	\$294,997.64	\$0.00	\$294,997.64
3.4	Osceola Parkway Connector PD&E	\$253,484.36	\$0.00	\$253,484.36
4.0 & 4.1	Meetings and Workshops	\$53,253.29	\$36,745.17	\$89,998.46
Total		\$2,024,796.74	\$513,427.46	\$2,538,224.20

As previously mentioned, Tasks 1.0 (Model Development), 2.0 (System Review, Annual Report & Bond Support), 3.0 (General Engineering Consultant Support) and 4.0 (Meetings and Workshops) are annual ongoing tasks. All other tasks listed above were special projects.

With total work authorizations through April 2019 of \$2,538,224.20, that only leaves \$11,775.80 in the contract budget for future project requests. CDM Smith will roll over unused funds from Years 1 and 2 authorizations but anticipates a need to request funding of an additional \$950,000 for Year 3 of the contract in anticipation of additional projects requested by CFX. The following table includes an estimate for Year 3 of the budget:

Task Name	Year 3 Estimate
Model Development	\$62,000.00
System Review, Annual Report & Bond Support	\$195,000.00
General Engineering Consultant Support	\$185,000.00
Northeast Connector Study	\$200,000.00
S.R. 414 Direct Connection Study	\$150,000.00
Corridor F Planning Study	\$118,000.00
Meetings and Workshops	\$40,000.00
Total	\$950,000.00

This includes the annual ongoing tasks (approximately \$482,000) and three additional planning studies, (S.R. 414 Direct Connection Study, Northeast Connector Study, and Corridor F Planning Study) specified in the CFX FY 2019 – FY 2023 Work Plan. This would also leave contract budget for special projects, such as the T&R impacts of the Virgin Train/Brightline. The additional \$950,000 would make the total contract budget \$3,500,000 through September 30, 2020.





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Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
June 3, 2019
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Please call either of us to discuss if you require additional information or have any questions. We look forward to continuing work on the contract.

Respectfully submitted,

CDM Smith

A handwritten signature in black ink that reads "Hugh W. Miller, Jr." with a stylized flourish at the end.

Hugh W. Miller, Jr. P.E., PhD
Vice President

HMW:CMF:jtb

A handwritten signature in blue ink that reads "Carleen M. Flynn" in a cursive style.

Carleen M. Flynn, AICP
Deputy Project Manager



AGREEMENT

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AND
CDM SMITH, INC.**

TRAFFIC AND EARNINGS CONSULTANT SERVICES

CONTRACT NO. 001300

CONTRACT DATE: JULY 13, 2017

CONTRACT AMOUNT: \$2,550,000.00

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

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

FOR

TRAFFIC AND EARNINGS CONSULTANT SERVICES

CONTRACT NO. 001300

JULY 2017

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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

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

THIS AGREEMENT, made and entered into this 13th day of July, 2017, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter "CFX," and CDM Smith, Inc., hereinafter called "CONSULTANT," registered and authorized to conduct business in the State of Florida, carrying on professional practice in engineering, with offices located at 101 Southhall Lane, Suite 200, Maitland, FL. 32751.

WITNESSETH:

WHEREAS, CONSULTANT represents that it is fully qualified and authorized to render the professional services contracted herein.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, CFX and CONSULTANT agree as follows:

1.0. DEFINITIONS.

Reference herein to the Project Manager shall mean CFX's Director of Engineering or his authorized designee. The Project Manager shall provide the management and technical direction for this Agreement on behalf of CFX. All technical and administrative provisions of this Agreement shall be managed by the Project Manager and the CONSULTANT shall comply with all of the directives of the Project Manager that are within the purview of this Agreement. Decisions concerning Agreement amendments and adjustments, such as time extensions and supplemental agreements shall be made by the Project Manager.

2.0. SCOPE OF SERVICES.

CFX does hereby retain the CONSULTANT to furnish Traffic and Earning Services in accordance with Contract No. 001300.

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

Before rendering any of the services, any additions or deletions to the work described in **Exhibit "A"**, and before undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into a Supplemental Amendment covering such modifications and the compensation to be paid therefore.

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

3.0 TERM OF AGREEMENT AND RENEWALS

Unless otherwise provided herein or by Supplemental Agreement, the provisions of this Agreement will remain in full force and effect for a three (3) year term from the date of the Notice to Proceed for the required project services as detailed in **Exhibit "A,"** with two one-year renewals at CFX's option. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONSULTANT are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide CONSULTANT with written notice of its intent at least thirty (30) days prior to the expiration of the original term and subsequent renewal, if any.

The CONSULTANT agrees to commence the scheduled project services to be rendered within ten (10) calendar days from the date specified in the written Notice to Proceed from the Project Manager, which Notice to Proceed will become part of this Agreement. The CONSULTANT shall complete scheduled project services within the timeframe(s) specified in **Exhibit "A"**, or as may be modified by subsequent Supplemental Agreement.

4.0 PROJECT SCHEDULE

The CONSULTANT agrees to provide Project Schedule progress reports for each project in a format acceptable to CFX and at intervals established by CFX. CFX will be entitled at all times to be advised, at its request, as to the status of work being done by the CONSULTANT and of the details thereof. Coordination shall be maintained by the CONSULTANT with representatives of CFX, or of other agencies interested in the project on behalf of CFX. Either party to the Agreement may request and be granted a conference.

In the event there are delays on the part of CFX as to the approval of any of the materials submitted by the CONSULTANT or if there are delays occasioned by circumstances beyond the control of the CONSULTANT, which delay the scheduled project completion date, CFX may grant to the CONSULTANT by "Letter of Time Extension" an extension of the scheduled project completion date equal to the aforementioned delays. The letter will be for time only and will not include any additional compensation.

It shall be the responsibility of the CONSULTANT to ensure at all times that sufficient time remains within the project schedule within which to complete the services on the project. In the event there have been delays which would affect the scheduled project completion date, the CONSULTANT shall submit a written request to CFX which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one another. CFX will review the request and make a determination as to granting all or part of the requested extension.

In the event the scheduled project completion date is reached and the CONSULTANT has not requested, or if CFX has denied, an extension of the completion date, partial progress payments will be

stopped when the scheduled project completion date is met. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by CFX.

5.0 PROFESSIONAL STAFF

The CONSULTANT shall maintain an adequate and competent professional staff to enable the CONSULTANT to timely perform under this Agreement. The CONSULTANT shall continue to be authorized to do business within the State of Florida. In the performance of these professional services, the CONSULTANT shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The CONSULTANT shall use due care in performing in a design capacity and shall have due regard for acceptable standards of design principles. The CONSULTANT may associate with it such specialists, for the purpose of its services hereunder, without additional cost to CFX, other than those costs negotiated within the limits and terms of this Agreement. Should the CONSULTANT desire to utilize specialists, the CONSULTANT shall be fully responsible for satisfactory completion of all subcontracted work. The CONSULTANT, however, shall not sublet, assign or transfer any work under this Agreement to other than the associate consultants listed below without the written consent of CFX. It is understood and agreed that CFX will not, except for such services so designated herein, permit or authorize the CONSULTANT to perform less than the total contract work with other than its own organization.

- | | |
|--|---|
| Florida Transportation Engineering, Inc. (Class II) ²¹²⁵⁷ | Resource Systems Group, Inc. - 21256 |
| Fishkind & Associates, Inc. (Class II) - 08210 | Accurate Traffic Counts, Inc. (Class II) ¹¹⁷⁸¹ |
| AVCON, Inc. - 03914 | SBuse Consulting (Class II) |

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

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

6.0 SERVICES TO BE PROVIDED

The work covered by this Agreement as described in **Exhibit "A"**. A Supplemental Agreement will be required for the additional work. The CONSULTANT shall also provide assistance to the CFX's Project Manager with other related tasks as directed.

All documents, reports, studies and other data prepared by the CONSULTANT shall bear the endorsement of a person in the full employ of the CONSULTANT and duly registered by the State of Florida in the appropriate professional category.

The CONSULTANT shall submit a final set of reports and studies which shall be endorsed (seal/signature) by the CONSULTANT.

The CONSULTANT shall not be liable for use by CFX of said plans, documents, reports, studies or other data for any purpose other than intended by the terms of this Agreement.

7.0 COMPENSATION

CFX agrees to pay the CONSULTANT compensation as detailed in **Exhibit "B"**, Method of Compensation, attached hereto and made a part hereof, in the not-to-exceed amount of \$2,550,000.00 for the initial three-year term of this Agreement. Bills for fees or other compensation for services or expenses shall be submitted to CFX in detail sufficient for a proper pre-audit and post audit thereof.

The CONSULTANT may be liable for CFX costs resulting from errors or deficiencies in designs furnished under this Agreement. CFX may enforce such liability and collect the amount due if the recoverable cost will exceed the administrative cost involved or is otherwise in CFX's best interest.

Records of costs incurred by the CONSULTANT under terms of this Agreement shall be maintained and made available upon request to CFX at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to CFX upon request. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed. The obligations in this paragraph survive the termination of the Agreement and continue in full force and effect.

Records of costs incurred includes the CONSULTANT's general accounting records and the project records, together with supporting documents and records, of the CONSULTANT and all subconsultants performing work on the project, and all other records of the CONSULTANT and subconsultants considered necessary by CFX for a proper audit of project costs.

The general cost principles and procedures for the negotiation and administration, and the determination or allowance of costs under this Agreement shall be as set forth in the Code of Federal Regulations, Titles 23, 48, 49, and other pertinent Federal and State Regulations, as applicable, with the understanding that there is no conflict between State and Federal regulations in that the more restrictive

of the applicable regulations will govern. Whenever travel costs are included in **Exhibit "B"**, the provisions of Section 112.061, Florida Statutes, shall govern as to reimbursable costs.

8.0 DOCUMENT OWNERSHIP AND RECORDS

All plans, documents, reports, studies, and/or other data prepared or obtained under this Agreement shall be considered instruments made for services and shall become the property of CFX without restriction or limitation on their use on this project; and shall be made available, upon request, to CFX at any time. CFX will have the right to visit the site for inspection of the work and the drawings of the CONSULTANT at any time. Unless changed by written agreement of the parties, said site shall be 101 Southhall Lane, Suite 200, Maitland, FL. 32751.

Notwithstanding Section 17, entitled "Communications, Public Relations, and Use of Logos," CONSULTANT acknowledges that CFX is a body politic and corporate, an agency of the State of Florida, and is subject to the Public Records Act codified in Chapter 119, Florida Statutes. To the extent that the CONSULTANT is in the possession of documents that fall within the definition of public records subject to the Public Records Act, which public records have not yet been delivered to CFX, CONSULTANT agrees to comply with Section 119.0701, Florida Statutes.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT Phone: 407-690-5000, e-mail: publicrecords@cfxway.com, and address: Central Florida Expressway Authority, 4974 ORL Tower Road, Orlando, FL. 32807.

An excerpt of Section 119.0701, Florida Statutes is below.

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

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

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected

or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

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

The obligations in Section 8.0, Document Ownership and Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

The CONSULTANT shall allow public access to all documents, papers, letters, or other material as approved and authorized by CFX and subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONSULTANT in conjunction with this Agreement. Failure by the CONSULTANT to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by CFX.

9.0 COMPLIANCE WITH LAWS

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

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

10.0 WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE

The CONSULTANT hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached **Exhibit "C"**, Details of Costs and Fees, supporting the compensation provided in Section 7.0 are accurate, complete and current as of the date of this Agreement. It is further

agreed that said price provided in Section 7.0 hereof shall be adjusted to exclude any significant sums where CFX shall determine the price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments shall be made within one year following the date of final billing or acceptance of the work by CFX, whichever is later.

11.0 TERMINATION

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

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

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

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

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

12.0 ADJUSTMENTS

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

In the event that the CONSULTANT and CFX are not able to reach an agreement as to the amount of compensation to be paid to the CONSULTANT for supplemental work desired by CFX, the CONSULTANT shall be obligated to proceed with the supplemental work in a timely manner for the amount determined by CFX to be reasonable. In such event, the CONSULTANT will have the right to file a claim with CFX for such additional amounts as the CONSULTANT deems reasonable for consideration by the Executive Director; however, in no event will the filing of the claim or the resolution or litigation thereof, through administrative procedures or the courts, relieve the CONSULTANT from the obligation to timely perform the supplemental work.

13.0 CONTRACT LANGUAGE AND INTERPRETATION

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective functions and capacities.

If the CONSULTANT discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the CONSULTANT shall immediately notify CFX and request clarification of CFX's interpretation of this Agreement.

The Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

14.0 HOLD HARMLESS AND INDEMNIFICATION

The CONSULTANT shall indemnify, defend, and hold harmless CFX, and its officers, and employees from any claim, liabilities, losses, damages, and costs, including, but not limited to, reasonable attorneys' fees, caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the Agreement. The CONSULTANT shall indemnify and hold harmless CFX and all of its officers and employees from any liabilities, losses, damages, costs, including, but not limited to reasonable attorneys' fee, arising out of any negligent act, error, omission by the CONSULTANT, its agents, employees, or subcontractors during the performance of the Agreement, except that neither the CONSULTANT, its agents, employees nor any of its subconsultants will be liable under this paragraph for any claim, loss, damage, cost, charge or expense arising solely out of any act, error, omission or negligent act by CFX or any of its officers, agents or employees during the performance of the Agreement.

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

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

CFX is an agency of the State of Florida whose limits of liability are set forth in Section 768.28, Florida Statutes, and nothing herein shall be construed to extend the limits of liability of CFX beyond that provided in Section 768.28, Florida Statutes. Nothing herein is intended as a waiver of CFX's sovereign immunity under Section 768.28, Florida Statutes, or law. Nothing hereby shall inure to the benefit of any third party for any purpose, which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of CFX's obligations are limited to the payment of no more than the amount limitation per person and in the aggregate contained in Section 768.28, Florida Statutes, except for payments for work properly performed, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.

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

The obligations in Section 14.0, Hold Harmless and Indemnification, shall survive the expiration or termination of this Agreement and continue in full force and effect.

15.0 THIRD PARTY BENEFICIARY

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement, and that the CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For the breach or violation of this paragraph, CFX shall have the right to terminate this Agreement without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

16.0 INSURANCE

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

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

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

16.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to CFX) or the general aggregate limit shall be twice the required occurrence limit. CFX shall be listed as an additional insured. The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

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

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

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

16.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

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

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

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

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

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

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

17.0 COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS

The CONSULTANT agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying CFX and securing its consent in writing, except as required by law. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data, documents, reports, or other written or electronic materials furnished in compliance with this Agreement, it being understood that, under Section 8.0 hereof, such data or information is the property of CFX.

Regarding the use of logos, printed documents and presentations produced for CFX shall not contain the name or logo of the CONSULTANT unless approved by CFX's Public Affairs Officer or his/her designee. Prior approval by CFX's Public Affairs Officer or his/her designee is required if a copy of the CFX logo or any CFX mark, including trademarks, service marks, or any other mark, collectively referred as "Marks," is to be used in a document or presentation. The Marks shall not be altered in any way. The width and height of the Marks shall be of equal proportions. If a black and white Mark is utilized, the Mark shall be properly screened to insure all layers of the Mark are visible. The proper presentation of CFX Marks is of utmost importance to CFX. Any questions regarding the use of CFX Marks shall be directed to the CFX Public Affairs Officer or his/her designee.

18.0 STANDARD OF CONDUCT

The CONSULTANT covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes 112.313 and the CFX Code of Ethics as it relates to work performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The CONSULTANT agrees to complete the Potential Conflict Disclosure Form with contract execution, annually by July 1, and in the event of changed circumstances. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

The CONSULTANT acknowledges that it has read CFX's Code of Ethics and the referenced statutes and to the extent applicable to the CONSULTANT, agrees to abide with such policy.

19.0 DOCUMENTED ALIENS

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

20.0 E-VERIFY CLAUSE

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

21.0 CONFLICT OF INTEREST

The CONSULTANT shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Executive Director for resolution.

22.0 INSPECTOR GENERAL

CONSULTANT agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. CONSULTANT agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.

23.0 PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT

Pursuant to Section 287.133(2)(a), Florida Statutes, “a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.”

Pursuant to Section 287.134(2)(a), Florida Statutes, “an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”

24.0 INTEGRATION

This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no other agreements between the parties

in connection with the subject matter hereof. No waiver, amendment, or modification of these terms hereof will be valid unless in writing, signed by all parties and only to the extent therein set forth.

25.0 ASSIGNMENT

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

26.0 AVAILABILITY OF FUNDS

CFX's performance and obligation to pay under this Agreement are contingent upon an annual budget appropriation by its Board. The parties agree that in the event funds are not appropriated, this Agreement may be terminated, which shall be effective upon CFX giving notice to the CONSULTANT to that effect.

27.0 SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

28.0 AUDIT AND EXAMINATION OF RECORDS

28.1 Definition of Records:

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

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

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

28.3 If CFX requests access to or review of any Contract Documents or Proposal Records and CONSULTANT refuses such access or review, or delays such access or review for over ten (10) calendar days, CONSULTANT shall be in default under its Contract with CFX, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of CONSULTANT. These provisions shall not be limited in any manner by the existence of any CONSULTANT claims or pending litigation relating to the Contract. Disqualification or suspension of the CONSULTANT for failure to comply with this section shall also preclude the CONSULTANT from acting in the future as a subcontractor of another contractor doing work for CFX during the period of disqualification or suspension. Disqualification shall mean the CONSULTANT is not eligible for and shall be precluded from doing future work for CFX until reinstated by CFX.

28.4 Final Audit for Project Closeout: The CONSULTANT shall permit CFX, at CFX's option, to perform or have performed, an audit of the records of the CONSULTANT and any or all subconsultants to support the compensation paid the CONSULTANT. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the CONSULTANT under the Contract are subsequently determined to have been inadvertently paid by CFX because of accounting errors or charges not in conformity with the Contract, the CONSULTANT agrees that such amounts are due to CFX upon demand. Final payment to the CONSULTANT shall be adjusted for audit results.

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

28.6 The obligations in Section 28.0, Audit and Examination of Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

29.0 NOTICE

All notices required pursuant to the terms hereof shall be sent by First Class United States Mail. Unless prior written notification of an alternate address for notices is sent, all notices shall be sent to the following addresses:

To CFX: Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807
Attn: Chief of Infrastructure

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

To CONSULTANT: CDM Smith, Inc.
101 Southhall Lane, Suite 200
Maitland, FL., 32751
Attn: Hugh W. Miller Jr., PhD, PE

30.0 GOVERNING LAW AND VENUE

This Agreement shall be governed by and constructed in accordance with the laws of the State of Florida. The parties consent to the exclusive jurisdiction of the courts located in Orange County, Florida. The obligations in Section 30.0, Governing Law and Venue, shall survive the expiration or termination of this Agreement and continue in full force and effect.

31.00 ATTACHMENTS

- Exhibit "A", Scope of Services
- Exhibit "B", Method of Compensation
- Exhibit "C", Details of Cost and Fees
- Exhibit "D", Project Organization Chart

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, the CONSULTANT and CFX have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written. This Contract was awarded by CFX's Board of Directors at its meeting on July 13, 2017.

CDM SMITH, INC.

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY

BY: Amelia H. Davies
Authorized Signature

BY: [Signature]
Director of Procurement

Print Name: Amelia H. Davies

Print Name: Aneth Williams

Title: Associate

Effective Date: 10/2/17

ATTEST: April Michelle Humphries (Seal)
Secretary or Notary



Approved as to form and execution, only.

[Signature]
General Counsel for CFX

2017 SEP 28 PM 4:10

EXHIBIT A

SCOPE OF SERVICES

Exhibit "A"

**SCOPE OF SERVICES
GENERAL TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

I. PURPOSE

The Central Florida Expressway Authority (CFX) requires the assistance of a Traffic & Earnings Consultant to provide traffic and earnings/revenue services on a continuing basis for financial planning on the CFX system of toll roads including any extensions, expansion projects or candidate projects. The services to be provided include, but are not necessarily limited to: data collection and analysis, traffic forecasting, impact analysis, evaluation of alternative toll rate structures, cost analysis, revenue projections, and financial/economic feasibility studies as assigned.

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

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

CFX shall request CONSULTANT services on an as-needed basis. There is no guarantee that any of all of the services described in this agreement will be assigned during the term of the Contract. Further, the CONSULTANT is providing these services on a non-exclusive basis. CFX, at its option, may elect to have any of the services performed by other consultants or CFX staff.

II. GENERAL REQUIREMENTS

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

The CONSULTANT shall have a detailed knowledge of modeling and forecasting in the Orlando urban area as well as experience in applying the Florida Standard Urban Transportation Model Structure (FSUTMS). All modeling services shall be physically performed or managed from the CONSULTANT's or subconsultant's office located within CFX's regional area (defined as Orange, Lake, Osceola, Brevard and Seminole Counties).

III. CONSULTANT SERVICES AND RESPONSIBILITIES

The CONSULTANT shall perform the following tasks in carrying out the requirements of the Agreement. The following tasks provide an example of work to be required, but are not intended to be all-inclusive:

A. Transportation Planning and Traffic Engineering

1. Prepare proposals for specific studies or other tasks within the specific scope of service prepared by CFX. Complete the required services under the direction of CFX's Project Manager.
2. Monitor and evaluate economic conditions on the state, regional and national levels and determine potential impact on toll traffic and revenues.
3. Update and/or review the land use information along CFX projects.
4. Maintain county demographic and land use information about CFX's project area.
5. Develop Planning Concept Reports.
6. Develop Design Traffic Reports
7. Special Studies as assigned.
8. Create and maintain a traffic forecasting model using FSUTMS.
9. Apply CFX's model and FSUTMS to:
 - Interpret model results.
 - Develop all system and design traffic.
 - Document the model results including assumptions.
10. Develop, implement and maintain a document control and filing system that shall govern the CONSULTANT's distribution and file copies of all program related correspondence, reports, plans, technical data, etc.

B. System Review, Annual Report and Bonding Support

1. The CONSULTANT shall be knowledgeable of all covenants and provisions of CFX's current bond resolutions and shall perform operations consistent with these covenants and provisions.

2. Prepare and submit to CFX copies of an annual report on the traffic, toll and revenue aspects of CFX's operations. Included in the report shall be an updated projection of revenues for CFX's system on a fiscal year basis for the current year and a period of ten (10) years thereafter.
3. Upon request by CFX, make preliminary suggestions on any traffic or toll matters.
4. Upon request by CFX, prepare studies to include, but not be limited to, the following:
 - Financial Feasibility
 - Toll Rate Structure
 - Bonding Capacity of Projects
5. Estimate the additional toll revenues that would be earned by CFX as a result of new projects or interchanges.
6. Certification of estimated project revenues for economic feasibility determination.
7. Review reports prepared by CFX staff or CFX consultants regarding projects that have potential for becoming CFX projects under the financial criteria established by the CFX.
8. Prepare Traffic and Earnings Reports for future proposed bond sales with coordination from CFX staff, CFX's General Engineering Consultant, financial advisors and underwriters. Present information in Traffic and Earnings Report as required.

C. Support for the General Engineering Consultant

1. As requested by the Project Manager, the CONSULTANT shall coordinate with and provide support to CFX's General Engineering Consultant for the following activities:
 - Miscellaneous traffic modeling.
 - Submittal and review of design traffic.
 - Operational analysis and traffic simulation.
 - Analysis of vehicle count and classification data.
 - System project review.

D. Meetings and Workshops

1. Attend meetings with CFX staff, consulting engineers, or other

individuals or agencies designated by the CFX.

2. Meet with the State Board of Administration, Division of Bond Finance, rating agencies, bond counsel, financial advisors and underwriters, and attend bond presentations as required.

IV. CFX RESPONSIBILITIES

CFX will furnish, without cost to the CONSULTANT, the following information and data in connection with services authorized under terms of the Agreement:

- A. Furnish all CFX procedures, standards, and policies applicable to the services being provided by the CONSULTANT.
- B. Furnish drawings, specifications, schedules, reports and other information prepared by or for CFX by others which are available to CFX and which CFX considers pertinent to CONSULTANT's responsibilities as described herein.
- C. Furnish available traffic, safety (accident) and planning data.

V. SUBCONTRACTING

Services assigned to subconsultants must be approved in advance by CFX in accordance with the Agreement. Subconsultants shall be qualified and approved by CFX prior to performing any work assigned to them.

If subconsultant services are authorized, the CONSULTANT shall obtain a schedule of rates for review and approval by CFX prior to any work being performed.

END OF SECTION

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 4
TO
AGREEMENT FOR TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

This Supplemental Agreement No. 4 (“Supplemental Agreement”) is entered into this _____ day of _____ 2022, by and between the Central Florida Expressway Authority (“CFX”) and CDM Smith, Inc., (“Consultant”).

WITNESSETH:

WHEREAS, CFX and the Consultant on July 13, 2017, entered into an Agreement whereby CFX retained the Consultant to provide miscellaneous construction engineering and inspection services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$1,000,000.00 in order to continue the required services through the term of the Contract; and,

WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated July 13, 2017;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$1,000,000.00 which shall make the total not-to-exceed amount of the Contract \$6,99,932.12.

CFX and Consultant agree that this Supplemental Agreement No. 4 shall not alter or change in any manner the force and effect of the original Contract except insofar as the same is altered and amended by this Supplemental Agreement No. 4; that acceptance of this Supplemental Agreement No. 4 signifies the Consultant’s waiver of all future rights for additional compensation which is not already defined herein.

Agreement for Traffic and Earnings Consultant Services
Contract No. 001300

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: _____
Aneth Williams, Director of Procurement

CDM SMITH, INC.

By: _____

Title: _____

Attest: _____ (Seal)

Approved as to form and execution, only.

Diego "Woody" Rodriguez, General Counsel



101 Southhall Lane, Suite 200
Maitland, FL 32751
tel: 407 660-2552
fax: 407 875-1161

March 30, 2022

Mr. Glenn Pressimone, P.E.
Chief of Infrastructure
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Supplemental Agreement No. 4 for the CFX General Traffic and Earnings Consultant Contract #001300

Dear Mr. Pressimone:

At their meeting on August 12, 2021, the CFX Board of Directors approved the second contract renewal with CDM Smith for the General Traffic and Earnings Consultant contract #001300 for a value of \$1,200,000. The annual budget was based on the four annual ongoing tasks with an anticipated budget of approximately \$515,000 (model development, annual reporting and bond support, general consultant engineering support, and meetings/workshops) and the remaining \$685,000 budgeted for additional funding for the SR 414 Expressway Extension PD&E Study, Northeast Connector Expressway PD&E Study, the Southport Connector Expressway PD&E Study, and Tampa Avenue Interchange, as well as funding for two new projects: SR 528 BRAM and SR 408 East Operational Improvements (partially funded).

CDM Smith has been working on these projects throughout the year. There have also been additional projects that weren't anticipated at the beginning of the year that are in the process of starting. Those projects include the SR 417-Orlando Sanford International Airport CF&M study (recently awarded), the SR 534/Osceola Parkway Extension project (advertised for design phases), recent changes to the Southport Connector Expressway PD&E to include an Interchange Justification Report (IJR), and recent meetings regarding SR 528 BRAM have led to the evaluation of a similar concept on SR 408. These four projects will require planning, traffic engineering and T&R support. CDM Smith anticipates the need for additional budget through the remainder of the contract year to complete these tasks.

The first task order is the SR 417-Orlando Sanford International Airport CF&M Study. The CFX Board authorized the evaluation of a new toll connector between SR 417/Seminole Expressway and the Orlando Sanford International Airport. CDM Smith anticipates traffic forecasting and





Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
March 30, 2022
Page 2

preparation of design traffic forecast to support the CF&M Consultant, as well as a preliminary T&R study for this project to determine project viability.

The second task order is the support of the design consultants for S.R. 534/Osceola Parkway Extension (OPE). Design traffic to support up to five design consultants will include an update of the PD&E design traffic to include post PD&E changes to the ramps, as well as the inclusion of an intermediate local access interchange at Medical City Drive. CDM Smith will develop traffic forecasts and operational analyses to determine when the new Medical City Drive interchange is required. The inclusion of the local access interchange in the campus of the S.R. 417/ OPE System interchange has added several new ramps, changes to previously designed ramps, and a collector/distributor system. CDM Smith will develop revised directional design hour volumes (DDHV) for the new interchange design. We also anticipate the need to develop a VISSIM model to review the design traffic operations in the SR 417/SR 534/Airport interchange campus, provide any recommended revisions, and coordinate with the design consultants as they develop final design plans. This will be a multi-year project so the budget requested is for the first two tasks with scheduled completion by October 1, 2022, which is the end date of our current contract.

The third task order is to amend the Southport Connector Expressway PD&E task order to include manhours and fee to complete an IJR for the Southport Connector partial interchange with Florida's Turnpike. Originally this work was to be completed by the PD&E consultant, but recent discussions has transitioned this work to this contract.

The fourth task order is an evaluation of the BRAM concept on SR 408. The current project on SR 528 has been evaluated for a proof of concept, and it has been requested that our efforts pivot to evaluating the concept on SR 408. The travel shed for the SR 408 is completely different than SR 528 and will require a more detailed review of traffic diversion as well as ridership estimates. We will continue to work with Dewberry, your General Engineering Consultants on this important study.

In addition to the four tasks described above, the SR 408 East Operational Improvements task was only partially funded with this year's authorization budget. CDM Smith is requesting funding to complete the remaining tasks, including the future safety evaluation, documentation of the VISSIM calibration report and concept traffic analysis report.

With total work authorizations through March 2022 of \$6,054,921.46, that only leaves \$9,683.90 in the contract budget for future project requests. CDM Smith will roll over unused funds from previous years authorizations of completed projects but anticipates a need to request funding of an additional \$1,000,000 for Year 5 of the contract in anticipation of additional projects requested by CFX. The following table includes a budget estimate of the additional tasks. The additional





Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
March 30, 2022
Page 3

\$1,000,000 would make the total contract value \$6,999,932.12 through October 1, 2022 with \$1,009,683.90 available for future project requests.

The table below includes the budget estimate for each future project that requires funding, which equals the \$1,000,000 being requested.

Work Task	Budget Estimate
SR 417-Orlando Sanford International Airport CF&M Study	\$265,000
S.R. 534/Osceola Parkway Extension Design Traffic Support	\$350,000
Southport Connector Expressway Amendment for IJR	\$150,000
SR 408 BRAM	\$105,000
SR 408 East Operational Improvements (remaining funding)	\$130,000
Total	\$1,000,000

We expect that the additional funds will carry the budget through the end of our current contract. Please call either of us to discuss if you require additional information or have any questions.

Respectfully submitted,

CDM Smith

Hugh W. Miller, Jr. P.E., PhD
Vice President

Carleen M. Flynn, AICP
Deputy Project Manager



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 2 AGREEMENT
CONTRACT NO. 001300**

THIS CONTRACT RENEWAL NO. 2 AGREEMENT (“Renewal Agreement”), is made and entered into this 12th day of August 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and CDM SMITH, INC., registered and authorized to conduct business in the State of Florida, hereinafter called the (“Consultant”). CFX and Consultant are referred to herein sometimes as a “Party” or the “Parties”.

WITNESSETH

WHEREAS, CFX and the Consultant entered into that certain Contract Agreement dated July 13, 2017, (collectively, the “Original Agreement”), with a Notice to Proceed date of October 2, 2017, whereby CFX retained the Consultant to perform traffic and earnings consultant services; and

WHEREAS, pursuant to Article 3 of the Original Agreement, CFX and Consultant wish to renew the Original Agreement for a period of one (1) year in accordance with the terms and conditions hereof.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises set forth in this Renewal Contract, the Parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are hereby incorporated by reference as if fully set forth herein.
2. **Renewal Term.** CFX and Consultant agree to exercise the second renewal of said Initial CFX Contract, which renewal shall begin on October 2, 2021 and end on October 1, 2022 (“Renewal Term”), unless otherwise extended as provided in the Original Contract.
3. **Compensation for Renewal Term.** The Consultant shall be compensated for any and all services performed during the Renewal Term under this Renewal Agreement in accordance with **Exhibit “B”** of the Original Agreement, in an amount up to \$1,200,000.00 (“Renewal Compensation”). The Renewal Compensation shall be in addition to the original compensation paid by CFX to the Consultant pursuant to the terms of the Original Agreement, and any supplements or amendments thereto.
4. **Effect on Original Agreement.** All terms and conditions of said Original Agreement and any supplements and amendments thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Renewal Agreement and the Original Agreement, or any existing supplements or amendments thereto, the provisions of this Renewal Agreement, shall take precedence.
5. **Counterpart and Electronic Signatures.** This Renewal Agreement may be executed in multiple counterparts, including by electronic or digital signatures in compliance with Chapter 668, Florida Statutes, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have caused this Renewal Agreement to be executed by their duly authorized officers effective on the day and year set forth above.

CDM SMITH, INC.

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY

By: *Carleen M. Flynn*
Print Name: Carleen M. Flynn
Title: Client Service Leader

Digitally signed by Carleen M Flynn
DN: cn=US, email=carleen@cdmsmith.com, o=CDM Smith, CN=Carleen M Flynn
Date: 2021.08.17 10:15:05-0400

By: *Aneth Williams*
Aneth Williams, Director of Procurement

ATTEST: *April Michelle Humphries* (SEAL)



Secretary or Notary
If Individual, furnish two witnesses:

Approved as to form and legality by legal counsel to the Central Florida Expressway Authority on this 2nd day of August, 2021 for its exclusive use and reliance.

By: _____
Print Name: _____

By: _____
Print Name: _____

By: *Diego "Woody" Rodriguez*
Diego "Woody" Rodriguez, General Counsel

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 3
TO
AGREEMENT FOR TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

This Supplemental Agreement No. 3 (“Supplemental Agreement”) is entered into this 13th day of July 2021, by and between the Central Florida Expressway Authority (“CFX”) and CDM Smith, Inc., (“Consultant”).

WITNESSETH:

WHEREAS, CFX and the Consultant on July 13, 2017, entered into an Agreement whereby CFX retained the Consultant to provide miscellaneous construction engineering and inspection services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$49,954.55 in order to continue the required services through the term of the Contract; and,

WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated July 13, 2017;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$49,954.55 which shall make the total not-to-exceed amount of the Contract \$4,799,932.12.

CFX and Consultant agree that this Supplemental Agreement No.3 shall not alter or change in any manner the force and effect of the original Contract except insofar as the same is altered and amended by this Supplemental Agreement No.3; that acceptance of this Supplemental Agreement No.3 signifies the Consultant’s waiver of all future rights for additional compensation which is not already defined herein.

Agreement for Traffic and Earnings Consultant Services
Contract No. 001300

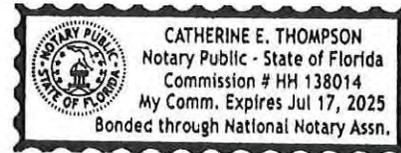
IN WITNESS THEREOF, the parties hereto have caused these presents to be executed on the day and year first written above.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2021.07.16 09:18:45 -04'00'
Director of Procurement

CDM SMITH, INC.

By: Cullen M Lynn
Title: Client Service Leader
Attest: Catherine E. Thompson (Seal)



Approved as to form and execution, only.

General Counsel for CFX

Diego "Woody" Rodriguez Digitally signed by Diego
"Woody" Rodriguez
Date: 2021.07.15 15:09:33 -04'00'



101 Southhall Lane, Suite 200
Maitland, FL 32751
tel: 407 660-2552
fax: 407 875-1161

July 8, 2021

Mr. Glenn Pressimone, P.E.
Chief of Infrastructure
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Supplemental Agreement No. 3 for the CFX General Traffic and Earnings Consultant Contract #001300

Dear Mr. Pressimone:

At their meeting on August 13, 2020, the CFX Board of Directors approved the first contract renewal with CDM Smith for the General Traffic and Earnings Consultant contract #001300 for value of \$1,200,000. The annual budget was based on the four annual ongoing tasks with an anticipated budget of approximately \$494,986 (model development, annual reporting and bond support, general consultant engineering support, and meetings/workshops) and the remaining \$728,070.82 budgeted for the SR 414 Expressway Extension PD&E Study, Northeast Connector Expressway PD&E Study, the Southport Connector Expressway PD&E Study, the Tampa Avenue Interchange and Lake Orange Connector Design Traffic Support.

CDM Smith has been working on these projects but recent events have prompted some additional unforeseen work tasks related to current projects that CDM Smith anticipates a need for additional budget through the remainder of the contract year. We are requesting an additional \$49,954.55 of authorized budget for this contract year ending October 1, 2021, the end of the fourth year of our contract, Contract #001300.

The first work task is the potential S.R. 429/Binion Road Interchange. The master planning outreach process has led to the consideration of a new half interchange on S.R. 429 near Binion Road. CDM Smith has been requested to conduct a traffic and revenue analysis on this potential new interchange, which will include travel demand model runs, existing traffic and future traffic analysis, sketch level revenue analysis and coordination with local officials.

The second work task is the revision of the Osceola Parkway Extension (OPE) design traffic to include an intermediate local access interchange at Medical City Drive. The inclusion of the local access interchange in the campus of the S.R. 417/ OPE System interchange has added several new ramps, changes to previously designed ramps, and a collector/distributor system. The project is





Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
July 8, 2021
Page 2

entering the design phase and the modified interchange design will require a revision to the forecasted traffic. CDM Smith will review the interchange design for operational characteristics, provide any recommended revisions, and develop revised directional design hour volumes (DDHV) for the new interchange design, documented in a traffic technical memorandum.

The funding would amend Authorization 2017-3.0/2018-3.5/2019-3.9/2020-3.9.1/2020-3.10 (Support for General Engineering Consultant) from \$818,182.71 to \$868,137.26. As well, the additional \$49,954.55 would make the total contract value \$4,799,932.12 through October 1, 2021.

Authorization 2017-3.0/2018-3.5/2019-3.9/2020-3.9.1/2020-3.10 - Support for General
Engineering Consultant
 $\$818,182.71 + \$49,954.55 = \$868,137.26$

We expect that the additional funds will carry the budget for the contract through the next contract reauthorization. Please call either of us to discuss if you require additional information or have any questions. We look forward to continuing work on the contract.

Respectfully submitted,

CDM Smith

Hugh W. Miller, Jr. P.E., PhD
Vice President

Carleen M. Flynn, AICP
Deputy Project Manager

HMW:cmf
Attachment



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 1 AGREEMENT
CONTRACT NO. 001300**

THIS CONTRACT RENEWAL NO. 1 AGREEMENT (“Renewal Agreement”), is made and entered into this 13th day of August 2020, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and CDM SMITH, INC., registered and authorized to conduct business in the State of Florida, hereinafter called the (“Consultant”). CFX and Consultant are referred to herein sometimes as a “Party” or the “Parties”.

WITNESSETH

WHEREAS, CFX and the Consultant entered into that certain Contract Agreement dated July 13, 2017, (collectively, the “Original Agreement”), with a Notice to Proceed date of October 2, 2017, whereby CFX retained the Consultant to perform traffic and earnings consultant services; and

WHEREAS, pursuant to Article 3 of the Original Agreement, CFX and Consultant wish to renew the Original Agreement for a period of one (1) year in accordance with the terms and conditions hereof.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises set forth in this Renewal Contract, the Parties agree as follows:

1. **Recitals**. The above recitals are true and correct and are hereby incorporated by reference as if fully set forth herein.
2. **Renewal Term**. CFX and Consultant agree to exercise the second renewal of said Initial CFX Contract, which renewal shall begin on October 2, 2020 and end on October 1, 2021 (“Renewal Term”), unless otherwise extended as provided in the Original Contract.
3. **Compensation for Renewal Term**. The Consultant shall be compensated for any and all services performed during the Renewal Term under this Renewal Agreement in accordance with **Exhibit “B”** of the Original Agreement, in an amount up to \$1,200,000.00 (“Renewal Compensation”). The Renewal Compensation shall be in addition to the original compensation paid by CFX to the Consultant pursuant to the terms of the Original Agreement, and any supplements or amendments thereto.
4. **Effect on Original Agreement**. All terms and conditions of said Original Agreement and any supplements and amendments thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Renewal Agreement and the Original Agreement, or any existing supplements or amendments thereto, the provisions of this Renewal Agreement, shall take precedence.
5. **Counterpart and Electronic Signatures**. This Renewal Agreement may be executed in multiple counterparts, including by electronic or digital signatures in compliance with Chapter 668, Florida Statutes, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have caused this Renewal Agreement to be executed by their duly authorized officers effective on the day and year set forth above.

CDM SMITH, INC.

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY

By: Carleen M Flynn
Print Name: CARLEEN M. FLYNN
Title: CLIENT SERVICE LEADER

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.09.15 11:50:50 -04'00'
Aneth Williams, Director of Procurement

ATTEST: April Michelle Humphries (SEAL)

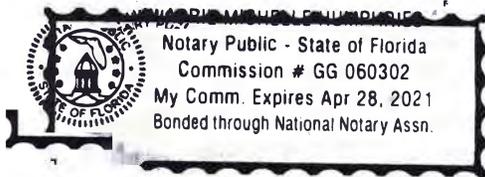
Secretary or Notary
If Individual, furnish two witnesses:

Approved as to form and legality by legal counsel
to the Central Florida Expressway Authority on
this 19th day of August, 2020 for its
exclusive use and reliance.

By: _____
Print Name: _____

By: Diego "Woody" Rodriguez Digitally signed by Diego
"Woody" Rodriguez
Date: 2020.08.19 21:04:48 -04'00'
Diego "Woody" Rodriguez, General Counsel

By: _____
Print Name: _____



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 2
TO
AGREEMENT FOR TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

This Supplemental Agreement No. 2 (“Supplemental Agreement”) is entered into this 9th day of June 2020, by and between the Central Florida Expressway Authority (“CFX”) and CDM Smith, Inc., (“Consultant”).

WITNESSETH:

WHEREAS, CFX and the Consultant on July 13, 2017, entered into an Agreement whereby CFX retained the Consultant to provide miscellaneous construction engineering and inspection services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$49,977.57 in order to continue the required services through the term of the Contract; and,

WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated July 13, 2017;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$49,977.57 which shall make the total not-to-exceed amount of the Contract \$3,549,977.57.

CFX and Consultant agree that this Supplemental Agreement No.2 shall not alter or change in any manner the force and effect of the original Contract except insofar as the same is altered and amended by this Supplemental Agreement No.2; that acceptance of this Supplemental Agreement No.2 signifies the Consultant’s waiver of all future rights for additional compensation which is not already defined herein.

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.09.17 10:04:58 -04'00'
Director of Procurement

CDM SMITH, INC.

By: Carleen M. Foy
Title: Client Service Leader

Attest: April Michelle Humphries (Seal)



Approved as to form and execution, only.

General Counsel for CFX

Diego "Woody" Rodriguez Digitally signed by Diego "Woody"
Rodriguez
Date: 2020.09.17 10:01:43 -04'00'



101 Southhall Lane, Suite 200

Maitland, FL 32751

tel: 407 660-2552

fax: 407 875-1161

June 2, 2020

Mr. Glenn Pressimone, P.E.
Chief of Infrastructure
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Supplemental Agreement No. 2 for the CFX General Traffic and Earnings Consultant
Contract #001300

Dear Mr. Pressimone:

At their meeting on August 8, 2019, the CFX Board of Directors approved Supplemental Agreement No.1 to CDM Smith for value of \$950,000 for Traffic and Earnings Consultant services for FY 2020. The annual budget was based on the four annual ongoing tasks with an anticipated budget of approximately \$482,000 (model development, annual reporting and bond support, general consultant engineering support, and meetings/workshops) and the remaining \$468,0000 budgeted for the Northeast Connector Expressway PD&E, the SR 414 Expressway Extension PD&E and the Osceola Brevard Connector Expressway Concept, Feasibility and Mobility Study.

CDM Smith has been working on these projects as well as some additional tasks related to recent events, and we are anticipating a need for additional budget through the remainder of the contract year. We are requesting an additional \$49,977.57 of authorized budget for this contract year ending in September 2020, the end of the third year of our contract, Contract #001300.

As you know, the coronavirus disease (COVID-19) has impacted the lives of most Americans, and such has disrupted almost every aspect of our way of life including customer use of the CFX System. Since late March, CDM Smith has been monitoring weekly traffic and revenue, prepared an analysis of COVID-19 related impacts and submitted revised revenue estimates of the impacts for several scenarios concerning the progression of the disease and related economic impacts. These were first submitted on April 2, 2020, and then updated on April 22, 2020. The results were presented to the CFX Board of Directors as part of Budget Workshops, held on May 14, 202 and May 28, 2020. Several additional scenarios were developed in response to Board Member comments. The Board has requested that CDM Smith continue to monitor the traffic and revenue and provide a monthly report to the Board of Directors at their monthly meetings. CDM Smith has committed to providing these reports monthly and updating the revised revenue forecast on a quarterly basis through the duration of the crisis.





Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
June 2, 2020
Page 2

We anticipate a need for the additional budget to supplement unanticipated work completed in reaction to the COVID-19 crisis as well as work going forward and completion of the FY 2019 Annual Report. The funding would amend Authorization 2017-2.0 & 2.2 & 2.3 (System Review, Annual Report & Bond Support) from \$690,775.08 to \$740,752.65. As well, the additional \$49,977.57 would make the total contract budget \$3,549,977.57 through September 30, 2020.

Authorization 2017-2.0 & 2.2 & 2.3 (System Review, Annual Report & Bond Support)
 $\$690,775.08 + \$49,977.57 = \$740,752.65$

We expect that the additional funds will carry the budget for the contract through the next contract reauthorization. Please call either of us to discuss if you require additional information or have any questions. We look forward to continuing work on the contract.

Respectfully submitted,

CDM Smith

Hugh W. Miller, Jr. P.E., PhD
Vice President

Carleen M. Flynn, AICP
Deputy Project Manager

HMW:cmf
Attachment



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 1
TO
AGREEMENT FOR TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

This Supplemental Agreement No. 1 ("Supplemental Agreement") is entered into this 13th day of June 2019, by and between the Central Florida Expressway Authority ("CFX") and CDM Smith, Inc., ("Consultant").

WITNESSETH:

WHEREAS, CFX and the Consultant on July 13, 2017, entered into an Agreement whereby CFX retained the Consultant to provide miscellaneous construction engineering and inspection services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$950,000.00 in order to continue the required services through the term of the Contract; and,

WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated July 13, 2017;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$950,000.00 which shall make the total not-to-exceed amount of the Contract \$3,500,000.00.

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

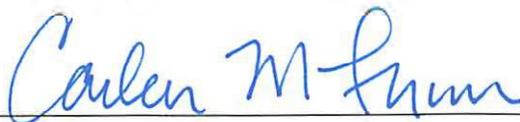
IN WITNESS THEREOF, the parties hereto have caused these presents to be executed on the day and year first written above. This Supplemental Agreement No. 1 was approved by CFX Board of Directors on June 13, 2019.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: 
Director of Procurement

'19 JUN 24 PM 2:13

CDM SMITH, INC.

By: 

Title: CLIENT SERVICE LEADER

Attest: April Michelle Humphries (Seal)



Approved as to form and execution, only.

General Counsel for CFX





101 Southhall Lane, Suite 200
Maitland, FL 32751
tel: 407 660-2552
fax: 407 875-1161

June 3, 2019

'19 JUN 24 PM 2:13

Mr. Glenn Pressimone, P.E.
Chief of Infrastructure
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Request for Additional Contract Budget for the CFX General Traffic and Earnings Consultant Contract #001300

Dear Mr. Pressimone:

CDM Smith was selected by CFX as the General Traffic and Earnings Consultant in September of 2017 with an original contract budget of \$2,550,000 or \$850,000 per year for three years. The annual budget was based on the four annual ongoing tasks with an anticipated budget of approximately \$482,000 (model development, annual reporting and bond support, general consultant engineering support, and meetings/workshops) and the remaining \$368,000 per year budgeted for one additional engineering study, such as a PD&E or concept study, and any additional miscellaneous projects.

During year 1, CDM Smith had an authorization of \$556,912.88 for the four annual ongoing tasks (Tasks 1.0, 2.0, 3.0 and 4.0) but then was also authorized \$335,755.56 to complete traffic and revenue analysis on the four OCX Master Plan Concept, Feasibility and Mobility (CFM) studies, \$385,661.57 to provide traffic engineering support and T&R study for the Lake Orange Connector PD&E study, and \$197,984.73 to complete a traffic and revenue analysis of the existing section of the Poinciana Parkway. As the OCX Master Plan projects were completed, two projects were advanced to PD&E Studies in March 2018, so CDM Smith was authorized an additional \$294,997.64 to provide traffic engineering support and T&R study for the Poinciana Parkway Extension PD&E and \$253,484.36 to provide traffic engineering support and T&R study for the Osceola Parkway Extension PD&E Reevaluation. This equates to \$2,024,796.74 in year 1 authorizations.

CDM Smith is currently in the second year of the contract. Year 2 authorization included a total of \$462,886.53 for the four annual ongoing tasks and an additional \$50,540.93 to complete the Poinciana Parkway T&R study. CDM Smith also provided traffic engineering support for the Northeast Connector Expressway Extension (NECEE) study, but this was completed using remaining funds from the OCX Master Plan CFM studies authorization. The year 1 and 2 authorizations to date total \$2,538,224.20, which is 99.5% of the total contract budget of \$2,550,000. A breakdown of the current authorizations is summarized in the table on Page 2.



Mr. Glenn Pressimone, PE
 Central Florida Expressway Authority
 June 3, 2019
 Page 2

Task Number	Task Name	Year 1	Year 2	Total
1.0 & 1.1	Model Development	\$77,497.23	\$59,601.72	\$137,098.95
2.0 & 2.2	System Review, Annual Report & Bond Support	\$252,615.70	\$188,212.88	\$440,828.58
2.1 & 2.1.1	T&R for Acquisition of Poinciana Parkway	\$197,984.73	\$50,540.93	\$248,525.66
3.0 & 3.5	General Engineering Consultant Support	\$173,546.66	\$178,326.76	\$351,873.42
3.1	Osceola County Expressway Authority Projects	\$335,755.56	\$0.00	\$335,755.56
3.2	Lake Orange Connector PD&E	\$385,661.57	\$0.00	\$385,661.57
3.3	Poinciana Parkway PD&E	\$294,997.64	\$0.00	\$294,997.64
3.4	Osceola Parkway Connector PD&E	\$253,484.36	\$0.00	\$253,484.36
4.0 & 4.1	Meetings and Workshops	\$53,253.29	\$36,745.17	\$89,998.46
Total		\$2,024,796.74	\$513,427.46	\$2,538,224.20

As previously mentioned, Tasks 1.0 (Model Development), 2.0 (System Review, Annual Report & Bond Support), 3.0 (General Engineering Consultant Support) and 4.0 (Meetings and Workshops) are annual ongoing tasks. All other tasks listed above were special projects.

With total work authorizations through April 2019 of \$2,538,224.20, that only leaves \$11,775.80 in the contract budget for future project requests. CDM Smith will roll over unused funds from Years 1 and 2 authorizations but anticipates a need to request funding of an additional \$950,000 for Year 3 of the contract in anticipation of additional projects requested by CFX. The following table includes an estimate for Year 3 of the budget:

Task Name	Year 3 Estimate
Model Development	\$62,000.00
System Review, Annual Report & Bond Support	\$195,000.00
General Engineering Consultant Support	\$185,000.00
Northeast Connector Study	\$200,000.00
S.R. 414 Direct Connection Study	\$150,000.00
Corridor F Planning Study	\$118,000.00
Meetings and Workshops	\$40,000.00
Total	\$950,000.00

This includes the annual ongoing tasks (approximately \$482,000) and three additional planning studies, (S.R. 414 Direct Connection Study, Northeast Connector Study, and Corridor F Planning Study) specified in the CFX FY 2019 – FY 2023 Work Plan. This would also leave contract budget for special projects, such as the T&R impacts of the Virgin Train/Brightline. The additional \$950,000 would make the total contract budget \$3,500,000 through September 30, 2020.





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Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
June 3, 2019
Page 3

Please call either of us to discuss if you require additional information or have any questions. We look forward to continuing work on the contract.

Respectfully submitted,

CDM Smith

A handwritten signature in black ink that reads "Hugh W. Miller, Jr." with a stylized flourish at the end.

Hugh W. Miller, Jr. P.E., PhD
Vice President

HMW:CMF:jtb

A handwritten signature in blue ink that reads "Carleen M. Flynn" in a cursive style.

Carleen M. Flynn, AICP
Deputy Project Manager



AGREEMENT

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AND
CDM SMITH, INC.**

TRAFFIC AND EARNINGS CONSULTANT SERVICES

CONTRACT NO. 001300

CONTRACT DATE: JULY 13, 2017

CONTRACT AMOUNT: \$2,550,000.00

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

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

FOR

TRAFFIC AND EARNINGS CONSULTANT SERVICES

CONTRACT NO. 001300

JULY 2017

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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

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

THIS AGREEMENT, made and entered into this 13th day of July, 2017, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter "CFX," and CDM Smith, Inc., hereinafter called "CONSULTANT," registered and authorized to conduct business in the State of Florida, carrying on professional practice in engineering, with offices located at 101 Southhall Lane, Suite 200, Maitland, FL. 32751.

WITNESSETH:

WHEREAS, CONSULTANT represents that it is fully qualified and authorized to render the professional services contracted herein.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, CFX and CONSULTANT agree as follows:

1.0. DEFINITIONS.

Reference herein to the Project Manager shall mean CFX's Director of Engineering or his authorized designee. The Project Manager shall provide the management and technical direction for this Agreement on behalf of CFX. All technical and administrative provisions of this Agreement shall be managed by the Project Manager and the CONSULTANT shall comply with all of the directives of the Project Manager that are within the purview of this Agreement. Decisions concerning Agreement amendments and adjustments, such as time extensions and supplemental agreements shall be made by the Project Manager.

2.0. SCOPE OF SERVICES.

CFX does hereby retain the CONSULTANT to furnish Traffic and Earning Services in accordance with Contract No. 001300.

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

Before rendering any of the services, any additions or deletions to the work described in **Exhibit "A"**, and before undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into a Supplemental Amendment covering such modifications and the compensation to be paid therefore.

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

3.0 TERM OF AGREEMENT AND RENEWALS

Unless otherwise provided herein or by Supplemental Agreement, the provisions of this Agreement will remain in full force and effect for a three (3) year term from the date of the Notice to Proceed for the required project services as detailed in **Exhibit "A,"** with two one-year renewals at CFX's option. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONSULTANT are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide CONSULTANT with written notice of its intent at least thirty (30) days prior to the expiration of the original term and subsequent renewal, if any.

The CONSULTANT agrees to commence the scheduled project services to be rendered within ten (10) calendar days from the date specified in the written Notice to Proceed from the Project Manager, which Notice to Proceed will become part of this Agreement. The CONSULTANT shall complete scheduled project services within the timeframe(s) specified in **Exhibit "A"**, or as may be modified by subsequent Supplemental Agreement.

4.0 PROJECT SCHEDULE

The CONSULTANT agrees to provide Project Schedule progress reports for each project in a format acceptable to CFX and at intervals established by CFX. CFX will be entitled at all times to be advised, at its request, as to the status of work being done by the CONSULTANT and of the details thereof. Coordination shall be maintained by the CONSULTANT with representatives of CFX, or of other agencies interested in the project on behalf of CFX. Either party to the Agreement may request and be granted a conference.

In the event there are delays on the part of CFX as to the approval of any of the materials submitted by the CONSULTANT or if there are delays occasioned by circumstances beyond the control of the CONSULTANT, which delay the scheduled project completion date, CFX may grant to the CONSULTANT by "Letter of Time Extension" an extension of the scheduled project completion date equal to the aforementioned delays. The letter will be for time only and will not include any additional compensation.

It shall be the responsibility of the CONSULTANT to ensure at all times that sufficient time remains within the project schedule within which to complete the services on the project. In the event there have been delays which would affect the scheduled project completion date, the CONSULTANT shall submit a written request to CFX which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one another. CFX will review the request and make a determination as to granting all or part of the requested extension.

In the event the scheduled project completion date is reached and the CONSULTANT has not requested, or if CFX has denied, an extension of the completion date, partial progress payments will be

stopped when the scheduled project completion date is met. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by CFX.

5.0 PROFESSIONAL STAFF

The CONSULTANT shall maintain an adequate and competent professional staff to enable the CONSULTANT to timely perform under this Agreement. The CONSULTANT shall continue to be authorized to do business within the State of Florida. In the performance of these professional services, the CONSULTANT shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The CONSULTANT shall use due care in performing in a design capacity and shall have due regard for acceptable standards of design principles. The CONSULTANT may associate with it such specialists, for the purpose of its services hereunder, without additional cost to CFX, other than those costs negotiated within the limits and terms of this Agreement. Should the CONSULTANT desire to utilize specialists, the CONSULTANT shall be fully responsible for satisfactory completion of all subcontracted work. The CONSULTANT, however, shall not sublet, assign or transfer any work under this Agreement to other than the associate consultants listed below without the written consent of CFX. It is understood and agreed that CFX will not, except for such services so designated herein, permit or authorize the CONSULTANT to perform less than the total contract work with other than its own organization.

- | | |
|--|---|
| Florida Transportation Engineering, Inc. (Class II) ²¹²⁵⁷ | Resource Systems Group, Inc. - 21256 |
| Fishkind & Associates, Inc. (Class II) - 08210 | Accurate Traffic Counts, Inc. (Class II) ¹¹⁷⁸¹ |
| AVCON, Inc. - 03914 | SBuse Consulting (Class II) |

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

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

6.0 SERVICES TO BE PROVIDED

The work covered by this Agreement as described in **Exhibit "A"**. A Supplemental Agreement will be required for the additional work. The CONSULTANT shall also provide assistance to the CFX's Project Manager with other related tasks as directed.

All documents, reports, studies and other data prepared by the CONSULTANT shall bear the endorsement of a person in the full employ of the CONSULTANT and duly registered by the State of Florida in the appropriate professional category.

The CONSULTANT shall submit a final set of reports and studies which shall be endorsed (seal/signature) by the CONSULTANT.

The CONSULTANT shall not be liable for use by CFX of said plans, documents, reports, studies or other data for any purpose other than intended by the terms of this Agreement.

7.0 COMPENSATION

CFX agrees to pay the CONSULTANT compensation as detailed in **Exhibit "B"**, Method of Compensation, attached hereto and made a part hereof, in the not-to-exceed amount of \$2,550,000.00 for the initial three-year term of this Agreement. Bills for fees or other compensation for services or expenses shall be submitted to CFX in detail sufficient for a proper pre-audit and post audit thereof.

The CONSULTANT may be liable for CFX costs resulting from errors or deficiencies in designs furnished under this Agreement. CFX may enforce such liability and collect the amount due if the recoverable cost will exceed the administrative cost involved or is otherwise in CFX's best interest.

Records of costs incurred by the CONSULTANT under terms of this Agreement shall be maintained and made available upon request to CFX at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to CFX upon request. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed. The obligations in this paragraph survive the termination of the Agreement and continue in full force and effect.

Records of costs incurred includes the CONSULTANT's general accounting records and the project records, together with supporting documents and records, of the CONSULTANT and all subconsultants performing work on the project, and all other records of the CONSULTANT and subconsultants considered necessary by CFX for a proper audit of project costs.

The general cost principles and procedures for the negotiation and administration, and the determination or allowance of costs under this Agreement shall be as set forth in the Code of Federal Regulations, Titles 23, 48, 49, and other pertinent Federal and State Regulations, as applicable, with the understanding that there is no conflict between State and Federal regulations in that the more restrictive

of the applicable regulations will govern. Whenever travel costs are included in **Exhibit "B"**, the provisions of Section 112.061, Florida Statutes, shall govern as to reimbursable costs.

8.0 DOCUMENT OWNERSHIP AND RECORDS

All plans, documents, reports, studies, and/or other data prepared or obtained under this Agreement shall be considered instruments made for services and shall become the property of CFX without restriction or limitation on their use on this project; and shall be made available, upon request, to CFX at any time. CFX will have the right to visit the site for inspection of the work and the drawings of the CONSULTANT at any time. Unless changed by written agreement of the parties, said site shall be 101 Southhall Lane, Suite 200, Maitland, FL. 32751.

Notwithstanding Section 17, entitled "Communications, Public Relations, and Use of Logos," CONSULTANT acknowledges that CFX is a body politic and corporate, an agency of the State of Florida, and is subject to the Public Records Act codified in Chapter 119, Florida Statutes. To the extent that the CONSULTANT is in the possession of documents that fall within the definition of public records subject to the Public Records Act, which public records have not yet been delivered to CFX, CONSULTANT agrees to comply with Section 119.0701, Florida Statutes.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT Phone: 407-690-5000, e-mail: publicrecords@cfxway.com, and address: Central Florida Expressway Authority, 4974 ORL Tower Road, Orlando, FL. 32807.

An excerpt of Section 119.0701, Florida Statutes is below.

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

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

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected

or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

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

The obligations in Section 8.0, Document Ownership and Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

The CONSULTANT shall allow public access to all documents, papers, letters, or other material as approved and authorized by CFX and subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONSULTANT in conjunction with this Agreement. Failure by the CONSULTANT to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by CFX.

9.0 COMPLIANCE WITH LAWS

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

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

10.0 WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE

The CONSULTANT hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached **Exhibit "C"**, Details of Costs and Fees, supporting the compensation provided in Section 7.0 are accurate, complete and current as of the date of this Agreement. It is further

agreed that said price provided in Section 7.0 hereof shall be adjusted to exclude any significant sums where CFX shall determine the price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments shall be made within one year following the date of final billing or acceptance of the work by CFX, whichever is later.

11.0 TERMINATION

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

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

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

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

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

12.0 ADJUSTMENTS

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

In the event that the CONSULTANT and CFX are not able to reach an agreement as to the amount of compensation to be paid to the CONSULTANT for supplemental work desired by CFX, the CONSULTANT shall be obligated to proceed with the supplemental work in a timely manner for the amount determined by CFX to be reasonable. In such event, the CONSULTANT will have the right to file a claim with CFX for such additional amounts as the CONSULTANT deems reasonable for consideration by the Executive Director; however, in no event will the filing of the claim or the resolution or litigation thereof, through administrative procedures or the courts, relieve the CONSULTANT from the obligation to timely perform the supplemental work.

13.0 CONTRACT LANGUAGE AND INTERPRETATION

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective functions and capacities.

If the CONSULTANT discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the CONSULTANT shall immediately notify CFX and request clarification of CFX's interpretation of this Agreement.

The Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

14.0 HOLD HARMLESS AND INDEMNIFICATION

The CONSULTANT shall indemnify, defend, and hold harmless CFX, and its officers, and employees from any claim, liabilities, losses, damages, and costs, including, but not limited to, reasonable attorneys' fees, caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the Agreement. The CONSULTANT shall indemnify and hold harmless CFX and all of its officers and employees from any liabilities, losses, damages, costs, including, but not limited to reasonable attorneys' fee, arising out of any negligent act, error, omission by the CONSULTANT, its agents, employees, or subcontractors during the performance of the Agreement, except that neither the CONSULTANT, its agents, employees nor any of its subconsultants will be liable under this paragraph for any claim, loss, damage, cost, charge or expense arising solely out of any act, error, omission or negligent act by CFX or any of its officers, agents or employees during the performance of the Agreement.

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

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

CFX is an agency of the State of Florida whose limits of liability are set forth in Section 768.28, Florida Statutes, and nothing herein shall be construed to extend the limits of liability of CFX beyond that provided in Section 768.28, Florida Statutes. Nothing herein is intended as a waiver of CFX's sovereign immunity under Section 768.28, Florida Statutes, or law. Nothing hereby shall inure to the benefit of any third party for any purpose, which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of CFX's obligations are limited to the payment of no more than the amount limitation per person and in the aggregate contained in Section 768.28, Florida Statutes, except for payments for work properly performed, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.

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

The obligations in Section 14.0, Hold Harmless and Indemnification, shall survive the expiration or termination of this Agreement and continue in full force and effect.

15.0 THIRD PARTY BENEFICIARY

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement, and that the CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For the breach or violation of this paragraph, CFX shall have the right to terminate this Agreement without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

16.0 INSURANCE

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

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

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

16.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to CFX) or the general aggregate limit shall be twice the required occurrence limit. CFX shall be listed as an additional insured. The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

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

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

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

16.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

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

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

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

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

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

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

17.0 COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS

The CONSULTANT agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying CFX and securing its consent in writing, except as required by law. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data, documents, reports, or other written or electronic materials furnished in compliance with this Agreement, it being understood that, under Section 8.0 hereof, such data or information is the property of CFX.

Regarding the use of logos, printed documents and presentations produced for CFX shall not contain the name or logo of the CONSULTANT unless approved by CFX's Public Affairs Officer or his/her designee. Prior approval by CFX's Public Affairs Officer or his/her designee is required if a copy of the CFX logo or any CFX mark, including trademarks, service marks, or any other mark, collectively referred as "Marks," is to be used in a document or presentation. The Marks shall not be altered in any way. The width and height of the Marks shall be of equal proportions. If a black and white Mark is utilized, the Mark shall be properly screened to insure all layers of the Mark are visible. The proper presentation of CFX Marks is of utmost importance to CFX. Any questions regarding the use of CFX Marks shall be directed to the CFX Public Affairs Officer or his/her designee.

18.0 STANDARD OF CONDUCT

The CONSULTANT covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes 112.313 and the CFX Code of Ethics as it relates to work performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The CONSULTANT agrees to complete the Potential Conflict Disclosure Form with contract execution, annually by July 1, and in the event of changed circumstances. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

The CONSULTANT acknowledges that it has read CFX's Code of Ethics and the referenced statutes and to the extent applicable to the CONSULTANT, agrees to abide with such policy.

19.0 DOCUMENTED ALIENS

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

20.0 E-VERIFY CLAUSE

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

21.0 CONFLICT OF INTEREST

The CONSULTANT shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Executive Director for resolution.

22.0 INSPECTOR GENERAL

CONSULTANT agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. CONSULTANT agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.

23.0 PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT

Pursuant to Section 287.133(2)(a), Florida Statutes, “a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.”

Pursuant to Section 287.134(2)(a), Florida Statutes, “an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”

24.0 INTEGRATION

This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no other agreements between the parties

in connection with the subject matter hereof. No waiver, amendment, or modification of these terms hereof will be valid unless in writing, signed by all parties and only to the extent therein set forth.

25.0 ASSIGNMENT

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

26.0 AVAILABILITY OF FUNDS

CFX's performance and obligation to pay under this Agreement are contingent upon an annual budget appropriation by its Board. The parties agree that in the event funds are not appropriated, this Agreement may be terminated, which shall be effective upon CFX giving notice to the CONSULTANT to that effect.

27.0 SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

28.0 AUDIT AND EXAMINATION OF RECORDS

28.1 Definition of Records:

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

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

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

28.3 If CFX requests access to or review of any Contract Documents or Proposal Records and CONSULTANT refuses such access or review, or delays such access or review for over ten (10) calendar days, CONSULTANT shall be in default under its Contract with CFX, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of CONSULTANT. These provisions shall not be limited in any manner by the existence of any CONSULTANT claims or pending litigation relating to the Contract. Disqualification or suspension of the CONSULTANT for failure to comply with this section shall also preclude the CONSULTANT from acting in the future as a subcontractor of another contractor doing work for CFX during the period of disqualification or suspension. Disqualification shall mean the CONSULTANT is not eligible for and shall be precluded from doing future work for CFX until reinstated by CFX.

28.4 Final Audit for Project Closeout: The CONSULTANT shall permit CFX, at CFX's option, to perform or have performed, an audit of the records of the CONSULTANT and any or all subconsultants to support the compensation paid the CONSULTANT. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the CONSULTANT under the Contract are subsequently determined to have been inadvertently paid by CFX because of accounting errors or charges not in conformity with the Contract, the CONSULTANT agrees that such amounts are due to CFX upon demand. Final payment to the CONSULTANT shall be adjusted for audit results.

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

28.6 The obligations in Section 28.0, Audit and Examination of Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

29.0 NOTICE

All notices required pursuant to the terms hereof shall be sent by First Class United States Mail. Unless prior written notification of an alternate address for notices is sent, all notices shall be sent to the following addresses:

To CFX: Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807
Attn: Chief of Infrastructure

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

To CONSULTANT: CDM Smith, Inc.
101 Southhall Lane, Suite 200
Maitland, FL., 32751
Attn: Hugh W. Miller Jr., PhD, PE

30.0 GOVERNING LAW AND VENUE

This Agreement shall be governed by and constructed in accordance with the laws of the State of Florida. The parties consent to the exclusive jurisdiction of the courts located in Orange County, Florida. The obligations in Section 30.0, Governing Law and Venue, shall survive the expiration or termination of this Agreement and continue in full force and effect.

31.00 ATTACHMENTS

- Exhibit "A", Scope of Services
- Exhibit "B", Method of Compensation
- Exhibit "C", Details of Cost and Fees
- Exhibit "D", Project Organization Chart

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, the CONSULTANT and CFX have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written. This Contract was awarded by CFX's Board of Directors at its meeting on July 13, 2017.

CDM SMITH, INC.

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY

BY: Amelia H. Davies
Authorized Signature

BY: [Signature]
Director of Procurement

Print Name: Amelia H. Davies

Print Name: Aneth Williams

Title: Associate

Effective Date: 10/2/17

ATTEST: April Michelle Humphries (Seal)
Secretary or Notary



Approved as to form and execution, only.

[Signature]
General Counsel for CFX

2017 SEP 28 PM 4:10

EXHIBIT A

SCOPE OF SERVICES

Exhibit "A"

**SCOPE OF SERVICES
GENERAL TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

I. PURPOSE

The Central Florida Expressway Authority (CFX) requires the assistance of a Traffic & Earnings Consultant to provide traffic and earnings/revenue services on a continuing basis for financial planning on the CFX system of toll roads including any extensions, expansion projects or candidate projects. The services to be provided include, but are not necessarily limited to: data collection and analysis, traffic forecasting, impact analysis, evaluation of alternative toll rate structures, cost analysis, revenue projections, and financial/economic feasibility studies as assigned.

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

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

CFX shall request CONSULTANT services on an as-needed basis. There is no guarantee that any of all of the services described in this agreement will be assigned during the term of the Contract. Further, the CONSULTANT is providing these services on a non-exclusive basis. CFX, at its option, may elect to have any of the services performed by other consultants or CFX staff.

II. GENERAL REQUIREMENTS

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

The CONSULTANT shall have a detailed knowledge of modeling and forecasting in the Orlando urban area as well as experience in applying the Florida Standard Urban Transportation Model Structure (FSUTMS). All modeling services shall be physically performed or managed from the CONSULTANT's or subconsultant's office located within CFX's regional area (defined as Orange, Lake, Osceola, Brevard and Seminole Counties).

III. CONSULTANT SERVICES AND RESPONSIBILITIES

The CONSULTANT shall perform the following tasks in carrying out the requirements of the Agreement. The following tasks provide an example of work to be required, but are not intended to be all-inclusive:

A. Transportation Planning and Traffic Engineering

1. Prepare proposals for specific studies or other tasks within the specific scope of service prepared by CFX. Complete the required services under the direction of CFX's Project Manager.
2. Monitor and evaluate economic conditions on the state, regional and national levels and determine potential impact on toll traffic and revenues.
3. Update and/or review the land use information along CFX projects.
4. Maintain county demographic and land use information about CFX's project area.
5. Develop Planning Concept Reports.
6. Develop Design Traffic Reports
7. Special Studies as assigned.
8. Create and maintain a traffic forecasting model using FSUTMS.
9. Apply CFX's model and FSUTMS to:
 - Interpret model results.
 - Develop all system and design traffic.
 - Document the model results including assumptions.
10. Develop, implement and maintain a document control and filing system that shall govern the CONSULTANT's distribution and file copies of all program related correspondence, reports, plans, technical data, etc.

B. System Review, Annual Report and Bonding Support

1. The CONSULTANT shall be knowledgeable of all covenants and provisions of CFX's current bond resolutions and shall perform operations consistent with these covenants and provisions.

2. Prepare and submit to CFX copies of an annual report on the traffic, toll and revenue aspects of CFX's operations. Included in the report shall be an updated projection of revenues for CFX's system on a fiscal year basis for the current year and a period of ten (10) years thereafter.
3. Upon request by CFX, make preliminary suggestions on any traffic or toll matters.
4. Upon request by CFX, prepare studies to include, but not be limited to, the following:
 - Financial Feasibility
 - Toll Rate Structure
 - Bonding Capacity of Projects
5. Estimate the additional toll revenues that would be earned by CFX as a result of new projects or interchanges.
6. Certification of estimated project revenues for economic feasibility determination.
7. Review reports prepared by CFX staff or CFX consultants regarding projects that have potential for becoming CFX projects under the financial criteria established by the CFX.
8. Prepare Traffic and Earnings Reports for future proposed bond sales with coordination from CFX staff, CFX's General Engineering Consultant, financial advisors and underwriters. Present information in Traffic and Earnings Report as required.

C. Support for the General Engineering Consultant

1. As requested by the Project Manager, the CONSULTANT shall coordinate with and provide support to CFX's General Engineering Consultant for the following activities:
 - Miscellaneous traffic modeling.
 - Submittal and review of design traffic.
 - Operational analysis and traffic simulation.
 - Analysis of vehicle count and classification data.
 - System project review.

D. Meetings and Workshops

1. Attend meetings with CFX staff, consulting engineers, or other

individuals or agencies designated by the CFX.

2. Meet with the State Board of Administration, Division of Bond Finance, rating agencies, bond counsel, financial advisors and underwriters, and attend bond presentations as required.

IV. CFX RESPONSIBILITIES

CFX will furnish, without cost to the CONSULTANT, the following information and data in connection with services authorized under terms of the Agreement:

- A. Furnish all CFX procedures, standards, and policies applicable to the services being provided by the CONSULTANT.
- B. Furnish drawings, specifications, schedules, reports and other information prepared by or for CFX by others which are available to CFX and which CFX considers pertinent to CONSULTANT's responsibilities as described herein.
- C. Furnish available traffic, safety (accident) and planning data.

V. SUBCONTRACTING

Services assigned to subconsultants must be approved in advance by CFX in accordance with the Agreement. Subconsultants shall be qualified and approved by CFX prior to performing any work assigned to them.

If subconsultant services are authorized, the CONSULTANT shall obtain a schedule of rates for review and approval by CFX prior to any work being performed.

END OF SECTION

**CONSENT AGENDA ITEM
#6**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: May 20, 2022

SUBJECT: Approval of Supplemental Agreement No. 5A with RS&H, Inc. for
SR 417 Widening from John Young Parkway to Landstar Boulevard –
Post Design Services
Project No. 417-142, Contract No. 001313

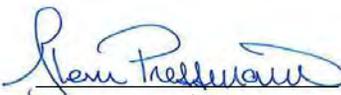
Board approval of Supplemental Agreement No. 5A with RS&H, Inc. in a not-to-exceed amount of \$120,012.70 is requested. The original contract was for five years with five one-year renewals.

The work to be performed includes post design services associated with the construction plan changes due to Brightline and Florida Turnpike modifications.

Original Contract	\$6,500,000.00
Supplemental Agreement No. 1	\$1,172,647.69
Supplemental Agreement No. 2	\$ 363,487.62
Supplemental Agreement No. 3	\$ 0.00
Supplemental Agreement No. 4	\$ 92,161.96
Supplemental Agreement No. 5	\$1,307,509.88
Supplemental Agreement No. 6	\$ 0.00
Supplemental Agreement No. 5A	<u>\$ 120,012.70</u>
Total	\$9,555,819.85

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

Reviewed by: 
Will Hawthorne, PE
Director of Engineering


Glenn Pressimone, PE

SUPPLEMENTAL AGREEMENT NO. 5A
TO
AGREEMENT FOR PROFESSIONAL SERVICES
POST DESIGN SERVICES (FOR 417-142)

S.R. 417 Widening from John Young Parkway to Landstar Boulevard

THIS SUPPLEMENTAL AGREEMENT 5A TO AGREEMENT FOR PROFESSIONAL SERVICES POST DESIGN SERVICES (“Supplemental Agreement”) is made and entered into this _____ day of _____, 2022, 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 RS&H, 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 the 29th day of June 2018, as amended or supplemented by that certain Supplemental Agreement No. 1 between CFX and CONSULTANT dated August 28th, 2019, as amended or supplemented by that certain Supplemental Agreement No. 2 between CFX and CONSULTANT dated May 29, 2020, as amended or supplemented by that certain Supplemental Agreement No. 3 between CFX and CONSULTANT dated September 9, 2020, as amended or supplemented by that certain Supplemental Agreement No. 4 between CFX and CONSULTANT dated October

27, 2020, as amended or supplemented by that certain Supplemental Agreement No. 5A between CFX and CONSULTANT dated November 12, 2020, as amended or supplemented by that certain Supplemental Agreement No. 6 between CFX and CONSULTANT dated November 1, 2021 (collectively, "Agreement"); and

WHEREAS, Section 4.26 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 417-142, 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. 5 dated November 12, 2020 ("SA 5") to provide the post design services more specifically outlined in SA 5 ("Post Design Services") after completion of the services outlined in the Agreement for Project 417-142; 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, 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; 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 additional post design services as outlined in correspondence to CFX dated May 18, 2022,

which is attached hereto as Exhibit "A" and incorporated herein by reference ("Additional Post Design Services"). Section 4.26 of Exhibit "A" of the Agreement and the Scope of Services, as defined in the Agreement, 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 \$120,012.70 to a total of \$1,427,522.58.
3. All provisions of said Agreement, or any amendments or supplements thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and the Agreement, or any existing supplements or amendments thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

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

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY

By: _____
Aneth Williams, Director of Procurement

RS&H, INC.

By: _____
Print Name: _____
Title: _____

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

Diego "Woody" Rodriguez
General Counsel



MEMORANDUM

Date: May 18, 2022
To: Will Hawthorne, PE CFX Director of Engineering
From: Scott Kamien, PE *SMK*
Subject: Design Consultant Services - Contract 001313
 CFX Project No. 417-142
 SR 417 Widening from John Young Parkway to Landstar Boulevard
 Supplemental Agreement #5A Additional PDS

Comments:

I have reviewed the Post Design fee sheet and scope of services for Supplemental Agreement #5A (SA #5A) submitted by RS&H, Inc. dated May 18, 2022. SA #5A is for additional Post Design Professional Services for the additional effort associated with the construction plan changes and Brightline and Florida Turnpike modifications.

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

\$	106,202.21	RS&H as Prime
\$	<u>13,810.49</u>	Total Subconsultant Fees
\$	120,012.70	Total Requested 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 \$120,012.70.

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

CC:

Keith Jackson, PE Dewberry
File



May 18, 2022

Mr. Will Hawthorne, P.E.
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Project # 417-142 - SR 417 Widening from John Young Parkway to Landstar Blvd.
Contract No. 001313 – SA #5A – Additional Fee for Post Design Services

Dear Mr. Hawthorne:

Please find attached our Request for Supplemental Agreement #5A for above referenced project.
This request addresses the efforts associated with completing the Post Design Services for this project.

Please contact me if you have any questions or need additional information.

Respectfully yours,

Renato J. Gonzalez, P.E.
Project Manager

cc: Scott Kamien, PE – Dewberry Engineers, Inc.

Scope of Services
Supplemental Agreement No. 5A
Post-Design Scope of Services (Section 4.26)

SR 417 Widening from John Young Parkway to Landstar Boulevard
CFX Project No. 417-142, Contract No. 001313

Purpose

The purpose of this Supplemental Agreement is to address the effort associated with completing the Post Design Services phase of this project through the anticipated construction completion date of October 2023.

Scope of Work

4.26 Post Design Services

B. General Support:

1. **Requests for Information:** It is anticipated that RS&H will be responding to 50 Request for Information through completion of construction for this project. This includes formal written RFI's as well as miscellaneous requests.
2. **Plan Revisions:** It is anticipated that there will be ten (10) more revisions to plan components addressing unforeseen field conditions through completion of construction for this project.

E. Field Visits: There are two (2) more field visits anticipated.

F. Shop Drawing Reviews: There are ten (10) structural shop drawings remaining for RS&H review. These are associated with bridges and retaining walls. There are 70 sign panels and 20 drainage structure shop drawings remaining for RS&H review. There are eight (8) roadway component shop drawings remaining for RS&H review.

G. Post-Design Contact: This will cover the project coordination effort through completion of construction.

I. Meetings: It is anticipated that RS&H will be attending four (4) meetings through completion of construction.

J. Bridge Load Ratings: Bridge Load Ratings will be completed per the original post design services contract.

M. Record Drawings: Record Drawings will be completed per the original post design services contract.

N. Roadway Lighting: The CONSULTANT shall include Post Design services for roadway lighting to be performed by DRMP, Inc. Deliverables include shop drawing reviews, plan revisions, record drawings, RFIs, response to contractor questions, plan revisions, and record drawings.

SUPPLEMENTAL AGREEMENT NO. 6
TO
AGREEMENT FOR PROFESSIONAL SERVICES
FINAL DESIGN

S.R. 417 Widening from John Young Parkway to Landstar Boulevard

THIS SUPPLEMENTAL AGREEMENT 6 TO AGREEMENT FOR PROFESSIONAL SERVICES FINAL DESIGN ("Supplemental Agreement") is made and entered into this 1st day of November, 2021, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, hereinafter called "CFX" and the consulting firm of RS&H, 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 the 29th day of June 2018, as amended or supplemented by that certain Supplemental Agreement No. 1 between CFX and CONSULTANT dated August 28th, 2019, as amended or supplemented by that certain Supplemental Agreement No. 2 between CFX and CONSULTANT dated May 29, 2020, as amended or supplemented by that certain Supplemental Agreement No. 3 between CFX and CONSULTANT dated September 9, 2020, as amended or supplemented by that certain Supplemental Agreement No. 4 between CFX and CONSULTANT dated October

27, 2020, as amended or supplemented by that certain Supplemental Agreement No. 5 between CFX and CONSULTANT dated November 12, 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 September 30, 2021 letter to CFX, which is attached hereto as Exhibit "A" and incorporated herein by reference ("Additional Services"). Exhibit "A" of the Agreement and the Scope of Services, as defined in the Agreement, shall be amended to include the Additional Services.
2. Exhibit "B" Method of Compensation of the Agreement is hereby amended as follows:
 - a. The Salary Related Costs are adjusted upward by \$118,228.47 to \$4,673,335.73.
 - b. The Direct Expenses (Lump Sum) remain unchanged at \$21,601.60.
 - c. Direct Travel Expenses (Limiting Amount) remain unchanged at \$1,777.99.

- d. The Subcontract Items are adjusted downward by \$118,228.47 to \$3,431,581.95.
 - GEC (Class II) (\$43,276.59)
 - NADIC (Class II) (\$74,951.88)
 - e. The Allowance remains unchanged at \$0.00.
 - f. The Total Maximum Limiting Amount remains unchanged at \$8,128,297.27.
3. All provisions of said Agreement, or any amendments or supplements thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and the Agreement, or any existing supplements or amendments thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

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

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2021.11.09 14:07:28 -05'00'
Aneth Williams, Director of Procurement

RS&H, INC.

By: Edward J. Gonzalez
Print Name: Edward J. Gonzalez PE
Title: Vice President

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

Laura N. Kelly, Associate General Counsel Digitally signed by Laura N. Kelly,
Associate General Counsel
Date: 2021.11.09 11:14:55 -05'00'

Diego "Woody" Rodriguez
General Counsel

SUPPLEMENTAL AGREEMENT NO. 5
TO
AGREEMENT FOR PROFESSIONAL SERVICES
POST DESIGN SERVICES (FOR 417-142)

SR 417 Widening from John Young Parkway to Landstar Boulevard

THIS SUPPLEMENTAL AGREEMENT NO. 5 TO AGREEMENT FOR PROFESSIONAL SERVICES POST DESIGN SERVICES (“Supplemental Agreement”) is made and entered into this 12th day of November, 2020, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, an agency of the State of Florida, hereinafter called “CFX” and the consulting firm of RS&H, INC., a Florida corporation, hereinafter called the “CONSULTANT.”

WHEREAS, CFX and CONSULTANT entered into that certain Agreement for Professional Services dated June 29, 2019, as amended and supplemented by that certain Supplemental Agreement No. 1 between CFX and CONSULTANT dated August 28, 2019, that certain Supplemental Agreement No. 2 between CFX and CONSULTANT dated May 29, 2020, and that certain Supplemental Agreement No. 3 between CFX and CONSULTANT dated September 22, 2020 and that certain Supplemental Agreement No. 4 between CFX and CONSULTANT dated October 26, 2020 (collectively, the “Agreement”); and

WHEREAS, Section 4.26 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 417-142, 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 September 21, 2020, which is attached hereto as Exhibit "A" and incorporated herein by reference ("Post Design Services"). Section 4.26 of Exhibit "A" of the Agreement and the Scope of Services shall be amended and supplemented to include the Post Design Services.

2. All invoices from the CONSULTANT for Post Design Services shall be submitted to CFX with complete documentation. Invoices for Post Design Services shall not be a continuation of the original CONSULTANT'S contract amount for final design services and shall only be for those Post Design Services as outlined in this Supplemental Agreement. Compensation for Post Design Services shall be invoiced to CFX at an hourly rate, inclusive of overhead, profit and expenses (exclusive of travel). The hourly rate shall be calculated using the employee's actual direct salary and the negotiated Post Design Services multiplier, as outlined in the correspondence attached hereto as Exhibit "A" and incorporated herein by reference. Direct expenses will be

reimbursed for local travel only (per mile). The maximum fee for Post Design Services shall be \$1,307,509.88.

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: 2020.12.08 15:40:24 -05'00'

Aneth Williams, Director of Procurement

RS&H, INC.

By: 

Print Name: Jesse J. Forst

Title: Vice President

Approved as to form and execution for Central Florida
Expressway Authority's exclusive use and reliance.

By: Laura Newlin Kelly, Associate General Counsel Digitally signed by Laura Newlin
Kelly, Associate General Counsel
Date: 2020.12.08 14:30:57 -05'00'

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 ^{SMK}, PE
Subject: Design Consultant Services - Contract 001313
CFX Project No. 417-142
SR 417 Widening from John Young Parkway to Landstar Boulevard
Supplemental Agreement #5

Comments:

I have reviewed the Post Design fee sheet and scope of services for Supplemental Agreement #5 (SA #5) submitted by RS&H, Inc. initially via email on July 7, 2020, and finalized on September 21, 2020. SA #5 is for Post Design Professional Services associated with the construction plans and bid documents for this widening project.

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

\$ 884,855.42	RS&H as Prime
<u>\$ 422,654.46</u>	<u>Total Subconsultant Fees</u>
\$ 1,307,509.88	Total Requested Amount

The total staff hours for each task are reasonable and acceptable, and the man hour rates are consistent with their contract; therefore, I recommend approval of this Supplemental Agreement in the amount of \$1,307,509.88.

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

CC:

Keith Jackson, PE Dewberry
File



Exhibit "A"

RS&H, Inc.
301 E. Pine Street, Suite 350
Orlando, Florida 32801
P: 407-893-5800
F: 407-264-6624
FL Cert. Nos. AAC001886 • EB0005620 • LCC000210

September 21, 2020

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

RE: **SR 417 Widening from JYP to Landstar Blvd.**
Supplemental Agreement No. 5 – Post Design Services
Orange County, Florida
CFX Project No. 417-142

Dear Mr. Hawthorne:

RS&H is pleased to submit this fee proposal for Post Design Services for the CFX 417-142 project. This proposal assumes a certain level of involvement by RS&H and its subconsultants to support the construction of this project by responding to requests for information, review of shop drawings, preparation of plans revisions as a result of construction related issues and general coordination during construction.

RS&H is pleased to continue our working relationship with CFX and look forward to this project advancing to construction. Please feel free to contact me directly at 407-893-5851 if you have any questions regarding this information.

Very truly yours,

RS&H, INC.

A handwritten signature in blue ink that reads "Renato J. Gonzalez".

Renato J. Gonzalez, PE
Project Manager

Exhibit "A"

Exhibit "A"

Project 417-142

S.R. 417 Widening from John Young Pkwy to Landstar Blvd

Post-Design Scope of Services

4.26 Post Design Services

A. Compensation

The Consultant's compensation for post-design services is hereby 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 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 the assigned Authority Resident Construction Engineer 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 assigned Authority Resident Construction Engineer, or questions developed in the pre-bid conference, or conditions discovered by bidders during the bid period.

E. Field Visits

The Consultant shall be available to respond to questions in the field that may arise relative to the plans, details or special provisions during construction. The Consultant will periodically visit the project site to observe the progress of construction. This visit will not make the place of formal construction inspection by CFX's Construction Manager and their inspection team. Rather, it is intended to provide the opportunity for members of the design team to observe whether work by the Contractor is being performed in general conformance with the project plans. Written memos of all such field visits shall be submitted to CFX and their Construction Manager within five business days of the trip.

F. Shop Drawing Reviews

Exhibit "A"

The Consultant shall review and approve shop drawings from the Contractor for roadway, utilities, structural, lighting, FON, signing 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 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

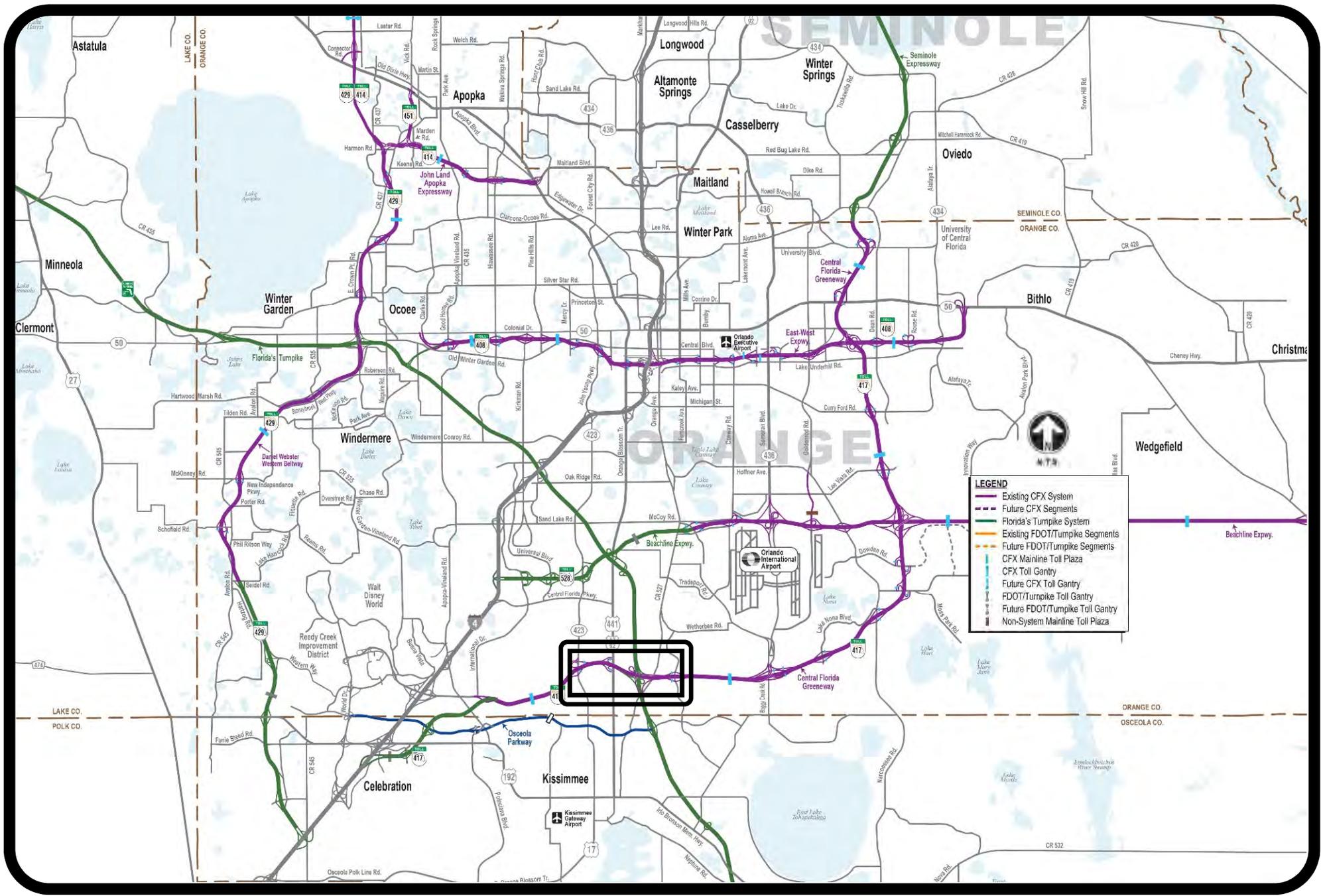
The Consultant shall provide geotechnical engineering services as needed by CFX, relative to pile driving, earthwork, embankment and MSE wall construction.

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

Based on information provided by the Contractor, the Contractor's surveyor and CFX's Construction Manager, the Consultant will prepare record drawings reflecting improvements built for this project. This scope assumes surveys will be undertaken by a registered surveyor by the Contractor.



Project Location Map for
 SR 417 Widening from John Young Parkway to Landstar Boulevard (417-142)

SUPPLEMENTAL AGREEMENT NO. 4
TO
AGREEMENT FOR PROFESSIONAL SERVICES
FINAL DESIGN

S.R. 417 Widening from John Young Parkway to Landstar Boulevard

THIS SUPPLEMENTAL AGREEMENT 4 TO AGREEMENT FOR PROFESSIONAL SERVICES FINAL DESIGN (“Supplemental Agreement”) is made and entered into this 27th day of October, 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 RS&H, 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 the 29th day of June 2018, as amended or supplemental by that certain Supplemental Agreement No. 1 between CFX and CONSULTANT dated August 28th, 2019, as amended or supplemental by that certain Supplemental Agreement No. 2 between CFX and CONSULTANT dated May 29, 2020, as amended or supplemental by that certain Supplemental Agreement No. 3 between CFX and CONSULTANT dated September 22, 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 September 17, 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 \$34,688.28 to \$4,555,107.26.
 - b. The Direct Expenses (Lump Sum) remain unchanged at \$21,601.60.
 - c. Direct Travel Expenses (Limiting Amount) remain unchanged at \$1,777.99.
 - d. The Subcontract Items are adjusted upward by \$57,473.68 to \$3,549,810.42.
 - TEDS \$57,473.68

- e. The Allowance remains unchanged at \$0.00.
 - f. The Total Maximum Limiting Amount is adjusted upward by \$92,161.96 to \$8,128,297.27.
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: 2020.10.27 16:00:08 -04'00'
Aneth Williams, Director of Procurement

RS&H, INC.

By: Edward J. Gonzalez DN: C=US, E=edward.gonzalez@rsandh.com,
O=RS&H, OU=RS&H Orlando Office, CN=Edward
J. Gonzalez
Contact Info: edward.gonzalez@rsandh.com
Date: 2020.10.27 15:48:14 -04'00'
Print Name: Edward J. Gonzalez PE
Title: Vice President

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

Laura N. Kelly Digitally signed by Laura N. Kelly
Date: 2020.10.27 15:48:14 -04'00'
Diego "Woody" Rodriguez
General Counsel

[https://cfxgov.sharepoint.com/operations/engineering/shared documents/general/417-142 sr 417 widening jyp - landstar blvd/2 contract/2.a supplemental agreements/sa 4/rs&h-417-142 -sa4.docx](https://cfxgov.sharepoint.com/operations/engineering/shared%20documents/general/417-142%20sr%20417%20widening%20jyp%20-%20landstar%20blvd/2%20contract/2.a%20supplemental%20agreements/sa%204/rs&h-417-142%20-sa4.docx)



MEMORANDUM

Date: September 18, 2020
To: Will Hawthorne, PE CFX Director of Engineering
From: Scott Kamien ^{SMK}, PE
Subject: Design Consultant Services - Contract 001313
CFX Project No. 417-142
SR 417 Widening from John Young Parkway to Landstar Boulevard
Supplemental Agreement #4

Comments:

I have reviewed the fee sheet and scope of services for Supplemental Agreement #4 (SA #4) submitted by RS&H, Inc. initially via email on September 2, 2020, and finalized on September 17, 2020. SA #4 is for additional professional services to prepare construction plans and bid documents for the VSL implementation.

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

\$	34,688.28	RS&H as Prime
\$	<u>57,473.68</u>	<u>Total Subconsultant Fees</u>
\$	92,161.96	Total Requested 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 \$92,161.96.

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

CC:

Keith Jackson, PE Dewberry
File



RS&H, Inc.
301 E. Pine Street, Suite 350
Orlando, Florida 32801
P: 407-893-5800
F: 407-264-6624
FL Cert. Nos. AAC001886 • EB0005620 • LCC000210

September 17, 2020

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

RE: **SR 417 Widening from JYP to Landstar Blvd.
Supplemental Agreement No. 4 – Addition of Variable Speed Limit Signage**
Orange County, Florida
CFX Project No. 417-142

Dear Mr. Hawthorne:

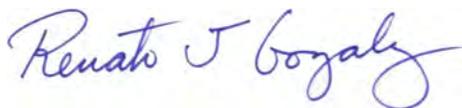
Enclosed please find the RS&H Team supplemental fee proposal request for the subject project. The total fee is \$92,161.96 that includes fees for our subconsultant TEDS, Inc.

The work associated with this SA is detailed in the attached scope of services spreadsheets.

If you have any questions or require additional information, please contact me.

Very truly yours,

RS&H, INC.



Renato J. Gonzalez, PE
Project Manager



MEMORANDUM

Date: July 16, 2020

To: Glenn Pressimone, Chief of Infrastructure

From: Carnot W. Evans, PE

Subject: SR 417 and SR 429 Widening Projects (Projects 417-141, 417-142, 417-149, 417-150, 417-151, 429-152, 429-153, and 429-154) VSL Design Directives (**Scope of Services**)

Message:

Design Directive for use of Variable Speed Limit (VSL) signage on SR 417 and SR 429 widening projects

Based on consultation with CFX's Part-Time Shoulder Use Consultant, General Services Consultant, and General Engineering Consultant, CFX has recommended the implementation of VSL to be included with the PTSU gantries for incident management. This memorandum details the infrastructure needed, placement, and potential operations of the VSL signs to be installed with the current widening projects.

Infrastructure

The installation of VSL signage along the corridor shall replace and supplement all static panel speed limit signs throughout the limits of each project. The preferred VSL signage shall be of the type that incorporates an embedded dynamic panel for the display of the numeric speed limit within a regulatory static panel. The embedded static panel sign will also include a LED yellow beacon on top of the panel. Median mounted embedded panels would be 36" x 48" and outside mounted embedded panels would be 48" x 60". Embedded panels shall be of type LEDSTAR VMS-931-22x32-20-C-F (36" x 48") and LEDSTAR VMS-930-24x40-20-C-F (48" x 60") or similar (see attached cut sheets), which would include the LED yellow beacon. Each sign panel would require power connections to available load centers, uninterrupted power service (available battery backup at PTSU gantries or DMS signs), and communications connections to the CFX fiber optic network. Additional conduits along the corridor will be needed, as well as confirmation the proposed equipment can accommodate the additional infrastructure within cabinets and load centers. CCTV camera coverage would also need to verify that all signs can be viewed for verification at the TMC.

Location

These VSL signs are to be mounted on the uprights of all the Part Time Shoulder Use (PTSU) gantries and supplemented where needed with placement on other sign structures or via freestanding single-post mount. Due to the operational need to reduce speed limits for incident management, these VSL signs shall be placed in pairs, with one sign in the median and one on the outside shoulder. CFX GEC will provide recommendations for additional single-post or structure-mounted embedded speed limit signs to supplement those placed on the PTSU gantries. The overhead structures at the beginning of the PTSU system should also have VSL signs, and cantilever structures shall include a corresponding VSL sign on the shoulder/median. GEC placement recommendations are provided in this memo (see attached table).

Based on structural analysis performed by the CFX GEC, installation of the VSL signage on the vertical support columns of the proposed PTSU sign structures results in an insignificant change in loading applied to the structure. As such, no changes to the design of the PTSU sign structures are anticipated.

Incident Management Operations

During incident management situations, the TMC would reduce the speed limit in 5 mph increments ahead of a given incident, in accordance with guidance scenarios to be provided by the PTSU Consultant. This reduction should accompany a potential lane closure or lane shift needed to maintain traffic in coordination with Road Rangers and first responders. Speed reduction during incident management operations should be reduced to 55 mph, but no lower than 50 mph at any given time. During 55 mph speed reductions the VSL signage shall display the reduced speeds as follows:



MEMORANDUM

- 1st and 2nd VSL signs immediately prior to incident: 55 mph
- 3rd VSL sign prior to incident: 60 mph
- 4th VSL sign prior to incident: 65 mph

During 50 mph speed reductions the VSL signage shall display the reduced speeds as follows:

- 1st and 2nd VSL signs immediately prior to incident: 50 mph
- 3rd VSL sign prior to incident: 55 mph
- 4th VSL sign prior to incident: 60 mph
- 5th VSL sign prior to incident: 65 mph

DMS and Lane Control signage indicating any lane closures upcoming for drivers shall be used to supplement the VSL signs. Any VSL sign displaying a reduced speed limit shall also have its LED yellow beacon flashing to warn drivers of the condition. For incidents that occur within the beginning of the PTSU system such that a reduction to 50 or 55 mph cannot be achieved with 5 mph reductions between VSL signs, speed reductions will be limited to what can be reduced in 5 mph increments.

PTSU Operations (Future - TBD)

During future congestion management operations, the TMC would open the PTSU lane once traffic in the general lanes falls below 50 mph (or a prescribed time of day) and the TMC would reduce the speed limit in 5 mph increments ahead of the open PTSU lane and maintain a consistent 55 mph operating speed throughout PTSU operations in each corridor, with DMS and Lane Control signage indicating open lanes or any potential lane closures if incidents arise. Once congestion subsides, the PTSU lane would be closed and full speed (70 mph) operations would resume for the general lanes. Any VSL sign displaying a reduced speed limit shall also have its LED yellow beacon flashing to warn drivers of the condition.

Corridor	Project	VSL Sign Locations			Static Sign Removal	Notes
		Structure-Mounted VSL Signs	Single-Post VSL Signs			
			VSL in New Location	VSLs Replace Static Signs		
	417-141	All PTSU Gantries Upright of structure at STA 400+00 (NB)	STA 400+00 (NB - median only)	STA 456+60 (SB)	STA 443+90 (NB) STA 502+55 (NB) STA 559+10 (SB)	Need additional static sign at STA 395+00 (SB)
	417-142	All PTSU Gantries	N/A	N/A	STA 636+70 (NB & SB) STA 743+00 (NB & SB)	
	417-149	All PTSU Gantries	N/A	STA 918+56 (SB)	STA 843+60 (NB) STA 870+40 (SB)	
	417-151	All PTSU Gantries	N/A	STA 1052+00 (SB)	STA 1061+00 (NB) STA 1139+00 (NB) STA 1182+50 (SB)	
	417-150	All PTSU Gantries Upright of structure at STA 114+00 (SB)	STA 114+00 (SB - outside only)	N/A	STA 1322+00 (NB) STA 1375+00 (SB) STA 1381+60 (NB)	Need additional static sign at STA 120+00 (NB)
	429-154	All PTSU Gantries Upright of structure at STA 935+40 (NB)	STA 935+40 (NB - median only)	N/A	STA 940+00 (NB) STA 983+00 (SB) STA 989+00 (NB) STA 1067+80 (NB)	Need additional static sign at STA 948+00 (SB)
	429-152	All PTSU Gantries	STA 157+00 (NB - median only) STA 283+40 (SB - median only)	STA 157+00 (NB - outside) STA 283+00 (SB - outside)	STA 144+00 (SB) STA 248+00 (NB) STA 1130+75 (SB)	
	429-153	All PTSU Gantries Upright of structure at STA 513+00 (SB)	STA 513+00 (SB - outside only)	N/A	STA 355+00 (NB) STA 417+00 (NB & SB) STA 489+21 (NB)	Need additional static sign at STA 525+00 (NB)

SUPPLEMENTAL AGREEMENT NO. 3
TO
AGREEMENT FOR PROFESSIONAL SERVICES
FINAL DESIGN

S.R. 417 Widening from John Young Parkway to Landstar Boulevard

THIS SUPPLEMENTAL AGREEMENT 3 TO AGREEMENT FOR PROFESSIONAL SERVICES FINAL DESIGN (“Supplemental Agreement”) is made and entered into this 9th 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 RS&H, 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 the 29th day of June 2018, as amended or supplemental by that certain Supplemental Agreement No. 1 between CFX and CONSULTANT dated August 28th, 2019, as amended or supplemental by that certain Supplemental Agreement No. 2 between CFX and CONSULTANT dated May 29, 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 September 14, 2020 letter to CFX, which is attached hereto as Exhibit “A” and incorporated herein by reference (“Additional Services”). Exhibit “A” of the Agreement and the Scope of Services, as defined in the Agreement, shall be amended to include the Additional Services.
2. Exhibit "B" Method of Compensation of the Agreement is hereby amended as follows:
 - a. The Salary Related Costs remain unchanged at \$4,520,418.98.
 - b. The Direct Expenses (Lump Sum) remain unchanged at \$21,601.60.
 - c. Direct Travel Expenses (Limiting Amount) remain unchanged at \$1,777.99.
 - d. The overall amount of the Subcontract Items remain unchanged at \$3,492,336.74; provided, however, the Subcontract Items shall be modified as follows:

TEDS	\$45,781.25
GEC	(\$45,781.25)
 - e. The Allowance remains unchanged at \$0.00.

f. The Total Maximum Limiting Amount remains unchanged at \$8,036,135.31.

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: 2020.09.22 16:02:23 -04'00'
Aneth Williams, Director of Procurement

RS&H, INC.

By: *Edward J Gonzalez* DN: C=US,
E=edward.gonzalez@rsandh.com, O=RS&H,
OU=RS&H Orlando Office, CN=Edward J.
Gonzalez
Contact Info: edward.gonzalez@rsandh.com
Date: 2020.09.22 08:56:04-04'00'
Print Name: Edward J Gonzalez
Title: Vice President

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

Laura N. Kelly Digitally signed by Laura N. Kelly
Date: 2020.09.22 15:12:54 -04'00'
Diego "Woody" Rodriguez
General Counsel

[https://cfxgov.sharepoint.com/operations/engineering/shared documents/general/417-142 sr 417 widening jyp - landstar blvd/2 contract/2.a supplemental agreements/sa 3/rs&h-417-142 -sa3.docx](https://cfxgov.sharepoint.com/operations/engineering/shared%20documents/general/417-142%20sr%20417%20widening%20jyp%20-%20landstar%20blvd/2%20contract/2.a%20supplemental%20agreements/sa%203/rs&h-417-142%20-%20sa3.docx)

SUPPLEMENTAL AGREEMENT NO. 2
TO
AGREEMENT FOR PROFESSIONAL SERVICES
FINAL DESIGN

S.R. 417 Widening from John Young Parkway to Landstar Boulevard

THIS SUPPLEMENTAL AGREEMENT is made and entered into this 29th day of May, 2020, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, hereinafter called "CFX" and the consulting firm of RS&H, INC. of Orlando, Florida, hereinafter called the "CONSULTANT".

WHEREAS, Articles 2.00 and 12.0 of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 29th day of June 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 April 27, 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 \$169,282.58 to \$4,520,418.98.
- b. The Direct Expenses (Lump Sum) remain unchanged at \$21,601.60.
- c. Direct Travel Expenses (Limiting Amount) remain unchanged at \$1,777.99
- d. The Subcontract Items are adjusted upward by \$319,205.04 to \$3,492,336.74.

• EAC	\$106,248.23
• DRMP	\$126,796.72
• BASE	\$240,015.73
• GEC	(\$320,000.00)
•Nadic Engineering	\$86,897.73
•TEDS	\$79,246.63

- e. The Allowance is adjusted downward by \$125,000.00 to \$0.00.

The Total Maximum Limiting Amount is adjusted upward by \$363,487.62 to \$8,036,135.31.

3. All provisions of said Agreement for Professional Services, or any Supplements thereto, not modified by the above, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and of the said Consultant Agreement, or any Supplements thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

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

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.05.29 17:00:58 -04'00'
Director of Procurement

RS&H, INC.

By:  DN: C=US,
E=edward.gonzalez@rsandh.com,
O=RS&H, OU=RS&H Orlando Office,
CN=Edward J. Gonzalez
Contact Info: edward.gonzalez@rsandh.com
Date: 2020.05.22 09:09:30-04'00'
Print Name: Edward J Gonzalez PE
Title: Vice President

Approved as to form and execution, only.

Diego "Woody" Rodriguez Digitally signed by Diego
"Woody" Rodriguez
Date: 2020.05.26 12:06:07 -04'00'
General Counsel for CFX

[https://cfxgov.sharepoint.com/operations/engineering/shared documents/general/417-142 sr 417 widening jyp - landstar blvd/2 contract/2.a supplemental agreements/sa 2/rs&h-417-142 -sa2.docx](https://cfxgov.sharepoint.com/operations/engineering/shared%20documents/general/417-142%20sr%20417%20widening%20jyp%20-%20landstar%20blvd/2%20contract/2.a%20supplemental%20agreements/sa%20rs&h-417-142%20-sa2.docx)



MEMORANDUM

Date: April 27, 2020
To: Will Hawthorne, PE CFX Director of Engineering
From: Scott Kamien ^{SMK}, PE
Subject: Design Consultant Services - Contract 001313
CFX Project No. 417-142
SR 417 Widening from John Young Parkway to Landstar Boulevard
Supplemental Agreement #2

Comments:

I have reviewed the fee sheet and scope of services for Supplemental Agreement #2 (SA #2) submitted by RS&H, Inc. initially via email on January 29, 2020 and finalized on April 27, 2020. SA #2 is for additional professional services to prepare construction plans and bid documents for modified PTSU structures, ITS, median lighting and an additional 4,300 linear feet of soundwall.

Supplemental Agreement #2 request is attached and costs are detailed below:

\$ 169,282.58	RS&H as Prime
<u>\$ 319,205.04</u>	<u>Total Subconsultant Fees</u>
\$ 488,487.62	Total Requested 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 \$488,487.62.

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

CC:

Keith Jackson, PE Dewberry
File



RS&H, Inc.
301 E. Pine Street, Suite 350
Orlando, Florida 32801
P: 407-893-5800
F: 407-264-6624
FL Cert. Nos. AAC001886 • EB0005620 • LCC000210

April 27, 2020

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

RE: **SR 417 Widening from JYP to Landstar Blvd.
Supplemental Agreement No. 2 – Addition of PTSU Signage, TTCP, Noise Walls
and Median Lighting**
Orange County, Florida
CFX Project No. 417-142

Dear Mr. Hawthorne:

Enclosed please find the RS&H Team supplemental fee proposal request for the subject project. The total fee is \$488,487.62 and includes amounts for subconsultants EAC Consulting, Inc., DRMP, Inc., Base Consultants, P.A., Nadic Engineering Services, Inc., and Traffic Engineering Data Solutions, Inc. The total fee includes a \$320,000 reduction of budget from Geotechnical and Environmental Consultants, Inc. as not all the original contract scope and fee were needed.

The work associated with this SA includes design of Part Time Shoulder Use (PTSU) overhead static and dynamic signage including sign structure gantries, revision of the lighting plans to move mainline light poles to the median, additional traffic control plans for added construction phases and detours, geotechnical engineering associated with more sign structures and noise walls, and updating the roadway plans, drainage plans and cross sections to account for the added PTSU gantries and the site grading associated with the addition of barrier mounted as well as post mounted noise walls. A more detailed list of tasks is included in each of the firms' staff-hour estimates included with this transmittal.

If you have any questions or require additional information, please contact me.

Very truly yours,

RS&H, INC.

Renato J. Gonzalez, PE
Project Manager



**Geotechnical
and
Environmental
Consultants, Inc.**

At the very foundation of our community

April 28, 2020

RS&H
301 East Pine Street
Suite 350
Orlando, Florida 32801

Attention: Mr. Renato J. Gonzalez, P.E.

Subject: Geotechnical Fee Reassignment
SR 417 from John Young Parkway to Landstar Boulevard
Orlando, Florida
CFX Project No. 417-142
GEC Project No. 4160G

Dear Mr. Gonzalez:

Geotechnical and Environmental Consultants, Inc. (GEC) total contract fee for this project is \$924,003.89. To date GEC has expended approximately \$456,000. It is anticipated that approximately \$148,000 will be required for GEC to complete the remaining project tasks. Based on this evaluation, \$320,000 of the geotechnical fee is available for reassignment as deemed necessary.

GEC appreciates the opportunity to be of service to RS&H and Central Florida Expressway (CFX) on this project. If you should have any questions concerning the letter, please contact us.

Sincerely,
Geotechnical and Environmental Consultants, Inc.

Gary L. Kuhns, P.E.
President

EXHIBIT “A”

**CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY**

SCOPE OF SERVICES

FOR

CFX PROJECT #417-142

Supplemental Agreement #02

Part Time Shoulder Use (PTSU)

Median Lighting

Noise Walls

Geotechnical Investigations

Maintenance of Traffic

Orange County, Florida

**Scope of Services
Supplemental Agreement No. 2**

**CFX Project No. 417-142
SR 417 Widening from John Young Parkway to Landstar Blvd
PTSU Implementation, Noise Walls, Median Lighting and Traffic Control Plans**

Purpose

The purpose of this Supplemental Agreement is to modify the signing and pavement marking plans, Fiber Optic Network (FON), Temporary Traffic Control Plans, Noise walls and Lighting plans. This Supplemental also addresses the additional geotechnical investigation efforts associated with foundations for PTSU gantries as well as added noise walls. These changes will be implemented in the plans that are currently at the post 90% Plans stage.

Scope of Work

The following addresses the effort associated with lighting, signing and pavement marking, fiber optic network, and roadway and drainage plan modifications to address these additional scope items respectively.

Roadway Lighting

The following summarizes the modifications to lighting design and plans to address the changes:

- Lighting analysis to determine the required spacing for median barrier wall mounted lighting for the ultimate cross section.
- Lighting analysis for the interim widening design using the spacing required for the ultimate lighting and determination of supplemental lighting needs along auxiliary lanes, at ramp terminals, on bridges, etc. for the interim design.
- Modifications to analysis and plans to address all signing changes
- Modification of the plans to provide median mounted fixtures.
 - Will require coordination of lighting with sign supports in the median
 - Will require recalculation of voltage drops
 - Will require update of Pole Data tables and Legend
 - Will require updates to pay item numbers and notes
 - Will require updates to the lighting photometric calculations
 - Will require updates to the lighting plans
- Arc flash analysis will be included in the calculations for each load center.

Signing and Pavement Marking Plans

The following summarizes the modifications to signing design and plans to address the changes:

- Design of PTSU signing based on the most current Conceptual Signing Plan (CSP) provided by CFX.
- Plan modifications include:
 - Updating plan views to reflect PTSU signing

- Additional cross sections
- Additional guide sign details
- Additional structural design associated with added PTSU gantries
- Additional geotechnical investigations associated with the added sign structure foundations and noise walls.

Fiber Optic Network (FON)

Modify the FON plans to include PTSU gantries and control of the dynamic message signs and lane control signs mounted to the PTSU gantries, and to provide power and communication for a new three-line DMS. To accommodate the PTSU gantries, the following work shall be added to the original scope of services:

- Develop installation details, wiring diagrams, and cabinet details for PTSU lane control gantries of three types.
- Design PTSU sign confirmation CCTV cameras. All electronic signs mounted to PTSU gantries must be visible by a CCTV camera.
- Design new local hub cabinets near PTSU lane control gantries and the new DMS structure for housing of the electronic sign control equipment. These local hubs will be 334 ground mounted cabinets.
- Design communication and power connections for the 14 PTSU lane control gantries within the project limits and the new DMS structure.
- Modify the electrical system design to support the new PTSU infrastructure and DMS.
- Modify the communication system design to support the new PTSU infrastructure and DMS.
- Determine the load requirements of each new PTSU lane control gantry and size the UPS for all new local hub cabinets.
- Evaluate ITS device placement and spacing project-wide given the additional overhead sign structures and local hub cabinets being installed as part of the PTSU modifications.
- Prepare arc-flash hazard assessment for new and modified FON power services.

Roadway and Drainage Plans

The following summarizes the modifications to roadway/drainage design and plans to address the changes described above:

- Adjustments to the current designs to account for additional foundations and uprights for the PTSU signing. Roadway plans call outs for median barrier transitions and adjustment of cross sections in order to accommodate the added sign structures.
- Adjustments to the current designs to account for additional noise walls.

Temporary Traffic Control Plans

The following summarizes the modifications to the temporary traffic control plans to address the changes described above and below:

Provide additional SR 417 mainline analysis associated with added phases in order to construct pile supported approach slabs and added shoulder mounted noise walls.

Ramp L – provide additional analysis and design for wall construction.

Ramp F1 – provide additional analysis and design for shoulder wall construction.

19 AUG 20 AM 3:33

SUPPLEMENTAL AGREEMENT NO. 1

TO

AGREEMENT FOR PROFESSIONAL SERVICES

FINAL DESIGN

S.R. 417 Widening from John Young Parkway to Landstar Boulevard

THIS SUPPLEMENTAL AGREEMENT is made and entered into this 28th 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 RS&H, INC. of Orlando, Florida, hereinafter called the "CONSULTANT".

WHEREAS, Articles 2.00 and 12.0 of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 29th day of June 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 July 22, 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 \$1,080,097.99 to \$4,351,136.40.
- b. The Direct Expenses (Lump Sum) are adjusted upward by \$1,084.43 to \$21,601.60.
- c. Direct Travel Expenses (Limiting Amount) unchanged at \$1,777.99
- d. The Subcontract Items are adjusted upward by \$470,020.11 to \$3,173,131.70.

• EAC	\$67,468.35
• DRMP (Lighting + Survey)	\$23,430.92
• BASE	\$19,102.05
• GEC	\$360,018.79

- e. The Allowance is adjusted downward by \$378,554.84 to \$125,000.00.

The Total Maximum Limiting Amount is adjusted upward by \$1,172,647.69 to \$7,672,647.69.

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

RS&H, INC.

Witness: 
Print Name: Kim Hynn

By: 
Title: EXECUTIVE VICE PRESIDENT

Approved as to form and execution, only.


General Counsel for CFX

SR 417 Widening from John Young Parkway to Boggy Creek Road
Central Florida Expressway Authority
Project 417-142
Contract 001313
Scope of Services Supplemental Agreement #1

The following items were added to the original scope to operationally improve the section of SR 417 between the Florida's Turnpike northbound on-ramp and the Landstar Boulevard exit:

- A new (relocated) northbound SR 417 single lane off-ramp to Landstar Boulevard. The approximately 1-mile ramp will take off immediately north of the SR 417 bridge over Florida's Turnpike.
- The ramp will require 2 new bridges; a 6-span third level bridge structure that will flyover the Turnpike on-ramp and Orange Avenue and a single span bridge structure that will descend over the FDOT railroad and tie into part of the relocated Landstar exit.
- The design will include all associated roadway, drainage, utilities, signing, lighting, ITS, survey, noisewalls, MSE walls and geotechnical services.

A breakdown of the individual tasks are included within the manhour spreadsheets.

The additional services will be completed within 12 months (July 22, 2020) with bid plan delivery set for May 1, 2020.

AGREEMENT

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AND
RS&H, INC.**

**S.R. 417 WIDENING FROM JOHN YOUNG PARKWAY TO
LANDSTAR BOULEVARD**

CONTRACT NO. 001313, PROJECT NO. 417-142

**CONTRACT DATE: June 29, 2018
CONTRACT AMOUNT: \$6,500,000.00**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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

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

FOR

**S.R. 417 WIDENING FROM JOHN YOUNG PARKWAY TO LANDSTAR
BOULEVARD**

DESIGN SERVICES

CONTRACT NO. 001313, PROJECT NO. 417-142

JUNE 2018

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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Central Florida Expressway Authority Agreement for Design Professional Services of
SR 417 Widening from John Young Parkway to Landstar Boulevard

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Central Florida Expressway Authority Agreement for Design Professional Services of
SR 417 Widening from John Young Parkway to Landstar Boulevard

THIS AGREEMENT, made and entered into this 29th day of June, 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 RS&H, 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 301 East Pine Street, Suite 350, Orlando, FL. 32801.

WITNESSETH:

WHEREAS, CONSULTANT represents that it is fully qualified and authorized to render the professional services contracted herein.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, CFX and CONSULTANT agree as follows:

1.0. DEFINITIONS.

Reference herein to the Project Manager shall mean CFX's Director of Engineering or his authorized designee. The Project Manager shall provide the management and technical direction for this Agreement on behalf of CFX. All technical and administrative provisions of this Agreement shall be managed by the Project Manager and the CONSULTANT shall comply with all of the directives of the Project Manager that are within the purview of this Agreement. Decisions concerning Agreement amendments and adjustments, such as time extensions and supplemental agreements shall be made by the Project Manager.

2.0. SERVICES TO BE PROVIDED

CFX does hereby retain the CONSULTANT to furnish certain professional services in connection with the design of SR 417 Widening from John Young Parkway to Landstar Boulevard identified as Project No. 417-142 and Contract No. 001313.

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

Before rendering any of the services, any additions or deletions to the work described in **Exhibit "A"**, and before undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into a Supplemental Amendment covering such modifications and the compensation to be paid therefore.

The work covered by this Agreement as described in **Exhibit "A,"** includes the preparation of construction plans for one construction project. If the work is divided into more than one construction

project by CFX's Project Manager, then the CONSULTANT shall supply construction plans for each project. A Supplemental Agreement will be required for the additional work.

All construction plans, documents, reports, studies and other data prepared by the CONSULTANT shall bear the endorsement of a person in the full employ of the CONSULTANT and duly registered by the State of Florida in the appropriate professional category.

After CFX's acceptance of construction plans and documents for the project, the original set of CONSULTANT's drawings, tracings, plans, maps and CADD files shall be provided to CFX, along with one record set of the final plans. The CONSULTANT shall signify, by affixing an endorsement (seal/signature, as appropriate) on every sheet of the record set, that the work shown on the endorsed sheets was produced by the CONSULTANT. With the tracings and the record set of prints, the CONSULTANT shall submit a final set of design computations. The computations shall be bound in an 8-1/2 x 11" format and shall be endorsed (seal/signature, as appropriate) by the CONSULTANT. Refer to **Exhibit "A"** for the computation data required for this Agreement.

The CONSULTANT shall submit a final set of reports and studies which shall be endorsed (seal/signature) by the CONSULTANT.

The CONSULTANT shall not be liable for use by CFX of said plans, documents, reports, studies or other data for any purpose other than intended by the terms of this Agreement.

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

3.0. TERM OF AGREEMENT AND RENEWALS

Unless otherwise provided herein or by Supplemental Agreement, the provisions of this Agreement will remain in full force and effect for a five (5) year term from the date of the Notice to Proceed for the required project services as detailed in **Exhibit "A,"** with five one-year renewals at CFX's option. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONSULTANT are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide CONSULTANT with written notice of its intent at least thirty (30) days prior to the expiration of the original term and subsequent renewal, if any.

The CONSULTANT agrees to commence the scheduled project services to be rendered within ten (10) calendar days from the date specified in the written Notice to Proceed from the Project Manager, which Notice to Proceed will become part of this Agreement. The CONSULTANT shall complete scheduled project services within the timeframe(s) specified in **Exhibit "A"**, or as may be modified by subsequent Supplemental Agreement.

4.0. PROJECT SCHEDULE

The CONSULTANT agrees to provide Project Schedule progress reports for each project in a format acceptable to CFX and at intervals established by CFX. CFX will be entitled at all times to be advised, at its request, as to the status of work being done by the CONSULTANT and of the details thereof. Coordination shall be maintained by the CONSULTANT with representatives of CFX, or of

other agencies interested in the project on behalf of CFX. Either party to the Agreement may request and be granted a conference.

In the event there are delays on the part of CFX as to the approval of any of the materials submitted by the CONSULTANT or if there are delays occasioned by circumstances beyond the control of the CONSULTANT, which delay the scheduled project completion date, CFX may grant to the CONSULTANT by "Letter of Time Extension" an extension of the scheduled project completion date equal to the aforementioned delays. The letter will be for time only and will not include any additional compensation.

It shall be the responsibility of the CONSULTANT to ensure at all times that sufficient time remains within the project schedule within which to complete the services on the project. In the event there have been delays which would affect the scheduled project completion date, the CONSULTANT shall submit a written request to CFX which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one another. CFX will review the request and make a determination as to granting all or part of the requested extension.

In the event the scheduled project completion date is reached and the CONSULTANT has not requested, or if CFX has denied, an extension of the completion date, partial progress payments will be stopped when the scheduled project completion date is met. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by CFX.

5.0. PROFESSIONAL STAFF

The CONSULTANT shall maintain an adequate and competent professional staff to enable the CONSULTANT to timely perform under this Agreement. The CONSULTANT shall continue to be authorized to do business within the State of Florida. In the performance of these professional services, the CONSULTANT shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The CONSULTANT shall use due care in performing in a design capacity and shall have due regard for acceptable standards of design principles. The CONSULTANT may associate with it such specialists, for the purpose of its services hereunder, without additional cost to CFX, other than those costs negotiated within the limits and terms of this Agreement. Should the CONSULTANT desire to utilize specialists, the CONSULTANT shall be fully responsible for satisfactory completion of all subcontracted work. The CONSULTANT, however, shall not sublet, assign or transfer any work under this Agreement to other than the associate consultants listed below without the written consent of CFX. It is understood and agreed that CFX will not, except for such services so designated herein, permit or authorize the CONSULTANT to perform less than the total contract work with other than its own organization.

Prior to retaining a subconsultant, or assigning any work to a subconsultant, the CONSULTANT shall verify that the subconsultant does not have any conflicts and acknowledges its duty to comply with CFX's Code of Ethics. The CONSULTANT shall ensure that each subconsultant adheres to, and cause all subconsultants to be bound by, all requirements, conditions, and standards set forth herein. The CONSULTANT shall collect and maintain the necessary subconsultant compliance and acknowledgement documentation and remove any subconsultant immediately, if the necessary said

documentation is unavailable or the subconsultant is not adhering to the requirements and standards herein. The CONSULTANT shall provide subconsultant compliance and acknowledgement documentation to CFX upon request.

The approved subconsultants are:

CLASS I

1. Base Consultants, Inc. - 11924-A
2. DRMP, Inc. - 00146-A
3. EAC Consulting, Inc. - 04180-A
4. The Balmoral Group - 12416-A
5. Traffic Engineering Data Solutions, Inc. - 12862-A
6. WBQ Design & Engineering, Inc. - 00448-A

CLASS II

1. DRMP, Inc. (survey) - 00146
2. Geotechnical and Environmental Consultants, Inc. - 12287-A
3. GPI Geospatial, Inc. - N/A
4. Nadic Engineering Services, Inc. - 12330-A

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

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

6.0. COMPENSATION

CFX agrees to pay the CONSULTANT compensation as detailed in **Exhibit "B"**, Method of Compensation, attached hereto and made a part hereof, in the not-to-exceed amount of \$6,500,000.00 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 301 East Pine Street, Suite 350, Orlando, FL. 32801.

Notwithstanding Section 17, entitled "Communications, Public Relations, and Use of Logos," CONSULTANT acknowledges that CFX is a body politic and corporate, an agency of the State of Florida, and is subject to the Public Records Act codified in Chapter 119, Florida Statutes. To the extent that the CONSULTANT is in the possession of documents that fall within the definition of public records subject to the Public Records Act, which public records have not yet been delivered to CFX, CONSULTANT agrees to comply with Section 119.0701, Florida Statutes.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT Phone: 407-690-5000, e-mail: publicrecords@cfxway.com, and address: Central Florida Expressway Authority, 4974 ORL Tower Road, Orlando, FL. 32807.

An excerpt of Section 119.0701, Florida Statutes is below.

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

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

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

The CONSULTANT shall allow public access to all documents, papers, letters, or other material as approved and authorized by CFX and subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONSULTANT in conjunction with this Agreement. Failure by the CONSULTANT to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by CFX.

The obligations in Section 7.0, Document Ownership and Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

8.0. COMPLIANCE WITH LAWS

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

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

9.0. WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE

The CONSULTANT hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached **Exhibit "C"**, Details of Costs and Fees, supporting the compensation provided in Section 6.0 are accurate, complete and current as of the date of this Agreement. It is further agreed that said price provided in Section 6.0 hereof shall be adjusted to exclude any significant sums where CFX shall determine the price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments shall be made within one year following the date of final billing or acceptance of the work by CFX, whichever is later.

10.0. TERMINATION

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

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

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

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

CFX reserves the right to cancel and terminate this Agreement in the event the CONSULTANT or any employee, servant, or agent of the CONSULTANT is indicted or has a direct information issued against him for any crime arising out of or in conjunction with any work being performed by the CONSULTANT for or on behalf of CFX, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans, specifications, maps, and data prepared or obtained under this Agreement shall immediately be turned over to CFX. The CONSULTANT shall be compensated for

work properly performed rendered up to the time of any such termination in accordance with Section 7.0 hereof. CFX also reserves the right to terminate or cancel this Agreement in the event the CONSULTANT shall be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors. CFX further reserves the right to suspend the qualifications of the CONSULTANT to do business with CFX upon any such indictment or direct information. In the event that any such person against whom any such indictment or direct information is brought shall have such indictment or direct information dismissed or be found not guilty, such suspension on account thereof may be lifted by CFX.

11.0. ADJUSTMENTS

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

In the event that the CONSULTANT and CFX are not able to reach an agreement as to the amount of compensation to be paid to the CONSULTANT for supplemental work desired by CFX, the CONSULTANT shall be obligated to proceed with the supplemental work in a timely manner for the amount determined by CFX to be reasonable. In such event, the CONSULTANT will have the right to file a claim with CFX for such additional amounts as the CONSULTANT deems reasonable for consideration by the Executive Director; however, in no event will the filing of the claim or the resolution or litigation thereof, through administrative procedures or the courts, relieve the CONSULTANT from the obligation to timely perform the supplemental work.

12.0. HOLD HARMLESS AND INDEMNIFICATION, SOVEREIGN IMMUNITY

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

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

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

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

CFX is an agency of the State of Florida whose limits of liability are set forth in Section 768.28, Florida Statutes, and nothing herein shall be construed to extend the limits of liability of CFX beyond that provided in Section 768.28, Florida Statutes. Nothing herein is intended as a waiver of CFX's sovereign immunity under Section 768.28, Florida Statutes, or law. Nothing hereby shall inure to the benefit of any third party for any purpose, which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of CFX's obligations are limited to the payment of no more than the amount limitation per person and in the aggregate contained in Section 768.28, Florida Statutes, except for payments for work properly performed, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.

The obligations in Section 12.0, Hold Harmless and Indemnification, shall survive the expiration or termination of this Agreement and continue in full force and effect.

13.0. INFRINGEMENT OF PATENTS AND COPYRIGHTS

The CONSULTANT shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. The CONSULTANT shall, at its expense, hold harmless and defend CFX against any claim, suit or proceeding brought against CFX which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under this Agreement, constitute an infringement of any patent or copyright of the United States. The CONSULTANT shall pay all damages and costs awarded against CFX. The obligations in Section 13.0, Infringement of Patents and Copyrights, shall survive the expiration or termination of this Agreement and continue in full force and effect.

14.0. THIRD PARTY BENEFICIARY

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement, and that the CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For the breach or violation of this paragraph, CFX shall have the right to terminate this Agreement without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

15.0. INSURANCE

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

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

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

15.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to CFX) or the general aggregate limit shall be twice the required occurrence limit. CFX shall be listed as an additional insured. ISO Form CG 20 10 11 85 or if not available, ISO Forms CG 20 10 10 01 and CG 20 37 10 01, or if not available, their equivalent acceptable to CFX, shall be used to meet these requirements and a photocopy of same shall be provided with the Certificate. The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that

coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

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

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

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

15.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

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

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

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

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

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

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

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

16.0. COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS

The CONSULTANT agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying CFX and securing its consent in writing, except as required by law. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data, documents, reports, or other written or electronic materials furnished in compliance with this Agreement, it being understood that, under Section 7.0 hereof, such data or information is the property of CFX.

Regarding the use of logos, printed documents and presentations produced for CFX shall not contain the name or logo of the CONSULTANT unless approved by CFX's Public Affairs Officer or his/her designee. Prior approval by CFX's Public Affairs Officer or his/her designee is required if a copy of the CFX logo or any CFX mark, including trademarks, service marks, or any other mark, collectively referred as "Marks," is to be used in a document or presentation. The Marks shall not be altered in any way. The width and height of the Marks shall be of equal proportions. If a black and white Mark is utilized, the Mark shall be properly screened to insure all layers of the Mark are visible. The proper presentation of CFX Marks is of utmost importance to CFX. Any questions regarding the use of CFX Marks shall be directed to the CFX Public Affairs Officer or his/her designee.

17.0. STANDARD OF CONDUCT

The CONSULTANT covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes, Chapter 112, Part III, Section 348.753, and Section 104.31 and the CFX Code of Ethics as it relates to work performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The

CONSULTANT agrees to complete the Potential Conflict Disclosure Form with contract execution, annually by July 1, and in the event of changed circumstances. If the Disclosure Form is not submitted, or is submitted, but is incomplete, CFX has the right to withhold payments pending receipt of an explanation of such omissions or to terminate the contract for cause. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

The CONSULTANT acknowledges that it has read CFX's Code of Ethics and the referenced statutes and to the extent applicable to the CONSULTANT, agrees to abide with such policy.

18.0. DOCUMENTED ALIENS

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

The obligations in Section 18.0, Documented Aliens, shall survive the expiration or termination of this Agreement and continue in full force and effect.

19.0. E-VERIFY CLAUSE

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

20.0. CONFLICT OF INTEREST

The CONSULTANT shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Executive Director for resolution.

During the term of this Agreement the CONSULTANT is NOT eligible to pursue any advertised construction engineering and inspection projects of CFX as either a prime or subconsultant where the CONSULTANT participated in the oversight of the projects or for any project which the CONSULTANT prepared plans and/or specifications. Subconsultants are also ineligible to pursue construction

engineering and inspection projects where they participated in the oversight of the projects or for any project which the subconsultant was involved in the preparation of plans and/or specifications.

21.0. INSPECTOR GENERAL

CONSULTANT agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. CONSULTANT agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.

22.0. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT

Pursuant to Section 287.133(2)(a), Florida Statutes,
“a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.”

Pursuant to Section 287.134(2)(a), Florida Statutes,
“an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”

23.0. COMPANIES PURSUANT TO SECTION 287.135 AND 215.473

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

- 23.1. submitted a false certification as provided under Florida Statute 287.135(5); or
- 23.2. been placed on the Scrutinized Companies with Activities in Sudan List; or
- 23.3. been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or

- 23.4. been engaged in business operations in Cuba or Syria; or
- 23.5. found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

24.0. AVAILABILITY OF FUNDS

CFX's performance and obligation to pay under this Agreement are contingent upon an annual budget appropriation by its Board. The parties agree that in the event funds are not appropriated, this Agreement may be terminated, which shall be effective upon CFX giving notice to the CONSULTANT to that effect.

25.0. AUDIT AND EXAMINATION OF RECORDS

25.1 Definition of Records:

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

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

25.2 CFX reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Proposal Records (as hereinafter defined) of the CONSULTANT or any subcontractor.

By submitting a response to the Request for Proposal, CONSULTANT or any subcontractor submits to and agree to comply with the provisions of this section.

25.3 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.

25.4 Final Audit for Project Closeout: The CONSULTANT shall permit CFX, at CFX's option, to perform or have performed, an audit of the records of the CONSULTANT and any or all subconsultants to support the compensation paid the CONSULTANT. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the CONSULTANT under the Contract are subsequently determined to have been inadvertently paid by CFX because of accounting errors or charges not in conformity with the Contract, the CONSULTANT agrees that such amounts are due to CFX upon demand. Final payment to the CONSULTANT shall be adjusted for audit results.

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

25.6 The obligations in Section 25.0, Audit and Examination of Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

26.0. GOVERNING LAW AND VENUE

This Agreement shall be governed by and constructed in accordance with the laws of the State of Florida. The parties consent to the exclusive jurisdiction of the courts located in Orange County, Florida. The obligations in Section 26.0, Governing Law and Venue, shall survive the expiration or termination of this Agreement and continue in full force and effect.

27.0. NOTICE

All notices required pursuant to the terms hereof shall be sent by First Class United States Mail. Unless prior written notification of an alternate address for notices is sent, all notices shall be sent to the following addresses:

To CFX: Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807
Attn: Chief of Infrastructure

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

To CONSULTANT: RS&H, Inc.
301 East Pine Street, Suite 350
Orlando, FL. 32801
Attn: Edward Gonzalez, P.E.

RS&H, Inc.
301 East Pine Street, Suite 350
Orlando, FL. 32801
Attn: Renato Gonzalez, P.E.

28.0. HEADINGS

Headings are given to the sections of the Agreement solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Agreement.

29.0. CONTRACT LANGUAGE AND INTERPRETATION

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective functions and capacities.

If the CONSULTANT discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the CONSULTANT shall immediately notify CFX and request clarification of CFX's interpretation of this Agreement.

The Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

30.0. ASSIGNMENT

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

31.0. SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

32.0. INTEGRATION

This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no other agreements between the parties in connection with the subject matter hereof. No waiver, amendment, or modification of these terms hereof will be valid unless in writing, signed by all parties and only to the extent therein set forth.

33.0. ATTACHMENTS

- Exhibit "A", Scope of Services
- Exhibit "B", Method of Compensation
- Exhibit "C", Details of Cost and Fees
- Exhibit "D", Project Organization Chart
- Exhibit "E", Project Location Map [Note: Attach if applicable]
- Exhibit "F", Project Schedule [Note: Attach if applicable]

[SIGNATURES TO FOLLOW]

