

**TERM SHEET FOR MEMORANDUM OF UNDERSTANDING/ INTERLOCAL
AGREEMENT BETWEEN OSCEOLA COUNTY, FLORIDA AND CENTRAL
FLORIDA EXPRESSWAY AUTHORITY**

Parties: Osceola County, Florida (the "County")
Central Florida Expressway Authority ("CFX")

- **Proposed Terms of Agreement between CFX and the County**

- **CFX Master Plan Inclusion.** CFX will include the OCX Master Plan segments in its long term plan. During the term of the Interlocal Agreement, CFX will not materially alter or amend the OCX Master Plan without the prior written agreement or consent of the County.
- The County and OCX will agree to transfer to CFX any studies, designs, engineering plans or other relevant materials regarding all of the OCX Master Plan projects (collectively, the "Plans") and CFX will reimburse the County and OCX for the costs of such Plans. The amount of such reimbursement shall be specified in the final form of Agreement between CFX and the County.
- The County and OCX will cooperate with CFX in scheduling and attending meetings with CFX regarding the OCX Master Plan projects and will help to coordinate meetings with any cooperating agencies undertaking studies or work on behalf of OCX or the County.
- **Poinciana Parkway.**
 - At the County's election, CFX will initially operate Poinciana Parkway (the "Parkway") as a Non-System Project;
 - Parkway Revenues will be applied in accordance with existing Bond Documents, including application of revenues for:
 - Bond debt service;
 - Operations and maintenance of the Parkway;
 - CFX will operate the toll facilities, as currently planned.

- CFX will determine whether it is more cost effective for CFX to undertake maintenance of the Parkway using an existing maintenance contract that CFX has with respect to its System in order to achieve cost savings.
- Excess Revenues of the non-system project will be applied in accordance with the Bond Resolution, with the intention being that such revenues shall be available to reimburse the County and OCX for project costs incurred on the Parkway during the period the Parkway is operated as a Non-System Project. After all reimbursements to the County and OCX are completed, excess revenues shall be reserved for OCX Master Plan projects as long as the Poinciana Parkway remains a non-system project.
- CFX shall have the right to acquire the Parkway as a System Project, subject to:
 - Compliance with the terms of its Master Bond Resolution and the County resolution authorizing the issuance of County Bonds for the Parkway;
 - CFX shall have refinanced or otherwise assumed the obligation of the County for the existing County Bonds for the Parkway, and shall have either refinanced or assumed the obligation of the County under the State Infrastructure Bank loan ("SIB Loan") for the Parkway;
 - In accordance with the statute (*see Background below*), CFX shall reimburse the County and OCX for any additional costs incurred by the County or OCX for the Parkway. Such reimbursement shall include the costs of the Parkway that were financed with the proceeds of County bonds and subordinate State Infrastructure Bank loans, as well as costs of the Parkway that were separately funded by the County (e.g., cost or consideration paid by the County for right of way, which amount will be set forth in the final agreement between CFX and the County; \$6 million cash contribution to the Parkway project) and Polk County, Florida (\$3 million cash contribution to the Parkway project). Such reimbursement by CFX shall not include:

- the cost of any Plans that CFX has already acquired from the County/OCX;
 - costs and expenses for which the County and/or OCX have already reimbursed themselves from excess Parkway revenues during the period that the Parkway is operated as a Non-System Project; or
 - any costs or obligations assumed by CFX as part of its acquisition of the Parkway as a System asset (e.g., the County shall not be reimbursed for any outstanding balance of the County Bonds or SIB Loan assumed by CFX).
 - CFX shall have acquired from the County any additional right of way owned by the County that is needed for the future expansion of the Parkway (approximately up to 104 acres), at a price equal to the fair market value of such right of way as of the date the right of way is acquired. Such fair market value shall be determined by an appraiser that is mutually acceptable to the County and CFX.
 - The County shall transfer title to the property upon which the Parkway is located and any associated right of way to CFX.
- **Other OCX Master Plan Segments.** Within twelve (12) months of the date that CFX procures and engages a professional to perform such services, CFX will, at its cost, promptly and diligently undertake and complete a comprehensive concept and feasibility study (the "Concept and Feasibility Study") of the OCX Master Plan segments (including the 2 mile extension referenced in the 2014 Amendment) other than the Parkway (collectively, the "OCX Segments," or individually, an "OCX Segment"), for the purpose of prioritizing and advancing OCX Segments that can be designed and built using a CFX pledge of System revenues. If CFX does not complete the Concept and Feasibility Study for the OCX Segments on or before the twelve month period described above, then the County shall have the right to rescind and terminate the Interlocal Agreement, as described below.

- CFX will include OCX Master Plan segments into its PD&E, design and construction processes as the projects are determined to be financially viable and fundable through CFX's annual 5-Year Work Plan development process.
- Once an OCX Master Plan segment is determined to be financially viable and fundable, then CFX management will include the next phase of such segment in the next annual proposed 5-Year Work Plan. If CFX determines not to include the next phase of such segment in the next annual 5-Year Work Plan, then the County shall have the right to rescind CFX's right to such segment in accordance with the terms of the agreement between CFX and the County.
- CFX will include in the financing of any OCX Master Plan segment any amounts necessary to reimburse the County and OCX for costs and expenses incurred by the County or OCX for such segment for which they have not already been reimbursed from (a) excess Parkway revenues (while operated as a Non-System Project), or (b) CFX's initial payment to the County and/or OCX for the Plans, as referenced above.
- CFX and Osceola County agree that the projects will be funded as CFX System projects and as such, the revenues generated by these projects will be included as CFX system revenues to support the four county regional transportation needs and shall be subject to the CFX Master Resolution flow of funds.
- The County and/or OCX shall agree to transfer to CFX the right to utilize, or (to the extent the availability is dependent upon the County or OCX receiving such funds) coordinate with CFX on the application of any third party funds ("Third Party Funds") that are available to the County and/or OCX for the study, design, acquisition, financing or construction of any Master Plan segment (e.g., Osceola Parkway extension funds).
- **County Right of Rescission and Termination.** The County reserves the right to rescind or take back any of the OCX Master Plan segments at the completion of each of the following stages of development upon the reimbursement of CFX costs incurred for the associated segment:
 - 1) Failure to complete the Concept and Feasibility Study within 12 months after award

- 2) Failure to Include in 5-Year Work Plan (once viable and fundable)
 - 3) Failure to begin the PD&E phase
 - 4) Failure to begin the Design phase
 - 5) Failure to begin the Construction Phase
- Conditions to County's exercise of right to rescind:
 - In connection with exercising such right, the County shall be obligated to reimburse CFX for any costs and expenses incurred by or on behalf of CFX through the date that the County exercises its right of rescission (including costs and expenses paid by CFX after the rescission date that are applicable to services or activities that occurred on or prior to the rescission date). Such reimbursement amount shall not include any Third Party Funds.
 - Once CFX has undertaken any financing to design, acquire, construct and equip all or a portion of an OCX Master Plan segment, the County's right of rescission with respect to such OCX Master Plan segment shall terminate with respect to such segment.
 - **Continuing Role of OCX and the County**
 - CFX is willing to agree that OCX and the County can continue in an advisory role with respect to the OCX Segments. In such capacity, CFX will provide periodic reports and updates (at least semiannually) to OCX and the County on the status of any analysis and development of any OCX Segment.

Background:

- **CFX Enabling Act**
 - CFX's enabling act (Florida Statutes, Chapter 348, Part III)
 - Amended in 2014 to expand its operational jurisdiction to include the County, as well as Lake and Seminole Counties.
 - A member of the County Board of County Commissioners (currently, Commissioner Hawkins) serves as a fully participating, voting member of the CFX governing board.
 - County staff members also serve on various CFX committees (Finance; Operations; Right of Way and Audit).
- **2014 Amendment to CFX Enabling Act**
 - Amended in 2014 (the "2014 Amendment")¹ to:
 - provide for the transfer from the Osceola County Expressway Authority ("OCX") to CFX of:
 - "all powers, governance and control of the 'OCX System.' " (§ 20(1))
 - "all assets, liabilities, facilities, tangible and intangible property and any rights in the property, and any other legal rights of OCX." (§ 20(1))
 - timing of transfer (§ 20(1)):
 - December 31, 2018; or
 - If later, the date on which the current and forecasted total debt service coverage ration with respect to all bonds, note and other debt obligations issued to finance such projects to be transferred can be and is calculated and certified by the financial advisor for CFX to be equal to or greater than 1.5 for each and every year during which such obligations are scheduled to be outstanding, including scheduled reimbursement obligations to other governmental entities."
 - The 2014 Amendment further provides that:
 - CFX shall:

¹ Laws of Florida, Chapter 2014-171 (2014) (parenthetical references are to specific sections of Chapter 2014-171).

- following the transfer referenced above, include the uncompleted elements of the OCX Master Plan (plus a two mile extension to the Osceola Parkway Extension described in the 2014 Amendment) in its master plan or long range plan as non-system projects. (§ 20(3)(a))
- "comply with all obligations of OCX to reimburse other government entities for costs incurred on behalf of the OCX System from revenues of the OCX System available after payment of all amounts due under any resolution² authorizing the issuance of bonds to finance any portion of the OCX System." (§ 20(4))
 - this obligation includes the obligation of OCX to reimburse the County or Polk County for costs incurred or debt issued to fund the acquisition development, construction, operation and maintenance of the OCX System. (§ 20(4))
- CFX may (but is not required to):
 - Use other funds of CFX to pay a reimbursement obligation to the extent that OCX System revenues are insufficient for such purpose. (§ 20(4))
 - In its sole discretion, financially support any elements of the OCX Master Plan (and the referenced 2 mile extension). (§ 20(6))
- Excess³ OCX System Revenues shall be used (§ 20(5)):
 - On a pro-rata basis, to reimburse in full the County or other local government agencies for amounts loaned to OCX to complete a OCX facility;
 - Thereafter, to advance uncompleted elements of the OCX Master Plan (as well as a 2 mile extension to the Osceola Parkway Extension referenced in the 2014 Amendment).

² The County, by resolution, adopted a Trust Indenture to issue and secure bonds issued by the County to finance the Poinciana Parkway project.

³ Excess Revenues means revenues after the payment of operation, maintenance and administrative expenses of OCX facilities as well as debt service on any financings related to such OCX facilities