

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel *Linda S. B.*
Deborah Keeter, Dewberry *Deborah Keeter*

DATE: June 29, 2017

RE: State Road (SR) 408, Project 408-128 (Reference Project 408-304, Parcel 814)
Owner: Eastmar Commons Partnership, successor in title to Victoria Equities
Location: East of Dean Road on SR 408

INTRODUCTION

We are seeking Board approval of a negotiated Real Estate Purchase Agreement with Eastmar Commons Partnership, successor in title to Victoria Equities, relating to acquisition of the fee interest in property that is already encumbered by an easement held by the Central Florida Expressway Authority ("CFX") for the sum of \$750.

BACKGROUND

In 1987 and in conjunction with the eastern extension of SR 408, as known as Project 408-304, CFX's predecessor purchased several properties from Victoria Equities, Inc., including a 1.12-acre drainage easement referred to as Parcel 814.

Now, CFX would like to acquire the entire fee simple interest over Parcel 814 for the widening S.R. 408 from S.R. 417 to Alafaya Trail. The widening of S.R. 408 includes a sound wall along or within Parcel 814. The acquisition would be for future construction, maintenance, drainage, related facilities, or other appropriate and legally authorized uses.

Eastmar Commons Partnership has agreed to sell the fee interest in Parcel 814 to CFX for \$750 as shown by the attached partially-executed Real Estate Purchase Agreement.

REQUESTED ACTION

We respectfully request the Board approve the attached Real Estate Purchase Agreement between Eastmar Commons Partnership and CFX for the purchase of the fee simple interest in Parcel 814 for the sum of \$750.

The Right of Way Committee recommended approval on June 28, 2017.

Attachments: Proposed Agreement and Location Aerial

Reviewed by: *Joseph J. Hosiata*

4974 ORL TOWER RD. ORLANDO, FL 32807 | PHONE: (407) 690-5000 | FAX: (407) 690-5011

WWW.CFXWAY.COM



PROJECT 408-128
S.R. 408 Widening
(Reference Project 408-304
Parcel 814)

REAL ESTATE PURCHASE AGREEMENT

This REAL ESTATE PURCHASE AGREEMENT ("Agreement") is made and entered into this ____ day of _____ 2017, by and between EASTMAR COMMONS PARTNERSHIP, a Florida general partnership, ("Owner"), whose address is 255 Primavera Blvd, St 160, Lake Mary FL and whose U.S. Taxpayer Identification Number is 59-2990184 and the 3274 CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and corporate, and an agency of the state, under the laws of the State of Florida, ("CFX"), whose address is 4974 ORL Tower Road, Orlando, FL 32807.

WITNESSETH:

WHEREAS, Owner is the fee simple owner of a certain parcel of real property located in Orange County, Florida (the "Property"), being more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, CFX's predecessor, the Orlando-Orange County Expressway Authority, acquired a drainage easement over, under and upon the Property in its favor recorded December 22, 1987, in Book 3945, Page 741; and

WHEREAS, CFX desires to acquire the entire fee simple interest over the Property as right of way for future construction and maintenance of an authorized roadway and/or related facilities, drainage, or for other appropriate and legally authorized uses, and CFX is required by law to furnish same for such purpose; and

WHEREAS, Owner, under threat of condemnation, desires to sell to CFX and CFX desires to purchase from Owner the Property upon the terms and conditions hereinbelow set forth.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00) in hand paid by CFX to Owner, 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, CFX and Owner hereby covenant and agree as follows:

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

2. **Agreement to Buy and Sell.** Owner, under threat of condemnation, agrees to sell to CFX and CFX agrees to purchase from Owner the Property in the manner and upon the terms and conditions hereinbelow set forth in this Agreement.

3. **Purchase Price.** The total Property to be purchased from Owner is one and 12/100ths acres (**1.12 acres**), more or less, and includes any and all site improvements (the "Property"). The total purchase price (the "Purchase Price") to be paid by CFX to Owner for the Property shall be **Seven Hundred Fifty Dollars (\$750.00)** which Purchase Price shall be paid by CFX to Owner at Closing. The Purchase Price shall be paid by a check from CFX or by wire transfer of funds, subject to appropriate credits, adjustments and prorations as hereinbelow provided, and represents the full compensation to Owner for the Property and for any damages suffered by Owner and/or any adjoining property owned by Owner in connection with the transaction contemplated under this Agreement.

4. **CFX's Right of Inspection.** CFX shall at all times before Closing have the privilege of going upon the Property with its agents and engineers as needed to inspect, examine, survey and otherwise undertake those actions which CFX, in its discretion, deems necessary or desirable to determine the suitability of the Property for its intended uses thereof. Said privilege shall include, without limitation, the right to make surveys, soils tests, borings, percolation tests, compaction tests, environmental tests and tests to obtain any other information relating to the surface, subsurface and topographic conditions of the Property. CFX may, in its sole discretion and at its sole cost and expense, have the Property tested, surveyed and inspected to determine if the Property contains any hazardous or toxic substances, wastes, materials, pollutants or contaminants. As used herein, "Hazardous Substances" shall mean and include all hazardous and toxic substances, wastes or materials, any pollutants or contaminants (including, without limitation, asbestos and raw materials which include hazardous components), or other similar substances, or materials which are included under or regulated by any local, state or federal law, rule or regulation pertaining to environmental regulation, contamination or clean-up, including, without limitation, "CERCLA", "RCRA", or state superlien or environmental clean-up statutes (all such laws, rules and regulations being referred to collectively as "Environmental Laws"). CFX may obtain a hazardous waste report prepared by a registered engineer, which report, if obtained, shall be satisfactory to CFX in its sole discretion. In the event CFX determines that said report is not satisfactory, CFX may terminate this Agreement, both parties thereby being relieved of all further obligations hereunder.

5. **Evidence of Title.** At any time before Closing, CFX may, at CFX's sole cost and expense, order a commitment from an agent of CFX's selection, for a policy of Owner's Title Insurance (the "Commitment") which shall be written on a title insurance company reasonably satisfactory and acceptable to CFX. Copies of all documents constituting the exceptions referred to in the Commitment shall be attached thereto. The Commitment shall bind the title company to deliver to CFX a policy of Owner's Title Insurance which shall insure CFX's title to the Property in an amount equal to the Purchase Price. CFX shall have **fourteen (14) days** from the date of receipt of the latter of the Commitment or the Survey (as defined below) to examine same and notify Owner of any defects, a defect being a matter which would render title unmarketable or is otherwise unacceptable to CFX. Owner shall have thirty (30) days from receipt of notice within which to remove such defect(s), and if Owner is unsuccessful in removing same within said time period, CFX shall have the option of: (i) accepting title as it then is; or (ii) terminating this Agreement, whereupon each party shall then be released of all further obligations hereunder. Owner agree that it will, if title is found to be unmarketable or otherwise unacceptable to CFX, use its best efforts to correct the defect(s) in title within the time period provided therefor. In the event any of the foregoing time periods extend beyond the Closing Date, the Closing Date shall extend accordingly at CFX's option. Those matters set forth on **Exhibit "B"** attached hereto and

incorporated herein by reference, together with those title exceptions listed in the Commitment and accepted by CFX, shall be deemed and collectively referred to herein as the "Permitted Exceptions". CFX shall take title to the Property subject to the Permitted Exceptions. At Closing, CFX shall pay the premium for the Owner's Title Insurance Policy to be issued.

6. **Survey.** CFX shall have the right, at any time before Closing, to have the Property surveyed at its sole cost and expense (the "Survey"). Any Survey shall be performed and certified to CFX and the title company issuing the Commitment in accordance with applicable law, statutes and regulations and shall have located thereon all matters listed in the Commitment which are capable of being shown on a survey. Any survey exceptions or matters not acceptable to CFX shall be treated as title exceptions. The surveyor shall provide certified legal descriptions and sketches of said descriptions delineating the Property into various portions of right of way and the legal descriptions will be included in the deed as an additional description of the Property conveyed by Owner.

7. **Closing Date and Closing Procedures and Requirements.**

(a) **Closing Date.** The closing of the purchase and sale contemplated under this Agreement (the "Closing") shall be held on or before sixty (60) days after the Acceptance Date or such earlier date selected by CFX upon not less than ten (10) days' written notice to Owner (the "Closing Date"), at the offices of CFX, or CFX's attorney, or any other place which is mutually acceptable to the parties.

(b) **Conveyance of Title.** At the Closing, Owner shall execute and deliver to CFX a Statutory Warranty Deed, in the form and content attached hereto as **Exhibit "C"** and incorporated herein by reference, conveying fee simple marketable record title to the Property to CFX, free and clear of all liens, general and special assessments, easements, reservations, restrictions and encumbrances whatsoever.

In the event any mortgage, lien or other encumbrance encumbers the Property at Closing and is not paid and satisfied by Owner, such mortgage, lien or encumbrance shall, at CFX's election, be satisfied and paid with the proceeds of the Purchase Price.

(c) **Conveyance of Possession.** Title shall transfer as of the Closing Date and, on or before the Closing Date, Owner shall abandon and vacate the Property and shall remove all personal property not included in this transaction that Owner intends to remove from the Property and for which CFX has not paid Owner as part of the Closing. Owner shall surrender possession of the Property to CFX at the Closing free of any tenancies, sub-tenancies or encumbrances, except those listed on the Permitted Exceptions in **Exhibit "B"**. Any personal property or fixtures left by Owner upon the Property after the Closing Date shall be presumed to be abandoned, and CFX will have the right to remove and destroy such property or fixtures without any responsibility or liability to Owner for any damages or claims whatsoever.

(d) **Prorating of Taxes and Assessments.** Owner shall pay all taxes, assessments and charges applicable to the Property for all years. At Closing, Owner will pay to CFX or the closing agent, by credit to the Purchase Price or otherwise, Owner's pro rata share of all taxes, assessments and charges as determined by the Orange County Property Appraiser, the Orange County Tax Collector and/or other applicable governmental authority.

(e) Closing Costs. CFX shall, at Closing, pay: (i) all real property transfer and transaction taxes and levies, including documentary stamps on the Statutory Warranty Deed delivered to CFX hereunder, if any, relating to the purchase and sale of the Property; (ii) the cost of recording the Statutory Warranty Deed delivered hereunder; (iii) all costs pertaining to the title commitment, including, but not limited to, title insurance premiums, title search fees, and the premiums for any endorsements requested by CFX, and all costs related to the issuance of the Commitment and a title insurance policy insuring title to the Property, should CFX desire to obtain a title insurance policy on the Property; (iv) all of the costs and expenses associated with the Survey, should CFX desire to obtain a Survey. All other costs incurred at Closing shall be borne by the parties in accordance with the custom and usage in Orange County, Florida.

(f) General Closing Documents. At Closing, the Owner shall sign a closing statement, an owner's affidavit including matters referenced in Section 627.7842(b) and (c), Florida Statutes, and an affidavit that Owner is not a foreign person for purposes of the Foreign Investment in Real Property Tax Act (FIRPTA), as revised by the Deficit Reduction Act of 1984 and as same may be amended from time to time (which certificates shall include Owner's taxpayer identification number and address or a withholding certificate from the Internal Revenue Service stating that Owner is exempt from withholding tax on the Purchase Price under FIRPTA) and such other documents as are necessary to complete the transaction. If, at the time of Closing, the Owner holds title to the Property in the form of a partnership, limited partnership, corporation, trust or any form of representative capacity whatsoever, then at Closing the Owner shall sign a beneficial interest affidavit described in Section 286.23, Florida Statutes, as applicable (a copy of which is attached hereto as Exhibit "D").

8. Maintenance of Property. From and after the date hereof and until physical possession of the Property has been delivered to CFX, Owner will keep and maintain all of the Property in good order and condition and will comply with and abide by all laws, ordinances, regulations and restrictions affecting the Property or its use, and Owner will pay all taxes and assessments relative to the Property prior to the due date thereof. From and after the date hereof, Owner shall not offer to sell the Property to any other person or entity or enter into any verbal or written agreement, understanding, or contract relating to the sale or conveyance of the Property or any interest therein.

9. Warranties and Representations of Owner. To induce CFX to enter into this Agreement and to purchase the Property, Owner, in addition to the other representations and warranties set forth herein, make the following representations and warranties, each of which is material and is being relied upon by CFX and shall survive Closing;

(a) That Owner owns fee simple marketable record title to the Property, free and clear of all liens, special assessments, easements, reservations, restrictions and encumbrances and there are no tenancy, rental or other occupancy agreements affecting the Property.

(b) That there are no actions, suits or proceedings of any kind or nature whatsoever, legal or equitable, affecting the Property or any portion thereof or relating to or arising out of the Ownership of the Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau, or agency or other governmental instrumentality, unless such action has been commenced by CFX.

(c) Owner has the full right, power and authority to enter into and deliver this Agreement and to consummate the purchase and sale of the Property in accordance herewith and to perform all covenants and agreements of Owner hereunder.

(d) Owner has no knowledge or notice that any present default or breach exists under any mortgage or other encumbrance encumbering the Property or any covenants, conditions, restrictions, rights-of-way or easements which may affect the Property or any portion or portions thereof, and that no condition or circumstance exists which, with the passage of time and/or the giving of notice, or otherwise, would constitute or result in a default or breach under any such covenants, conditions, restrictions, rights-of-way or easements.

(e) Owner has no knowledge that the Property has ever been used by previous Owner and/or operators to generate, manufacture, refine, transport, treat, store, handle or dispose of any Hazardous Substances. Owner has no knowledge of the Property having ever contained nor does it now contain either asbestos, PCB or other toxic materials, whether used in construction or stored on the Property, and Owner has not received a summons, citation, directive, letter or other communication, written or oral, from any agency or Department of the State of Florida or the U. S. Government concerning any intentional or unintentional action or omission on Owner's part which had resulted in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of Hazardous Substances. Owner has no knowledge of any release of Hazardous Substances or notice of violation of any environmental law related to such operation.

(f) Owner has no knowledge of any anti-pollution, Environmental Laws, rules, regulations, ordinances, orders or directives which would hinder, prevent or substantially obstruct CFX's use of the Property.

(g) There are no Hazardous Substances, pollutants, contaminants, petroleum products or by-products, asbestos or other substances, whether hazardous or not, on or beneath the surface of the Property, which Owner or any other person or entity has placed or caused or allowed to be placed upon the Property, and which have caused or which may cause any investigation by any agency or instrumentality of government, which are or may be on the Property in violation of any law or regulation of any local, state or federal government or which are or may be a nuisance or health threat to occupants of the Property or other residents of the area.

(h) No person, firm or other legal entity other than CFX has any right or option whatsoever to acquire the Property or any portion or thereof or any interest therein.

(i) That the execution and delivery of this Agreement and the consummation of the transaction contemplated herein shall not and do not constitute a violation or breach by Owner of any provision of any agreement or other instrument to which Owner is a party or to which Owner may be subject although not a party, nor result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against Owner.

(j) That each and every one of the foregoing representations and warranties is true and correct as of the date hereof, will remain true and correct throughout the term of this Agreement, and will be true and correct as of the Closing Date.

(k) In the event that changes occur as to any information, documents or exhibits referred to in the subparagraphs of this section, or in any other part of this Agreement, of which Owner has knowledge, Owner will immediately disclose same to CFX when such knowledge is first available to Owner; and in the event of any change which may be deemed by CFX to be materially adverse, CFX may, at its election, terminate this Agreement.

10. **Defaults.** In the event either party breaches any warranty or representation contained in this Agreement or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by such party under the terms and provisions of this Agreement, the non-defaulting party, in its sole discretion, shall be entitled to: (i) exercise any and all rights and remedies available to it at law and in equity, including without limitation, the right of specific performance; or (ii) terminate this Agreement. Upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect. Nothing contained in this subsection shall limit or prevent CFX from exercising its power of eminent domain to acquire, by condemnation, title to the Property.

11. **Notices.** Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered, transmitted electronically (i.e., by telecopier device) or within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

CFX: CENTRAL FLORIDA
EXPRESSWAY AUTHORITY
4974 ORL Tower Road
Orlando, Florida 32807
Attn: Executive Director
Telephone: (407) 690-5000
Facsimile: (407) 690-5011

With a copy to: CENTRAL FLORIDA
EXPRESSWAY AUTHORITY
4974 ORL Tower Road
Orlando, Florida 32807
Attn: General Counsel
Telephone: (407) 690-5000
Facsimile: (407) 690-5011

OWNER: Eastman Commons Partnership
255 Primeva Blvd Suite 160
Lake Mary FL 32746
Telephone: 407-649-4205

With a copy to:

John Keating, Esquire
Keating & Schlitt, P.A.
250 East Coloma Suite 300
Orlando FL 32801
Telephone: 407-425-2907
Facsimile: Email jck@kcatlaw.com

or to such other address as either party hereto shall from time to time designate to the other party by notice in writing as herein provided.

12. **General Provisions.** No failure of either party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof. This Agreement contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Any amendment to this Agreement shall not be binding upon any of the parties hereto unless such amendment is in writing and executed by Owner and CFX. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns. Time is of the essence of this Agreement. Wherever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday, or Legal Holiday, such time for performance shall be extended to the next business day. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. The headings inserted at the beginning of each paragraph of this Agreement are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph. Owner and CFX do hereby covenant and agree that such documents as may be legally necessary or otherwise appropriate to carry out the terms of this Agreement shall be executed and delivered by each party at Closing. This Agreement shall be interpreted under the laws of the State of Florida. The parties hereto agree that the *exclusive* venue for any legal action authorized hereunder shall be in the courts of Orange County, Florida. TIME IS OF THE ESSENCE OF THIS AGREEMENT AND EACH AND EVERY PROVISION HEREOF.

13. **Survival of Provisions.** All covenants, representations and warranties set forth in this Agreement shall survive the Closing and shall survive the execution or delivery of any and all deeds and other documents at any time executed or delivered under, pursuant to or by reason of this Agreement, and shall survive the payment of all monies made under, pursuant to or by reason of this Agreement.

14. **Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

15. **Attorneys' Fees.** In the event of any dispute hereunder or of any action to interpret or enforce this Agreement, any provision hereof or any matter arising herefrom, each party shall bear their own fees and costs.

16. **Waiver of Jury Trial.** OWNER AND CFX VOLUNTARILY WAIVE A TRIAL BY JURY IN ANY LITIGATION OR ACTION ARISING FROM THIS AGREEMENT.

17. **Radon Gas.** Radon is naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

18. **Conditional Acceptance.** Owner hereby acknowledges and agrees that CFX's execution hereof and acceptance of the terms and provisions hereof constitute a conditional acceptance and agreement. Notwithstanding anything to the contrary contained herein, it is expressly acknowledged and agreed that, pursuant to Section 119.07(6)(n), Florida Statutes, as amended from time to time, this Agreement shall be subject to the final approval and acceptance by CFX's Board, in its sole discretion, and shall be accepted or rejected by said Board on or before ninety-five (95) days after the Effective Date of this Agreement (the "Acceptance Date"). In the event of Acceptance, CFX shall notify Owner in writing within fifteen (15) days after the Board meeting at which the Agreement was accepted by executing and delivering the Notice of Approval and Acceptance in the form attached hereto as **Exhibit "E"**. Provided this Agreement is timely accepted by CFX, this Agreement shall continue in full force and effect, subject to the terms and provisions hereof. In the event CFX shall fail to accept this Agreement on or before the Acceptance Date, this Agreement shall be deemed rejected. If this Agreement is rejected or deemed rejected by CFX, this Agreement shall automatically be null and void and of no further force or effect and the parties shall be released from all further obligations and liabilities hereunder. Owner hereby expressly acknowledges and agrees that Owner has made and entered into this Agreement in consideration of CFX's covenant to conditionally accept this Agreement subject to final acceptance by CFX, in its sole discretion, in accordance with the terms and conditions herein set forth.

19. **Design, Location and Funding Disclosure.** In accordance with Section 5-5.025 of the Central Florida Expressway Authority Right-of-Way Acquisition Procedures Manual, Owner acknowledges that: (i) the design and location of any contemplated or proposed roadway systems or access scenarios are not guaranteed unless otherwise specified therein; (ii) funding has not been completed for the subject project; and (iii) this Agreement may be subject to funding by a CFX bond issue or other applicable sources.

20. **Effective Date.** When used herein, the term "Effective Date" or the phrase "the date hereof" or "the date of this Agreement" shall mean the last date that either CFX or Owner execute this Agreement.

21. **Release of CFX.** By execution of this Agreement, Owner acknowledges and agrees that as of the date of Owner's execution and delivery of the deed, Owner shall thereby remise, release, acquit, satisfy, and forever discharge CFX, of and from all, and all manner of action and actions, cause and causes of action, suits, sums of money, covenants, contracts,

controversies, agreements, promises, trespasses, damages, judgments, claims and demands whatsoever, in law or in equity, which Owner ever had or has, or which any personal representative, successor, heir or assign of Owner, thereafter can, shall or may have, against CFX, for, upon or by reason of any matter, cause or thing whatsoever, arising out of or in any way connected with Owner's conveyance of the Property to CFX, including, without limitation, any claim for loss of access to Owner's remaining property, severance damages to Owner's remaining property, business damages or any other damages, all from the beginning of the world to the day thereof. A covenant shall be contained in the deed acknowledging Owner's agreement to the foregoing. (Right-of-Way Acquisition Procedures Manual, Section 5-5.025)

22. **Not an Offer.** Notwithstanding anything to the contrary in this Agreement, in the event that the transaction under this Agreement does not close, this Agreement shall not be deemed an offer nor admissible in any subsequent eminent domain proceeding with respect to the Property.

23. **Indemnifications Regarding Brokers, Finders, Etc.** Owner represents and warrants to CFX, and CFX likewise represents and warrants to Owner, that they have neither dealt with, nor negotiated with, any broker, sales person or finder in connection with the sale of the Property to CFX, and each Party hereto agrees to indemnify and hold the other Party harmless from any and all claims, demands, causes of action or other liabilities, and all costs and expenses (including reasonable attorneys' fees) incurred in defending against any claims arising from or pertaining to any other brokerage commission, fees, costs, or other expenses which may be claimed by any broker, sales person or entity arising out of any actions of CFX (as to the indemnity obligations of CFX) or arising out of any actions of Owner (as to the indemnity obligations of Owner).

24. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same Agreement.

THE NEXT PAGE IS THE SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective names as of the date first above written.

WITNESSES:

Toni A. Liguori
Print Name: TONI A. LIGUORI

R. Pritchard
Print Name: R. PRITCHARD

"OWNER"

**EASTMAR COMMONS
PARTNERSHIP, a Florida General
Partnership**

Victoria Equities, Inc Partner

By: A. Daynerich
Printed Name: A. DAYNERICH
Title: President
Date: 5/15/17

WITNESSES:

Print Name: _____

Print Name: _____

"CFX"

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

By: _____
Printed Name: _____
Title: _____
Date: _____

**APPROVED AS TO FORM FOR
EXECUTION BY A SIGNATORY OF
THE CENTRAL FLORIDA
EXPRESSWAY AUTHORITY**

By: _____
General Counsel

Date: _____

SCHEDULE OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	Legal Description of The Property
B	Schedule - Permitted Exceptions
C	Form – Special Warranty Deed
D	Form – Beneficial Interest Affidavit
E	Form – Notice of Approval and Acceptance

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

PROJECT 408-128
S.R. 408 Widening
PARCEL NO. 114
(Reference Project 408-304
Parcel 4-814)

Parcel ID No.: 29-22-31-2366-00-001

Begin at the Northeast corner of the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 29, Township 22 South, Range 31 East, State of Florida, Orange County;

thence South $00^{\circ} 20' 18''$ West a distance of 230.01 feet along the East line of the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 29;

thence South $89^{\circ} 51' 40''$ West a distance of 96.48 feet;

thence North $45^{\circ} 08' 20''$ West a distance of 325.27 feet to the North line of the Southwest $\frac{1}{4}$ of Section 29;

thence North $89^{\circ} 51' 40''$ East a distance of 328.40 feet to the Point of Beginning.

Containing 1.12 acres more or less.

Also described as:

Tract "A", Eastmar Commons Phase Two, according to the plat thereof, as recorded in Plat Book 41, pages 82 and 83, of the Public Records of Orange County, Florida.

EXHIBIT "B"

PERMITTED EXCEPTIONS

1. Real Property Taxes for the year 2017.
2. Drainage Easement in favor of Orlando/Orange County Expressway Authority recorded December 22, 1987 in Book 3945, Page 741, Public Records of Orange County, Florida.
3. Restrictions, dedications, conditions, reservations, easements and other matters shown on the plat of Eastmar Commons Phase 2, as recorded in Plat Book 41, Pages(s) 82 and 83, Public Records of Orange County, Florida, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604©.

EXHIBIT "C"

FORM – SPECIAL WARRANTY DEED

**PROJECT 408-128
S.R. 408 Widening
(Reference Project 408-304
Parcel 814)**

This deed has been executed and delivered under threat of condemnation and/or in settlement of condemnation proceedings affecting the property described herein and is not subject to documentary stamp tax. See, Department of Revenue Rules 12B-4.013(4) and 12B-4.014(14), F.A.C; *and see, Florida Department of Revenue v. Orange County*, 620 So.2d 991 (Fla. 1993)

SPECIAL WARRANTY DEED

THIS INDENTURE, made and executed the _____ day of _____, 2017 by **EASTMAR COMMONS PARTNERSHIP**, a Florida general partnership, whose address is _____ hereinafter referred to as "Grantors," to **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body politic and corporate, and an agency of the state, under the laws of the State of Florida, whose tax identification number is 59-1021557, and whose mailing address is 4974 ORL Tower Road, Orlando, FL 32807, hereinafter referred to as "Grantee".

W I T N E S S E T H:

THAT Grantors, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, receipt whereof is hereby acknowledged, hereby grant, bargain, sell, aliens, remise, release, convey and confirm unto Grantee all that certain land situate in Orange County, Florida, to-wit:

Parcel Identification No.: 29-22-31-2366-00-001

Legal Description: See attached **EXHIBIT "A"** (the **"Property"**)

TOGETHER WITH all right of ingress, egress, light, air and view to, from or across any of the Property which may otherwise accrue to any property adjoining said Property and all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

SUBJECT TO those exceptions listed on **EXHIBIT "B"** attached hereto and incorporated herein by this reference, but this reference shall not act to reimpose any of the same.

SUBJECT TO the ad valorem real estate taxes for the calendar year 2017 and all subsequent years thereafter.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND Grantors hereby covenant with Grantee that Grantors are lawfully seized of said land in fee simple; that Grantors have good right and lawful authority to sell and convey said land; that Grantors hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whatsoever; and that said land is free of all encumbrances except those matters set forth on **Exhibit "B"**.

AND by execution and delivery of this deed, Grantors hereby remise, release, acquit, satisfy, and forever discharge Grantee, of and from all, and all manner of action and actions, cause and causes of action, suits, sums of money, covenants, contracts, controversies, agreements, promises, trespasses, damages, judgments, claims and demands whatsoever, in law or in equity, which Grantors ever had, now have, or which any personal representative, successor, heir or assign of Grantors, hereafter can, shall or may have, against Grantee, for, upon or by reason of any matter, cause or thing whatsoever, arising out of Grantors' conveyance of the Property to Grantee, including, without limitation, any claim for loss of access to Grantors' remaining property, severance damages to Grantors' remaining property, business damages or any other damages, both before and after the date of this instrument.

IN WITNESS WHEREOF, Grantors have signed and sealed these presents the day and year first above written.

Signed, sealed and delivered
in the presence of:

**EASTMAR COMMONS
PARTNERSHIP, a Florida general
partnership,**

WITNESSES:

Print Name: _____

Printed Name: _____

Title: _____

Date: _____

Print Name: _____

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____ as _____ of **EASTMAR COMMONS PARTNERSHIP, a Florida general partnership**. He / She is personally known to me or has produced _____ as identification and who did/did not take an oath.

(Signature of Notary Public)

(Typed name of Notary Public)
Notary Public, State of Florida
Commission No.: _____
My commission expires: _____

EXHIBIT "D"

DISCLOSURE OF INTERESTS IN REAL PROPERTY

TO: Executive Director, CENTRAL FLORIDA EXPRESSWAY AUTHORITY,
a body politic and corporate, and an agency of the State of Florida

FROM: **EASTMAR COMMONS PARTNERSHIP, a Florida general partnership,**

SUBJECT: Project 408-128, Parcel _____, as more particularly described on
Exhibit "D1" attached hereto (the "Property")

Please be advised that the undersigned, after diligent search and inquiry, hereby states under oath, and subject to the penalties for perjury, that the name and address of each person having a legal or beneficial interest in the Property as of _____, 2017 is as follows:

Name	Address	Percentage of Ownership
_____	_____ _____	_____
_____	_____ _____	_____

I swear and affirm that the information furnished herein is accurate as of the date hereof, and I agree to promptly disclose any changes in the information contained herein, or any errors in such information.

This disclosure is made under oath and I understand I am subject to penalties for perjury for any false information contained herein.

This disclosure is made pursuant to Section 286.23, Florida Statutes, in connection with a conveyance of the Property to the Central Florida Expressway Authority.

[SIGNATURE AND NOTARY ON NEXT PAGE]

SELLER

**EASTMAR COMMONS
PARTNERSHIP, a Florida general
partnership,**

By: _____
Printed Name: _____
Title: _____
Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____ as _____ of **EASTMAR COMMONS PARTNERSHIP, a Florida general partnership.** He / She is personally known to me or has produced _____ as identification and who did/did not take an oath.

(Signature of Notary Public)

(Typed name of Notary Public)
Notary Public, State of Florida
Commission No.: _____
My commission expires: _____

EXHIBIT "D1"

LEGAL DESCRIPTION TO EXHIBIT "D"
DISCLOSURE OF INTERESTS IN REAL PROPERTY

Begin at the Northeast corner of the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 29, Township 22 South, Range 31 East, State of Florida, Orange County;

thence South $00^{\circ} 20' 18''$ West a distance of 230.01 feet along the East line of the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 29;

thence South $89^{\circ} 51' 40''$ West a distance of 96.48 feet;

thence North $45^{\circ} 08' 20''$ West a distance of 325.27 feet to the North line of the Southwest $\frac{1}{4}$ of Section 29;

thence North $89^{\circ} 51' 40''$ East a distance of 328.40 feet to the Point of Beginning.

Containing 1.12 acres more or less.

Also described as:

Tract "A", Eastmar Commons Phase Two, according to the plat thereof, as recorded in Plat Book 41, pages 82 and 83, of the Public Records of Orange County, Florida.

EXHIBIT "E"

NOTICE OF APPROVAL AND ACCEPTANCE

Pursuant to the terms and conditions of Section 119.07(3)(n), Florida Statutes, the Central Florida Expressway Authority, a body politic and corporate and an agency of the state, under the laws of the State of Florida ("CFX"), on the day and date set forth hereinbelow has duly approved and accepted that certain Real Estate Purchase Agreement dated _____, 2017, by and between EASTMAR COMMONS PARTNERSHIP, a Florida general partnership, and CFX.

"CFX"

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

By: _____
Printed Name: _____
Title _____
Date: _____

STATE OF FLORIDA)
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this ____ day of _____
2017, by _____ as _____ of Central Florida Expressway
Authority, a body politic and corporate, and an agency of the state, under the laws of the State of
Florida, on behalf of the corporation. He / She is personally known to me or has produced
_____ as identification and who did/did not take an oath.

(Signature of Notary Public)

(Typed name of Notary Public)

Notary Public, State of Florida

Commission No. _____

My commission expires: _____



REVISIONS		PROJECT 408-128		CENTRAL FLORIDA AUTHORITY	SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION		
				CENTRAL FLORIDA EXPRESSWAY AUTHORITY	
				RIGHT-OF-WAY	
				DEWBERRY ENGINEERS INC. 800 NORTH MAGNOLIA AVENUE SUITE 1000 ORLANDO, FL 32801	
				PROJECT 408-128 SR 408 WIDENING (REFERENCE PROJECT 408-504, PARCEL 814)	
				3/10/2017 3:58:45 AM W:\SS001878\proj408-128\proj408-128-Parcels-Field.dwg	