


## MEMORANDUM

**TO:** Central Florida Expressway Authority Board  
Laura Kelley, Executive Director

**FROM:**  Joseph L. Passiatore, General Counsel

**DATE:** September 15, 2015

**SUBJECT:** First Amendment to Innovation Way/Beachline Interchange Agreement

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The attached First Amendment to Amended and Restated 2006 Innovation Way/Beachline Interchange Agreement has been approved by Suburban Land Reserve, Inc. ("SLR") and Orange County who are partners with CFX on the upcoming Innovation Way/Beachline interchange project.

The existing agreement allowed any party to terminate the Agreement if the right of way conveyances for the multi-modal corridor by SLR and Farmland Reserve, Inc. to CFX had not occurred by June 30, 2015. Since the closing is not scheduled to occur until the end of the calendar year, SLR requested that the date be changed to January 31, 2016.

SLR and Orange County have made their deposits which CFX is holding in escrow. At such time as All Aboard Florida makes their contribution of \$12,100,000 the project will be ready to be advertised for bid.

JLP/ml

cc: Joseph Berenis  
Glenn Pressimone

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS  
SEP 15 2015 JL/BS

Prepared by and return to:  
Vivien J. Monaco, Esq.  
Burr & Forman, LLP  
200 S. Orange Avenue, Suite 800  
Orlando, FL 32801

Tax Parcel I.D. Numbers:  
Portions of the following parcels:  
Tax Parcel No. 25-23-31-0000-00001; and  
Tax Parcel No. 36-23-31-0000-00002.

**FIRST AMENDMENT TO AMENDED AND RESTATED 2006  
INNOVATION WAY/BEACHLINE INTERCHANGE AGREEMENT**

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**INNOVATION WAY AND BEACHLINE EXPRESSWAY**

**THIS FIRST AMENDMENT TO THE AMENDED AND RESTATED 2006 INNOVATION WAY/BEACHLINE INTERCHANGE AGREEMENT** (the "Amendment"), effective as of the latest date of execution ("Effective Date") is entered into by and among **SUBURBAN LAND RESERVE, INC.**, a Utah corporation ("SLR"), whose mailing address is 79 S. Main Street, Suite 500, Salt Lake City, Utah, 84111, **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida ("County"), whose mailing address is P.O. Box 1393, Orlando, Florida, 32802-1393, and **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, successor-in-interest to Orlando-Orange County Expressway Authority ("OOCEA"), a body politic and corporate and an agency of the State of Florida established pursuant to Part V of Chapter 348, Florida Statutes ("CFX"), whose mailing address is 4974 ORL Tower Road, Orlando, Florida, 32807 (individually, a "Party", and collectively, the "Parties").

**WITNESSETH:**

WHEREAS, SLR is the owner of fee simple title to certain real property, as more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference "Property"; and

WHEREAS, SLR, County, and OOCEA, predecessor-in-interest to CFX, entered into that certain Amended and Restated 2006 Innovation Way/Beachline Interchange Agreement (the "Agreement"), which was approved by SLR on May 27, 2014, by County on June 10, 2014, and by OOCEA on June 12, 2014, with an Effective Date of June 12, 2014; and

WHEREAS, a Memorandum of Amended and Restated 2006 Innovation Way/Beachline Interchange Agreement was recorded on June 13, 2014 at Official Records Book 10758, Page 8144, Public Records of Orange County, Florida; and

WHEREAS, SLR, Farmland Reserve, Inc., a Utah not-for-profit corporation ("FRI"), and OOCEA entered into that certain Contract of Sale and Purchase dated as of March 12, 2014 (the "Super Corridor Agreement"), pursuant to which SLR and FRI agreed to sell, and OOCEA agreed to buy, certain property referred to in the Agreement as the "Super Corridor Land"; and

WHEREAS, The Super Corridor Agreement was amended by virtue of the following amendments: the "First Amendment" dated April 24, 2014, the "Second Amendment" dated August 22, 2014, the "Third Amendment" dated November 24, 2014, the "Fourth Amendment" dated March 12, 2015, and the "Fifth Amendment" dated May 27, 2015 (the Super Corridor Agreement as amended by the First Amendment, the Second Amendment, the Third

Amendment, the Fourth Amendment, and the Fifth Amendment are hereinafter collectively referred to as the " Amended Super Corridor Agreement"); and

WHEREAS, SLR's and FRI's conveyances of the Super Corridor Land are conditions precedent to CFX's obligation to award the Successful Bid and Commence Construction, pursuant to Section 34.4 of the Agreement. If those conveyances have not occurred by June 30, 2015, any Party has the right to terminate the Agreement by providing written notice of termination to the other Parties; and

WHEREAS, Pursuant to Paragraph 6 of the Amended Super Corridor Agreement, the closing of the purchase and sale and the conveyances of the Super Corridor Lands was originally scheduled to occur no later than June 30, 2015 (the "Outside Closing Date"); and

WHEREAS, Section 5 of the Fifth Amendment extended the Outside Closing Date to December 31, 2015; and

WHEREAS, SLR, County, and CFX now wish to amend the Agreement.

**NOW, THEREFORE,** for and in consideration of the mutual covenants and agreements herein set forth, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby expressly acknowledged by the Parties hereto, the Parties hereby covenant and agree as follows:

1. ***Recitals.*** The above recitals are true and correct and are incorporated herein by this reference.

2. ***Definitions.*** Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

3. ***Amendment to Section 34.4.*** Section 34.4 is hereby amended to read as follows (underlined text is added; ~~strike through~~ text is deleted):

For purposes of this Agreement, the "Super Corridor Land" shall mean the aggregate lands FRI and SLR have contracted to sell to OOCEA pursuant to the Super Corridor Contract. Notwithstanding any other provision of this Agreement, the conveyances by SLR and FRI to OOCEA of the Super Corridor Lands shall be conditions precedent to OOCEA's obligation to award the Successful Bid and Commence Construction. Until those conveyances occur, OOCEA shall have no obligation to award the Successful Bid and Commence Construction. If those conveyances have not occurred by ~~June 30, 2015~~ January 31, 2016, then any Party shall have the right to terminate this Agreement by delivering written notice of termination to the other Parties. In the event of such a termination, the provisions of the Section above titled "Reconveyance of Property and SLR's Easement Rights" shall apply.

4. ***Amendment to References to the Orlando-Orange County Expressway Authority.*** All references in the Agreement to the "Orlando-Orange County Expressway Authority" are hereby amended to read the "Central Florida Expressway Authority," successor-in-interest to the Orlando-Orange County Expressway Authority. All references in the

Agreement to "OOCEA" to designate the Orlando-Orange County Expressway Authority are hereby amended to read "CFX" to designate the Central Florida Expressway Authority.

5. ***Ratification.*** Except as herein amended, the Agreement is hereby ratified and affirmed in its entirety and shall remain unchanged and in full force and effect.

6. ***Notice.*** Any notice delivered with respect to this Amendment or the Agreement shall be in writing and shall be deemed to be delivered (whether or not actually received) (i) when hand delivered to the person(s) hereinafter designated; or (ii) upon deposit of such notice in the United States mail, postage prepaid, certified mail, return-receipt requested, addressed to the person at the address set forth opposite the party's name below; (iii) when delivered by facsimile transmission, or to such other mailing or email address or to such other person as the party shall have specified by written notice to the other party delivered in accordance herewith.

As to SLR: Suburban Land Reserve  
79 S. Main Street, Suite 500  
Salt Lake City, Utah 84111  
Attention: Steve Romney, President  
Telephone: (801) 321-7550  
Facsimile: (801) 320-4676

With a copy to: Burr & Forman, LLP  
200 South Orange Avenue, Suite 800  
Orlando, Florida 32801  
Attention: Vivien J. Monaco, Esquire  
Telephone: (407) 540-6600  
Facsimile: (407) 540-6601

And with a copy to: Kirton McConkie  
50 East South Temple  
Salt Lake City, Utah 84111  
Attention: Robert Hyde, Esquire, and Loyal Hulme, Esquire  
Telephone: (801) 328-3600  
Facsimile: (801) 321-4893

As to County:           Orange County Administrator  
                                  P.O. Box 1393  
                                  201 S. Rosalind Ave  
                                  Orlando, FL 32802-1393  
                                  Telephone: (407) 836-7370  
                                  Facsimile: (407) 836-7399

With a copy to:       Orange County Community, Environmental,  
                                  and Development Services Department  
                                  Manager, Transportation Planning Division  
                                  Orange County Public Works Complex  
                                  4200 S. John Young Parkway  
                                  Orlando, Florida 32839-9205  
                                  Telephone: (407) 836-8070  
                                  Facsimile: (407) 836-8079

As to CFX:             Central Florida Expressway Authority  
                                  4974 ORL Tower Road  
                                  Orlando, Florida 32807  
                                  Attn: Executive Director  
                                  Telephone: (407) 690-5000  
                                  Facsimile: (407) 690-5011

With a copy to:       General Counsel to CFX  
                                  Central Florida Expressway Authority  
                                  4974 ORL Tower Road  
                                  Orlando, Florida 32807  
                                  Telephone: (407) 690-5000  
                                  Facsimile: (407) 690-5011

***Section 4. Covenants Running with the Land.*** This First Amendment shall run with the Property and shall be binding upon and shall inure to the benefit and burden of the parties and of the heirs, legal representatives, successors, and assigns of SLR and any person, firm, corporation, or other entity that may become the successor in interest to the Property.

***Section 5. Recordation of First Amendment.*** An executed original of this First Amendment shall be recorded, at SLR's expense, in the Public Records of Orange County, Florida within thirty (30) days of the Effective Date.

7. ***Counterparts.*** This Amendment may be executed in as many counterparts as there are parties, each of which shall be considered an original, and all of such counterparts shall constitute one Amendment.

8. ***Applicable Law.*** This Amendment and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

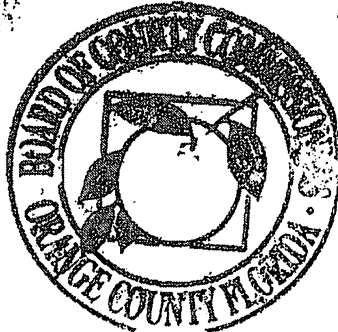
9. ***Time is of the Essence.*** Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Amendment and in the Agreement.

10. ***Amendments.*** No amendment, modification, or other change to this Amendment or the Agreement shall be binding upon the parties unless in writing and executed by all the parties hereto.

[SIGNATURE PAGES FOLLOW]



IN WITNESS WHEREOF, the Parties have caused this Amendment to be duly executed by their respective duly authorized representatives on the dates set forth below.



ATTEST:  
Martha O. Haynie, County Comptroller  
As Clerk of the Board of County Commissioners

By: Neelina  
Deputy Clerk  
Print name: Noelina Perez

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners  
By: Teresa Jacobs  
Teresa Jacobs,  
Orange County Mayor

Date: Sept. 15, 2015

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY,**  
a body politic and corporate and an  
agency of the State of Florida

By: \_\_\_\_\_  
print name: \_\_\_\_\_  
As its Chairman

Date: \_\_\_\_\_, 2015

ATTEST:  
Darleen Mazzillo, Executive Secretary

Signature: \_\_\_\_\_

WITNESSES:

[Signature]

Print Name:

Chris Dumas

Thane Smith

Print Name:

Thane Smith

SUBURBAN LAND RESERVE, INC., a Utah  
corporation

By:

R. Steven Romney  
R. Steven Romney, President

Date:

August 13, 2015

STATE OF UTAH

COUNTY Salt Lake

SWORN TO and subscribed freely and voluntarily for the purposes therein expressed before me by R. Steven Romney, President of Suburban Land Reserve, Inc., a Utah corporation, who executed the foregoing on behalf of said corporation and who did/did not take an oath. He is X personally known to me or      produced      as identification.

WITNESS my hand and official seal in the State and County last aforesaid this 13<sup>th</sup> day of August, 2015.

[Affix Notary Seal]



Signature of Notary

Colette D. Yates  
Colette D. Yates

Print/Type Name of Notary

Commission Number: 678614

My Commission Expires: 7/18/2018

JDA