
CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**PROPERTY ACQUISITION, DISPOSITION
& PERMITTING PROCEDURES MANUAL**

2017

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Part 1: INTRODUCTION

5-1.01 Purpose

The Central Florida Expressway Authority (CFX) Property Acquisition and Disposition Procedures Manual (“Manual”) is intended to provide recommended procedures to CFX employees and consultants for (i) obtaining necessary rights of way, easements and other property rights for roadway improvement projects and other projects for which CFX may be authorized to acquire such property rights and (ii) disposing of property rights deemed available for disposal by CFX. The Manual is intended for use in all projects for which CFX is the acquiring agency, unless the project is required by law or contract to be governed by Florida Department of Transportation procedures or other procedures.

This Manual and the guidelines presented herein are official CFX policy and shall provide the basic structure for conducting right of way and other property acquisition and disposition efforts for CFX authorized projects. Notwithstanding the foregoing, where deemed in the best interest of CFX and the public, subject to approval by the CFX Board, the CFX may waive the procedures set forth herein in a particular circumstance; provided that such waiver shall not be in conflict with state or federal law.

5-1.02 Statement of Policy

The policy of CFX shall be to acquire all properties in fee simple, easement, or other property interest deemed to be necessary for the implementation of an authorized project. If acquisition of only part of a property would leave its owner with an uneconomic remnant, CFX will consider acquisition of the entire property. It is further the policy of CFX that every property owner shall receive full, just and adequate compensation for the property, in accordance with the laws of the State of Florida. CFX shall attempt to negotiate in good faith to obtain a voluntary purchase from the property owner which may include providing non-monetary consideration as compensation for the property interests acquired.

5-1.03 CFX

Chapter 348, Part III, Florida Statutes provides authority for CFX to acquire property and to exercise the right and power of eminent domain for acquiring rights of way and other properties for CFX purposes. Moreover, other statutes, including, without limitation, Chapter 369, Part III, provide authority for CFX to acquire property for other purposes.

Part 2: ORGANIZATION AND COORDINATION

5-2.01 General Organization

CFX is organized into several operating divisions under the direction of the CFX Board and the Executive Director. A standing Right of Way Committee provides oversight and control of the property acquisition and disposition process.

5-2.02 CFX Board Oversight

The CFX Board has sole and final responsibility for all decisions related to project approval and authorization, expenditure of funds, consultant selection and contracting, property purchases, settlements, and authorization of eminent domain proceedings. CFX delegates certain authorities and responsibilities to the Executive Director who in turn authorizes various CFX staff or consultants to conduct the day-to-day operations, including right of way acquisition. In relation to right of way acquisition, the CFX Board shall approve the following actions:

1. Approval of preliminary PD&E documents, alignment and right of way plans, design documents and construction and project cost estimates.
2. Authorization to initiate right of way acquisition activities.
3. Authorization of right of way acquisition services including appraisals, review appraisals, acquisition consultants, and other right of way contractors.
4. Authorization to initiate eminent domain proceedings.

CFX delegates authority to the Executive Director, or the Executive Director's designee, to make purchase offers, negotiate settlements, approve mediation and condemnation settlements, execute purchase agreements and decide other matters pertaining to property acquisition and settlements for projects approved by CFX, provided, however, that the property acquisition process is conducted in accordance with the policies and procedures set forth in this Manual. The Right of Way Committee shall oversee and direct CFX's delegation of this authority.

CFX's delegation of authority for right of way acquisition activities recognizes the practical need to conduct negotiations for property acquisition, business damage claims and other matters pertinent to real estate transactions in confidence until such time as a settlement is reached. This need is recognized in Section 119.0711, Florida Statutes which exempts "...all appraisals, other reports relating to value, offers, and counteroffers..." from public disclosure until execution of a valid option contract or conditional acceptance of a written offer to sell by CFX, subject to final CFX Board approval.

5-2.03 Right of Way Committee

A standing Right of Way Committee is appointed by CFX to oversee and direct the right of way acquisition process. The purpose of the Right of Way Committee is to provide a forum for review and approval of property acquisition negotiations, proposed settlements, review

of condemnation proceedings and mediation, and other matters related to acquisition negotiations and settlements. The Right of Way Committee is composed of five voting members as follows:

1. Orange County staff member and a designated substitute to serve in their absence, appointed by the Orange County Commission or in accordance with Orange County's policies providing for appointments to other governmental agencies;
2. City of Orlando staff member and a designated substitute to serve in their absence, appointed by the City of Orlando Commission or in accordance with the City of Orlando's policies providing for appointments to other governmental agencies;
3. Lake County staff member and a designated substitute to serve in their absence, appointed by Lake County Commission or in accordance with Lake County's policies providing for appointments to other governmental agencies;
4. Osceola County staff member and a designated substitute to serve in their absence, appointed by the Osceola County Commission or in accordance with Osceola County's policies providing for appointments to other governmental agencies;
5. Seminole County staff member and a designated substitute to serve in their absence, appointed by the Seminole County Commission or in accordance with Seminole County's policies providing for appointments to other governmental agencies.

Committee member appointments may not be delegated. The Committee members will serve at the pleasure of their respective jurisdictions. Three members of the Right of Way Committee must be physically present at a meeting to constitute a quorum necessary to conduct business of the Right of Way Committee. During right of way acquisition projects, the Right of Way Committee shall meet as required to review negotiations and provide direction to the acquisition staff and consultants. CFX General Counsel shall also attend Right of Way Committee meetings and shall serve as an advisor to the Right of Way Committee.

5-2.04 Executive Director and General Counsel

The Executive Director is responsible for the daily operations of the CFX. The Executive Director has delegated the authority and responsibility for right of way acquisition. The Executive Director or the Deputy Executive Director of Engineering and Operations are authorized to execute purchase and other agreements related to property acquisition or disposition.

The CFX General Counsel is responsible for, among other things, advising the CFX Board on legal matters, supervising CFX outside counsel, Right of Way Legal Counsel and the Acquisition Coordinator.

5-2.05 Right of Way Services

Without limiting anything herein, the Executive Director has specifically designated responsibility to conduct the routine and day-to-day functions of the property acquisition and disposition process to CFX staff or consultants, including through the Acquisition Coordinator and Right of Way Legal Counsel, subject to oversight by the General Counsel's office, the Right of Way Committee and the CFX Board as provided herein. These specific responsibilities include, without limitation:

1. Approval of property acquisition plans, subject to final authorization by the CFX.

2. Approval of consultant work scope for right of way appraisals, appraisal reviews and acquisition after approval of consultant selection.
3. Authorization of specific work items as called for in the consultant contract, including authorization of appraisals, business damage assessment reports, special studies relating to property acquisition impacts and valuation, environmental studies and mitigation, relocation payments and other special services which may be called for in the consultant contract.
4. Authority to negotiate settlements or purchase agreements to acquire property above appraised value when such actions are adequately justified, subject to final approval by the Right of Way Committee and CFX Board.
5. Authority to mediate cases prior to eminent domain valuation trials, settlement at mediation being subject to final approval by the Right of Way Committee and CFX Board.
6. Approval of payment requests for right of way purchases and other purposes authorized herein.
7. Day-to-day management of the right of way work effort, including review of progress, schedule and cost adherence, and approval of technical products.
8. Coordination of right of way activities with other CFX divisions (Planning, Design, Construction, Finance) and consultants.
9. Coordination of acquisition and condemnation activities with CFX Right of Way Legal Counsel, the Right of Way Acquisition Coordinator and/or designated brokers and consultants.
10. Participation in design plan reviews.
11. Coordination of property disposition activities with CFX Right of Way Legal Counsel.
12. Such other responsibilities as the Executive Director may assign to staff or consultants with the approval of the Right of Way Committee.

The property acquisition process shall be monitored by the Right of Way Committee, and all actions resulting in final settlement of property acquisition or disposition matters shall be reviewed with and reported to the Committee and the Executive Director prior to execution of agreements, subject to final approval by the CFX Board.

5-2.06 Contract Services

CFX may select consultants to providing various right of way services as required by the complexity and magnitude of the property acquisition program being undertaken. The following types of consultant services may be used, depending on the nature of the acquisition program.

5-2.061 Right of Way Legal Counsel - The CFX Right of Way Legal Counsel will be selected by CFX. The Right of Way Legal Counsel shall be responsible for all legal matters pertaining to the property acquisition process, subject to oversight by the General Counsel's office and the Right of Way Committee. Specific responsibilities and authority include the following, without limitation.

1. Obtaining and processing title search, ownership and encumbrance reports and other due diligence information as required for both engineering and property acquisition purposes, including, without limitation, those reports specified in Section 5-2.05, paragraph 3 above.
2. Preparing of all legal instruments and documents required for right of way acquisition, including, without limitation, purchase and settlement agreements, option agreements, satisfactions of mortgages, release instruments, deeds, easements, and other documents deemed necessary and proper for each transaction.
3. Closing property purchases and obtaining title insurance.
4. Preparing, filing and prosecuting eminent domain proceedings, upon approval by CFX.
5. Negotiating property acquisitions.
6. Conducting property disposition activities.

5-2.062 Acquisition Coordinator - The Acquisition Coordinator provides the technical work associated with property acquisition projects, assists with pre-condemnation negotiations and property disposition. The Acquisition Coordinator reports to the General Counsel's office and Right of Way Committee and may be a consultant selected by CFX. The Acquisition Coordinator services may be performed by a firm or individual or as part of the CFX's General Consulting Engineering Contract. Responsibilities of the Acquisition Coordinator include, without limitation:

1. Assisting in the development of work programs.
2. Conducting pre-condemnation negotiations for property acquisition subject to supervision of the General Counsel's office.
3. Assisting Right of Way Legal Counsel in the preparation and submittal of interim progress reports, negotiation reports, recommended settlement actions and recommendations for initiation of eminent domain proceedings to the Executive Director and Right of Way Committee.
4. Conducting property disposition activities subject to the supervision of the General Counsel's office.
5. Accepting and executing the Review Appraiser's Certification and making statutory first written offers to property owners at appraised value.

5-2.063 Consultants - CFX may elect to utilize the services of qualified technical consultants during the property acquisition process. Technical consultant services required for an acquisition program may include, without limitation, the following.

1. Property Appraisal and Appraisal Review
2. Acquisition/Negotiation/Right of Way Coordination
3. Business Damage Assessment and Report Preparation
4. Relocation and Advisory Services as CFX may elect from time to time
5. Eminent Domain Support
6. Property Management
7. Environmental Consulting
8. Land Use and Planning Consulting

Part 3: CONSULTANT OPERATIONS

5-3.01 General Requirements

Consultants engaged in right of way services and real property acquisition and disposition services shall be selected in accordance with CFX policies and procedures for consultant selection described in this section, however, in the event of any direct conflict with CFX procurement policies, the policies and procedures set forth in the procurement policy shall prevail. It is the policy of CFX to provide the maximum opportunity to qualified individuals and businesses to provide goods and services to CFX, consistent with appropriate quality at the most reasonable cost.

Consultants shall be technically qualified to perform the right of way services, shall have the proper business and professional licenses and registrations and shall meet CFX's requirements for insurance coverage. Consultant responsibilities, scope of services and compensation shall be specified in a written contract approved by CFX. The consultant shall provide adequate, qualified personnel to accomplish the scope of services and to staff its offices during normal hours of operation. The consultant will provide ongoing project management personnel necessary to coordinate, plan, direct and control the assignment and all customary administrative services.

5-3.02 Consultant Selection and Contracts

CFX's Board shall approve the selection of the Acquisition Coordinator and Right of Way Legal Counsel. At the request of the General Counsel's office, CFX may solicit proposals for consultants, including the Acquisition Coordinator and Right of Way Legal Counsel. CFX's Board has designated the Right of Way Committee to evaluate proposals and make recommendations to the Board for approval of such consultants.

General Counsel's office may confer with the Right of Way Committee and Right of Way Legal Counsel from time to time to determine what type of consultant services are required to accomplish right of way and real property acquisition and disposition services. The General Counsel's office may acquire such services through direct negotiations with qualified consultants, or the General Counsel's office may authorize and designate Right of Way Legal Counsel to retain sub-consultants necessary to perform such services, subject to the following.

1. Each such consultant or sub-consultant shall negotiate a written contract setting forth the scope of services and compensation. The scope of services shall define the responsibilities of the consultant, the scope of work to be performed, the resultant deliverables and requirements, invoicing procedures, and authorizations required. The contract shall be authorized by the CFX Board.
2. Approval of the CFX Board shall be obtained for any consultant or sub-consultant contract fee anticipated to exceed \$25,000.

Part 4: PROPERTY ACQUISITION PROCEDURES

This section provides an outline of the property acquisition process as it relates to CFX's property acquisition program. The outline is not meant to be an all encompassing description of the responsibilities and duties; rather it is meant as a general guide to the process.

5-4.01 Right of Way Determinations The following shall be prepared or obtained for CFX, if available:

1. Maps depicting preferred corridors and/or routes;
2. Right of Way maps;
3. Parcel sketches;
4. Legal description of parcels to be acquired;
5. Property interest(s) to be acquired; and,
6. Project background reports and data.

5-4.02 Title, Ownership, and Tenant Information - Right of Way Legal Counsel is responsible for securing title search and title information. Upon commencement of property acquisition activities, the General Counsel's office will oversee:

1. The provision of maps, plans, legal descriptions and parcel sketches, and the obtaining of updated title information for the parcels in the project area;
2. Development of a list of property owners by parcel number; and,

3. Identification of parcels that may be appropriate for early acquisition and/or acquisition as total takes through negotiation or eminent domain and the commencement of negotiations.

5-4.021 Negotiated Acquisition – Notwithstanding anything to the contrary contained in this Manual, the Right of Way Committee and CFX Board may authorize obtaining property in advance of completing its acquisition procedures, provided that any negotiated purchase price of the property obtained is based on a reasonable determination of the fair market value of the property as established by an appraisal. In determining whether early acquisition is appropriate with respect to any such property, the Right of Way Committee and CFX may consider, without limitation, savings and planning efficiencies which result from the early acquisition, any efforts to develop or improve the property, any proposed or pending sale of the property, any potential business damage claims, or any other circumstance that establishes that early acquisition of the property is in the best interest of the CFX.

5-4.03 Appraisals

5-4.031 Appraisal Reports – It is the policy of CFX that any and all appraisals used in the acquisition of property rights reflect the fair market value of the property or rights to be acquired, including any severance damages, less special benefits accruing to the property. Appraisals shall be prepared by qualified appraisers and shall conform to the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Standards Board of the Appraisal Foundation. All appraisers will be selected on the basis of their experience, demonstrated quality of work, licensing and reputation. Appraisers must be qualified to give expert testimony in support of their value estimates in the event of eminent domain proceedings. Appraisals shall be certified to CFX.

Where deemed appropriate by the General Counsel's office and the Right of Way Committee, CFX may agree upon a single CFX/landowner appraiser to perform an appraisal certified to both parties, may accept an appraisal prepared for a landowner by a CFX-approved appraiser meeting the standards set forth herein or may accept an appraisal prepared by any appraiser deemed acceptable to Right of Way Legal Counsel and the Right of Way Committee based on the appraiser's experience, quality of work and reputation. CFX may also negotiate a proposed settlement or purchase price subject to confirmation by an appraisal performed in accordance with these policies.

5-4.032 Appraisal Review - The appraisal report(s) prepared on behalf of CFX will be reviewed by a qualified Review Appraiser for conformance with the Uniform Standards of Professional Appraisal Practice and to further assure that all compensable items have been included in the appraisal report. The review shall include a thorough check of all mathematical calculations, a review of the completeness of the appraisal, and a review of the reasonableness of the appraiser's conclusions.

5-4.033 Review Appraiser's Certification - The Review Appraiser's written report will certify that the appraisal report conforms to the Uniform Standards of Appraisal Practice and that the value estimate is either reasonable or unreasonable. The Review Appraiser shall document in writing that he or she has reviewed each appraisal report prepared on behalf of CFX.

5-4.04 Acquisition

5-4.041 Negotiation – In accordance with 73.015, *Florida Statutes*, each property owner should be given full information as to the acquisition, the necessity of the proposed improvement and the potential impact of the improvement on the subject parcel. CFX may seek donation of rights of way where appropriate or may negotiate property exchanges or non-monetary consideration for acquisition of property interests.

Property acquisition negotiations are conducted under the supervision of the General Counsel's office. Staff or consultant negotiators may be assigned to specific parcels, depending on the perceived difficulty of the negotiations, number of parcels involved in the assignment, and other factors as appropriate.

If during the course of negotiations, certain factors or conditions concerning the property were not known or not evident at the time of valuation, proper consideration and weight should be given to these matters, and they should be brought to the attention of the Right of Way Committee, which may request a reappraisal of the property or may authorize an administrative settlement or agreement based on the facts submitted by the negotiator.

5-4.042 Settlement Justification – The negotiator may present counteroffers to the Right of Way Committee and shall present proposed negotiated purchase or settlement agreements for consideration by the Right of Way Committee for recommendation to the CFX Board and then to the CFX Board for final approval.

Settlement memoranda shall be prepared for all recommended acquisition settlements. The memoranda will document the basis for settlements and specifically point out the facts and circumstances justifying the settlement.

5-4.043 Documentation of Negotiations - The negotiator shall maintain accurate, written records of all negotiations, including:

1. Persons contacted.
2. Potential settlement terms discussed with landowners before and after any first written offer.
3. Written offers and counteroffers.
4. Results of the discussions.
5. Any other data pertinent to the negotiation and settlement of the parcel.
6. Copies of written contact records shall be maintained in the negotiators working file, in chronological order, so that the negotiation process can be readily reviewed throughout the acquisition program.

5-4.044 Settlements and Closings - Upon reaching a negotiated settlement with the property owner in the form of a signed agreement, the negotiator will:

1. Provide a statement of justification for the settlement and a recommendation to accept or reject the agreement to the Right of Way Committee and CFX Board.
2. Upon final approval of the settlement agreement, submit the agreement to the Executive Director for execution reflecting final approval by CFX.

Closing services shall be performed by the Right of Way Legal Counsel who shall be responsible for recording of the executed deed and other documents. The Right of Way Legal Counsel shall provide copies of the closing statement, deed, title insurance policy and other pertinent closing documents to the CFX's designated custodian of records.

5-4.05 Eminent Domain Proceedings

Before initiating a condemnation action as to any property interest, Right of Way Legal Counsel shall consult with the General Counsel's office and Right of Way Committee and shall act in accordance with Chapter 73 and 74, *Florida Statutes*.

The Right of Way Committee shall have the authority to approve initial offers of compensation in any amount deemed to be in the best interest of the CFX and shall have the authority to approve any terms deemed necessary to obtain a Stipulated Order of Taking of the property to be acquired.

Right of Way Legal Counsel, with oversight from General Counsel's office, is responsible for negotiating settlement agreements achieved after the filing of eminent domain proceedings, and will be responsible for securing approvals of such settlements, through the Right of Way Committee and CFX Board. If a settlement agreement cannot be reached, the Right of Way Legal Counsel will be responsible for obtaining a final verdict as to compensation to be paid for the property interests to be acquired.

5-4.06 Property Management

5-4.061 Inventory and Inspection - CFX staff or consultants will inspect the property and coordinate post-acquisition maintenance and/or disposition of buildings and personal property acquired and shall maintain records documenting same.

5-4.062 Interim Use/Extended Possession - In certain instances, CFX may acquire a property in advance of the construction schedule and may authorize an interim use of the property. All interim uses shall be approved by the Right of Way Committee.

5-4.063 Repairs and Maintenance - As required, the CFX may authorize contractors to clear properties, mow and clean, affect building repairs, board and secure vacant structures, and undertake other ongoing maintenance activities as may be dictated. Properties will be maintained in a safe and secure manner.

5-4.064 Sale of Improvements - Sale of improvements for removal or salvage may be authorized when it is in the best interest of CFX to affect such a sale, and when project schedules permit such actions. Sale of improvements will be conducted in compliance with Florida law and appropriate bond documents related to the expressway project.

5-4.07 Acquisition and Disposition Records and File Maintenance

5-4.071 Records to be Maintained - In accordance with Chapter 119, Florida Statutes, and existing CFX policy, files documenting property acquisition and disposition shall be established and maintained at CFX headquarters. Individual files for each parcel should be established by assigned parcel number. Original documents pertaining to property acquisition and disposition are to be included in the parcel file when available.

The available documents and records to be maintained by CFX for each parcel are identified on checklists, Forms 1-3: 1) Real Estate Acquisition Closing Binder Checklist for Non-Litigation Parcels; 2) Real Estate Acquisition Closing Binder Checklist for Litigation Parcels; and, 3) Real Estate Sale Closing Binder Checklist for Surplus Parcels. The documents and records identified on the Checklists are not intended to be exhaustive but represent the most common documents involved in CFX's property acquisition and disposition activities. On a parcel by parcel basis, Right of Way Legal Counsel shall include other documents used and available that may be particular to the parcel acquisition and disposition activity. The Checklists should be revised by CFX staff on a regular basis to maintain complete parcel records and are not intended to be included as part of this Manual.

5-4.072 Identification of Parcels - At the beginning of a new project requiring the acquisition of right of way, the Acquisition Coordinator shall develop a master list of parcels to be acquired, identified by parcel number, and shall provide the list to the CFX Records Custodian. From time to time during the project, the list shall be revised to reflect changes in the parcels that are to be acquired. CFX records shall be documented by memo if parcels are identified as no longer necessary for acquisition for the project.

5-4.073 Delivery of Acquisition and Disposition Records – Right of Way Legal Counsel shall deliver the complete parcel file to the CFX Records Custodian no later than six (6) months from the date of final parcel activity. This deadline may be extended as necessary by General Counsel's office upon written request.

Part 5: ADVANCE ACQUISITION

It is expressly found and declared by CFX that, in certain circumstances, it is necessary and appropriate for CFX to obtain or acquire rights of way or other property interests prior to the time that funding for a CFX authorized project is finalized ("Advance Acquisition"). The purpose of this section is to set forth the policies and procedures whereby CFX may authorize and implement such advance acquisition of rights of way or other property interests.

5-5.01 Planning for Advance Acquisition

5-5.011 Planning Program - In conjunction with its annual and long-range transportation planning and budgeting programs, CFX may consider opportunities to acquire or reserve rights of way or property rights in advance of the date when the total funding for a particular project will be available.

5-5.012 Funding Analysis - As a part of its review of opportunities for advance acquisition of rights of way and property interests, staff shall prepare an analysis of potential funding sources, both public and private, to defray all costs of such advance acquisition pending total funding for the applicable project.

5-5.02 Determination of Need for Advance Acquisition

5-5.021 Review by Right of Way Committee - As far in advance of any particular project as is practical, the Right of Way Committee may review all available information relating to the project, to determine whether Advance Acquisition is appropriate with respect to the project or any portion thereof. In making such determination, the Right of Way Committee shall consider, without limitation, the following factors:

1. The likelihood that property values in the proposed project route will substantially appreciate prior to the anticipated date for construction and that savings will result from a program for Advance Acquisition.
2. Savings and planning efficiencies which would result from Advance Acquisition in conjunction with other CFX projects and/or coordination with planning or improvement projects by other governmental agencies.
3. The potential for future development within the proposed project corridor or area which would conflict with or impede the proposed project.
4. Environmental considerations which may support advance acquisition of right of way.
5. The availability of additional and alternative funding sources for advance right of way acquisition, including, without limitation, the commitments of financial support and/or right of way donations by other governmental bodies or private entities.
6. The necessity to acquire additional property and/or right of way to preserve availability of previously acquired or donated rights and/or rights of way.
7. Other financial savings and logistical benefits achieved by advance acquisition of right of way.
8. The impact, if any, of acquiring rights of way not in accordance with guidelines from the Federal Highway Administration or other applicable federal agency and the necessity, if applicable, of obtaining a waiver to any such guidelines.
9. Express authorizations by law or agreement for acquisition of property interests in advance of CFX funding of a related expressway project.

5-5.022 Projected Budget - To assist the Right of Way Committee in its determination as to whether advance acquisition of Right of Way is appropriate for any project, staff or consultant

personnel shall prepare a projected time schedule for the Advance Acquisition program. The time schedule shall include a proposed estimate of costs of such Advance Acquisition and the revenues and funds which are or will be available for such acquisition prior to full funding of any particular project.

5-5.023 Recommendation by Right of Way Committee - The Right of Way Committee shall recommend to CFX whether a particular project is appropriate for Advance Acquisition. Based upon such recommendation, CFX may authorize the Advance Acquisition program for a particular project.

5-5.024 Advance Right of Way Pre-Acquisition - Upon approval by CFX, staff or consultant personnel shall commence any additional pre-acquisition activities required by Part 4 of this Manual.

5-5.025 Negotiation for Advance Acquisition - Where applicable, a proposed purchase agreement shall contain provisions that (i) funding has not been completed for the subject project and that the contract is subject to funding by a CFX bond issue or other applicable sources, (ii) the design and location of any contemplated or proposed roadway systems or access scenarios are not guaranteed unless otherwise expressly provided, and (iii) CFX shall be released from any other claims by the landowner relating to the property acquisition and/or the applicable project, including, without limitation, claims for loss of access, air, light or view or other severance, business and consequential damages.

5-5.026 Advance Acquisition by Eminent Domain - To the extent that CFX has actual funds available and budgeted, and upon authorization by CFX to proceed with condemnation, the Right of Way Legal Counsel, at the direction of the General Counsel's office, may institute eminent domain proceedings for potentially necessary rights of way for any project prior to the date when the total proceeds for a particular project are available.

5-5.027 Retention of Consultants by Right of Way Legal Counsel – It is acknowledged that it may be necessary for Right of Way Legal Counsel to employ consultants for the acquisition process and the attendant eminent domain proceedings. Right of Way Counsel, with the supervision of General Counsel's office, shall be authorized to employ such consultants as may be required to assist in the acquisition process and eminent domain proceedings, if applicable, subject to the requirements of 5-3.02. Such consultants may include, but are not limited to, appraisers, engineers, land planners, market consultants or others who may be required to testify as expert witnesses in required judicial proceedings.

Part 6: POLICY REGARDING THE DISPOSITION OF EXCESS LANDS

5-6.01 Purpose and Authority.

The purpose of this policy is to establish a procedure for disposition of excess real property unnecessary or unsuitable for the CFX's use. CFX is authorized by Florida Statutes, Section 348.754, to implement all necessary procedures incident to the creation and maintenance of the expressway system.

Notwithstanding anything provided herein, the disposition or conveyance of any property acquired after May 11, 2006, by CFX through eminent domain shall be made in accordance with the provisions of Section 73.013, Florida Statutes.

5-6.02 Definitions.

- a. **Excess Property.** Real property, of any monetary value, located outside of the current operating Right of Way limits of CFX not currently needed to support existing expressway facilities as determined by staff. Excess Property may include excess property with economic value created when design or construction requirements change after acquisition. Excess Property may or may not be needed for future expressway purposes.
- b. **Expressway Facility/Expressway Facilities.** Any and all lands, fixtures, improvements, roadways and toll plazas which may be constructed, operated or maintained in whole or in part with CFX funds.
- c. **Inequitable Sale.** A sale of Surplus Property which would unfairly or unjustly affect an adjacent property owner's ultimate or present use of the owner's property to the extent that the property owner is or will be hindered or prevented from full use of such property.
- d. **CFX's Standard Written Contract.** An agreement for sale and purchase of Surplus Property made between a potential purchaser and CFX being materially in CFX's standard form and content which contains the terms of the sale.
- e. **Surplus Property.** Excess Property declared by CFX's Board to no longer be essential to, or have any present or future use or purpose for CFX and the Expressway Facility.

5-6.03 Determination of Excess Property.

The CFX Board may from time to time, direct the Executive Director or the Right of Way Committee to review property holdings of CFX to determine if Excess Property exists. The Board shall determine whether Excess Property is essential for present or future construction, operation or maintenance of an Expressway Facility or essential for CFX purposes. A determination that Excess Property is non-essential shall be made by a resolution of the Board. If a parcel of property is determined to be non-essential, it will be designated as Surplus Property. If the Surplus Property is subject to a Lease Purchase Agreement with the Florida Department of Transportation (the "FDOT") then CFX shall file with the FDOT a certificate signed by the Chairman of the Board stating that (1) CFX is not in default of any covenants or provisions of the Master Resolutions with the Junior and Senior Bond Holders, and (2) in the opinion of the General Consulting Engineers, CFX is in compliance with the applicable Sections of the Master Resolutions with the Junior and Senior Bond Holders.

5-6.04 Procedure for Disposition.

After the Board has determined a parcel of property is Surplus Property, and CFX staff has consulted with the local governmental jurisdiction in which the property is located CFX may, but is not required to, dispose of the Surplus Property in the following manners. In determining whether to dispose of Surplus Property, the Board may consider, but is not limited to considering, the current market conditions and whether the cost to dispose of the Surplus Property outweighs the price which may be obtained from the sale of the Surplus Property. CFX may sell less than a fee simple interest in Surplus Property. Surplus Property may be sold to, or exchanged with, private entities and persons. When deemed by the CFX Board to be in the public interest, CFX may also sell, give or exchange Surplus Property to or with another public or quasi-public entity or a charitable or other non-profit organization.

- a. Surplus Property Valued Under \$25,000. Where Surplus Property has an estimated value of less than \$25,000, as set forth in a written good-faith estimate by CFX's appraisal consultant or other qualified agent selected by the Right of Way Committee, the Board shall choose one of the following procedures for the disposition of such Surplus Property:
 - (1) Public sale as provided in 5-6.06 below; or
 - (2) Negotiated sale as provided in 5-6.07 below.
- b. Surplus Property Valued Over \$25,000. Where Surplus Property has an estimated value greater than \$25,000, it shall be disposed of by public sale as provided in 5-6.06 below.
- c. Inequitable Sales. Where the sale of Surplus Property would be an Inequitable Sale, regardless of the value of the property, the Surplus Property may be sold to an adjacent affected property owner by a negotiated sale. If more than one adjacent property owner desires to purchase the property, it shall be sold by a public sale. Without limiting anything else contained in this policy, if no adjacent property owner desires to purchase the property, then the Authority may elect to dispose of such land by public sale, negotiated sale, exchange, donation or any other manner contemplated in this policy. Nothing in this paragraph is intended to eliminate the requirements of subparagraphs 5-6.04 (a) or (b) above.
- d. If the United States, or any department or agency thereof, the state or any political subdivision or agency thereof, or any municipality of this state, or corporation or other organization not for profit which may be organized for the purpose of promoting community interest and welfare, should desire any real or personal property that may be owned by CFX, for public or community interest and welfare, then the United States, or any department or agency thereof, state or such political subdivision, agency, municipality, corporation or organization may apply to the governing board of CFX for a conveyance or lease of such property. After receiving a recommendation from the CFX Right of Way Committee, the governing board if satisfied

that such property is required for such use and is not needed for CFX purposes, may thereupon convey or lease the same at private sale to the applicant for such price, whether nominal or otherwise, as such board may fix, regardless of the actual value of such property. The fact of such application being made, the purpose for which such property is to be used, and the price or rent therefor shall be set out in a resolution duly adopted by such board. In case of a lease, the term of such lease shall be recited in such resolution. No advertisement shall be required.

Notwithstanding a. through d. above, upon recommendation of the Right of Way Committee and Executive Director, and where deemed in the best interest of CFX and the public, the Board may waive the procedures for disposition of Surplus Property in a particular circumstance. Such waiver shall be by Board resolution. Without limiting anything contained herein, to maximize revenues to CFX, CFX may market its surplus property, including through marketing and/or listing with a licensed real estate broker or brokers approved by the Board.

5-6.05 Appraisals.

Except as provided herein, prior to closing on the sale or exchange of Surplus Property, CFX shall obtain an appraisal. If deemed appropriate by CFX, in light of all the circumstances, the appraisal may be in the form of a summary or letter appraisal confirming the proposed transaction price is a reasonable market price. Appraisal costs shall be payable by the purchaser of any Surplus Property.

If the sale of Surplus Property is initiated by CFX, an appraisal shall be obtained by CFX prior to closing on a sale or exchange of any Surplus Property and the purchaser shall pay for the appraisal cost at closing. If a prospective purchaser solicits CFX regarding the purchase of Surplus Property, the prospective purchaser shall be responsible for obtaining and paying for an appraisal prepared by an appraiser selected and approved by CFX. Where deemed appropriate by General Counsel's office and the Right of Way Committee, CFX may accept an appraisal prepared for a landowner by a CFX approved appraiser meeting the standards set forth in Section 5-4.03 of this Manual. Appraisal costs shall be payable by the purchaser of the Surplus Property. If a prospective purchaser solicits CFX regarding the purchase of Surplus Property and provides an approved appraisal but is subsequently not the highest bidder or proposer at a public sale, the successful bidder shall reimburse the cost of the approved appraisal which shall be paid to the original prospective purchaser as a condition to the purchase of the Surplus Property.

If Surplus Property valued at \$25,000 or less is sold by a negotiated sale, a formal appraisal does not need to be obtained provided that CFX shall obtain a written good-faith estimate by CFX's appraisal consultant that the property value does not exceed \$25,000. However, the CFX Board, General Counsel's office, or Right of Way Legal Counsel may require an appraisal for Surplus Property valued at less than \$25,000 if it is determined a formal appraisal is appropriate under the circumstances. An appraisal shall not be dated more than ninety (90) days prior to the date of the sale.

5-6.06 Public Sales.

In order to sell Surplus Property by public sale, CFX shall utilize either the bid or proposal procedures set forth below:

Bid Procedure:

- a. CFX shall advertise the sale, including at a minimum an advertisement in a newspaper of general circulation in the area where the property is located, and shall post the advertisement on CFX's internet web site. The advertisement shall state the date, time and place of the proposed auction, bid due date, bid opening or other method of buyer and price selection. The advertisement shall briefly describe the property, the minimum bid amount, and the location of where to obtain additional information. The advertisement shall run in the newspaper at least one (1) day, which must occur at least fourteen (14) calendar days prior to the date of the public sale. At the election of CFX, more notice may be afforded, but not less. CFX shall reserve the right to reject any or all bids, to request and consider additional information from any bidder and to waive minor irregularities and technical defects in any bid.
- b. The public sale shall be held at CFX offices or such other place designated by CFX.
- c. The public sale shall be in sealed bid, auction format, or such other method determined by CFX and shall be conducted by a designated representative of CFX.
- d. CFX may at its option establish a minimum bid amount of not less than the appraised value of the property; however, the Right of Way Committee may determine, subsequent to a public sale where the minimum bid is not obtained, that a lower bid will be accepted.
- e. Upon CFX's notice of the successful bid, the successful bidder shall be required to place a deposit in the amount of ten percent (10%) of the purchase price (the "Deposit") in an escrow account designated by CFX within five (5) business days after such notice. The Deposit shall be refundable pursuant to the terms of the CFX's standard written contract only in the event CFX does not proceed to execute and/or close on a contract for sale of the subject property or, if after executing the contract, the purchaser determines within the inspection period not to proceed with the purchase of the property. Full payment of the purchase price shall be made to CFX at closing in either a cashier's check, money order, or other non-cancelable instrument.

Proposal Procedure:

- f. The CFX may solicit proposals (Request for Proposals) for purchase of CFX property. CFX shall advertise the Request for Proposals, including at a minimum an advertisement in a newspaper of general circulation in the area where the property is located and shall post the advertisement on CFX's internet web site. The advertisement shall briefly describe the property and where to obtain additional information. The advertisement shall run in the newspaper at least one (1) day, which must occur at least fourteen (14) calendar days prior to the date the proposals are due. At the election of CFX, more notice may be afforded, but not less.
- g. The Request for Proposals shall constitute an invitation to submit offers to purchase and does not constitute an offer by CFX to sell any property. All sales are subject to execution and CFX Board approval of a written contract materially in CFX's standard form. CFX shall reserve the right to negotiate modifications to any offer that it deems acceptable, to reject any or all offers, to request and consider additional information from any submitter, and to waive minor irregularities and technical defects in any proposal. CFX shall reserve the right to seek new proposals or offers when it determines that it is in its best interest to do so. CFX also reserves the right not to pursue sales of any specific properties identified in the Request for Proposals.
- h. The proposals shall be opened on a date specified in the Request for Proposals at the CFX offices, or such other place designated by CFX, by a designated representative of CFX. CFX shall respond to all proposals by a date specified in the Request for Proposals. Upon CFX's notice of acceptance of an offer, the potential buyer shall be required to place a deposit in the amount of ten percent (10%) of the purchase price (the "Deposit") in an escrow account designated by CFX within five (5) business days after such notice. The Deposit shall be refundable pursuant to the terms of the CFX's standard written contract only in the event CFX does not proceed to execute and/or close on a contract for sale of the subject property or, if after executing the contract, the purchaser determines within the inspection period not to proceed with the purchase of the property. Full payment of the purchase price shall be made to CFX at closing in either a cashier's check, money order, or other non-cancelable instrument.
- i. As a condition precedent to CFX's obligation to sell any property listed in a Request for Proposal, all proposals to purchase such property will be subject to an appraisal to confirm that the offer is a reasonable market offer. The appraisal shall be paid for by the buyer of the property.
- j. Any successful proposer shall enter into the CFX's standard written contract. Should a successful proposer fail to enter into the CFX's standard written contract within the time specified in the Request for Proposal, or the

CFX's standard written contract, then the proposer shall be deemed to have abandoned the proposal and the Authority may, but shall not be obligated to, pursue a transaction with any other potential proposers.

All potential bidders and proposers are placed on notice that CFX is a public agency and is subject to Chapter 119, *Florida Statutes*, regarding the disclosure of public records. Pursuant to Section 119.071(1)(b), *Florida Statutes*, sealed bids or proposals received by CFX are exempt from public disclosure until such time as the CFX provides notice of an intended decision or until thirty (30) days after the bids or proposals are opened, whichever is earlier, at which time all bids or proposals received by CFX shall be made available to the public for inspection and copying in accordance with Chapter 119, *Florida Statutes*. Any language in a bid or proposal attempting to keep all or part of such bid or proposal confidential is of no force and effect and will be disregarded as contrary to Florida law.

5-6.07 Negotiated Sales.

A negotiated sale is a transaction between CFX and a prospective purchaser which occurs as a result of negotiations between CFX and the purchaser, and the sales price is decided through negotiation. In such circumstances, the parties will enter into a CFX's standard written contract. Upon execution of CFX's standard written contract, a prospective purchaser shall provide a deposit equal to ten percent (10%) of the sales price. The deposit shall be paid in a cashier's check, money order, or other non-cancelable instrument.

5-6.08 Exchanges of Property.

CFX may exchange Surplus Property for other real property. If a prospective purchaser of Surplus Property wishes to exchange a parcel of real property which has value to CFX (the "Exchange Property"), CFX may take title to the Exchange Property in exchange for the Surplus Property, provided the Board determines that acceptance of such Exchange Property is in the best interest of CFX and the public. Factors considered in such determination may include, without limitation, whether the Exchange Property is: (i) located in Orange County, Florida; (ii) contiguous to a current Expressway Facility; (iii) contiguous to a planned Expressway Facility; or (iv) located in an area which would serve an important function for CFX or CFX related project even if not contiguous to a current or planned Expressway Facility.

If the Board determines Surplus Property may be exchanged for Exchange Property, the exchange may be an equal exchange or, if the Exchange Property is worth less than the Surplus Property, the prospective purchaser shall pay the difference between the appraised value of the Exchange Property and the appraised value of the Surplus Property. However, if the Surplus Property is to be exchanged with a public entity or for a public purpose, the Board may agree to waive payment of the differential if deemed appropriate under all of the circumstances. In instances where the Exchange Property is appraised and/or is priced at a higher value than the Surplus Property, CFX shall follow its normal acquisition procedures to obtain such Exchange Property and the Surplus Property may be conveyed as partial consideration for the Exchange Property under such additional terms and conditions as deemed appropriate by CFX in light of all circumstances.

Notwithstanding anything contained herein, CFX may exchange property in connection with the settlement of eminent domain matters upon terms and conditions deemed acceptable to the Right of Way Committee and Board without complying with this exchange policy.

5-6.09 Closing.

Closing for the sale of all Surplus Property shall occur at either CFX offices, at the office of Right of Way Legal Counsel, or at such other agreed upon location. Closing shall occur as provided in CFX's standard written contract. All funds from the sale of Surplus Property shall be deposited into the System General Revenue Fund account.

Title to the Surplus Property shall be conveyed by a special warranty deed, "as-is" and "where-is", without abutters' right to the Expressway Facilities, subject to all matters of record and any matters set forth in the purchase and sale contract executed between CFX and the purchaser. CFX will execute an owner's affidavit for title insurance purposes if requested by the purchaser. If any structures are located on the Surplus Property, the purchaser shall receive a radon gas disclosure form which shall be executed by the purchaser.

If the purchaser fails to purchase the property as provided in the CFX's standard written contract, the purchaser shall forfeit the Deposit and CFX may proceed to sell the Surplus Property to other parties.

Unless otherwise specifically agreed by CFX, no deed conveying surplus property shall be deemed to waive or release any limited-access line and the deed shall expressly state that CFX is not conveying or restoring any other abutter's rights including, without limitation, any claims for air, light and view between the Surplus Property conveyed, any abutting property and CFX's property.

5-6.10 Sale to Adjacent Owner where Sale is Inequitable.

If Surplus Property is sold to an adjacent owner to avoid the occurrence of an otherwise Inequitable Sale, the adjacent property owner must provide CFX evidence of title to the adjacent property. Further, the adjacent property owner shall certify at closing that he holds title to the adjacent property.

5-6.11 Costs of Sale.

At the sale of any property hereunder, the purchaser shall pay all costs associated with the closing, including, but not limited to the following:

- a. Appraisal and review appraisal costs;
- b. Recording the deed and any closing documents;
- c. Title insurance (if provided under the CFX Sale Agreement);
- d. Prorated ad valorem taxes, if any;
- e. All survey and due diligence costs;

- f. Preparation of a legal description;
- g. Advertising for the public sale;
- h. All costs relating to buyers financing, if any;
- i. All costs of broker, attorneys or other consultants or contractors retained by the buyer; and,
- j. All other costs specified under the CFX's standard written contract.

CFX shall prepare and bear the cost for all closing documents.

Part 7: POLICY REGARDING THE RELEASE OF LIMITED-ACCESS LINES

5-7.01 Purpose and Authority.

The purpose of this policy is to establish a procedure for the release or partial release of limited-access line rights held by CFX upon request by the owners of lands affected by such limited-access lines or other third-party applicants, and the determination that such release shall not materially affect or interfere with the use, operation, maintenance or future expansion of the expressway system.

5-7.02 Determination of Impact of Release.

If an affected landowner or other third party desires the release or partial release of any limited-access line rights held by CFX, the requesting party shall submit such request in writing to the Executive Director or his designee. The requesting party shall also provide such surveys, plans, title reports or other information as may be reasonably requested by CFX to determine the nature and purpose of the proposed release. Upon receipt of any such request, CFX may review the request and the applicable limited-access line, or portion thereof, to determine whether the release would (i) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of any portion of the expressway system, (ii) otherwise impair traffic operations or public safety, or (iii) be prohibited by or conflict with any other laws, regulations, requirements, covenants or agreements binding upon CFX. If it is determined that the release would not result in any of the foregoing negative effects, CFX may, in its discretion, release the limited-access line or portion thereof in accordance with the policies and procedures set forth below.

5-7.03 Valuation Process.

If CFX notifies an applicant of its willingness to release or partially release its rights in any limited-access line, except as otherwise provided herein, CFX shall obtain an appraisal report to determine the current fair market value of the release requested. If deemed appropriate by CFX in light of all the circumstances, the appraisal may be in the form of a summary or letter appraisal confirming that the release price is a reasonable market price. Where deemed appropriate by Right of Way Legal Counsel and the Right of Way Committee, CFX may accept an appraisal prepared for a

landowner by a CFX-approved appraiser meeting the standards set forth in the Section 5-4.03 of this Manual. Appraisal costs shall be payable by the purchaser of any release of any portion of a limited-access line.

In determining the proper consideration to be paid for the release or partial release of any limited-access line, CFX may consider not only the appraisal but also the price paid, or obligations incurred, by CFX in originally obtaining the limited-access line rights as well as such other facts and circumstances as deemed relevant by CFX.

5-7.04 Negotiated Release.

CFX may negotiate with the applicant for release or partial release of the subject limited-access line. The mutually agreed terms and conditions, including the consideration, if any, to be paid to CFX for the release or partial release of the subject limited-access line, shall be embodied in a written agreement subject to approval by the CFX Board. Without limiting anything herein, CFX may release or partially release a limited-access line in exchange for other property, agreements or consideration by the applicant or other parties other than the payment of money. CFX may also release limited-access lines in connection with the settlement of litigation.

5-7.05 Release of Claims.

Any release or partial release of a limited-access line shall be made without warranty or representation by CFX and shall be accepted “as is” by the applicant. In further consideration of CFX’s agreement to release or partially release any limited-access line, the applicant and any other affected landowner shall agree in writing to release and discharge CFX from all past, present and future claims or actions arising out of, or in any way connected with, the location or relocation of the limited-access line, including any claim for loss of access to any party’s remaining property, business damages, severance damages or any other damages. The release or partial release of any limited-access line shall expressly state that it is not conveying or restoring any other abutter’s rights including, without limitation, any claims for air, light and view between any abutting property and CFX’s property.

5-7.06 Closing and Recording of Release.

The closing of the release of limited-access line shall occur in accordance with the terms and conditions of the agreement between CFX and the applicant party. The applicant requesting such release shall pay all costs of the appraisal, title reports and surveys required, and all taxes, recording costs and fees of any nature relating to the release or the recording of the notice of release as provided herein. CFX shall prepare the notice of release to be recorded in the public records. Upon satisfaction of the terms and conditions of the agreement, including CFX’s receipt of full payment of the release price and related costs, if any, by cashier’s check or wire transfer of immediately available funds, CFX’s Right of Way Legal Counsel shall arrange to record the notice of release in the public records evidencing the release or partial release of the limited-access line. The notice may contain such other terms and conditions of the agreement as CFX shall deem necessary or appropriate, including, without limitation, the release of claims and limitations of abutter’s right as may be deemed necessary.

PART 8: POLICY REGARDING REQUESTS FROM UTILITY AGENCIES OR OWNERS TO CROSS CFX'S PROPERTY

5-8.01 Purpose and Authority.

The Central Florida Expressway Authority (“CFX”) was created and established under Part III of Chapter 348 of the Florida Statutes and has the authority to acquire, hold, construct, improve, maintain, operate, own, or lease the Central Florida Expressway System (“CFX’s Expressway System”). CFX recognizes that there may be situations when there is a need for a Utility Agency or Owner (“UAO”) to cross the Expressway System to install or adjust a utility line or utility facility. In order to minimize the impact to CFX’s Expressway System, utility crossings should be granted sparingly and when there are no other alternative routes or crossings for the UAO. Where possible and to minimize the impact to CFX’s Expressway System, utility crossings should occur within existing local road crossings over or under the Expressway System.

The purpose of this section is to establish requirements to review and approve requests from UAOs to install utilities within CFX’s property in a manner that will be in the best interest of CFX and that will further the safety and the protection of CFX’s Expressway System, including its operation, utilization, and future development, with due consideration given to public service afforded by adequate and economical utility installations.

5-8.02 Adoption of FDOT’s 2017 Utility Accommodation Manual.

CFX adopts Rule 14-46.001 of the Florida Administrative Code and the Florida Department of Transportation’s 2017 Utility Accommodation Manual (2017) (“UAM”), as they may be amended, replacing references to “FDOT” with “CFX.” The requirements set forth in the UAM and Rule 14-46.001 are the minimum requirements. CFX may adopt and impose more restrictive policies and requirements, which shall take precedence over Rule 14-46.001 and the UAM.

5-8.03 Definitions.

A “limited-access expressway” means a street or highway specifically designed for through traffic, and over, from, or to which, a person does not have the right of easement, use, or access except in accordance with the rules of CFX governing its use. Sec. 348.752(10), Fla. Stat.

“UAM” refers to the 2017 version of the Florida Department of Transportation’s Utility Accommodation Manual.

“UAO” is the acronym for Utility Agency or Owner, who is the entity that owns the utility.

“Utility” means transmission lines, telephone lines, telegraph lines, other communication services lines; pole lines; ditches, sewers, water mains, heat mains, gas mains, pipelines.

“Utility Builder” refers to the person or entity constructing the utility who will not be the ultimate UAO.

(See UAM 1.2)

5-8.04 Procedures and Requirements.

In determining whether to approve a permit for a utility crossing (“Utility Permit”), the procedures and requirements below must be followed.

1. The UAO shall be identified in the Application for a Utility Permit. When the UAO is a County or City and desires to have the Utility Builder be a joint permit applicant, the Utility Builder shall also be identified as an applicant. A Utility Builder alone cannot apply for a utility permit without the City or County adding them as a joint applicant. A private individual or entity alone cannot apply for a utility permit. (See UAM Permit)
2. Utilities On or Near CFX Structures, Expressways, or Facilities. The UAO shall not install, operate or maintain any utility on or near a CFX structure, expressway or facility that does any of the following:
 - a. Creates a hazard to the public.
 - b. Affects the integrity of the CFX structure, expressway, or facility.
 - c. Unreasonably hinders inspection and maintenance operations of the CFX structure, expressway, or facility.
 - d. Alters the aesthetics of CFX structures, expressways, or facilities placed in aesthetically sensitive environments.
 - e. Damages any CFX structure's reinforcement or stressing ducts or strands.
 - f. Attaches to CFX bridge girders.
 - g. Resides inside a CFX box girder.
 - h. Lowers the CFX structure's vertical clearance.
 - i. Restricts the CFX structure's ability to expand and contract.

(See UAM 3.19.1)

3. Longitudinal Utilities. The UAO may install, operate and maintain lines and associated appurtenances longitudinally within CFX’s limited-access property that exclusively serve CFX. The UAO shall not install any other longitudinal utility lines unless an alternative is approved in accordance with Section 5-8.04. (See UAM 4.1)
4. New Crossings. In expanding areas adjacent to CFX’s limited-access property, the UAO shall design and install utilities to eliminate or minimize the need for crossing CFX’s limited-access property. The UAO shall not cross CFX’s limited-access property when other options are available within reasonable distances as determined by CFX’s staff and CFX’s General Engineering Consultant (“GEC”). (UAM 4.3.1)
5. The UAO shall perform all construction and maintenance outside CFX’s limited-access property and CFX’s limited-access line unless specifically addressed and approved in the Utility Permit.

6. Above-ground improvements are not allowed in CFX's limited access property. Above-ground improvements are not allowed in CFX's non-limited-access property unless specifically addressed and approved in this Utility Permit.
7. CFX's staff and CFX's General Engineering Consultant ("GEC") shall review and analyze the UAO's request and permit application for the following:
 - a. Compliance with all of CFX's policies and requirements,
 - b. Compliance with the requirements of the UAM and Rule 14-46.001, Florida Administrative Code
 - c. Impacts to the following:
 - i. Public safety
 - ii. CFX's current Master Plan and Five-Year Work Plan
 - iii. CFX's construction projects
 - iv. CFX's safety improvement projects
 - v. CFX's maintenance activities
 - vi. CFX's scenic enhancement projects
 - vii. CFX's landscaped vegetation
 - viii. Trees within CFX's right-of-way
 - ix. Local events and activities
 - x. Easements and agreements
 - xi. Placement of future utilities.
 - xii. Over-dimensional vehicle permits

If CFX's staff and CFX's GEC conclude that the UAO's request and permit application are in compliance with the above and any other applicable plan, program, or policy, CFX's GEC shall issue a certificate addressing whether (i) the proposed Utility Permit would impede or restrict the operation of the Expressway System, (ii) materially affects or interferes with the present or future construction, use, operation, repair or maintenance of any portion of the Expressway System, or (iii) otherwise impairs traffic operations or public safety. (See UAM 2.6)

8. Applications for Utility Permits that do not comply with the above policies and requirements shall not be approved. Request for waivers may not be approved by CFX staff.
9. Any entry onto CFX property after the term of this Permit expires requires a new application.

5-8.05 Delegation of Authority.

If the UAO meets all of the above requirements, CFX's Chief of Infrastructure is delegated the authority to issue a CFX Utility Permit with the General Counsel's approval. Any authority or responsibility specifically attributed to the CFX Executive Director, the CFX Chief of Infrastructure, or the CFX General Counsel implicitly extends to anyone that employee has explicitly delegated it to. CFX staff is authorized to update the Application for Utility Permit as needed.

5-8.06 Unreasonable Hardship

In the event that compliance with Section 5-8.04(3) (no longitudinal utilities) would create an unreasonable hardship, the UAO may submit information to CFX establishing that:

- a. All of the alternatives have been explored, and
- b. Compliance with this requirement would create an unreasonable hardship for the UAO, and the UAO's design alternative would not unreasonably interfere with the safety, operation, maintenance, future improvement, or expansion of CFX's Expressway System. (See UAM 6)

The fact that the alternative is less costly will not be determinative of whether the alternative is approved. Economic concerns do not rise to the level of a hardship. Difficulties or delays in obtaining permission from another entity, such as a local government, do not rise to the level of an unreasonable hardship and such alternatives shall be presumed to be viable alternatives for the UAO.

In the event that CFX's staff and CFX's GEC determine that the UAO has satisfied the above requirements and all of the other requirements for a Utility Permit, the Chief of Infrastructure with General Counsel's approval may present the UAO's request for a Section 5-8.04(3) (no longitudinal utilities) waiver to the Right of Way Committee for review and recommendation to the CFX Board. If the Committee recommends approval, then the request may be considered by the CFX Board. The UAO's request for a waiver does not extend to the other requirements in this Manual.

PART 9: POLICY REGARDING REQUESTS FOR A TEMPORARY RIGHT OF ENTRY

5-9.01 Purpose.

The Central Florida Expressway Authority ("CFX") was created and established under Part III of Chapter 348 of the Florida Statutes and has the authority to acquire, hold, construct, improve, maintain, operate, own, or lease the Central Florida Expressway System ("CFX's Expressway System"). In furtherance of its duties, CFX recognizes that third parties may need temporary access to CFX's property. The purpose of this section is to establish requirements to review and approve requests from a third party for a temporary right to enter CFX's property for a limited purpose that relates to or furthers CFX's mission.

5-9.02 Procedures and Requirements.

Before a Temporary Right of Entry Permit ("TROE Permit") may be granted, the following procedures and requirements must be met.

1. The Applicant shall be identified in the Application for a TROE Permit.
2. The Applicant shall not do any of the following:

- a. Create a hazard to the public.
 - b. Unreasonably hinder CFX's operations or the operation of CFX's Expressway System
 - c. Adversely affect the aesthetics of CFX's Expressway System
 - d. Damage any property owned by CFX
3. The Applicant shall perform all activities outside CFX's limited-access property and CFX's limited-access line unless specifically addressed and approved in the TROE Permit.
 4. Permanent structures, appurtenances, or improvements are not allowed under this Part.
 5. CFX's staff and CFX's GEC shall review and analyze the Application for a TROE Permit for the following:
 - a. Compliance with all of CFX's policies, requirements, rules, and regulations.
 - b. Impacts to the following:
 - i. Public safety
 - ii. CFX's current Master Plan and Five-Year Work Plan
 - iii. CFX's safety improvement projects
 - iv. CFX's construction projects
 - v. CFX's maintenance activities
 - vi. CFX's scenic enhancement projects
 - vii. CFX's landscaped vegetation
 - viii. Trees within CFX's right-of-way
 - ix. Local events and activities
 - x. Easements and agreements
 - xi. Placement of future utilities.
 - xii. Over-dimensional vehicle permits

If CFX's staff and CFX's GEC conclude that the Application is in compliance, CFX's GEC shall issue a certificate addressing whether (i) the proposed TROE Permit would impede or restrict the operation of the Expressway System, (ii) materially affects or interferes with the present or future construction, use, operation, repair or maintenance of any portion of the Expressway System, and (iii) otherwise impairs traffic operations or public safety.

5-9.03 Delegation of Authority.

If the Application for TROE Permit meets all of the above requirements, CFX's Chief of Infrastructure ("CFX Chief") is delegated the authority to issue a CFX TROE Permit with the General Counsel's approval. Any authority or responsibility specifically attributed to the CFX Executive Director, the CFX Chief of Infrastructure, or the CFX General Counsel implicitly extends to anyone that employee has explicitly delegated it to. CFX staff is authorized to update the Application for a Temporary Right of Entry Permit as needed.