

AGENDA
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
RIGHT OF WAY COMMITTEE

October 23, 2019

2:00 p.m.

Meeting location: Central Florida Expressway Authority Board Room
4974 ORL Tower Road, Orlando, FL 32807

1. CALL TO ORDER

2. PUBLIC COMMENT

Pursuant to Section 286.0114, Florida Statutes, the Right of Way Committee will allow public comment on any matter either identified on this meeting agenda as requiring action or anticipated to come before the Committee for action in reasonable proximity to this meeting. Speakers shall be limited to three minutes per person and the assignment of one person's time to another or designation of group spokesperson shall be allowed at the discretion of the Committee Chairman.

3. APPROVAL OF MINUTES

Requesting approval of the August 28, 2019 minutes.

Action Item.

4. RIGHT-OF-WAY TRANSFER AND CONTINUING MAINTENANCE AGREEMENT

PROJECT: 429-201 & 429-202

PARCEL: CONNECTOR ROAD

Request the Committee's recommendation for Board approval of the following:

(1) Jurisdictional Right-of-Way Transfer and Continuing Maintenance Agreement.

– Linda S. Brehmer Lanosa, CFX

Action Item.

AGENDA
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
RIGHT OF WAY COMMITTEE

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2:00 p.m.

Meeting location: Central Florida Expressway Authority Board Room
4974 ORL Tower Road, Orlando, FL 32807

5. DECLARATION OF SURPLUS PROPERTY AND CITY OF APOPKA'S REQUEST TO PURCHASE THE CONNECTOR ROAD PARCEL

PROJECT: 429-201 & 429-202

PARCEL: CFX'S INTEREST IN THE CONNECTOR ROAD PARCEL

LOCATION: NORTH OF U.S. 441 AND NORTH OF CONNECTOR ROAD

Request the Committee's recommendation for Board approval of the following:

- (1) Resolution Declaring the Connector Road Parcel as Surplus Property; and
- (2) Resolution Authorizing the Sale of the Connector Road Parcel to the City of Apopka for Public Road Right of Way and Other Purposes.

– Linda S. Brehmer Lanosa, *CFX*
Action Item.

6. DECLARATION OF SURPLUS PROPERTY AND CITY OF APOPKA'S REQUEST TO PURCHASE SOUTHFORK DRIVE

PROJECT: 429-201 & 429-202

PARCEL: CFX'S FRACTIONAL INTEREST IN SOUTHFORK DRIVE

LOCATION: NORTH OF U.S. 441 RUNNING PERPENDICULAR TO SR 429

Request the Committee's recommendation for Board approval of the following:

- (1) Resolution Declaring CFX's Interest in the Southfork Drive Parcel as Surplus Property; and
- (2) Resolution Authorizing the Sale of CFX's Interest in Southfork Drive to the City of Apopka for Public Road Right of Way Purposes.

– Linda S. Brehmer Lanosa, *CFX*
Action Item.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

AGENDA CENTRAL FLORIDA EXPRESSWAY AUTHORITY RIGHT OF WAY COMMITTEE

October 23, 2019

2:00 p.m.

Meeting location: Central Florida Expressway Authority Board Room
4974 ORL Tower Road, Orlando, FL 32807

7. DECLARATION OF SURPLUS PROPERTY AND CITY OF APOPKA'S REQUEST FOR A GROUND LICENSE FOR A PUBLIC SAFETY RADIO COMMUNICATIONS TOWER

PROJECT: 429-205

PARCEL: 291 PARTIAL

LOCATION: 6578 MT. PLYMOUTH ROAD, APOPKA, FLORIDA

Request the Committee's recommendation for Board approval of the following:

- (1) Resolution Declaring Property as Surplus Property; and
- (2) Resolution Authorizing a Ground License to the City of Apopka for a Public Safety Radio Communications Tower

– Linda S. Brehmer Lanosa, CFX
Action Item.

8. OTHER BUSINESS

9. ADJOURNMENT

THIS MEETING IS OPEN TO THE PUBLIC

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

In accordance with the Americans with Disabilities Act (ADA), if any person with a disability as defined by the ADA needs special accommodation to participate in this proceeding, then not later than two (2) business days prior to the proceeding, he or she should contact the Central Florida Expressway Authority at (407) 690-5000.

Persons who require translation services, which are provided at no cost, should contact CFX at (407) 690-5000 ext. 5316 or by email at Iranetta.dennis@CFXway.com at least three business days prior to the event.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES CENTRAL FLORIDA EXPRESSWAY AUTHORITY Right of Way Committee Meeting August 28, 2019

Location: CFX Headquarters Boardroom
4974 ORL Tower Road
Orlando, Florida 32807

Committee Members Present:

Neil Newton, Seminole County, Alternative Committee Chairman
Laurie Botts, City of Orlando Representative
Bob Babcock, Orange County Alternative Representative
Todd Hudson, Osceola County Representative
Brian Sheahan, Lake County Representative
Christopher Murvin, Citizen Representative

Committee Members Not Present:

Jean Jreij, Seminole County, Committee Chairman
John Denninghoff, Brevard County Representative

CFX Staff Present at Dais:

Laura Kelley, Executive Director
Linda S. Brehmer Lanosa, Deputy General Counsel
Mala Iley, Recording Secretary

Item 1: CALL TO ORDER

The meeting was called to order at 2:00 p.m. by Chairman Neil Newton.

Item 2: PUBLIC COMMENT

Chairman Newton recognized Mr. Chris Wilson, Attorney, from Greater Orlando Aviation Authority, who submitted a public comment card on item 5. Public comment was delayed and addressed during item 5.

Item 3: APPROVAL OF MINUTES

A motion was made by Mr. Murvin and seconded by Mr. Botts to approve the May 22, 2019 Right of Way Committee meeting minutes as presented.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

Item 4: SR 528-436, PROJECT 528-143

AGREEMENT TO RELOCATE POLE SQUARES FOR SIGNAGE ALONG SR 436 (JEFF FUQUA BLVD.) BETWEEN GREATER ORLANDO AVIATION AUTHORITY ("GOAA"), CITY OF ORLANDO ("CITY"), AND CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX")

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval of an agreement between GOAA, City, and CFX to relocate pole squares for signage along SR 436.

CFX intends to improve the interchange of SR 528 and SR 436. This requires the relocation of signage along SR 436. There are three (3) signs will be impacted by the project. The three signs are owned by City and GOAA and are located on six 10' by 10' squares of property (referred to as "Pole Squares").

CFX, City, and GOAA desire to enter into an agreement to exchange four (4) pole squares in return for four (4) easements for pole squares. GOAA will abandon two (2) pole squares based upon the reverter clause in the original deed. CFX will relocate or replace GOAA's existing structures and signage. CFX staff will provide the final legal descriptions and sketches within sixty (60) days to GOAA for approval. The agreement is subject to the receipt of certificates from CFX's general engineering consultant, bond counsel, and the FAA.

CFX will reserve limited access rights.

A motion was made by Mr. Babcock and seconded by Mr. Sheahan to recommend to the Board approval of the attached Agreement to Relocate Pole Squares for Signage along S.R. 436 between Greater Orlando Aviation Authority, City of Orlando, and Central Florida Expressway Authority, subject to minor revisions with the approval of CFX's Executive Director and General Counsel, or their designees, and CFX's General Engineering Consultant and bond counsel.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

Items 5: SR 528

REQUEST FOR A LIGHT LANE EASEMENT WITHIN SR 528 FROM THE GREATER ORLANDO AVIATION AUTHORITY("GOAA") AND CITY OF ORLANDO ("CITY") FOR APPROACH LIGHTING EQUIPMENT

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval of a directive to staff to proceed with the review and analysis of the request from GOAA and City for an easement across SR 528 for its approach lighting equipment.

Ms. Brehmer Lanosa provided a brief description of the location. GOAA and City have made an application to CFX to obtain an easement on SR 528 for certain equipment and underground utilities for approach lighting for runway 17L. The current approach lighting is located within a portion of SR 528 by virtue of a permit, rather than an easement. GOAA and City have asked for an easement agreement and have agreed to

relocate the easement when the property is needed for the expansion of SR 528 and to pay for the cost of relocation.

Ms. Brehmer Lanosa deferred to Scott Glass for the remainder of the presentation.

Mr. Glass provided the Committee with a brief background on the purpose of the request. The lights are there by permit today. There are three areas where the light stations sit. Because of the train, the lights need to be raised. GOAA has requested an easement, rather than a permit. The airport properties are owned by the City. City and GOAA has offered to relocate the approach lighting. When SR 528 is 8-laned, GOAA would pay for all of the expenses involved in relocation and pay for relocation of the existing utility lines. We recommend going forward with drafting a restrictive easement with the protections and promises in the agreement with ability to enforce the relocation of the lights upon expansion of SR 528.

Mr. Glass deferred to Mr. Chris Wilson for an explanation the need for the easement.

Mr. Chris Wilson, with Marchena and Graham, addressed the Committee. This involves the fourth runway, which was constructed in the early 2000s at a cost of about \$90 million to \$100 million. This approach lighting system is a category 3 needed during low visibility. It is a very technical light system. It is the only category 3 on the north end. There is a category 3 from the south as well. We have had a permit for all these years, but in order to qualify for the FAA's grant assurances, GOAA needs to follow all of the requirements, such as good title and certainty. At Tampa International, there are cantilevers that go over the road with the lights on the cantilevers, which we may have to have here. We understand that everyone needs to grow and we can grow together.

In response to a question from Laurie Botts, Chris Wilson confirmed that this change is to accommodate the rail and responded that the lights must stay at that location. When SR 528 is widened, the lights would be placed on a cantilever system and the easement would become an air rights easement.

In response to questions from Mr. Brian Sheahan, Mr. Glass explained that the proposed easement would only be for the pad areas. The lights will have to stay generally in the same place, but the lights will be elevated onto a cantilever when CFX needs to expand SR 528.

Ms. Botts asked if this was a permanent easement that was revocable. Mr. Glass stated that this would have the same terms as the permit, but it would morph once notice is received that SR 528 will be expanded.

Ms. Botts questioned whether the easement should be terminable when CFX needs to expand. Mr. Wilson said that the parties are agreeing that the lights can stay at that location, but the lights will be elevated onto a cantilever.

Mr. Sheahan stated that the agreement should have a clause that forces the parties to the table. If you cannot reach an agreement, is there something that says that you can go through binding mediation or arbitration? Mr. Glass suggested that there be an escalation process to move the issue up to the executive level, then the Board level, and, if necessary, beyond that.

Mr. Newton asked about the status of the permit after an easement is granted. Mr. Glass responded that the terms would be incorporated into the easement.

Ms. Lanosa discussed CFX's existing permitting processes for utility permits and temporary right of entry permits.

Per Mr. Glass, the legal description would be limited to the pads. Mr. Glass suggested that the utilities be addressed by permit.

Ms. Botts concurred that utilities should be addressed by permit. It would be difficult to do an easement, even a non-exclusive easement, because of the critical operations all along the expressway.

Discussed ensued.

A motion was made by Ms. Botts and seconded by Mr. Babcock to approve a directive to staff to proceed with the review and analysis of the request from GOAA and City for an easement across SR 528 for its approach lighting equipment.

Vote: The motion carried unanimously with six (6) members present and voting AYE by voice vote.

Item 7: OTHER BUSINESS

Mr. Newton advised the Committee that next Right of Way Committee Meeting would be Wednesday, September 25, 2019.

Item 8: ADJOURNMENT

Chairman Newton adjourned the meeting at approximately 2:39 p.m.


Minutes approved on _____.

Pursuant to the Florida Public Records Law and Central Florida Expressway Authority Records and Information Management Program Policy, audio tapes of all Board and applicable Committee meetings are maintained and available upon request to the Custodian of Public Records at (407) 690-5326, publicrecords@CFXWay.com or 4974 ORL Tower Road, Orlando, Florida 32807.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: Right of Way Committee Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel 

DATE: October 16, 2019

RE: Right-of-Way Transfer and Continuing Maintenance Agreement (“Agreement”) between Central Florida Expressway Authority (“CFX”) and City of Apopka pertaining to Connector Road, Wekiva Parkway Project 429-201 and 429-202

BACKGROUND

As part of the construction of the Wekiva Parkway, CFX relocated or realigned local roadways, constructed bridges over local roadways, widened local roadways, and constructed retention ponds to serve the local roadway network and to support CFX’s Expressway System. Now that the construction of the Wekiva Parkway has been completed, CFX and the City of Apopka would like to transfer a portion of road right-of-way so that local roads and associated facilities are owned and maintained by the City of Apopka and property and associated facilities utilized for CFX’s Expressway System are owned and maintained by CFX.

More specifically and as depicted in the aerial attached as **Exhibit “1”**, Connector Road will be transferred to the City, subject to an easement for Expressway Facilities over Connector Road. In return, the City will convey any interest it has in T.L. Smith Road. Further, the City would assume responsibility for maintenance and liability for the local road right-of-way and CFX would assume responsibility for maintenance and liability of its Expressway System.

A proposed Right-of-Way Transfer and Continuing Maintenance Agreement is attached as **Exhibit “2.”** The City of Apopka has reviewed the Agreement and agrees with its form, subject to confirmation of the exact legal descriptions and the technical portions of the Agreement. CFX’s general engineering consultant has reviewed the legal descriptions, maintenance functions, and maintenance responsibilities. A condition precedent to the execution of the Agreement by CFX is the receipt of a certificate from CFX’s general engineering consultant that the conveyance of the designated property to the City will not impede or restrict the current or future construction, operation, or maintenance of the Expressway System.

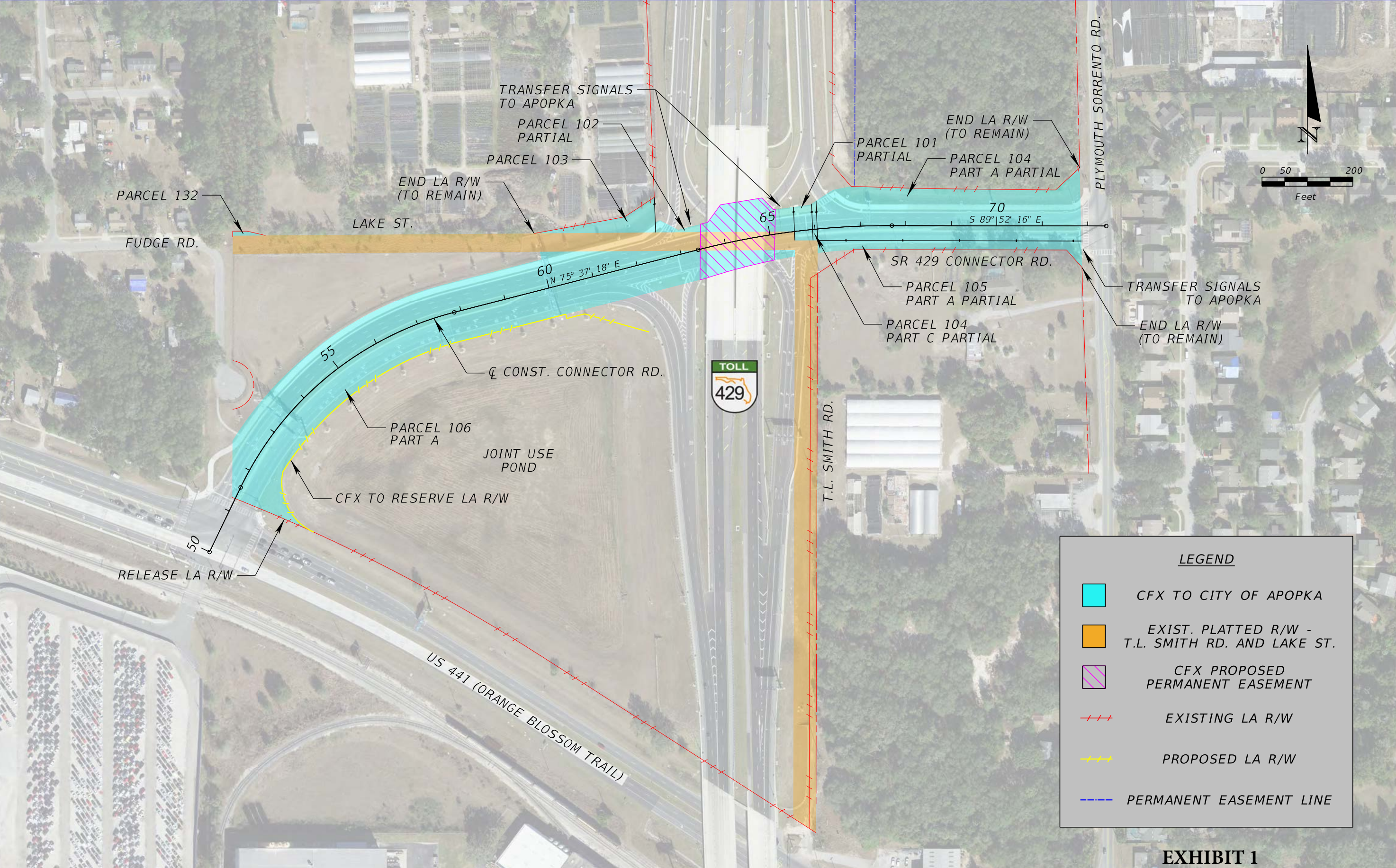
REQUEST

We request the Committee’s recommendation for Board approval of a Right-of-Way Transfer and Continuing Maintenance Agreement between Central Florida Expressway Authority and City of Apopka in a form substantially similar to the attached Agreement, subject to approval of the legal descriptions, deeds, maintenance functions, and maintenance responsibilities by CFX’s General Engineering Consultant and General Counsel or designee.

ATTACHMENTS

1. Aerial
2. Draft Certificate from CFX's General Engineering Consultant
3. Jurisdictional Right-of-Way Transfer and Continuing Maintenance Agreement

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 10/14/2019 10:52:03 AM
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REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

Wekiva Parkway
Right-of-Way

ROAD NO.	PROJECT NO.
SR 429	201, 202



EXHIBIT 1

*CONNECTOR ROAD
PROPERTY TRANSFER
& EASEMENT EXHIBIT*

SHEET NO.
1



October 15, 2019

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

DRAFT

RE: DISPOSITION OF PROPERTY

SR 429, Projects 429-201 & 429-202
CFX Parcels 101(Partial), 102(Partial), 103, 104 (Partial Part A & Partial Part C),
105 (Partial Part A), 106(Part A) and 132
Connector Road/Fudge Road

Dear Mr. Pressimone:

On behalf of Dewberry Engineers, Inc., as Consulting Engineer (the “Consulting Engineer”) to the Central Florida Expressway Authority (“CFX”) does here by certify as follows:

1. We have reviewed the limits of the parcels for the proposed local right-of-way for Connector Road described in Exhibits A through F attached. In our opinion, we certify that these parcels are no longer essential for the operation of the CFX system and disposition of these parcels subject to an agreement for easement across Connector Rd for SR 429 bridges, would not impede or restrict the current or future construction, operation or maintenance of the CFX System.
2. Furthermore, this certificate is being provided by the Consulting Engineer to CFX solely for the purposes of complying with Section 5.4 of CFX’s Amended and Restated Master Bond Resolution and the requirements set forth in CFX’s Manual and may not be relied on by any other person or party for any other purpose.

Sincerely,

R. Keith Jackson, P.E.
Program Manager

Attachments

cc: Linda Brehmer Lanosa, Esq. CFX (w/ enc.)

EXHIBIT 2

Project 429-201 & 429-202 (Connector Road)
Parcels 101 Partial, 102 Partial, 103, 104 Part A Partial,
104 Part C Partial, 105 Part A Partial, 106 Part A, and 132

**RIGHT-OF-WAY TRANSFER AND CONTINUING MAINTENANCE AGREEMENT
BETWEEN
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AND CITY OF APOPKA, FLORIDA
(Connector Road)**

THIS RIGHT-OF-WAY TRANSFER AND CONTINUING MAINTENANCE AGREEMENT (“Agreement”) is made and entered into on the last date of execution below by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 (“CFX”) and CITY OF APOPKA, a municipality of the State of Florida, whose address is 120 E. Main Street, Apopka Florida 32703 (“City”). CFX and City are sometimes collectively referred to herein as the “Parties.”

WITNESSETH:

WHEREAS, pursuant to section 348.753, Florida Statutes, CFX is empowered to construct, improve, maintain, and operate the Central Florida Expressway System (“Expressway System”) and, in connection therewith, to construct any extensions, additions or improvements to said system or appurtenant facilities, including all necessary approaches, roads, bridges and avenues of access; and

WHEREAS, pursuant to Section 166.021, Florida Statutes, City is empowered to provide and maintain arterial and other roads for the benefit of its citizens; and

WHEREAS, pursuant to Section 335.0415, Florida Statutes, “public roads may be transferred between jurisdictions . . . by mutual agreement;” and

WHEREAS, Section 163.01, Florida Statutes, authorizes both Parties to this Agreement to enter into Interlocal Agreements; and

WHEREAS, in the course of the construction of the Maitland Boulevard Extension and State Road (SR) 429, CFX acquired certain land for the benefit of the local jurisdictions and constructed thereon certain roadways and other improvements to insure a minimal disruption of traffic to the citizens and to provide for a smooth transition to the Expressway System, thus making both the Expressway System and the local road system compatible; and

WHEREAS, more specifically, CFX acquired Parcel 106 in its entirety by eminent domain in the case styled *Orlando/Orange County Expressway Authority v. B.J.J.S., Inc.*, Case No. 2005-CA-4997-O and used the property for SR 429 and Connector Road; and

WHEREAS, the construction of the Maitland Boulevard Extension and the Wekiva Parkway, Project Nos. 429-201 and 429-202, are completed, and both Parties desire title to the local roads including parcels consisting of or relating to Connector Road and related facilities to vest in City, subject to certain rights retained by CFX, and title to all of CFX's right-of-way and related facilities and crossings to vest in CFX; and

WHEREAS, the Parties also desire to define the future and continuing maintenance responsibilities for the right-of-way and related facilities and to set responsibility therefore.

NOW THEREFORE, for and in consideration of the mutual agreements herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby expressly acknowledged, CFX and City agree as follows:

1. Recital. The above recitals are true and correct and form a material part of this Agreement and are incorporated herein by reference.

2. Right-of-Way Maps. Upon request, CFX will deliver to City the right-of-way maps for Project Nos. 429-201 and 429-202.

3. CFX Conveyance. CFX shall convey to City by Quit Claim Deed all of its right, title and interest in and to the real property described in **Composite Exhibit "A,"** attached hereto and made a part hereof, which exhibit contain a copy of the form of the Quit Claim Deed(s) to be executed and delivered under the provisions of this paragraph, subject to the covenants, reservations, conditions, restrictions, and easements described in the Quit Claim Deed(s).

4. City Conveyance. City shall convey to CFX by Quit Claim Deed all of its right, title and interest in and to the real property described in **Exhibit "B"** attached hereto and made a part hereof, which exhibit contains a copy of the form of the Quit Claim Deed to be executed and delivered under the provisions of this paragraph, subject to the covenants, reservations, conditions, restrictions, and easement described in the Quit Claim Deed.

5. Easements for Expressway Facilities. The Parties agree that CFX, and its successors and assigns, owns and holds perpetual, exclusive easement ("Easement") for the SR 429 bridges, ramps, columns, fencing, signature, and related structures and facilities (referred to as "Expressway Facilities") that cross over, under or through the local roads as described in **Exhibit "E,"** including the right to access, install, construct, use, operate, maintain, alter, improve, repair, replace, renew, expand, and remove the Expressway Facilities. City expressly agrees for itself and its successors and assigns to refrain from any use of the Easement which would interfere with the Expressway Facilities or otherwise constitute a hazard for the Expressway Facilities. The Easement shall be inure to the benefit of and be enforceable by CFX and its successors and assigns.

6. Future and Continuing Maintenance. The Parties agree that it is necessary and desirable to define with specificity the locations for future and continuing maintenance, and the details of such maintenance responsibility. The future and continuing maintenance is applicable to the following areas: 1. City/County road bridge over CFX Expressway; 2. CFX Expressway

bridge over City/County road; 3. Canals/waterways – City/County; 4. Canals/waterways – CFX; 5. Detention/retention pond and structures; 6. Utilities; and 7. Roadways.

7. Detailed Maintenance Functions. **Exhibit “C”** attached hereto and by reference made a part hereof defines generically the areas of maintenance as outlined in paragraph 6 (1) – (7) above and the party responsibility for each of the future and continuing maintenance specific functions applicable to the area. The Parties agree that the maintenance functions outlined on **Exhibit “C”** are necessary and properly and reasonably defined and that the responsibility given to each of the Parties hereto to perform said functions is likewise necessary and properly and reasonably defined.

8. Maintenance Responsibility. **Exhibit “D”** attached hereto and by reference made a part hereof defines with specificity the locations for the continuing and future maintenance responsibility assigned and accepted pursuant to this Agreement, the party responsible for such maintenance and the exact maintenance item assigned to each party by reference to the paragraph number and subparagraph letter to the Detailed Maintenance Functions outlined in **Exhibit “C”**.

9. CFX Maintenance Responsibility. CFX does hereby agree to assume the future and continuing maintenance responsibility as outlined on **Exhibit “D”** attached hereto and by reference made a part hereof and to perform such maintenance in a timely, workmanlike manner. Said maintenance responsibility shall commence as of the date of this Agreement.

10. City Maintenance Responsibility. City does hereby agree to assume the future and continuing maintenance responsibility as outlined on **Exhibit “D”** attached hereto and by reference made a part hereof and to perform such maintenance in a timely, workmanlike manner. Said maintenance responsibility shall commence as of the date of this Agreement.

11. Consideration. The consideration for the property to be transferred to City and the property to be transferred to CFX, collectively “the Property,” shall be the continuing and future obligation to maintain the Property.

12. Evidence of Title. At any time before Closing, either party may, at its sole cost and expense, order a commitment from an agent for a policy of Owner’s Title Insurance (the “Commitment”) which shall be written on a title insurance company reasonably satisfactory and acceptable to that party.

13. Survey. Either party shall have the right, at any time before Closing, to have the Property surveyed at its sole cost and expense (the “Survey”). The surveyor shall provide certified legal descriptions and sketches of said descriptions and the legal descriptions will be included in the deed subject to the approval of the Parties.

14. Deed Restriction; Reverter. The property conveyed to City shall be utilized for the purpose of public right-of-way. The Parties agree that if City no longer uses the property (or any part thereof) conveyed to City for City public right-of-way purposes, then all right, title, and interest to Property that is not used for public right-of-way purposes shall automatically revert back to CFX at CFX’s option and at no cost to CFX. The conveyance provided herein is made by

a governmental entity to a governmental entity and therefore excepted from the provisions of Section 689.18, Florida Statutes, and excluded from the application of the statutory rules against perpetuities as set forth in Section 689.225(2), Florida Statutes.

15. Closing Date and Location. The closing of the conveyances contemplated under this Agreement (the “Closing”) shall be held on or before sixty (60) days after the Effective Date or such earlier date selected by CFX upon not less than ten (10) days’ written notice to City (the “Closing Date”), at the offices of CFX, or CFX’s attorney, or any other place which is mutually acceptable to the Parties. The closing date is subject to an option to extend that may be exercised with written approval from the Mayor of City of Apopka and the Executive Director of the Central Florida Expressway Authority.

16. Conveyance of Title. At the Closing, the Parties shall execute and deliver to the other the required Deeds and Easements as described above.

17. FIRPTA Affidavit. At Closing, each owner of the property (“Owner”) shall sign a closing statement 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 numbers 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.

18. Disclosure of Beneficial Interests. If, at the time of Closing, the Owners hold 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 Owners shall sign a beneficial interest affidavit described in Section 286.23, Florida Statutes.

19. General Closing Documents. At Closing, City shall sign a closing statement and an owner’s affidavit including matters referenced in Section 627.7842(b) and (c), Florida Statutes.

20. Recording.

a. City agrees to record the Deeds for the property being conveyed to City within thirty (30) days after delivery of the original Deed to City at its cost. City agrees to deliver a certified copy of the recorded Deeds to CFX shortly thereafter.

b. CFX agrees to record the Deed and Easement for the property being conveyed to CFX within thirty (30) days after acceptance at its cost. CFX agrees to deliver a certified copy of the recorded Deed and Easement to City shortly thereafter.

21. As-Is Conveyance.

a. Conveyance by CFX to City. The property described in paragraph 3 and **Composite Exhibit “A”** is being conveyed “AS IS, WHERE IS, WITH ALL FAULTS,” in such condition as the same may be on the closing date, without any representations or warranties by the

respective owner as to any condition of the property, including, without limitation, surface and subsurface environmental conditions, whether latent or patent. The respective owner makes no guarantee, warranty or representation, express or implied, as to the quality, character, or condition of the property, or any part thereof, or to the fitness of the property, or any part thereof, for any use or purpose, or any representation as to the nonexistence of any hazardous substances. Neither party shall have any claim against the other, in law or in equity, based upon the condition of the property, or the failure of the property to meet any standards. In no event shall the respective owner be liable for any incidental, special, exemplary, or consequential damage. In the event that any hazardous substances are discovered on, at or under the property, neither party shall maintain any action or assert any claim against the other, its successors and their respective members, employees and agents arising out of or relating to any such hazardous substances. The provisions of this Section shall survive the Closing. (CFX Manual, Sec. 5-6.09) City has read and understands the provisions of this Section and acknowledges and agrees that except as expressly set forth in this Agreement, it is acquiring the property described in paragraph 3 and **Composite Exhibit "A" "AS-IS, WHERE IS AND WITH ALL FAULTS"** and that the respective owner has disclaimed herein any and all warranties, express or implied.

b. Conveyance by City to CFX. The property described in paragraph 4 and **Exhibit "B"** is being conveyed "AS IS, WHERE IS, WITH ALL FAULTS," in such condition as the same may be on the closing date, without any representations or warranties by the respective owner as to any condition of the property, including, without limitation, surface and subsurface environmental conditions, whether latent or patent. The respective owner makes no guarantee, warranty or representation, express or implied, as to the quality, character, or condition of the property, or any part thereof, or to the fitness of the property, or any part thereof, for any use or purpose, or any representation as to the nonexistence of any hazardous substances. Neither party shall have any claim against the other, in law or in equity, based upon the condition of the property, or the failure of the property to meet any standards. In no event shall the respective owner be liable for any incidental, special, exemplary, or consequential damage. In the event that any hazardous substances are discovered on, at or under the property, neither party shall maintain any action or assert any claim against the other, its successors and their respective members, employees and agents arising out of or relating to any such hazardous substances. The provisions of this Section shall survive the Closing. CFX has read and understands the provisions of this Section and acknowledges and agrees that except as expressly set forth in this Agreement, it is acquiring the property described in paragraph 4 and **Exhibit "B" "AS-IS, WHERE IS AND WITH ALL FAULTS"** and that the respective owner has disclaimed herein any and all warranties, express or implied.

22. 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
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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

CITY: CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attention: Mayor
Telephone: (407) 703-1601

With a copy to: CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attention: City Attorney
Telephone: (407) 703-1658

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.

23. 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 both Parties. 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. City 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 and jurisdiction 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.

24. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns.

25. 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.

26. 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.

27. Effective Date. This Agreement shall be and become effective on the date that it is signed and executed by the last to sign of CFX and City.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in a manner and form sufficient to bind them on the date set forth herein below.

CITY OF APOPKA, FLORIDA

By: City Commission

BY: _____
MAYOR

Date: _____

ATTEST: _____
City Clerk

[SIGNATURES TO FOLLOW]

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

BY: _____
CHAIRMAN JAY MADARA

Date: _____

ATTEST: _____
Regla (“Mimi”) Lamaute
Recording Clerk

APPROVED AS TO FORM FOR
EXECUTION BY CFX ONLY.

By: _____
General Counsel

LIST OF EXHIBITS

- A. Quit Claim Deeds with Legal Descriptions of property from CFX to City
- B. Quit Claim Deed with Legal Descriptions of property from City to CFX
- C. Detailed Maintenance Functions
- D. Maintenance Responsibility
- E. Easement Agreement for Expressway Facilities

EXHIBIT "A"

**QUIT CLAIM DEED WITH LEGAL DESCRIPTIONS
OF PROPERTY FROM CFX TO CITY**

Prepared By:

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

Reserved for Recording

Project 429-201 & 429-202 (Connector Road)
Parcels 101 Partial, 102 Partial, 103, 104 Part A Partial,
104 Part C Partial, 105 Part A Partial, 106 Part A, and 132

This deed is exempt from Florida documentary stamp tax under Department of Revenue Rules 12B-4.002(4)(a), 12B-4.014(10), F.A.C., and Section 201.02(6), Florida Statutes.

QUIT CLAIM DEED

THIS QUIT CLAIM DEED, dated as of the date of execution below, by **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 (“GRANTOR”) and the **CITY OF APOPKA**, a charter city and political subdivision of the State of Florida, whose address is 120 E. Main Street, Apopka, Florida 32703 (“City” or “GRANTEE”).

WITNESSETH: That the GRANTOR, for and in consideration of the sum of \$10.00 and other valuable considerations, the receipt of whereof is hereby acknowledged, does hereby remise, release, and forever quit-claim unto the said GRANTEE, all the right, title, interest, claim, and demand which the GRANTOR has in and to the following described lots, pieces, or parcels of land, situate, lying and being in the county of Orange, state of Florida, to-wit:

SEE ATTACHED EXHIBIT “1”

**Property Appraiser’s Parcel Identification Number:
Not Assigned**

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining and all the estate, right, title, interest, lien, equity,

Project 429-201 & 429-202 (Connector Road)
Parcels 101 Partial, 102, 103, 104 Part A Partial,
105 Part A Partial, 106 Partial, 131, and 132

and claim whatsoever of the GRANTOR, either in law or equity, to the only proper use, benefit, and behoove of the GRANTEE forever.

SUBJECT TO the covenants, conditions, restrictions, reservations, and easements which are set forth below:

- a) GRANTOR reserves unto itself, its successors and assigns the Easement Agreement for Expressway Facilities recorded in the Official Records of Orange County, Florida, as Document Number _____ at O.R. Book _____ and Page _____.
- b) GRANTOR reserves unto itself, its successors and assigns, all rights of ingress, egress, light, air, and view to, from, or across any State Road (S.R.) 429 right-of-way property which may otherwise accrue to any property adjoining said right of way. GRANTEE has no rights of ingress, egress, or access to S.R. 429 from the GRANTEE's property, nor does GRANTEE have any rights of light, air or view from S.R. 429.
- c) GRANTOR reserves unto itself, its successors and assigns, all rights of ingress, egress, light, air, and view as noted in the legal descriptions for Parcels 102 102, 103, 104 Part A Partial, 105 Part A Partial, 106 Partial, in said **Exhibit "1."**
- d) GRANTEE expressly agrees for itself, and its successors and assigns, to prevent any use of the hereinafter described real property which would interfere with S.R. 429 or otherwise constitute a hazard for S.R. 429 or any related system or structure.
- e) GRANTEE acknowledges that the Property was acquired via eminent domain and is subject to Section 73.013, Florida Statutes. GRANTEE expressly agree for themselves, their successors and assigns that if the GRANTEE no longer uses the property (or any part thereof) for public right-of-way purposes, then all right, title, and interest to the Property that is not used for public right-of-way purposes shall automatically revert back to CFX at CFX's option and at no cost to CFX. The conveyance provided herein is made by a governmental entity to a governmental entity and therefore excepted from the provisions of Section 689.18, Florida Statutes, and excluded from the application of the statutory rules against perpetuities as set forth in Section 689.225(2), Florida Statutes.

IN WITNESS WHEREOF, the said GRANTOR has caused these presents to be signed in its name by its duly authorized representative.

Project 429-203 (Kelly Park Road)
Parcels 193 Part B, 197 Part B, 197 Part C,
201 Part B, 202 Part B, 203 Part B, 207 Partial, 232

Signed, sealed, and delivered
in the presence of:

“CFX”

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

First Witness:

Signature

BY: _____
CHAIRMAN

Print Name

Date: _____

Second Witness:

ATTEST: _____
Regla (“Mimi”) Lamaute
Recording Clerk

**APPROVED AS TO FORM FOR
EXECUTION BY CFX ONLY**

By: _____
General Counsel

STATUTORY SHORT FORM OF ACKNOWLEDGMENT PER § 695.25, FLA. STAT.

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
201____, by _____, as Chairman of the Central Florida Expressway
Authority, who is personally known to me OR produced _____ as
identification.

NOTARY PUBLIC

Signature: _____
Signature of Notary Public - State of Florida

Print, Type or Stamp Commissioned Name of Notary Public

**EXHIBIT B.
QUIT CLAIM DEED WITH LEGAL DESCRIPTIONS
OF PROPERTY FROM CITY TO CFX**

Prepared By:

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

Reserved for Recording

Project 429-201 & 429-202
(T.L. Smith Road)

This deed is exempt from Florida documentary stamp tax under Department of Revenue Rules 12B-4.002(4)(a), 12B-4.014(10), F.A.C., and Section 201.02(6), Florida Statutes.

QUIT CLAIM DEED

THIS QUIT CLAIM DEED, dated as of the date of execution below, by **CITY OF APOPKA**, a charter city and political subdivision of the State of Florida, whose address is 120 E. Main Street, Apopka, Florida 32703 (“City” or “GRANTOR”) and **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 (“CFX” or “GRANTEE”).

WITNESSETH: That the GRANTOR, for and in consideration of the sum of \$10.00 and other valuable considerations, the receipt of whereof is hereby acknowledged, does hereby remise, release, and forever quit-claim unto the said GRANTEE, all the right, title, interest, claim, and demand which the GRANTOR has in and to the following described lots, pieces, or parcels of land, situate, lying and being in the county of Orange, state of Florida, to-wit:

SEE ATTACHED EXHIBIT “1”
(hereinafter “the Property”)

Property Appraiser’s Parcel Identification Number: Not Assigned

TOGETHER WITH all rights 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.

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining and all the estate, right, title, interest, lien, equity,

Project 429-201 & 429-202
(T.L. Smith Road)

and claim whatsoever of the GRANTOR, either in law or equity, to the only proper use, benefit, and behoove of the GRANTEE forever.

IN WITNESS WHEREOF, the said GRANTOR has caused these presents to be signed in its name by its duly authorized representative.

Signed, sealed, and delivered
in the presence of:

“GRANTOR”

CITY OF APOPKA

First Witness:

Signature

BY: _____
Mayor

Print Name

Date: _____

Second Witness:

ATTEST: _____
Recording Clerk

STATUTORY SHORT FORM OF ACKNOWLEDGMENT PER § 695.25, FLA. STAT.

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 201____, by _____, as Mayor of the City of Apopka, who is personally known to me OR produced _____ as identification.

NOTARY PUBLIC

Signature: _____
Signature of Notary Public - State of Florida

Print, Type or Stamp Commissioned Name of Notary Public

Project 429-201 & 429-202
(T.L. Smith Road)

EXHIBIT "1"

LEGAL DESCRIPTION

**EXHIBIT C.
DETAILED MAINTENANCE FUNCTIONS**

1. Local Road Bridge over CFX Expressway System

- a) CFX Responsibility
 - i) Bridge structure per se, including bridge deck and approach slabs
 - ii) Ramp pavement to intersection with Local Road edge of pavement
 - iii) Reinforced Earth/Retaining Walls and associated embankment within CFX right-of-way
 - iv) Bridge underdeck and ramp lighting
 - v) Drainage structures and pipe from CFX right-of-way to either CFX or Local Road ponds
 - vi) Ramp maintenance to Local Road edge of pavement

- b) Local Agency Responsibility
 - i) Local Road maintenance up to bridge approach slabs
 - ii) Embankment/sideslopes to CFX limited-access (“L/A”) right-of-way fence
 - iii) Signalization, guard rails, jurisdictional signage and bridge lighting above deck, if applicable
 - iv) **Non- CFX** Utilities facilities within CFX right-of-way
 - v) Local Road drainage structures and systems to CFX or Local Road ponds
 - vi) Cleaning/sweeping, pavement markings for Local Roads and sidewalks, if applicable.

2. CFX Expressway Bridge over Local Road

- a) CFX Responsibility
 - i) Bridge structure per se, including bridge deck and approach slabs
 - ii) Ramp pavement to intersection with Local Road edge of pavement
 - iii) Reinforced Earth/Retaining Walls and associated embankment within CFX right-of-way
 - iv) Bridge underdeck and ramp lighting
 - v) Drainage structures and pipe from CFX right-of-way to either CFX or Local Road ponds
 - vi) Ramp maintenance to Local Road edge of pavement

- b) Local Agency Responsibility
 - i) Local Road maintenance
 - ii) Local Road within Local right-of-way, including pavement, pavement markings, sidewalks, lighting, and other improvements on or under the Local Road up to CFX’s L/A right-of-way line, retaining wall or fence
 - iii) Embankment/sideslopes to CFX L/A right-of-way fence
 - iv) Signalization, guard rails, jurisdictional signage and Local Road lighting
 - v) **Non- CFX** Utilities facilities within Local Road right-of-way
 - vi) Local Road drainage structures and systems to CFX or Local Road retention area
 - vii) Cleaning/sweeping, pavement markings for Local Roads and sidewalks, if applicable.

3. Canals/Waterways originating or extending beyond CFX Right-of-Way.
 - a) CFX Responsibility
 - i) Structural integrity of headwalls and structure within CFX right-of-way
 - ii) Bridge structure per se, including bridge deck and approach slabs
 - iii) Rip-rap
 - b) Local Agency Responsibility
 - i) Canal and banks beyond head walls within Local Agency right-of-way
 - ii) Open flow channel under CFX
4. Canals/Waterways within CFX Right-of-Way
 - a) CFX Responsibility
 - i) Bridge structure per se, including bridge deck and approach slabs
 - ii) Waterway/channel within CFX right-of-way
 - iii) Rip-rap
 - b) Local Agency Responsibility: None
5. Detention/Retention Ponds and Structures
 - a) CFX Responsibility
 - i) CFX assigned ponds and CFX drainage structures within L/A right-of-way handling CFX water
 - ii) Drainage structures and systems in CFX right-of-way conveying water across Expressway
 - b) Local Agency Responsibility
 - i) Local Agency assigned ponds and Local Agency drainage structures and systems handling Local Road water
 - ii) Drainage structures in Local Road right-of-way feeding into CFX ponds/right-of-way
6. Utilities
 - a) CFX Responsibility: None
 - b) Local Agency Responsibility: Water and wastewater mains in CFX L/A right-of-way
 - c) General: Non- CFX utilities in public or L/A right-of-way are the responsibility of the utility company
7. Roadways
 - a) CFX Responsibility: All facilities within CFX L/A right-of-way, except as noted.
 - b) Local Agency Responsibility: All facilities within Local Road right-of-way, except as noted.

EXHIBIT D. MAINTENANCE RESPONSIBILITY
(See Exhibit C for the Detail Maintenance Functions)

Project	Location / Additional Requirements	City Responsibility	CFX Responsibility
429-202	Southfork Dr. under SR 429	2b	2a
429-201	Connector Road under SR 429	2b	2a
429-201	Traffic Signals at 429 NB at Connector Rd.	2b iv	None
429-201	Traffic Signals at 429 SB at Connector Rd.	2b iv	None
429-201	Traffic Signals at Plymouth Sorrento Rd.	2b iv	None
429-201	CFX Storm Water Management Pond 429-201-E receives runoff from CR 429 and Connector Road and is Joint Use. The capacity allocated to the City is set at the City's current capacity as of the effective date of this Agreement. In the future, CFX may elect to improve this pond or relocate or reconfigure this drainage area. CFX reserves the right to reshape, reconstruct, renovate, improve or otherwise modify the drainage systems and structures so long as the stormwater capacity and discharge of both CFX and the City to or from the Pond are neither disrupted nor diminished.	5b ii	5a

EXHIBIT E. EASEMENT AGREEMENT FOR EXPRESSWAY FACILITIES

Prepared By and Return To:
Linda S. Brehmer Lanosa
Deputy General Counsel
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

For Recording Purposes Only

Project 429-201 & 429-202 (Connector Road)
Parcels 101 Partial, 102 Partial, 103, 104 Part A Partial,
104 Part C Partial, 105 Part A Partial, 106 Part A, and 132

This document is exempt from Florida documentary stamp tax under Department of Revenue Rules 12B-4.002(4)(a), 12B-4.014(10), F.A.C., and Section 201.02(6), Florida Statutes.

EASEMENT AGREEMENT FOR EXPRESSWAY FACILITIES

THIS EASEMENT AGREEMENT is executed this _____ day of _____, 2019, by the **CITY OF APOPKA**, a Florida Municipal Corporation existing under the laws of the State of Florida, whose address is 120 East Main Street, Apopka, Florida 32703 (“Grantor” or “City”) to and in favor of **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, public corporation and an agency of the State of Florida, whose mailing address is 4974 ORL Tower Road, Orlando, Florida 32807 (“Grantee” or “CFX”).

WITNESSETH:

WHEREAS, pursuant to section 348.753, Florida Statutes, CFX is empowered to construct, improve, maintain, and operate the Central Florida Expressway System (“Expressway System”) and, in connection therewith, to construct any extensions, additions or improvements to said system or appurtenant facilities, including all necessary approaches, roads, bridges and avenues of access; and

WHEREAS, pursuant to Section 166.021, Florida Statutes, the City is empowered to provide and maintain arterial and other roads for the benefit of its citizens; and

WHEREAS, pursuant to Section 335.0415, Florida Statutes, “public roads may be transferred between jurisdictions . . . by mutual agreement;” and

WHEREAS, in the course of the construction of the Maitland Boulevard Extension and State Road (SR) 429, CFX acquired certain land for the benefit of the local jurisdictions and

constructed thereon certain roadways and other improvements to insure a minimal disruption of traffic to the citizens and to provide for a smooth transition to the Expressway System, thus making both the Expressway System and the local road system compatible; and

WHEREAS, the construction of the Maitland Boulevard Extension and the Wekiva Parkway, Project Nos. 429-201 and 429-202, are completed, and both Parties desire title to the local roads including parcels consisting of or relating to Connector Road and related facilities to vest in City, subject to certain rights retained by CFX, and title to all of CFX's right-of-way and related facilities and crossings to vest in CFX; and

WHEREAS, in conjunction with this Easement Agreement, the parties have entered or will enter into a separate Right of Way Transfer and Continuing Maintenance Agreement ("Maintenance Agreement") addressing, in part, each party's maintenance responsibilities with respect to the property identified therein; and

WHEREAS, the property that is the subject of this Easement Agreement involves the expressway bridges, ramps, columns, fencing, signage, and related structures and facilities (referred to as "Expressway Facilities") that cross over, under or through local road right-of-way within or soon to be within the jurisdictional limits of the City as more particularly described in **Exhibit "1"** attached hereto; and

WHEREAS, the City desires to formally grant to CFX certain easements for the operation, maintenance, expansion, or removal of Expressway Facilities on, over and under the local road right-of-way.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration and the covenants and promises of the parties hereto, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, it is thereupon understood and agreed as follows:

1. **Recitals.** That all of the foregoing recitals contained in this Easement Agreement are true and correct and are incorporated herein by this reference.

2. **Grant of Easement for Expressway Facilities.** The City hereby grants and conveys to CFX and its successors and assigns, perpetual, exclusive easements for the Expressway Facilities over the local road right-of-way described in **Exhibit "1"**, referred to as "Easement Property," including the right to access, install, construct, use, operate, maintain, alter, improve, repair, replace, renew, expand, and remove all or part of the Expressway Facilities over, through, across, and under the Easement Property. In addition, the City hereby grants and conveys to CFX and its successors and assigns, a perpetual, non-exclusive easement for limited-access fences, signs and related structures and facilities, including the right to access, install, construct, use, operate, maintain, alter, improve, repair, replace, renew, expand, and remove on, over, through, across, and under the Easement Property. Further, when the City obtains additional portions of local right-of-way within the footprint of the Easement Property, the Easement Property shall encompass the additional portion of the City's road right-of-way.

The City or its successors in interest shall be entitled to make reasonable use of the Easement Property for local right-of-way not inconsistent with CFX's use; provided, any use by the City of the Easement Property shall not in any manner adversely affect the exercise of CFX's rights hereunder, use or enjoyment of the Easement Property. The City expressly agrees for itself and its successors and assigns, to refrain from any use of the Easement Property which would interfere with the Expressway Facilities or the Expressway System, or otherwise constitute a hazard for the Expressway Facilities or Expressway System.

3. **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 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

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

CITY: CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attn: Mayor

Copy to: CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attn: City Attorney

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

4. **Modification.** This Easement Agreement may not be amended, modified, altered, or changed in any respect whatsoever, except by a further agreement in writing duly executed by the parties hereto and recorded in the Public Records of Orange County, Florida.

5. **Successors and Assigns.** All easements contained herein shall be binding upon and inure to the benefit of and be enforceable by the heirs, legal representatives, successors and

assigns of the parties hereto. All obligations of the City and CFX hereunder shall be binding upon their respective successors-in-title and assigns; provided the covenants and obligations herein are only personal to and enforceable against the parties or successors-in-title, as the case may be, owning title to the respective properties at the time any liability or claim arising under this Easement Agreement shall have accrued, it being intended that upon the conveyance of title by a party, the party conveying title shall thereupon be released from any liability hereunder as to the property conveyed for any breach of this Agreement or claim arising under this Agreement accruing after the date of such conveyance. The easements set forth in this Agreement shall be perpetual.

6. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the transactions contemplated herein, and it supersedes all prior understandings or agreements between the parties.

7. **No Public Rights.** This instrument is not intended to, and shall not, create any rights in favor of the general public.

8. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Florida.

[SIGNATURE AND ACKNOWLEDGMENT PAGE FOLLOWING]

IN WITNESS WHEREOF, the City has caused this Easement Agreement to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the date first above written.

CITY OF APOPKA, a Florida Municipal Corporation existing under the laws of the State of Florida.

(Print Name)

By: _____
Title: _____
Print: _____
Date: _____

(Print Name)

Approved as to form and legality for the execution by a signatory of the City of Apopka

Legal Counsel:
By: _____
Print: _____
Date: _____

STATE OF FLORIDA
COUNTY OF ORANGE

Before me, the undersigned authority, duly authorized under the laws of the State of Florida to take acknowledgments, this day personally appeared _____, as _____, of the City of Apopka, personally known to me to be the individual and officer described in and who executed the foregoing instrument on behalf of said City of Apopka.

(Signature of Notary Public)

(Print or Type Name of Notary Public)
Notary Public, State of Florida
Commission No. & Expiration _____

IN WITNESS WHEREOF, the Central Florida Expressway Authority has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered
in the presence of:

“GRANTEE”
CENTRAL FLORIDA EXPRESSWAY
AUTHORITY, an agency of the State of
Florida

Print Name: _____

By: _____
Chairman

Print Name: _____

Attest: _____
Executive Secretary

APPROVED AS TO FORM FOR
EXECUTION BY CFX ONLY

By: _____

Date: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ___ day of _____, 2019, by _____, as _____ of the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a public corporation and an agency of the State of Florida, on behalf of the agency. He/She is personally known to me.

(Signature of Notary Public)

(Print or Type Name of Notary Public)
Notary Public, State of Florida
Commission No. & Expiration _____

EXHIBIT "1"

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
STATE ROAD 429
ESTATE: PERPETUAL EASEMENT

LEGAL DESCRIPTION:

PARCELS OF LAND LYING IN ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Twenty (20) feet beyond the outermost perimeters of the existing bridges ("Expressway Bridges") at the crossings of State Road 429 over:

- a) Connector Road


TERMS OF PERPETUAL EASEMENT

1. CFX has a perpetual easement on and over the above-described property, which right and easement includes the right to construct, operate, improve, expand, maintain, repair and replace from time to time.
2. GRANTOR and GRANTEE expressly agree for themselves, their successors and assigns, to restrict the height or structures, objects of natural growth and other obstructions on the described real property so as not to interfere with or impede the Expressway Bridges.
3. GRANTOR and GRANTEE expressly agree for themselves, their successors and assigns, to prevent any use of the above described real property which would interfere with one or more Expressway Bridges, or otherwise constitute a hazard for any Expressway Bridge.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: Right of Way Committee Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel 

DATE: October 16, 2019

RE: City of Apopka's Request to Purchase a Parcel Adjacent to Connector Road for Public Road Right-of-Way and Related Public Purposes to Implement its Western Gateway Transportation Master Plan Improvements

PROJECT: 429-201 & 429-202

PARCEL: 106 Part B

LOCATION: North Side of Connector Road, West of SR 429

INTRODUCTION

The City of Apopka ("Apopka") has made an application to Central Florida Expressway Authority ("CFX") to purchase a 2.287-acre triangular-shaped piece of property ("the Parcel") on the north side of Connector Road for public road right-of-way and other related public purposes. Apopka has offered to pay the appraised value of the Parcel and, as further consideration, has offered to assume the ongoing maintenance responsibilities for Connector Road. Apopka's request is attached hereto as **Exhibit "A"** and includes a description of Apopka's Western Gateway Transportation Master Plan Improvements. A map and aerial of Parcel is attached as **Exhibit "B"**.

The CFX Right of Way Committee ("ROW Committee") is tasked with two responsibilities in this proposed request. First, it must evaluate whether the Parcel should be declared surplus property. If deemed to be surplus, the ROW Committee should recommend approval of a resolution to that effect to be approved by the CFX Board. Second, if the Parcel is deemed to be surplus property, the ROW Committee should evaluate whether to authorize the sale of the Parcel to the City of Apopka and the terms of the sale. This includes a review and recommendation for approval of the Real Estate Sale and Purchase Agreement.

DESCRIPTION OF THE PARCEL

As part of the Maitland Boulevard Extension Project, CFX acquired Parcel 106 in its entirety by eminent domain in the case styled *Orlando/Orange County Expressway Authority v. B.J.J.S., Inc.*, Case No. 2005-CA-4997-O, in August 2005. Parcel 106 consisted of 21.089 acres and was purchased for \$5,650,000 for the property plus \$98,360 for fees and costs, resulting in an acquisition cost of **\$272,600 per acre**.

The property was used to build State Road (SR) 429, also known as the Wekiva Parkway, including a retention pond, and Connector Road to enhance the access between SR 429 and US 441. The northwestern corner of Parcel 106 has not used for SR 429 or Connector Road and is the subject of Apopka's request to purchase.

BACKGROUND INFORMATION

CFX has adopted a Policy Regarding the Disposition of Excess Lands, codified in section 5-6.01, *et. seq.*, of CFX's Property Acquisition, Disposition & Permitting Procedures Manual (referred to herein as the "Policy"). The Policy provides, in part, for the disposal of real property unnecessary or unsuitable for CFX's use. "Excess Property" is defined as "[r]eal 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." Where Excess Property is not essential for present or future construction, operation or maintenance of an Expressway Facility or for CFX purposes, the CFX Board may declare such Excess Property to be "Surplus Property" through the adoption of a resolution and direct that the Surplus Property be sold. Further, the Policy allows CFX to waive any procedure for the disposition of surplus property upon a recommendation of the Right of Way Committee and Executive Director, where deemed to be in the best interest of CFX and the public. Policy, §§ 5-1.01 & 5-6.04.

CFX staff and its General Engineering Consultant have examined the Parcel and have determined that the Parcel is not needed to support existing Expressway Facilities provided that the limited-access line along Connector Road is reestablished. Accordingly, CFX's General Engineering Consultant will certify that the Parcel is not be needed for the present or future construction, operation or maintenance of the Expressway Facilities and that the disposition of the Parcel, subject to the re-establishment of the limited access line, would not impede or restrict the Expressway System. As a result, the Parcel can be declared Surplus Property by the CFX Board through the adoption of a resolution.

Apopka, through correspondence dated April 12, 2019 from Mayor Bryan Nelson, has stated that it is seeking to develop and implement the City's Transportation Master Plan for the area in which the property is located. In order to construct and maintain that road network, the City must "gain ownership of certain properties owned by CFX" including the fractional interest. The letter also provides that Apopka is "willing to pay fair market value as determined by an appraisal obtained by CFX" as well as other associated costs with the sale of the property interest to Apopka.

Richard MacMillan, MAI, of the Appraisal Group of Central Florida, Inc., was retained to appraise the Connector Road Parcel. He valued the 2.287-acre Parcel at Two Hundred Ninety-Nine Thousand Dollars (\$299,000) based upon comparable vacant land sales ranging from \$2.05 to \$4.10 per square foot with a value at \$3.00 per square foot or approximately **\$130,700 per acre**. David K. Hall, ASA, State Certified General Real Estate Appraisal, of Bullard, Hall & Adams, Inc., reviewed the appraisal report and submitted an Appraisal Review Report confirming that the

report met the requirements of the Uniform Standards of Professional Appraisal Practice ("USPAP").

Based upon Apopka's intended use for public road right of way purposes, the payment of fair market value, and the additional consideration related to the maintenance of Connector Road, it is recommended that the Right of Way Committee find the sale of the Parcel to be in the best interest of CFX and the public and that the Parcel be sold to the City of Apopka for public road right of way purposes and related public purposes as set forth in the Resolution.

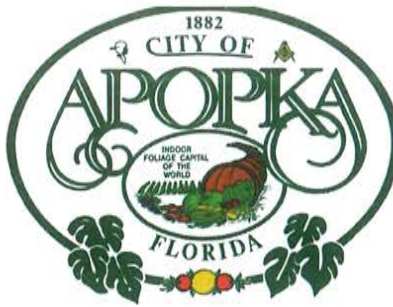
REQUEST

We request the Committee's recommendation for Board approval of the following:

- (1) Resolution Declaring CFX's Interest in Parcel 106 Part B as Surplus Property; and
- (2) Resolution Authorizing the Sale of Parcel 106 Part B to the City of Apopka for Public Road Right of Way Purposes and Related Public Purposes for fair market value plus associated costs and Real Estate Sale and Purchase Agreement.

EXHIBITS

- A. Letter from Bryan Nelson, Mayor, City of Apopka, dated April 12, 2019, with the West Apopka Gateway Area Draft Transportation Master Plan and supporting Resolution
- B. Map and Aerial
- C. Certificate from CFX's General Engineering Consultant
- D. Resolution Declaring Parcel 106 Part B as Surplus Property
- E. Resolution Authorizing the Sale of Parcel 106 Part B to the City of Apopka for Public Road Right of Way Purposes and Other Public Purposes for Fair Market Value Plus Associated Costs and Real Estate Sale and Purchase Agreement.



120 E. Main St. · APOPKA, FLORIDA 32703-5346
PHONE (407) 703-1700

April 12, 2019

Ms. Laura Kelley, Executive Director
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Road Right-of-Way and Property needed to Implement the City's Western Gateway
Transportation Master Plan Improvements

Dear Ms. Kelley,

The City of Apopka is actively pursuing quality development to locate in its western gateway, defined as the area framed by S.R. 429 on the east, S.R. 429 Connector Road on the south, Hermit Smith Road on the west, and Yothers Road on the north. Key to successful development will be implementation of the City's Transportation Master Plan for this area. This plan includes a well-designed internal roadway network that connects to the roadways that frame the area. See the attached map.

For the roadway network to be constructed, the City needs to gain ownership of certain properties owned by CFX. Without these properties, the opportunities to make a useful connected roadway network that is attractive to developers are remote.

The Apopka City Council understands the benefits a well-planned and designed roadway network brings to the City and at its meeting on March 20, 2019, adopted Resolution No. 2019-08 which supports collaborating with the City's partners to acquire properties and right-of-way necessary for construction of a roadway network in the City's western gateway area. This Resolution (attached to this letter) demonstrates the City's commitment to attracting quality development to this area and the need for a roadway network that supports development.

Vital to the Transportation Master Plan roadway network is the ability to connect S.R. 429 Connector Road to Fudge Road. The connection needs to be located around the mid-point between U.S. 441 and S.R. 429 Connector Road western signal to meet spacing requirements for safe operation. Equally important is constructing Southfork Drive to City standards and making it a public road. The Transportation Master Plan includes Southfork Drive as a centrally located east-west road connecting Plymouth Sorrento Road and Hermit Smith Road.

Connecting S.R. 429 Connector Road to Fudge Road

To implement the Transportation Master Plan, the City must acquire a portion of a parcel (I.D. No. 33-20-28-0000-00-063) located on the north side of S.R. 429 Connector Road. This property, currently

owned by CFX, is essential to construct a connection between S.R. 429 Connector Road and Fudge Road and also for stormwater ponds for the new roads in the Transportation Master Plan. This connection is key to the success of the roadway network. In addition, this property is a central focal point of the western gateway area to the City. It will be seen by all coming to and leaving the City from the west. The property will be attractively landscaped, complimentary to the landscaping theme used along the Wekiva Parkway. The ponds will be designed in a curvilinear fashion and contain a water feature that matches others in the City. The City also wishes to locate a decorative marquee style sign somewhere along S.R. 429 Connector Road that can be viewed from both S.R. 429 and U.S. 441.

Construction of Southfork Drive

Southfork Drive, critical to the Transportation Master Plan and overall successful traffic circulation in the western gateway area, is a private dirt road, currently held in a tenant in common ownership by CFX and others. The City is set to take ownership of the majority of Southfork Drive but needs CFX's one-eighth portion to attain 100% ownership. Once the City has full ownership, the currently private road will be brought up to City standards and become a public road.

Benefits of the City's Proposal

The City understands that CFX must be financially compensated for these properties and is willing to pay fair market value as determined by an appraisal obtained by CFX. The City will pay for the appraisal and also for any other necessary documentation normally included in a property sale from CFX. Any easements required by CFX to maintain S.R. 429 will be granted. The properties will only be used for public purposes and not resold or given to the private sector for private development.

Additionally, the City is willing to receive S.R. 429 Connector Road through a jurisdictional transfer from CFX. The City will take over all responsibilities for roadway maintenance of S.R. 429 Connector Road from U.S. 441 to Plymouth Sorrento Road. This includes, but is not limited to: repair of potholes; resurfacing; curb repair; repair and cleaning of culverts, pipe systems, stormwater drainage inlets, and ditch systems contiguous to and carrying roadway stormwater runoff; painting of pavement markings; issuance of driveway permits; issuance of underground utility and right of way utilization; sweeping of the road surface; mowing of all areas within the right of way and on the adjoining remnant parcel north of S.R. 429 Connector Road; and clearing or removing debris from the road. Additionally, the City will assume maintenance responsibilities for the traffic signal at S.R. 429 Connector Road and Plymouth Sorrento Road and the ramp signals at S.R. 429 Connector Road and S.R. 429. CFX will retain the air rights over S.R. 429 Connector Road. Easements needed by CFX to access, maintain or improve S.R. 429 will be granted.

It is not just the City that will benefit, CFX will benefit from an agreement that transfers ownership of these properties and right-of-way to the City. CFX will recoup fees expended for the purchase of the right-of-way for S.R. 429 related to these properties. The City is willing to pay fair market value for the properties that cannot be handled through a jurisdictional transfer.

Moreover, CFX will be relieved of responsibilities and any liability that comes with being a one-eighth tenant in common owner of Southfork Drive. CFX's one-eighth ownership of Southfork Drive is not a piece that can be carved out and used in a stand-alone way. The City of Apopka is able to secure ownership of the other seven-eighths and wants to build a road. Under this scenario, CFX will be paid for the property that will be used for a public road and remain in the public domain.

Page 3

Ms. Laura Kelley, Executive Director

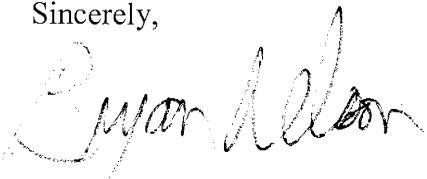
April 12, 2019

CFX will be paid fair market value for the 5 +/- acre parcel on the north side of S.R. 429. Selling to the City transfers all maintenance responsibilities to the City. Based on fees established in the City's current Mowing Services Contract, the cost to maintain this one small parcel will be approximately \$500.00 per month, making the sale of this property a \$6,000.00 per year savings to CFX.

CFX and the City of Apopka have entered into many successful maintenance agreements and jurisdictional transfers in the past as a result of the construction of S.R. 429, the Wekiva Parkway, and the three interchanges that are located within the City. All have brought benefit to both parties. We see this request as the next opportunity for CFX and the City to continue our collaborative relationship. This is a winning opportunity for both CFX and the City and we respectfully ask for your consideration of our request.

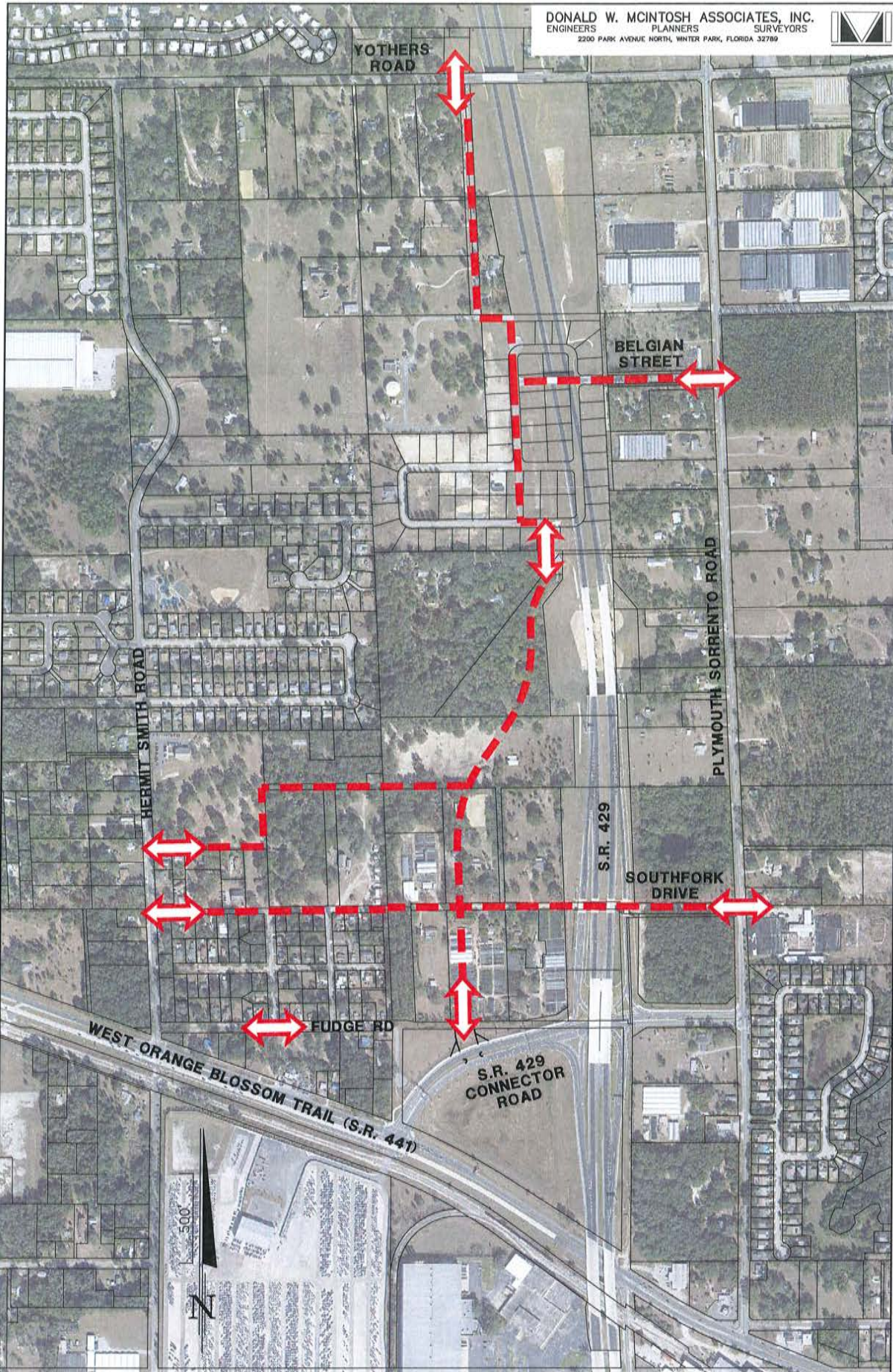
The City of Apopka stands ready to move forward with this project and willing to discuss the terms of an agreement that will enable CFX to convey or sell the property and road right-of-way discussed herein. Please contact me at your earliest convenience to discuss next steps.

Sincerely,

A handwritten signature in black ink that reads "Bryan Nelson". The signature is written in a cursive style with a large initial "B".

Bryan Nelson
Mayor, City of Apopka

cc: Linda Lanosa, Esq.
Glenn Pressimone, P.E.
Edward Bass



**WEST APOPKA GATEWAY AREA
DRAFT TRANSPORTATION MASTER PLAN**

Map prepared by: [unreadable] Date: [unreadable] File: [unreadable]

RESOLUTION NO. 2019-08

A RESOLUTION OF THE COUNCIL OF THE CITY OF APOPKA, FLORIDA, SUPPORTING A PLANNED ROADWAY NETWORK FOR THE AREA KNOWN AS THE WESTERN GATEWAY TO THE CITY.

WHEREAS, the City of Apopka is responsible for planning for future land use, roadways, and utilities to serve the residents of the City; and

WHEREAS, the City of Apopka has an opportunity to attract higher quality development that will support job creation and economic development to the City; and

WHEREAS, the western gateway to the City, specifically the property north of U.S. 441, east of Hermit Smith Road, and west of Plymouth Sorrento Road, is a prime location to expect quality development to emerge due to the area's proximity to U.S. 441, Plymouth Sorrento Road and S.R. 429; and

WHEREAS, the City can set this in motion only by working with our public and private sector partners to ensure optimal roadway networks, utilities, and amenities such as enhanced pedestrian trails, are laid out in a thoughtful plan, setting the foundation for smart growth and economic development in the area; and

WHEREAS, the City must also work with our public and private sector partners to acquire needed right-of-way to connect the existing roadway network, utilities and amenities with those that are planned; and

WHEREAS, the City Council determines that the adoption of this resolution is in the best interest of the residents of the City of Apopka.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, as follows:

Section 1. The forgoing recitals are ratified and incorporated herein.

Section 2. The City Council resolves to interact with our public and private partners to ensure the creation and implementation a well thought out plan for development in this area is one that brings economic growth to the City of Apopka and is in the best interest of the City's residents.

Section 3. This resolution shall be effective immediately upon adoption.

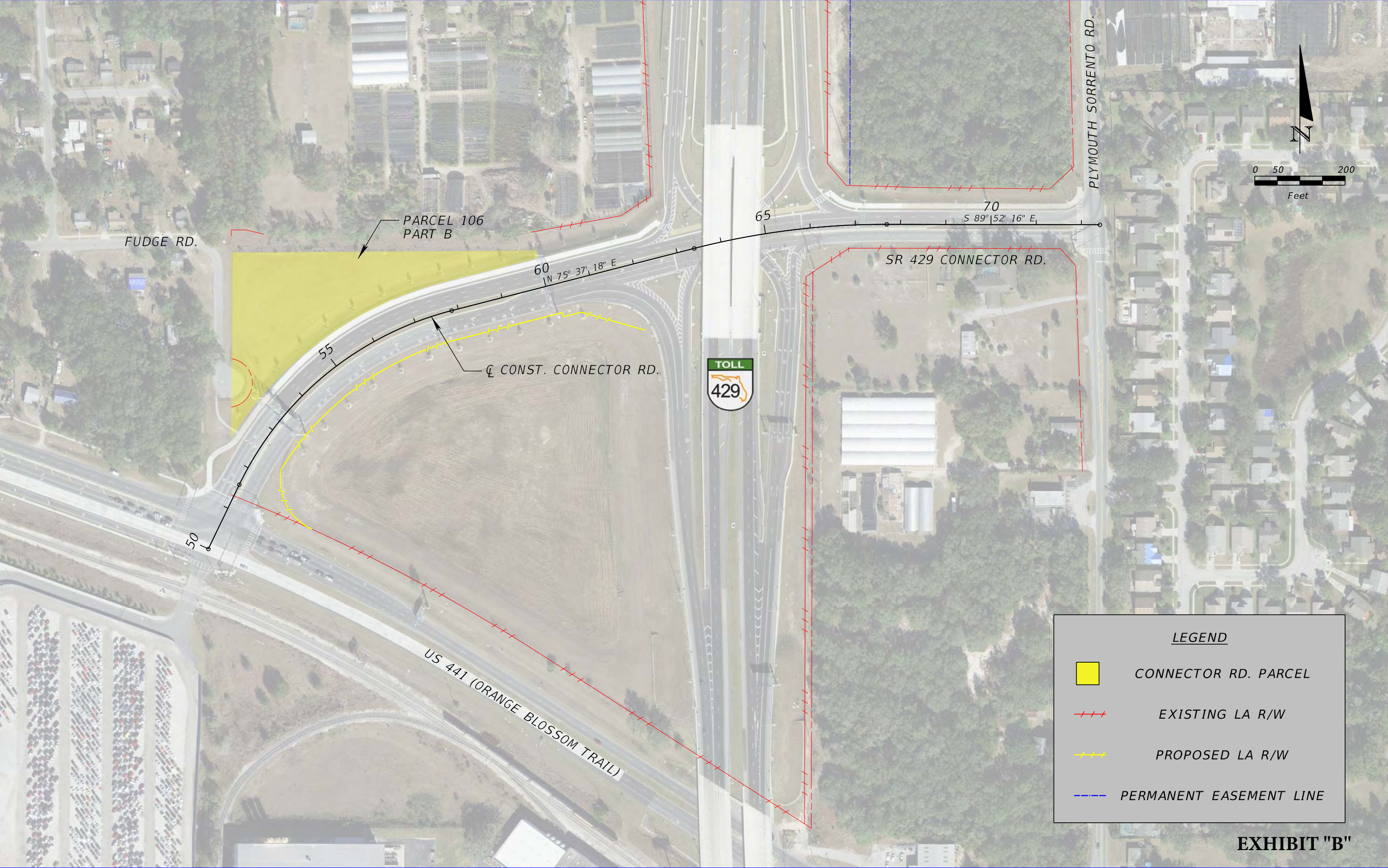
PASSED AND ADOPTED THIS 20 DAY OF March, 2019.


Bryan Nelson, Mayor

ATTEST:


Linda F. Goff, City Clerk

10/11/2019 3:06:43 PM W:\50088189\Right-of-Way\Property Transfers\SR 429 - Connector_Road\Plan_Connector_Parcel.DGN zfincher



LEGEND

- CONNECTOR RD. PARCEL
- EXISTING LA R/W
- PROPOSED LA R/W
- PERMANENT EASEMENT LINE

EXHIBIT "B"

REVISIONS	
DATE	DESCRIPTION

--	--

Wekiva Parkway Right-of-Way	
ROAD NO. SR 429	PROJECT NO. 201, 202



<p><i>CONNECTOR ROAD PARCEL SALE EXHIBIT</i></p>
--

SHEET NO. 2



October 15, 2019

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

DRAFT

RE: DISPOSITION OF PROPERTY

SR 429, Project 429-201
CFX Parcel 106 (Part B)
Connector Road Parcel

Dear Mr. Pressimone:

On behalf of Dewberry Engineers, Inc., as Consulting Engineer (the "Consulting Engineer") to the Central Florida Expressway Authority ("CFX") does here by certify as follows:

1. We have reviewed the limits of the parcel for the Connector Road parcel described in Exhibit A attached. In our opinion, we certify that this parcel is no longer essential for the operation of the CFX system and disposition of this parcel would not impede or restrict the current or future construction, operation or maintenance of the CFX System, provided that the limited access line is reestablished prior to conveyance.
2. Furthermore, this certificate is being provided by the Consulting Engineer to CFX solely for the purposes of complying with Section 5.4 of CFX's Amended and Restated Master Bond Resolution and the requirements set forth in CFX's Manual and may not be relied on by any other person or party for any other purpose.

Sincerely,

R. Keith Jackson, P.E.
Program Manager

Attachments

cc: Linda Brehmer Lanosa, Esq. CFX (w/ enc.)

EXHIBIT "C"

A RESOLUTION OF THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY DECLARING PROPERTY AS SURPLUS PROPERTY

WHEREAS, Central Florida Expressway Authority (“CFX”), is empowered by Chapter 348, Part V, Florida Statutes, to acquire, hold, construct, improve, maintain, and operate the Central Florida Expressway System (the “Expressway Facility”), and is further authorized to sell, lease, transfer or otherwise dispose of any property or interest therein at any time acquired by CFX; and

WHEREAS, CFX has adopted that certain Policy Regarding the Disposition of Excess Lands, section 5-6.01, *et. seq.*, of CFX’s Property Acquisition, Disposition & Permitting Procedures Manual (referred to herein as the “Policy”), which Policy provides for the disposal of real property unnecessary or unsuitable for CFX’s use; and

WHEREAS, pursuant to the Policy, “Excess Property” is “[r]eal 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;” and

WHEREAS, pursuant to the Policy, where excess property is not essential for present or future construction, operation or maintenance of an Expressway Facility or for CFX purposes, the CFX Board may declare such excess property to be “Surplus Property” through the adoption of a resolution and direct that the Surplus Property be sold; and

WHEREAS, as part of the Maitland Boulevard Extension Project, CFX acquired Parcel 106 in its entirety by eminent domain in the case styled *Orlando/Orange County Expressway Authority v. B.J.J.S., Inc.*, Case No. 2005-CA-4997-O, for State Road (“SR”) 429, known as the Wekiva Parkway, and Connector Road, which connects SR 429 to U.S. 441; and

WHEREAS, a portion of Parcel 106, referred to as the Parcel or Parcel 106 Part B, has not been used for SR 429 or Connector Road; and

WHEREAS, CFX staff and its General Engineering Consultant have examined the Parcel and the General Engineering Consultant has certified that the Parcel will not be needed for the present or future construction, operation or maintenance of the Expressway Facilities, subject to the re-establishment of the limited access line; and

WHEREAS, in light of the foregoing circumstances and reservations, CFX's Right of Way Committee has recommended that that the CFX Board adopt a resolution declaring the Parcel to be Surplus Property.

NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AS FOLLOWS:

1. CFX hereby finds that the Parcel, further described in **Exhibit "A"** attached hereto, is not essential for present or future construction, operation or maintenance of an Expressway Facility or essential for CFX purposes and is Excess Property, provided that the limited access line is re-established.

2. Finding it is in the best interest of CFX and the public to declare the Parcel as Surplus Property, CFX hereby declares the Parcel as Surplus Property available for sale, subject to the re-establishment of the limited access line along Connector Road.

3. This Resolution shall take effect immediately upon adoption by the CFX governing Board.

ADOPTED this _____ day of _____ 2019.

Jay Madara, Chairman

ATTEST: _____
Regla Lamaute
Board Services Coordinator

Approved as to form and legality

Diego "Woody" Rodriguez
General Counsel

Resolution No. 2019-_____

SR 429, Project 429-201 & 202

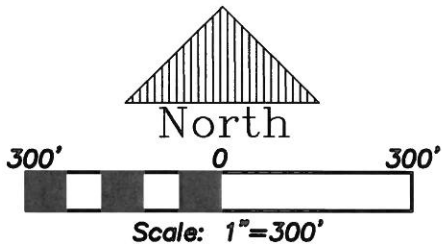
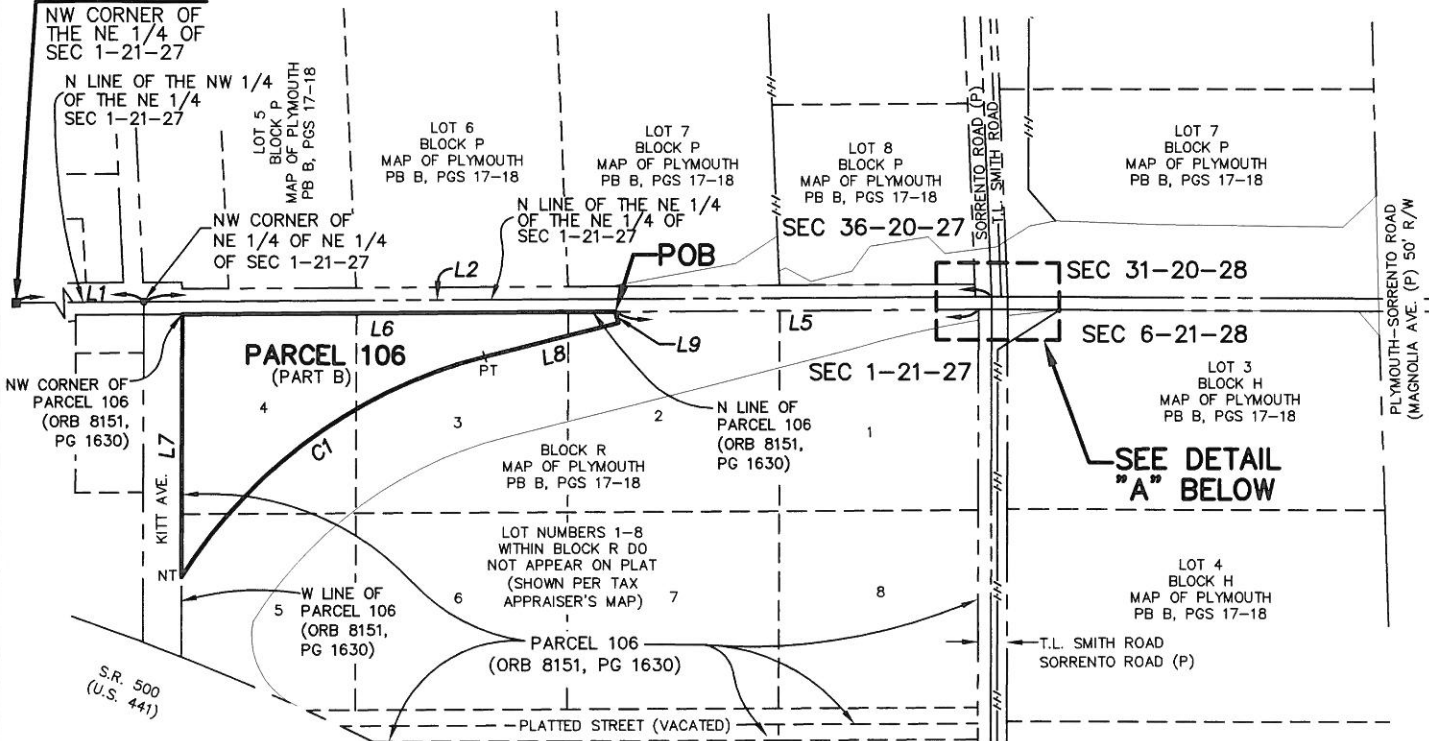
Parcel 106 Part B (North Side of Connector Road)

Exhibit "A"

SKETCH OF DESCRIPTION

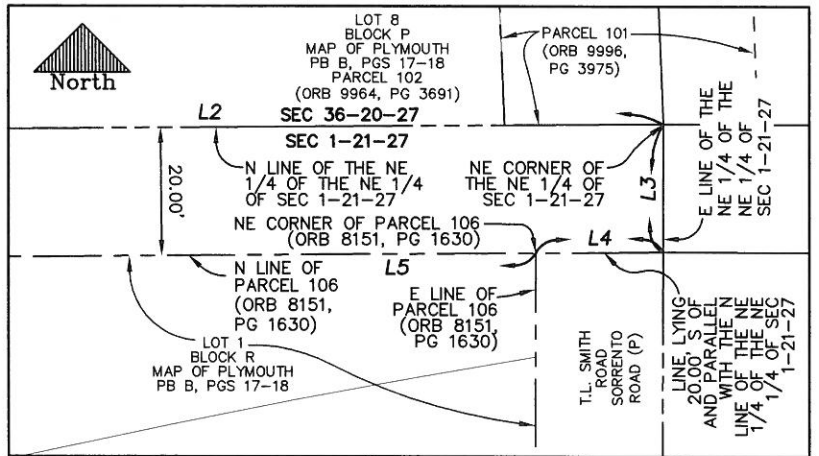
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
 STATE ROAD 429
 PROJECT: 429-201
 PURPOSE: SURPLUS PROPERTY
 ESTATE: FEE SIMPLE
 PARCEL NO. 106 PART B

POC



This Sketch of Description does not depict any easements of record that may be within or adjoining the lands described hereon.

SEE SHEET 1 FOR SKETCH
 SEE SHEET 2 FOR LINE AND CURVE TABLES, AND LEGEND
 SEE SHEET 3 FOR DESCRIPTION AND NOTES



DETAIL "A" (SCALE 1" = 300')

PREPARED FOR:

CITY OF APOPKA

STATE ROAD 429 - PARCEL 106 (PART B) CONNECTOR ROAD

DATE	BY	DESCRIPTION
09/19/19	RTS	REVISED SKETCH AND LEGAL
08/28/19	RTS	REVISED SKETCH OF DESCRIPTION
08/19/19	RTS	REVISED SKETCH AND LEGAL DESCRIPTION

REVISIONS



DONALD W. McINTOSH ASSOCIATES, INC.
 ENGINEERS PLANNERS SURVEYORS

2200 PARK AVENUE NORTH, WINTER PARK, FLORIDA 32789 (407) 644-4068
 CERTIFICATE OF AUTHORIZATION NO. LB68

DONALD W. McINTOSH ASSOCIATES, INC.
 CERTIFICATE OF AUTHORIZATION NO. LB68

Robert "Tyler" Sears September 20, 2019
 Florida Registered Surveyor and Mapper
 Certificate No. 6950
 NOT VALID WITHOUT THE ORIGINAL SIGNATURE
 AND SEAL OF A FLORIDA LICENSED
 SURVEYOR AND MAPPER.

DRAWN BY: <u>BMW</u>	CHECKED BY: <u>RTS</u>	JOB NO. <u>19020</u>	SCALE <u>1"=300'</u>	SHEET <u>1</u>
DATE: <u>7/2019</u>	DATE: <u>7/2019</u>			OF <u>3</u>

SKETCH OF DESCRIPTION

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
 STATE ROAD 429
 PROJECT: 429-201
 PURPOSE: SURPLUS PROPERTY
 ESTATE: FEE SIMPLE
 PARCEL NO. 106 PART B

LINE TABLE		
NUMBER	BEARING	DISTANCE
L1	N89°33'19"E	1320.40'
L2	N89°32'59"E	1320.36'
L3	S00°09'29"W	20.00'
L4	S89°32'59"W	20.00'
L5	S89°32'59"W	567.52'
L6	S89°32'59"W	672.85'
L7	S00°13'06"W	411.07'
L8	N75°37'18"E	214.23'
L9	N15°08'17"W	18.06'

CURVE TABLE					
NUMBER	RADIUS	DELTA	LENGTH	CHORD	CHORD BEARING
C1	785.00'	43°44'00"	599.18'	584.74'	N53°45'18"E

LEGEND

- //--- LIMITED ACCESS RIGHT-OF-WAY
- SEC 1-21-27 SECTION-TOWNSHIP-RANGE
- POC POINT OF COMMENCEMENT
- POB POINT OF BEGINNING
- L1 LINE NUMBER (SEE TABLE)
- C1 CURVE NUMBER (SEE TABLE)
- PC POINT OF CURVATURE
- PT POINT OF TANGENCY
- NT NON-TANGENT
- R/W RIGHT-OF-WAY
- ORB OFFICIAL RECORDS BOOK
- PB PLAT BOOK
- PG PAGE
- PGS PAGES
- (P) PER PLAT
- N'LY NORTHERLY
- S'LY NORTHERLY
- S.R. STATE ROAD
- U.S. UNITED STATES

PREPARED FOR:

CITY OF APOPKA

STATE ROAD 429 - PARCEL 106 (PART B) CONNECTOR ROAD



DONALD W. McINTOSH ASSOCIATES, INC.
 ENGINEERS PLANNERS SURVEYORS

2200 PARK AVENUE NORTH, WINTER PARK, FLORIDA 32789 (407) 644-4068
 CERTIFICATE OF AUTHORIZATION NO. LB68

DRAWN BY: <u>BMW</u>	CHECKED BY: <u>RTS</u>	JOB NO. <u>19020</u>	SCALE <u>N/A</u>	SHEET <u>2</u>
DATE: <u>7/2019</u>	DATE: <u>7/2019</u>			OF <u>3</u>

SEE SHEET 1 FOR SKETCH
 SEE SHEET 2 FOR LINE AND
 CURVE TABLES, AND LEGEND
 SEE SHEET 3 FOR DESCRIPTION
 AND NOTES

SKETCH OF DESCRIPTION

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

STATE ROAD 429

PROJECT: 429-201

PURPOSE: SURPLUS PROPERTY

ESTATE: FEE SIMPLE

PARCEL NO. 106 PART B

DESCRIPTION:

That part of Section 1, Township 21 South, Range 27 East, Orange County, Florida, described as follows:

Commence at the Northwest corner of the Northeast 1/4 of Section 1, Township 21 South, Range 27 East; thence N89°33'19"E along the North line of the Northwest 1/4 of the Northeast 1/4 of said Section 1, for a distance of 1320.40 feet to the Northwest corner of the Northeast 1/4 of the Northeast 1/4 of said Section 1; thence N89°32'59"E along the North line of the Northeast 1/4 of the Northeast 1/4 of said Section 1, for a distance of 1320.36 feet to the Northeast corner of the Northeast 1/4 of said Section 1; thence S00°09'29"W along the East line of said Northeast 1/4 of the Northeast 1/4 of Section 1, for a distance of 20.00 feet to a line lying 20.00' South of and parallel with aforesaid North line of the Northeast 1/4 of the Northeast 1/4 of Section 1; thence S89°32'59"W along said parallel line, for a distance of 20.00 feet to the Northeast corner of Parcel 106, as described in Official Records Book 8151, Page 1630, of the Public Records of Orange County, Florida; thence continue S89°32'59"W along the North line of said Parcel 106 for a distance of 567.52 feet to the POINT OF BEGINNING; thence continue S89°32'59"W along said North line, 672.85 feet to the Northwest corner of said Parcel 106; thence S00°13'06"W along the West line of said Parcel 106 for a distance of 411.07 feet to a non-tangent curve concave Southeasterly having a radius of 785.00 feet and a chord bearing of N53°45'18"E; thence departing said West line, run Northeasterly along the arc of said curve through a central angle of 43°44'00" for a distance of 599.18 feet to the point of tangency; thence N75°37'18"E, 214.23 feet; thence N15°08'17"W, 18.06 feet to the POINT OF BEGINNING.

Containing 2.287 acres more or less being subject to any rights-of-way, restrictions and easements of record.

NOTES:

- This is not a survey. This sketch of description is based on Orlando-Orange County Expressway Authority Right of Way Map of State Road No. 429 (Maitland Boulevard Extension) Project No. 429-201, prepared by DRMP. The configuration of this Sketch of Description is based on information provided to DWMA by Dewberry.
- Not valid without the original signature and seal of a Florida licensed surveyor and mapper.
- Bearings based on the North line of the Northwest 1/4 of the Northeast 1/4 of Section 1, Township 21 South, Range 27 East as being N89°33'19"E, relative to the Florida State Plane Coordinate System, Florida East Zone, 1983 North American datum, 1990 adjustment as shown on Orlando-Orange County Expressway Authority Right of Way Map of State Road No. 429 (Maitland Boulevard Extension) Project No. 429-201, prepared by DRMP.
- Lands shown hereon were not abstracted for rights-of-way, easements, ownership or other instruments of record by this firm.
- No title opinion or abstract of matters affecting title or boundary to the subject property or those of adjoining land owners have been provided. It is possible there are deeds of record, unrecorded deeds or other instruments which could affect the boundaries or use of the subject property.
- This Sketch of Description does not depict any easements of record that may be within or adjoining the lands described hereon.

PREPARED FOR:

CITY OF APOPKA

STATE ROAD 429 - PARCEL 106 (PART B) CONNECTOR ROAD



DONALD W. McINTOSH ASSOCIATES, INC.
ENGINEERS PLANNERS SURVEYORS

2200 PARK AVENUE NORTH, WINTER PARK, FLORIDA 32789 (407) 644-4068
CERTIFICATE OF AUTHORIZATION NO. LB68

SEE SHEET 1 FOR SKETCH
SEE SHEET 2 FOR LINE AND
CURVE TABLES, AND LEGEND
SEE SHEET 3 FOR DESCRIPTION
AND NOTES

DRAWN BY: <u>BMW</u>	CHECKED BY: <u>RTS</u>	JOB NO. <u>19020</u>	SCALE <u>N/A</u>	SHEET <u>3</u>
DATE: <u>7/2019</u>	DATE: <u>7/2019</u>			OF <u>3</u>

**A RESOLUTION OF THE
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AUTHORIZING THE SALE OF SURPLUS PROPERTY TO
THE CITY OF APOPKA FOR PUBLIC ROAD RIGHT OF
WAY AND RELATED PURPOSES**

WHEREAS, Central Florida Expressway Authority (“CFX”), is empowered by Chapter 348, Part V, Florida Statutes, to acquire, hold, construct, improve, maintain, and operate the Central Florida Expressway System (the “Expressway Facility”), and is further authorized to sell, lease, transfer or otherwise dispose of any property or interest therein at any time acquired by CFX; and

WHEREAS, CFX has adopted that certain Policy Regarding the Disposition of Excess Lands, section 5-6.01, *et. seq.*, of CFX’s Property Acquisition, Disposition & Permitting Procedures Manual (referred to herein as the “Policy”), which Policy provides for the disposal of real property unnecessary or unsuitable for CFX’s use; and

WHEREAS, section 5-1.01 of the Policy allows CFX to waive the procedures in a particular circumstance where deemed to be in the best interest of CFX and the public, provided that such waiver is not in conflict with state or federal law; and

WHEREAS, as part of the Maitland Boulevard Extension Project, CFX acquired Parcel 106 in its entirety by eminent domain in the case styled *Orlando/Orange County Expressway Authority v. B.J.J.S., Inc.*, Case No. 2005-CA-4997-O and used the property for State Road 429 known as the Wekiva Parkway and Connector Road, and a portion of Parcel 106, referred to as “the Parcel” or “Parcel 106 Part B,” has been declared to be surplus property, provided that the limited access line is reestablished along Connector Road; and

WHEREAS, the City of Apopka, a municipal corporation existing under the laws of the State of Florida, has made an application to CFX to purchase use the Parcel for public road right of way and related public purposes and has agreed to pay CFX the fair market value and, as additional consideration, the City of Apopka has agreed to accept the maintenance responsibilities for Connector Road; and

WHEREAS, CFX’s Right of Way Committee has determined that the sale of the Parcel subject to the reestablishment of the limited access line, would be in the best interest of CFX and the public; and

WHEREAS, after reviewing the City of Apopka's application, CFX's Right of Way Committee has recommended that the Parcel be sold to the City of Apopka for public road right of way and related public purposes as described herein.

NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AS FOLLOWS:

1. CFX hereby finds that it is in the interest of both CFX and the public to sell the Parcel, subject to the reestablishment of the limited-access line, as more particularly described in **Exhibit "A,"** to the City of Apopka for a public road right of way and other related public purposes.

2. Accordingly, CFX hereby declares that the Parcel may be sold to the City of Apopka for public road right of way and other related public purposes via Quit Claim Deed, after the limited-access line is reestablished along Connector Road, for fair market value plus Apopka's acceptance of the maintenance responsibilities for Connector Road, in a manner substantially similar to the Real Estate Agreement to Sell and Purchase attached hereto as **Exhibit "B,"** subject to minor changes with the approval of CFX's Chief of Infrastructure, General Engineering Consultant, and General Counsel or their designees.

3. The CFX Board will not require separate notice to the local government in which the Parcel is located.

4. This Resolution shall take effect immediately upon adoption by the CFX governing Board.

ADOPTED this _____ day of _____ 2019.

Jay Madara, Chairman

ATTEST: _____
Regla Lamaute
Board Services Coordinator

Approved as to form and legality

Diego "Woody" Rodriguez
General Counsel

Resolution No. 2019-_____
SR 429, Project 429-201 & 202
Parcel 106 Part B (North Side of Connector Road)

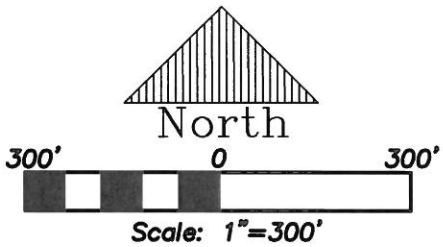
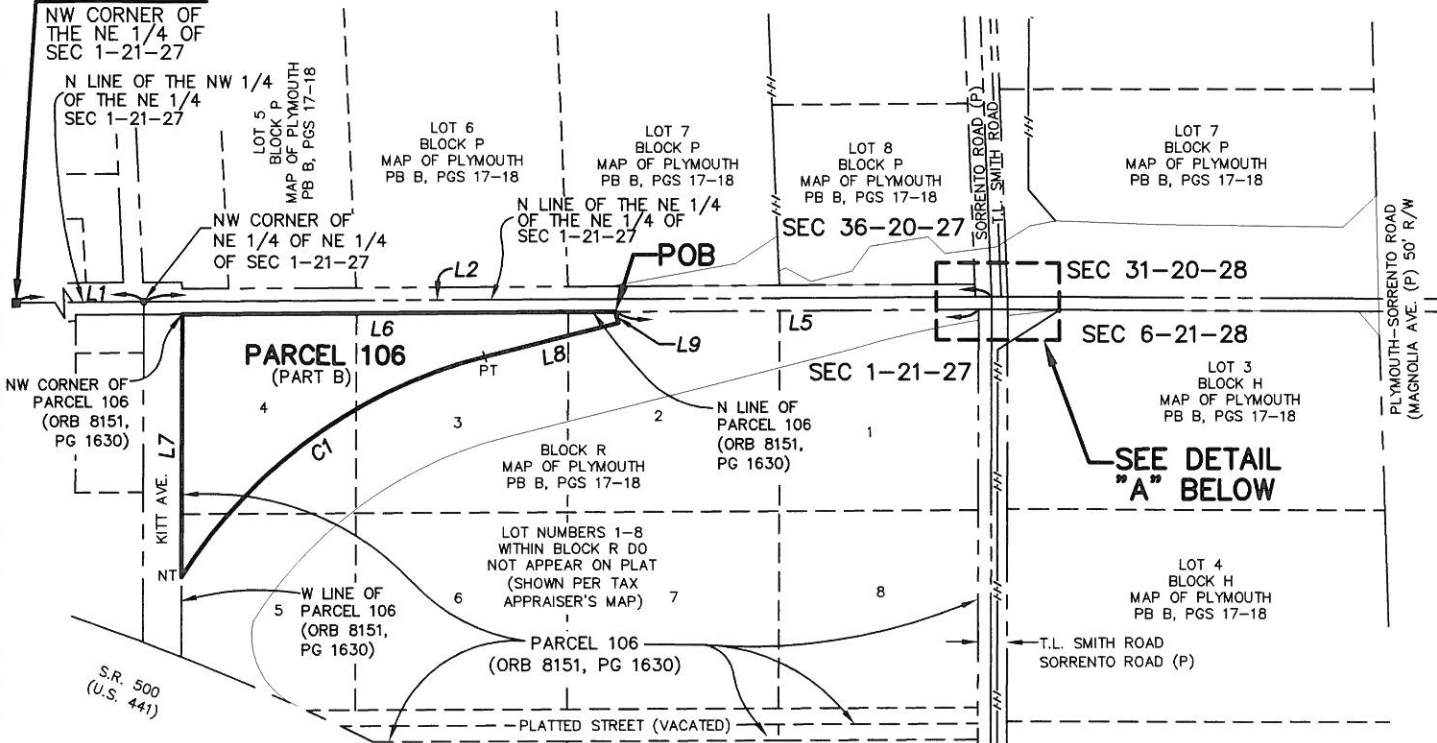
EXHIBIT “A”

DESCRIPTION OF PARCEL

SKETCH OF DESCRIPTION

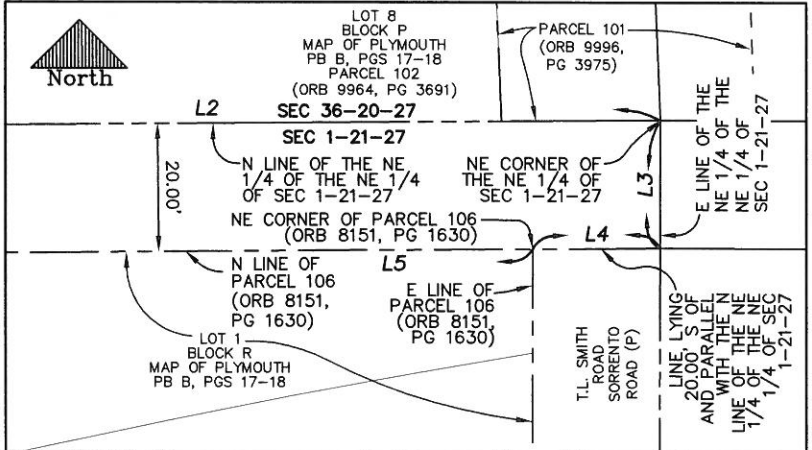
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
 STATE ROAD 429
 PROJECT: 429-201
 PURPOSE: SURPLUS PROPERTY
 ESTATE: FEE SIMPLE
 PARCEL NO. 106 PART B

POC



This Sketch of Description does not depict any easements of record that may be within or adjoining the lands described hereon.

SEE SHEET 1 FOR SKETCH
 SEE SHEET 2 FOR LINE AND CURVE TABLES, AND LEGEND
 SEE SHEET 3 FOR DESCRIPTION AND NOTES



DETAIL "A" (SCALE 1" = 300')

PREPARED FOR:
CITY OF APOPKA
 STATE ROAD 429 - PARCEL 106 (PART B) CONNECTOR ROAD

DATE	BY	DESCRIPTION
09/19/19	RTS	REVISED SKETCH AND LEGAL
08/28/19	RTS	REVISED SKETCH OF DESCRIPTION
08/19/19	RTS	REVISED SKETCH AND LEGAL DESCRIPTION

DONALD W. McINTOSH ASSOCIATES, INC.
ENGINEERS PLANNERS SURVEYORS
 2200 PARK AVENUE NORTH, WINTER PARK, FLORIDA 32789 (407) 644-4068
 CERTIFICATE OF AUTHORIZATION NO. LB68

DONALD W. McINTOSH ASSOCIATES, INC.
 CERTIFICATE OF AUTHORIZATION NO. LB68

 Robert "Tyler" Sears September 20, 2019
 Florida Registered Surveyor and Mapper
 Certificate No. 6950
 NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

DRAWN BY: <u>BMW</u>	CHECKED BY: <u>RTS</u>	JOB NO. <u>19020</u>	SCALE <u>1"=300'</u>	SHEET <u>1</u>
DATE: <u>7/2019</u>	DATE: <u>7/2019</u>			OF <u>3</u>

SKETCH OF DESCRIPTION

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
 STATE ROAD 429
 PROJECT: 429-201
 PURPOSE: SURPLUS PROPERTY
 ESTATE: FEE SIMPLE
 PARCEL NO. 106 PART B

LINE TABLE		
NUMBER	BEARING	DISTANCE
L1	N89°33'19"E	1320.40'
L2	N89°32'59"E	1320.36'
L3	S00°09'29"W	20.00'
L4	S89°32'59"W	20.00'
L5	S89°32'59"W	567.52'
L6	S89°32'59"W	672.85'
L7	S00°13'06"W	411.07'
L8	N75°37'18"E	214.23'
L9	N15°08'17"W	18.06'

CURVE TABLE					
NUMBER	RADIUS	DELTA	LENGTH	CHORD	CHORD BEARING
C1	785.00'	43°44'00"	599.18'	584.74'	N53°45'18"E

LEGEND

- LIMITED ACCESS RIGHT-OF-WAY
- SEC 1-21-27 SECTION-TOWNSHIP-RANGE
- POC POINT OF COMMENCEMENT
- POB POINT OF BEGINNING
- L1 LINE NUMBER (SEE TABLE)
- C1 CURVE NUMBER (SEE TABLE)
- PC POINT OF CURVATURE
- PT POINT OF TANGENCY
- NT NON-TANGENT
- R/W RIGHT-OF-WAY
- ORB OFFICIAL RECORDS BOOK
- PB PLAT BOOK
- PG PAGE
- PGS PAGES
- (P) PER PLAT
- N'LY NORTHERLY
- S'LY NORTHERLY
- S.R. STATE ROAD
- U.S. UNITED STATES

PREPARED FOR:

CITY OF APOPKA

STATE ROAD 429 - PARCEL 106 (PART B) CONNECTOR ROAD



DONALD W. McINTOSH ASSOCIATES, INC.
 ENGINEERS PLANNERS SURVEYORS

2200 PARK AVENUE NORTH, WINTER PARK, FLORIDA 32789 (407) 644-4068
 CERTIFICATE OF AUTHORIZATION NO. LB68

DRAWN BY: <u>BMW</u>	CHECKED BY: <u>RTS</u>	JOB NO. <u>19020</u>	SCALE <u>N/A</u>	SHEET <u>2</u>
DATE: <u>7/2019</u>	DATE: <u>7/2019</u>			OF <u>3</u>

SEE SHEET 1 FOR SKETCH
 SEE SHEET 2 FOR LINE AND
 CURVE TABLES, AND LEGEND
 SEE SHEET 3 FOR DESCRIPTION
 AND NOTES

SKETCH OF DESCRIPTION

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

STATE ROAD 429

PROJECT: 429-201

PURPOSE: SURPLUS PROPERTY

ESTATE: FEE SIMPLE

PARCEL NO. 106 PART B

DESCRIPTION:

That part of Section 1, Township 21 South, Range 27 East, Orange County, Florida, described as follows:

Commence at the Northwest corner of the Northeast 1/4 of Section 1, Township 21 South, Range 27 East; thence N89°33'19"E along the North line of the Northwest 1/4 of the Northeast 1/4 of said Section 1, for a distance of 1320.40 feet to the Northwest corner of the Northeast 1/4 of the Northeast 1/4 of said Section 1; thence N89°32'59"E along the North line of the Northeast 1/4 of the Northeast 1/4 of said Section 1, for a distance of 1320.36 feet to the Northeast corner of the Northeast 1/4 of said Section 1; thence S00°09'29"W along the East line of said Northeast 1/4 of the Northeast 1/4 of Section 1, for a distance of 20.00 feet to a line lying 20.00' South of and parallel with aforesaid North line of the Northeast 1/4 of the Northeast 1/4 of Section 1; thence S89°32'59"W along said parallel line, for a distance of 20.00 feet to the Northeast corner of Parcel 106, as described in Official Records Book 8151, Page 1630, of the Public Records of Orange County, Florida; thence continue S89°32'59"W along the North line of said Parcel 106 for a distance of 567.52 feet to the POINT OF BEGINNING; thence continue S89°32'59"W along said North line, 672.85 feet to the Northwest corner of said Parcel 106; thence S00°13'06"W along the West line of said Parcel 106 for a distance of 411.07 feet to a non-tangent curve concave Southeasterly having a radius of 785.00 feet and a chord bearing of N53°45'18"E; thence departing said West line, run Northeasterly along the arc of said curve through a central angle of 43°44'00" for a distance of 599.18 feet to the point of tangency; thence N75°37'18"E, 214.23 feet; thence N15°08'17"W, 18.06 feet to the POINT OF BEGINNING.

Containing 2.287 acres more or less being subject to any rights-of-way, restrictions and easements of record.

NOTES:

- This is not a survey. This sketch of description is based on Orlando-Orange County Expressway Authority Right of Way Map of State Road No. 429 (Maitland Boulevard Extension) Project No. 429-201, prepared by DRMP. The configuration of this Sketch of Description is based on information provided to DWMA by Dewberry.
- Not valid without the original signature and seal of a Florida licensed surveyor and mapper.
- Bearings based on the North line of the Northwest 1/4 of the Northeast 1/4 of Section 1, Township 21 South, Range 27 East as being N89°33'19"E, relative to the Florida State Plane Coordinate System, Florida East Zone, 1983 North American datum, 1990 adjustment as shown on Orlando-Orange County Expressway Authority Right of Way Map of State Road No. 429 (Maitland Boulevard Extension) Project No. 429-201, prepared by DRMP.
- Lands shown hereon were not abstracted for rights-of-way, easements, ownership or other instruments of record by this firm.
- No title opinion or abstract of matters affecting title or boundary to the subject property or those of adjoining land owners have been provided. It is possible there are deeds of record, unrecorded deeds or other instruments which could affect the boundaries or use of the subject property.
- This Sketch of Description does not depict any easements of record that may be within or adjoining the lands described hereon.

PREPARED FOR:

CITY OF APOPKA

STATE ROAD 429 - PARCEL 106 (PART B) CONNECTOR ROAD



DONALD W. MCINTOSH ASSOCIATES, INC.
ENGINEERS PLANNERS SURVEYORS

2200 PARK AVENUE NORTH, WINTER PARK, FLORIDA 32789 (407) 644-4068
CERTIFICATE OF AUTHORIZATION NO. LB68

SEE SHEET 1 FOR SKETCH
SEE SHEET 2 FOR LINE AND
CURVE TABLES, AND LEGEND
SEE SHEET 3 FOR DESCRIPTION
AND NOTES

DRAWN BY: <u>BMW</u>	CHECKED BY: <u>RTS</u>	JOB NO. <u>19020</u>	SCALE <u>N/A</u>	SHEET <u>3</u>
DATE: <u>7/2019</u>	DATE: <u>7/2019</u>			OF <u>3</u>

Resolution No. 2019-_____
SR 429, Project 429-201 & 202
Parcel 106 Part B (North Side of Connector Road)

EXHIBIT "B"

REAL ESTATE SALE AND PURCHASE AGREEMENT

PROJECT 429-201
SURPLUS PARCEL NO. 106 PART B
(Connector Road Parcel)

REAL ESTATE AGREEMENT TO SELL AND PURCHASE
THE CONNECTOR ROAD PARCEL

THIS AGREEMENT, made this _____ day of _____ 2019, between **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a public corporation and agency of the State of Florida, with an address of 4974 ORL Tower Road, Orlando, Florida 32807, (“CFX”) and the **CITY OF APOPKA**, a charter city and political subdivision of the State of Florida, whose address is 120 E. Main Street, Apopka Florida 32703 (“City” or “Purchaser”). CFX and City are sometimes collectively referred to herein as the “Parties.”

RECITALS:

WHEREAS, CFX is an agency of the State of Florida, created by Section 348.753, Florida Statutes, and is empowered to build and support an expressway system (“Expressway System”) in the Central Florida area, including the authority to acquire real property by donation and to do everything necessary or convenient for the conduct of its business and the general welfare of CFX;

WHEREAS, as part of the Maitland Boulevard Extension Project, CFX acquired Parcel 106 in its entirety by eminent domain in the case styled *Orlando/Orange County Expressway Authority v. B.J.J.S., Inc.*, Case No. 2005-CA-4997-O, Parcel 106, through the deposit made pursuant to the Stipulated Order of Taking and Stipulated Final Judgment entered on August 16, 2005 and recorded as Document #20050572884, which acquisition included all rights of ingress, egress, light, air and view;

WHEREAS, CFX has completed the Maitland Boulevard Extension Project and the Wekiva Parkway Project and the construction of S.R. 429 and Connector Road are complete;

WHEREAS, Parcel 106, Part B has an approximate size of 2.287 acres and is located on Connector Road in Orange County, Florida, as generally depicted on **Exhibit “C”** and more particularly described on **Exhibit “A”** attached hereto and incorporated herein by this reference (the “Connector Road Parcel”);

WHEREAS, the City desires to purchase the Connector Road Parcel in order to implement its Western Gateway Transportation Master Plan Improvements and intends to use the Connector Road Parcel for public right of way purposes and other related public purposes;

WHEREAS, as consideration, the City will pay to CFX the fair market value of the Connector Road Parcel, and assume the maintenance responsibilities for Connector Road among other things;

WHEREAS, pursuant to Section 166.021, Florida Statutes, the City is empowered to provide and maintain arterial and other roads for the benefit of its citizen;

WHEREAS, as a condition precedent to the effective date of this Agreement, CFX must determine that the Connector Road Parcel is non-essential for present or future construction, operation or maintenance of the Expressway System and can be declared as surplus property, subject to certain reservations and conditions, available for sale in accordance with CFX's Policy Regarding the Disposition of Excess Lands as set for in CFX's Property Acquisition, Disposition & Permitting Procedures Manual ("Manual"), which determination is subject to confirmation and certification by CFX's general engineering consultant and the adoption of the appropriate resolutions by the CFX Board finding that the sale is in the best interest of the public and CFX; and

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, CFX and Purchaser 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 Sell and Purchase the Connector Road Parcel.** Subject to the terms and conditions contained herein, CFX agrees to sell to Purchaser and Purchaser agrees to purchase from CFX the Connector Road Parcel in the manner and upon the terms and conditions hereinbelow set forth in this Agreement.

3. **Purchase Price.** The purchase price (the "Purchase Price") to be paid by Purchaser to CFX for the Connector Road Parcel shall be the appraised value of the Connector Road Parcel which is _____ Dollars (\$_____). The Purchase Price shall be paid by Purchaser to CFX at closing by cashier's check or by wire transfer of funds, subject to appropriate credits, adjustments and prorations as hereinbelow provided.

4. **Title.** Purchaser has the right to order a title report at Purchaser's expense. Purchaser may order an ALTA owner's title commitment (the "Commitment") at its option and expense. If obtained, Purchaser shall provide a copy to CFX. It is expressly acknowledged and agreed that the limited access lines along the Connector Road Parcel will be released by CFX after CFX's limited access rights, including all rights of ingress, egress, light, air and view between CFX's Expressway System (State Road 429 and appurtenances), are established along the southern side of Connector Road.

5. **Survey.** Purchaser, at Purchaser's expense, may obtain a survey of the Connector Road Parcel (the "Survey") within twenty (20) days after the Approval Date. If obtained, Purchaser shall provide a copy of the Survey to CFX.

6. **Inspections; Condition of the Connector Road Parcel.**

a. Purchaser shall have fifteen (15) days after the Approval Date (the “Inspection Period”), to determine, in Purchaser’s sole and absolute discretion, that the Connector Road Parcel is suitable and satisfactory for Purchaser’s intended use. During the Inspection Period, Purchaser and/or its representatives shall have the right to enter upon the Connector Road Parcel for the purposes of making soil tests, site studies and surveys; provided, however, such entry shall be coordinated with CFX and shall not unreasonably damage the Connector Road Parcel or interfere with CFX’s or any third party’s use or occupancy of the Connector Road Parcel. Purchaser shall repair any damage occurring as a result of such activities and restore the Connector Road Parcel to substantially the condition it was in immediately prior to Purchaser’s entry thereon. All such entries onto the Connector Road Parcel shall be at the sole risk and expense of Purchaser and CFX shall have no liability for any injuries or damages sustained by Purchaser or any of Purchaser’s agents or contractors or any other third parties. Purchaser agrees to indemnify and hold CFX harmless from any and all loss, claim, action, demand or liability which may arise against CFX or the Connector Road Parcel arising out directly or indirectly out of Purchaser’s exercise of its rights pursuant to this Paragraph 6(a), including any damage to the Connector Road Parcel. The foregoing indemnities shall survive the expiration or termination of this Agreement. If Purchaser elects to not proceed with the purchase of the Connector Road Parcel, Purchaser shall notify CFX in writing within the Inspection Period that Purchaser elects to cancel this Agreement (the “Cancellation Notice”) and this Agreement shall automatically terminate and be null and void, and neither party hereto shall have any further liability or obligation hereunder, except those expressly surviving the termination or expiration of this Agreement. In the event Purchaser shall fail to provide CFX with the Cancellation Notice within the Inspection Period, Purchaser shall be deemed to have waived Purchaser’s right to cancel this Agreement.

Purchaser acknowledges and agrees that CFX is affording Purchaser full and complete access to the Connector Road Parcel for the purpose of making any and all tests, inspections, or evaluations thereof as desired by Purchaser, including, but not limited to any environmental assessments or audits deemed advisable by Purchaser, and that Purchaser has inspected the Connector Road Parcel to the extent desired by Purchaser. Purchaser expressly acknowledges and agrees that the Connector Road Parcel and the premises are to be conveyed by CFX, and accepted by Purchaser in “AS IS” and “WHERE IS” condition, and that neither CFX, nor any officer, director, bondholder, employee, agent, representative, or other person or entity whatsoever, has made or does make hereby any warranty, representation, statement, guarantee, assertion or opinion, written or oral, express or implied, about or concerning the Connector Road Parcel or the premises, or about or concerning the physical condition thereof or for any use or purpose, or any similar matter. Purchaser covenants and agrees that the acceptance by Purchaser of the Connector Road Parcel in “AS IS” and “WHERE IS” condition, and without any representation or warranty of any kind or nature whatsoever was and is a material part of the consideration bargained for by CFX, and that Purchaser’s agreements in such regard were and are a material inducement for CFX to enter into and perform this Agreement. Purchaser hereby covenants and agrees that Purchaser does and shall assume any and all risks concerning the Connector Road Parcel, and the physical condition and characteristics thereof, and any defects or problems concerning the Connector Road Parcel, whether patent or latent, known or unknown. (Manual, § 5-6.09)

b. In the event Purchaser does not close on the purchase of the Connector Road Parcel, within seven (7) days after the termination of this Agreement, Purchaser shall deliver to CFX copies of all tests, reports, surveys, environmental audits and other audits relating to the Connector Road Parcel which have been prepared by, on behalf of, or for Purchaser.

7. **Conditions Precedent.** The effective date of this Agreement shall be the date the last of the following has occurred, each of which is a condition precedent:

- a. Approval by the City and execution by its Mayor or another duly authorized official; and
- b. Approval by the CFX Board and execution by its Executive Director or another duly authorized CFX official; and
- c. CFX's receipt of a certificate from its Consulting Engineer (as such term is defined in CFX's Amended and Restated Master Bond Resolution adopted by CFX's governing Board on February 3, 2003, as supplemented and amended from time to time, (the "Master Bond Resolution") stating, in the opinion of such Consulting Engineer, that the sale of the Surplus Properties as provided herein will not impede or restrict the operation by CFX of the Expressway System, as is required by Section 5.4 of the Master Bond Resolution and is non-essential for present or future construction, operation or maintenance of the Expressway System; and
- d. The CFX Board approves a Resolution declaring the Connector Road Parcel to be surplus property available for sale; and
- e. The CFX Board approves a Resolution authorizing the sale of the Connector Road Parcel to Purchaser for public road right of way purposes and other public purposes; and
- f. Purchaser and CFX have entered into a Right-of-Way Transfer and Continuing Maintenance Agreement pertaining to Connector Road, Connector Road has been transferred to City, and a limited-access line in favor of CFX has been established along the south side of Connector Road.

8. **Closing Date and Closing Procedures and Requirements.**

a. **Closing Date.** The closing of the purchase and sale contemplated under this Agreement (the "Closing") shall take place within thirty (30) days after the Effective Date on a date and time specified by CFX (the "Closing Date") upon not less than five (5) days' written notice to Purchaser. Closing shall be held at the offices of CFX or at such other place as Purchaser and CFX shall agree. Notwithstanding the foregoing, closing may be by mail and/or overnight courier.

b. Conveyance of Title to the Connector Road Parcel. At the Closing, CFX shall execute and deliver to Purchaser the Quit Claim Deed in the substantial form and content as the Quit Claim Deed attached hereto as **Exhibit “B”** incorporated herein by reference.

c. Reverter. The parties agree that if Purchaser no longer uses the Connector Road Parcel for public right-of-way purposes or related public purposes, then all right, title, and interest to Connector Road Parcel shall automatically revert back to CFX at CFX’s option and at no cost to CFX.

d. Delivery of Possession; Risk of Loss. Purchaser shall be given possession of the Connector Road Parcel on the Closing Date. All risk of loss prior to closing shall be borne by CFX, except to the extent of Purchaser’s liability for damage to the Connector Road Parcel caused by Purchaser, its employees, agents or contractors, which shall be borne by Purchaser.

e. Closing Costs; Prorations. CFX shall prepare and pay for the cost of preparation of the Quit Claim Deed. Purchaser shall record the Deed and pay all costs of the recording of the Deed (including documentary stamp taxes, if any); the cost of preparation of the survey and other costs of Purchaser’s due diligence of the Connector Road Parcel; all costs, if any, related to Purchaser’s financing of the property (including all costs related to any note and mortgage obtained by Purchaser, any lender charges or fees, documentary stamps, intangible taxes and recording fees); cost of CFX’s appraisal and review appraisal, and the premium for the title policy to be issued at closing, if any. The Parties shall each pay their own attorney’s fees. Real property taxes and assessments on the Connector Road Parcel, if any, shall be prorated as of the date of closing. 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 parties shall sign a closing statement or statements and such other documents as are necessary to complete the transaction. CFX shall sign an affidavit that CFX 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 CFX’s taxpayer identification numbers and address or a withholding certificate from the Internal Revenue Service stating that CFX is exempt from withholding tax on the Purchase Price under FIRPTA).

9. **Failure of Performance.**

a. On the part of CFX: In the event of a default by CFX under this Agreement, then as Purchaser’s sole remedy hereunder, Purchaser may recover a refund of its initial deposit, if any. Purchaser expressly waives any and all other remedies, legal or equitable, including any action for damages.

b. On the part of Purchaser: In the event of a default by Purchaser under this Agreement, then CFX shall have the right to immediately claim the initial deposit, if any, and the initial deposit shall be deemed nonrefundable.

10. **No Recording.** Neither this Agreement nor any record or memorandum thereof shall be recorded in the Public Records of any county in the State of Florida. Recording of this Agreement or any of the terms and provisions hereof, or any record or memorandum thereof by Purchaser shall, at the option of CFX, immediately constitute a material breach and default by Purchaser hereunder, and grounds for termination of the Agreement by CFX. Nevertheless, this Agreement will be included in the official records of CFX as a public record.

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, 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

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

Purchaser: CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attention: Mayor
Telephone: (407) 703-1601

With a copy to: CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attention: City Attorney
Telephone: (407) 703-1658

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 Purchaser 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. 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. Purchaser 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 or after closing if desirable or necessary to assist in correcting errors or omissions. This Agreement shall be interpreted under the laws of the State of Florida. Purchaser and CFX acknowledge that this Agreement was prepared after substantial negotiations between the parties and this Agreement shall not be interpreted against either party solely because such party or its counsel drafted the Agreement. The parties hereto agree that venue for any legal action authorized hereunder shall be *exclusively* in the courts of Orange County, Florida. TIME IS OF THE ESSENCE OF THIS AGREEMENT AND EACH AND EVERY PROVISION HEREOF.

13. **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.

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

15. **Approval Date.** It is specifically acknowledged and agreed that this Agreement is subject to final approval by CFX's Right of Way Committee and CFX's Board and, if applicable, the Appraisal and a review appraiser's certification certifying the proposed sale price as reasonable. The date of CFX's Board's final approval of this Agreement, shall be deemed the "Approval Date". If this Agreement is not approved by CFX's Board, the Agreement shall be terminated and the Parties shall have no further obligations or liabilities hereunder except those expressly surviving termination of this Agreement.

16. **Brokerage.** Purchaser and CFX hereby represent and warrant each to the other that said warranting party has not engaged or dealt with any agent, broker, or finder in regard to this Agreement.

17. **Radon Gas Notification.** Radon is a 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 public health unit.

18. **Release of CFX.** By execution of this Agreement, Purchaser acknowledges and agrees that upon the recording of the Quit Claim Deed by Purchaser, Purchaser remises, releases, acquits, satisfies, and forever discharges 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 Purchaser ever had, then have, or which any personal representative, successor, heir or assign of Purchaser, 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 CFX's conveyance of the Connector Road Parcel to Purchaser, including, without limitation, any claims for air, light and view between any abutting property and CFX's property. (Manual § 5-7.05)

19. **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 Connector Road Parcel.

20. **Inspector General.** Purchaser agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. Purchaser agrees to incorporate in all subcontracts the obligation to comply with Section 20.055(5).

IN WITNESS WHEREOF, the Parties have hereunto set their hands the day and year above written.

CITY OF APOPKA, FLORIDA

By: City Commission

BY: _____
MAYOR

Date: _____

ATTEST: _____
City Clerk

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

BY: _____

CHAIRMAN JAY MADARA

Date: _____

ATTEST: _____
Regla ("Mimi") Lamaute
Recording Clerk

**APPROVED AS TO FORM FOR
RELIANCE BY CFX ONLY**

By: _____
General Counsel

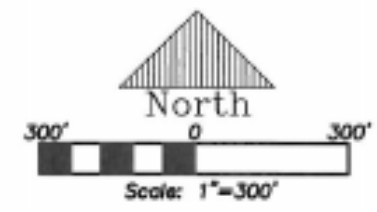
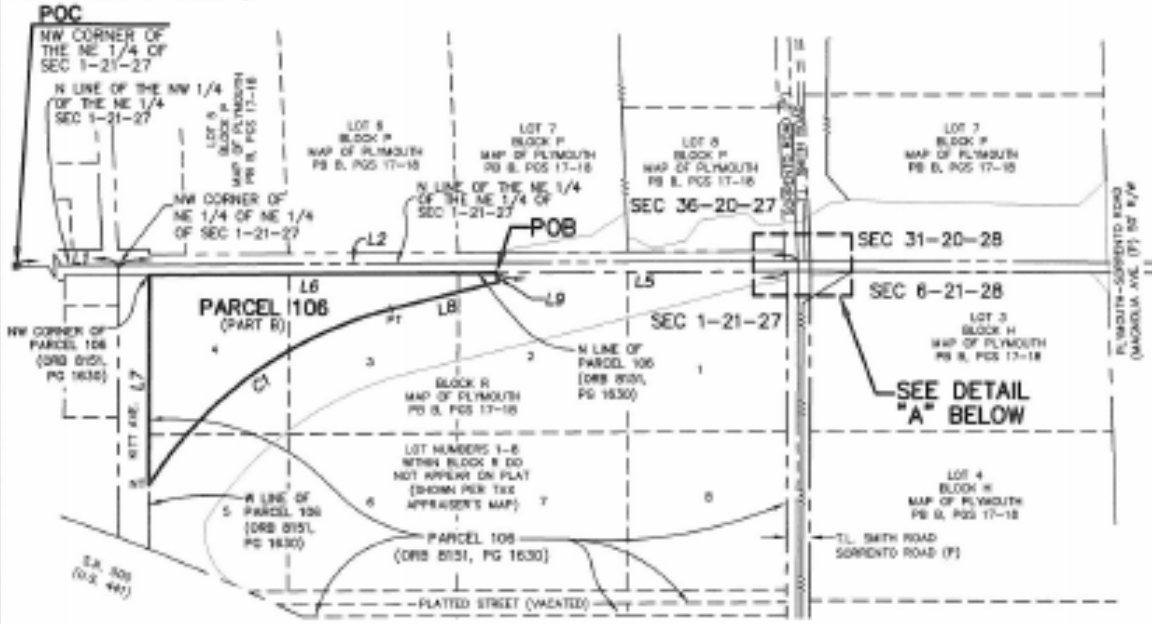
Exhibits

- Exhibit "A." Legal Description of the Connector Road Parcel
- Exhibit "B." Quit Claim Deed from CFX to Purchaser for the Connector Road Parcel
- Exhibit "C." Aerial of the Connector Road Parcel

EXHIBIT "A"
LEGAL DESCRIPTION OF THE CONNECTOR ROAD PARCEL
(PROJECT 429-201, PARCEL 106, PART B)

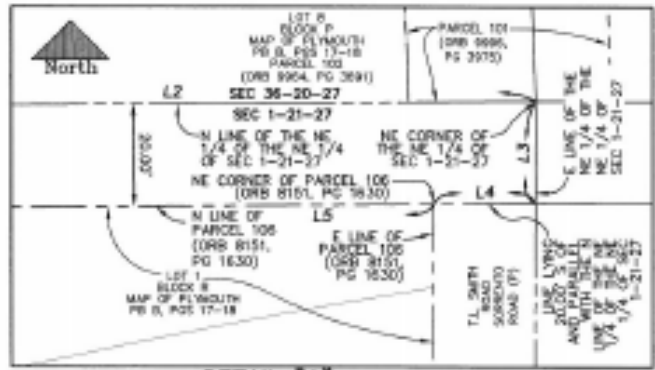
SKETCH OF DESCRIPTION

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
 STATE ROAD 429
 PROJECT: 429-201
 PURPOSE: SURPLUS PROPERTY
 ESTATE: FEE SIMPLE
 PARCEL NO. 106 PART B



This Sketch of Description does not depict any easements of record that may be within or adjoining the lands described hereon.

SEE SHEET 1 FOR SKETCH
 SEE SHEET 2 FOR LINE AND CURVE TABLES, AND LEGEND
 SEE SHEET 3 FOR DESCRIPTION AND NOTES



DETAIL "A" (SCALE 1"=30')

PREPARED FOR:	09/19/19	RTS	REVISED SKETCH AND LEGAL
CITY OF APOPKA	08/26/19	RTS	REVISED SKETCH OF DESCRIPTION
	08/19/19	RTS	REVISED SKETCH AND LEGAL DESCRIPTION
	DATE	BY	DESCRIPTION

STATE ROAD 429 - PARCEL 106 (PART B) CONNECTOR ROAD



DONALD W. McINTOSH ASSOCIATES, INC.
 ENGINEERS PLANNERS SURVEYORS
 2200 PARK AVENUE NORTH, WINTER PARK, FLORIDA 32789 (407) 644-4068
 CERTIFICATE OF AUTHORIZATION NO. LB68

REVISIONS

Robert "Tyler" Mars
 Florida Registered Surveyor and Mapper
 Certificate No. 6050
 NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

DRAWN BY: <u>DW</u>	CHECKED BY: <u>RTS</u>	JOB NO. <u>18020</u>	SCALE <u>1"=300'</u>	SHEET <u>1</u>
DATE: <u>7/2019</u>	DATE: <u>7/2019</u>			OF <u>3</u>

SKETCH OF DESCRIPTION

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
 STATE ROAD 429
 PROJECT: 429-201
 PURPOSE: SURPLUS PROPERTY
 ESTATE: FEE SIMPLE
 PARCEL NO. 106 PART B

LINE TABLE		
NUMBER	BEARING	DISTANCE
L1	N89°33'19"E	1320.40'
L2	N89°32'59"E	1320.36'
L3	S00°09'29"W	20.00'
L4	S89°32'59"W	20.00'
L5	S89°32'59"W	567.52'
L6	S89°32'59"W	672.85'
L7	S00°13'06"W	411.07'
L8	N75°37'18"E	214.23'
L9	N15°08'17"W	18.06'

CURVE TABLE					
NUMBER	RADIUS	DELTA	LENGTH	CHORD	CHORD BEARING
C1	785.00'	43°44'00"	599.18'	584.74'	N53°45'18"E

LEGEND

- LIMITED ACCESS RIGHT-OF-WAY
- SEC 1-21-27 SECTION-TOWNSHIP-RANGE
- POC POINT OF COMMENCEMENT
- POB POINT OF BEGINNING
- L1 LINE NUMBER (SEE TABLE)
- C1 CURVE NUMBER (SEE TABLE)
- PC POINT OF CURVATURE
- PT POINT OF TANGENCY
- NT NON-TANGENT
- R/W RIGHT-OF-WAY
- ORB OFFICIAL RECORDS BOOK
- PB FLAT BOOK
- PG PAGE
- PGS PAGES
- (P) PER PLAT
- NLY NORTHERLY
- S'LY SOUTHERLY
- S.R. STATE ROAD
- U.S. UNITED STATES

PREPARED FOR:

CITY OF APOPKA

STATE ROAD 429 - PARCEL 106 (PART B) CONNECTOR ROAD



DONALD W. MCINTOSH ASSOCIATES, INC.
 ENGINEERS PLANNERS SURVEYORS
 2200 PARK AVENUE NORTH, WINTER PARK, FLORIDA, 32789 (407) 644-4068
 CERTIFICATE OF AUTHORIZATION NO. LB68

DRAWN BY: <u>BMW</u>	CHECKED BY: <u>RTS</u>	JOB NO. <u>19020</u>	SCALE <u>N/A</u>	SHEET <u>2</u>
DATE: <u>7/2019</u>	DATE: <u>7/2019</u>			OF <u>3</u>

SEE SHEET 1 FOR SKETCH
 SEE SHEET 2 FOR LINE AND
 CURVE TABLES, AND LEGEND
 SEE SHEET 3 FOR DESCRIPTION
 AND NOTES

SKETCH OF DESCRIPTION

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
 STATE ROAD 429
 PROJECT: 429-201
 PURPOSE: SURPLUS PROPERTY
 ESTATE: FEE SIMPLE
 PARCEL NO. 106 PART B

DESCRIPTION:

That part of Section 1, Township 21 South, Range 27 East, Orange County, Florida, described as follows:

Commence at the Northwest corner of the Northeast 1/4 of Section 1, Township 21 South, Range 27 East; thence N89°33'19"E along the North line of the Northwest 1/4 of the Northeast 1/4 of said Section 1, for a distance of 1320.40 feet to the Northwest corner of the Northeast 1/4 of the Northeast 1/4 of said Section 1; thence N89°32'59"E along the North line of the Northeast 1/4 of the Northeast 1/4 of said Section 1, for a distance of 1320.36 feet to the Northeast corner of the Northeast 1/4 of said Section 1; thence S00°09'29"W along the East line of said Northeast 1/4 of the Northeast 1/4 of Section 1, for a distance of 20.00 feet to a line lying 20.00' South of and parallel with aforesaid North line of the Northeast 1/4 of the Northeast 1/4 of Section 1; thence S89°32'59"W along said parallel line, for a distance of 20.00 feet to the Northeast corner of Parcel 106, as described in Official Records Book 8151, Page 1630, of the Public Records of Orange County, Florida; thence continue S89°32'59"W along the North line of said Parcel 106 for a distance of 567.52 feet to the POINT OF BEGINNING; thence continue S89°32'59"W along said North line, 672.85 feet to the Northwest corner of said Parcel 106; thence S00°13'06"W along the West line of said Parcel 106 for a distance of 411.07 feet to a non-tangent curve concave Southeasterly having a radius of 785.00 feet and a chord bearing of N53°45'18"E; thence departing said West line, run Northeasterly along the arc of said curve through a central angle of 43°44'00" for a distance of 599.18 feet to the point of tangency; thence N75°37'18"E, 214.23 feet; thence N15°08'17"W, 18.06 feet to the POINT OF BEGINNING.

Containing 2.287 acres more or less being subject to any rights-of-way, restrictions and easements of record.

NOTES:

- This is not a survey. This sketch of description is based on Orlando-Orange County Expressway Authority Right of Way Map of State Road No. 429 (Maitland Boulevard Extension) Project No. 429-201, prepared by DRMP. The configuration of this Sketch of Description is based on information provided to DWMA by Dewberry.
- Not valid without the original signature and seal of a Florida licensed surveyor and mapper.
- Bearings based on the North line of the Northwest 1/4 of the Northeast 1/4 of Section 1, Township 21 South, Range 27 East as being N89°33'19"E, relative to the Florida State Plane Coordinate System, Florida East Zone, 1983 North American datum, 1990 adjustment as shown on Orlando-Orange County Expressway Authority Right of Way Map of State Road No. 429 (Maitland Boulevard Extension) Project No. 429-201, prepared by DRMP.
- Lands shown hereon were not abstracted for rights-of-way, easements, ownership or other instruments of record by this firm.
- No title opinion or abstract of matters affecting title or boundary to the subject property or those of adjoining land owners have been provided. It is possible there are deeds of record, unrecorded deeds or other instruments which could affect the boundaries or use of the subject property.
- This Sketch of Description does not depict any easements of record that may be within or adjoining the lands described hereon.

PREPARED FOR:

CITY OF APOPKA

STATE ROAD 429 - PARCEL 106 (PART B) CONNECTOR ROAD



DONALD W. McINTOSH ASSOCIATES, INC.
 ENGINEERS PLANNERS SURVEYORS
 2200 PARK AVENUE NORTH, WINTER PARK, FLORIDA 32789 (407) 644-4068
 CERTIFICATE OF AUTHORIZATION NO. LB68

SEE SHEET 1 FOR SKETCH
 SEE SHEET 2 FOR LINE AND
 CURVE TABLES, AND LEGEND
 SEE SHEET 3 FOR DESCRIPTION
 AND NOTES

DRAWN BY: <u>BMW</u>	CHECKED BY: <u>RTS</u>	JOB NO. <u>19020</u>	SCALE <u>N/A</u>	SHEET <u>3</u>
DATE: <u>7/2019</u>	DATE: <u>7/2019</u>			OF <u>3</u>

EXHIBIT "B"
QUIT CLAIM DEED FROM CFX TO PURCHASER FOR
THE CONNECTOR ROAD PARCEL

Return to:

CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attention: City Attorney

Reserved for Recording

Project 429-201, Connector Road Parcel 106, Part B
(Adjacent to Connector Road)

This deed is exempt from Florida documentary stamp tax under Department of Revenue Rules 12B-4.002(4)(a), 12B-4.014(10), F.A.C., and Section 201.02(6), Florida Statutes.

QUIT CLAIM DEED

THIS QUIT CLAIM DEED, made and executed on the ____ day of _____, 2019, by CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 (“GRANTOR”) and CITY OF APOPKA, a charter city and political subdivision of the State of Florida, whose address is 120 E. Main Street, Apopka Florida 32703 (“GRANTEE”).

WITNESSETH: That the GRANTOR, for and in consideration of the sum of \$10.00 and other valuable considerations, the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release, and forever quit-claim unto the said GRANTEE, all the right, title, interest, claim, and demand which the GRANTOR has in and to the following described lots, pieces, or parcels of land, situate, lying and being in the county of Orange, state of Florida, hereinafter “the Property,” to-wit:

SEE ATTACHED EXHIBIT “A”

Property Appraiser’s Parcel Identification Number: Not Assigned

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining and all the estate, right, title, interest, lien, equity, and claim whatsoever of the GRANTOR, either in law or equity, for the proper use, benefit, and behoove of the GRANTEE forever.

SUBJECT TO the covenants, conditions and restrictions which are set forth below:

- a) GRANTEE has no rights of ingress, egress, or access to S.R. 429 from the Property, nor does GRANTEE have any rights of light, air or view from S.R. 429.
- b) GRANTEE expressly agrees for itself and its successors and assigns, to refrain from any use of the Property which would interfere with the Expressway System, or otherwise constitute a hazard for the Expressway System.
- c) GRANTEE acknowledges that the Property was acquired via eminent domain and is subject to Section 73.013, Florida Statutes. GRANTEE expressly agrees for itself, its successors and assigns that if GRANTEE no longer uses the Property for public right-of-way or other related public purposes, then GRANTOR has a right of first refusal to all right, title, and interest to the Property at no cost. GRANTEE grants, transfers, and delivers to GRANTOR a right of first refusal to acquire all right, title, and interest to the Property at no cost to GRANTOR. GRANTEE shall give GRANTOR at least 180 days written notice of the occurrence of events that give rise to GRANTOR's right of first refusal. GRANTEE shall give GRANTOR an additional 180 days to exercise its right of first refusal upon request.

GRANTEE acknowledges and agrees that as of the date of the acceptance of this deed, GRANTEE hereby remises, releases, acquits, satisfies, and forever discharges GRANTOR, 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 GRANTEE ever had, then have, or which any personal representative, successor, heir or assign of GRANTEE, thereafter can, shall or may have, against GRANTOR, for, upon or by reason of any matter, cause or thing whatsoever, arising out of or in any way connected with the Property or GRANTOR's conveyance of the Property, both before and after the date of this instrument.

IN WITNESS WHEREOF, the said GRANTOR has caused these presents to be signed in its name by its duly authorized representative.

[SIGNATURES TO FOLLOW]

Project 429-201, Parcel 106, Part B

Signed and sealed in the presence of:

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

First Witness:

Signature

BY: _____
CHAIRMAN JAY MADARA

Print Name

Date: _____

Second Witness:

Signature

Print Name

ATTEST: _____
Regla ("Mimi") Lamaute
Recording Clerk

**APPROVED AS TO FORM FOR
RELIANCE BY CFX ONLY**

By: _____
General Counsel

STATUTORY SHORT FORM OF ACKNOWLEDGMENT PER § 695.25, FLA. STAT.

STATE OF FLORIDA)
COUNTY OF _____)

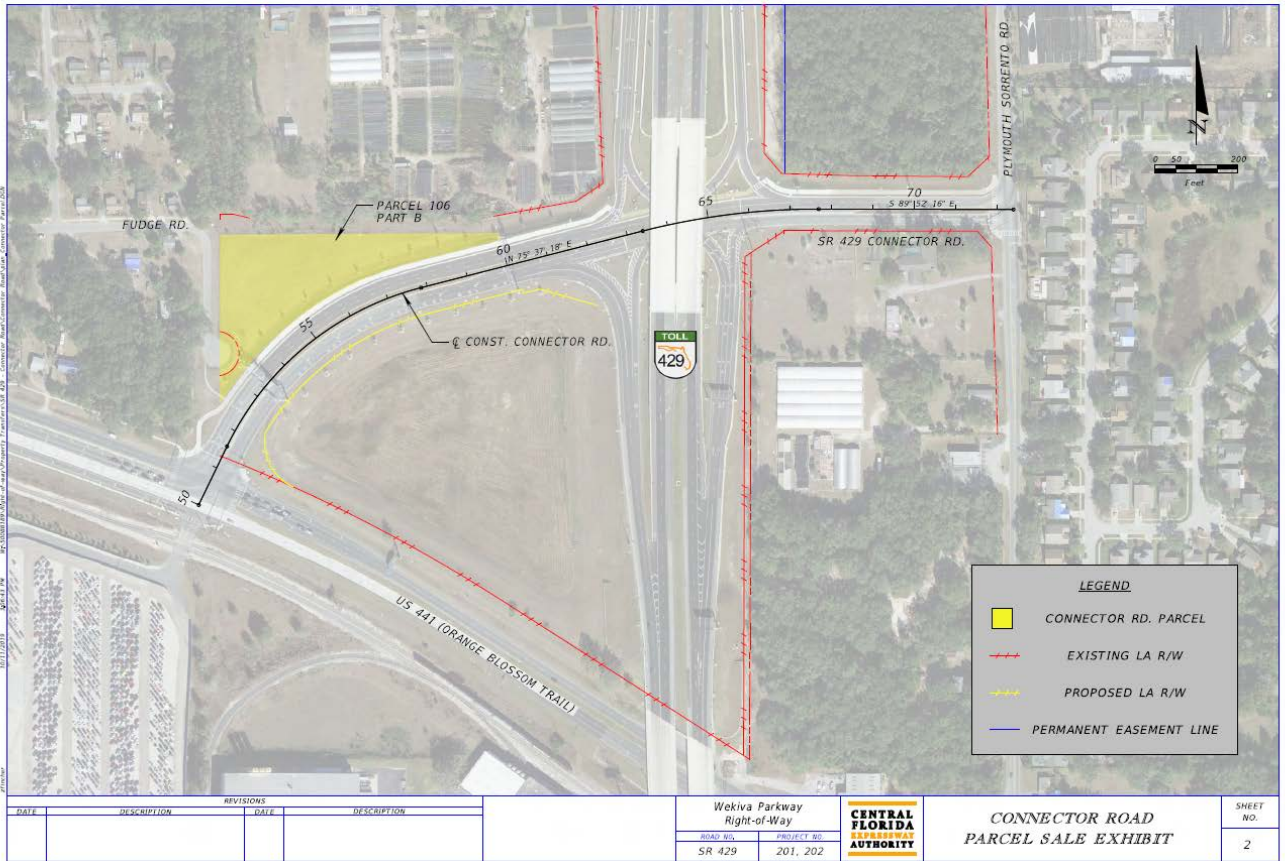
The foregoing instrument was acknowledged before me this ____ day of _____,
201____, by _____, as Chairman of the Central Florida Expressway
Authority, on behalf of the Central Florida Expressway Authority, who is personally known to
me OR produced _____ as identification.

NOTARY PUBLIC

Signature: _____
Signature of Notary Public - State of Florida

Print, Type or Stamp Commissioned Name of Notary Public

EXHIBIT "C" AERIAL OF THE CONNECTOR ROAD PARCEL



REVISIONS		REVISIONS	
		DATE	DESCRIPTION
DATE	DESCRIPTION	DATE	DESCRIPTION

Wekiva Parkway Right-of-Way	
ROAD NO. SR 429	PROJECT NO. 201, 202



**CONNECTOR ROAD
PARCEL SALE EXHIBIT**

SHEET NO.	2
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CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: Right of Way Committee Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel *Linda SB*

DATE: October 11, 2019

RE: City of Apopka's Request to Purchase Southfork Drive for Road Right-of-Way and Property Needed to Implement its Western Gateway Transportation Master Plan Improvements Resolution

PROJECT: 429-201 & 429-202

PARCEL: CFX's Fractional Interest in Southfork Drive

LOCATION: North of U.S. 441 running perpendicular to SR 429

INTRODUCTION

The City of Apopka ("Apopka") has made an application to Central Florida Expressway Authority ("CFX") to purchase CFX's fractional interest in Southfork Drive ("the Parcel") to be used for public road right-of-way purposes. In exchange for the real property interest, Apopka would compensate CFX for the appraised value of the Parcel and, as further consideration, Apopka would assume the ongoing maintenance responsibilities for Connector Road. Apopka's request is attached hereto as **Exhibit "A"** and includes a description of Apopka's Western Gateway Transportation Master Plan Improvements. A map and aerial of Southfork Drive is attached as **Exhibit "B"**.

The CFX Right of Way Committee ("ROW Committee") is tasked with two responsibilities in this proposed request. First, it must evaluate whether the Parcel should be declared surplus property. If deemed to be surplus, the ROW Committee should recommend approval of a resolution to that effect to be approved by the CFX Board. Second, if the Parcel is deemed to be surplus property, the ROW Committee should evaluate whether to authorize the sale of the Parcel to the City of Apopka and the terms of the sale. This includes a review and recommendation for approval of the Real Estate Sale and Purchase Agreement.

DESCRIPTION OF THE PARCEL

Southfork Drive is an unpaved private road located in Orange County, Florida, beginning in the east at Plymouth Sorrento Road and running west under the overpass of State Road ("SR") 429 also known as the Wekiva Parkway and continuing beyond the western limited access right-of-way line. CFX acquired a one-eighth fractional interest in Southfork Drive as part of the Wekiva Parkway Project, Project Nos. 429-201 and 429-202.

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

In addition, as part of the Wekiva Parkway project, CFX acquired permanent easements from the other undivided fractional owners of Southfork Drive for a bridge over Southfork Drive and for utilities in the eminent domain case styled *Central Florida Expressway Authority v. Robert M. Grossenbacher*, Case No. 2014-CA-8617-O, Parcel 800 (Parts A & B), as memorialized in the Orders of Taking and Stipulated Final Judgments.

ANALYSIS

CFX has adopted a Policy Regarding the Disposition of Excess Lands, codified in section 5-6.01, *et. seq.*, of CFX's Property Acquisition, Disposition & Permitting Procedures Manual (referred to herein as the "Policy"). The Policy provides, in part, for the disposal of real property unnecessary or unsuitable for CFX's use. "Excess Property" is defined as "[r]eal 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." Where Excess Property is not essential for present or future construction, operation or maintenance of an Expressway Facility or for CFX purposes, the CFX Board may declare such Excess Property to be "Surplus Property" through the adoption of a resolution and direct that the Surplus Property be sold. Further, the Policy allows CFX to waive any procedure for the disposition of surplus property upon a recommendation of the Right of Way Committee and Executive Director, where deemed to be in the best interest of CFX and the public. Policy, §§ 5-1.01 & 5-6.04.

CFX staff and its General Engineering Consultant have examined the Parcel and have determined that the Parcel is not needed to support existing Expressway Facilities provided that an easement is reserved over the Southfork Drive Parcel for the existing SR 429 bridge and for maintenance and access purposes. Thus, CFX's General Engineering Consultant will certify that the Parcel will not be needed for the present or future construction, operation or maintenance of the Expressway Facility and that the disposition of the parcel, subject to the reservation of an easement, would not impede or restrict the Expressway System. As a result, the Parcel can be declared Surplus Property by the CFX Board through the adoption of a resolution.

Apopka, through correspondence dated April 12, 2019 from Mayor Bryan Nelson, has stated that it is seeking to develop and implement the City's Transportation Master Plan for the area in which the property is located. In order to construct and maintain that road network, the City must "gain ownership of certain properties owned by CFX" including the fractional interest. The letter also provides that Apopka is "willing to pay fair market value as determined by an appraisal obtained by CFX" as well as other associated costs with the sale of the property interest to Apopka.

Richard MacMillan, MAI, of the Appraisal Group of Central Florida, Inc., was retained to appraise CFX's undivided one-eighth fractional interest in the Southfork Drive Parcel. He valued CFX's fractional interest in the 1.969-acre Southfork Drive Parcel at Forty-One Thousand Six Hundred Dollars (\$41,600). David K. Hall, ASA, State Certified General Real Estate Appraisal, of Bullard, Hall & Adams, Inc., reviewed the appraisal report and submitted an Appraisal Review

Report confirming that the report met the requirements of the Uniform Standards of Professional Appraisal Practice ("USPAP").

A draft Real Estate Agreement to Sell and Purchase the Southfork Drive Parcel ("Draft Agreement") has been prepared and will be attached to the Resolution Authorizing the Sale of the Surplus Property to Apopka. The Draft Agreement is still subject to final approval by the City of Apopka and the CFX Board but a copy has been attached to the proposed resolution for input from the ROW Committee.

Based upon Apopka's intended use for public road right of way purposes, the payment of fair market value, and the additional consideration related to the maintenance of Connector Road, it is recommended that the ROW Committee find the sale of the Southfork Drive Parcel to be in the best interest of CFX and the public and that the Southfork Drive Parcel be sold to the City of Apopka for public road right of way purposes as set forth in the Resolution.

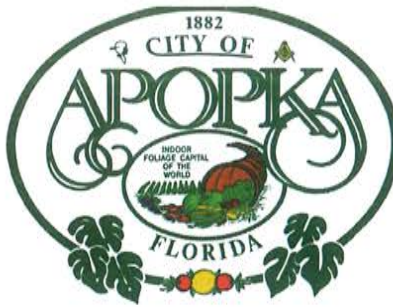
REQUEST

We request the Committee's recommendation for Board approval of the following:

- (1) Resolution Declaring CFX's Interest in the Southfork Drive Parcel as Surplus Property;
and
- (2) Resolution Authorizing the Sale of CFX's Interest in Southfork Drive to the City of Apopka for Public Road Right of Way Purposes for Fair Market Value Plus Associated Costs and Real Estate Agreement to Sell and Purchase the Southfork Drive Parcel.

EXHIBITS

- A. Letter from Bryan Nelson, Mayor, City of Apopka, dated April 12, 2019, with the West Apopka Gateway Area Draft Transportation Master Plan and supporting Resolution
- B. Map and Aerial
- C. Draft Certificate from CFX's General Engineering Consultant
- D. Resolution Declaring the Southfork Drive Parcel as Surplus Property
- E. Resolution Authorizing the Sale of CFX's Interest in Southfork Drive to the City of Apopka for Public Road Right of Way Purposes



120 E. Main St. · APOPKA, FLORIDA 32703-5346
PHONE (407) 703-1700

April 12, 2019

Ms. Laura Kelley, Executive Director
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Road Right-of-Way and Property needed to Implement the City's Western Gateway
Transportation Master Plan Improvements

Dear Ms. Kelley,

The City of Apopka is actively pursuing quality development to locate in its western gateway, defined as the area framed by S.R. 429 on the east, S.R. 429 Connector Road on the south, Hermit Smith Road on the west, and Yothers Road on the north. Key to successful development will be implementation of the City's Transportation Master Plan for this area. This plan includes a well-designed internal roadway network that connects to the roadways that frame the area. See the attached map.

For the roadway network to be constructed, the City needs to gain ownership of certain properties owned by CFX. Without these properties, the opportunities to make a useful connected roadway network that is attractive to developers are remote.

The Apopka City Council understands the benefits a well-planned and designed roadway network brings to the City and at its meeting on March 20, 2019, adopted Resolution No. 2019-08 which supports collaborating with the City's partners to acquire properties and right-of-way necessary for construction of a roadway network in the City's western gateway area. This Resolution (attached to this letter) demonstrates the City's commitment to attracting quality development to this area and the need for a roadway network that supports development.

Vital to the Transportation Master Plan roadway network is the ability to connect S.R. 429 Connector Road to Fudge Road. The connection needs to be located around the mid-point between U.S. 441 and S.R. 429 Connector Road western signal to meet spacing requirements for safe operation. Equally important is constructing Southfork Drive to City standards and making it a public road. The Transportation Master Plan includes Southfork Drive as a centrally located east-west road connecting Plymouth Sorrento Road and Hermit Smith Road.

Connecting S.R. 429 Connector Road to Fudge Road

To implement the Transportation Master Plan, the City must acquire a portion of a parcel (I.D. No. 33-20-28-0000-00-063) located on the north side of S.R. 429 Connector Road. This property, currently

owned by CFX, is essential to construct a connection between S.R. 429 Connector Road and Fudge Road and also for stormwater ponds for the new roads in the Transportation Master Plan. This connection is key to the success of the roadway network. In addition, this property is a central focal point of the western gateway area to the City. It will be seen by all coming to and leaving the City from the west. The property will be attractively landscaped, complimentary to the landscaping theme used along the Wekiva Parkway. The ponds will be designed in a curvilinear fashion and contain a water feature that matches others in the City. The City also wishes to locate a decorative marquee style sign somewhere along S.R. 429 Connector Road that can be viewed from both S.R. 429 and U.S. 441.

Construction of Southfork Drive

Southfork Drive, critical to the Transportation Master Plan and overall successful traffic circulation in the western gateway area, is a private dirt road, currently held in a tenant in common ownership by CFX and others. The City is set to take ownership of the majority of Southfork Drive but needs CFX's one-eighth portion to attain 100% ownership. Once the City has full ownership, the currently private road will be brought up to City standards and become a public road.

Benefits of the City's Proposal

The City understands that CFX must be financially compensated for these properties and is willing to pay fair market value as determined by an appraisal obtained by CFX. The City will pay for the appraisal and also for any other necessary documentation normally included in a property sale from CFX. Any easements required by CFX to maintain S.R. 429 will be granted. The properties will only be used for public purposes and not resold or given to the private sector for private development.

Additionally, the City is willing to receive S.R. 429 Connector Road through a jurisdictional transfer from CFX. The City will take over all responsibilities for roadway maintenance of S.R. 429 Connector Road from U.S. 441 to Plymouth Sorrento Road. This includes, but is not limited to: repair of potholes; resurfacing; curb repair; repair and cleaning of culverts, pipe systems, stormwater drainage inlets, and ditch systems contiguous to and carrying roadway stormwater runoff; painting of pavement markings; issuance of driveway permits; issuance of underground utility and right of way utilization; sweeping of the road surface; mowing of all areas within the right of way and on the adjoining remnant parcel north of S.R. 429 Connector Road; and clearing or removing debris from the road. Additionally, the City will assume maintenance responsibilities for the traffic signal at S.R. 429 Connector Road and Plymouth Sorrento Road and the ramp signals at S.R. 429 Connector Road and S.R. 429. CFX will retain the air rights over S.R. 429 Connector Road. Easements needed by CFX to access, maintain or improve S.R. 429 will be granted.

It is not just the City that will benefit, CFX will benefit from an agreement that transfers ownership of these properties and right-of-way to the City. CFX will recoup fees expended for the purchase of the right-of-way for S.R. 429 related to these properties. The City is willing to pay fair market value for the properties that cannot be handled through a jurisdictional transfer.

Moreover, CFX will be relieved of responsibilities and any liability that comes with being a one-eighth tenant in common owner of Southfork Drive. CFX's one-eighth ownership of Southfork Drive is not a piece that can be carved out and used in a stand-alone way. The City of Apopka is able to secure ownership of the other seven-eighths and wants to build a road. Under this scenario, CFX will be paid for the property that will be used for a public road and remain in the public domain.

Page 3

Ms. Laura Kelley, Executive Director

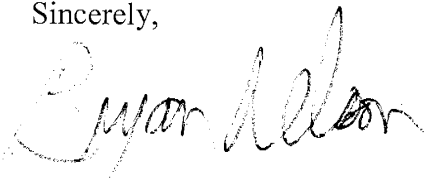
April 12, 2019

CFX will be paid fair market value for the 5 +/- acre parcel on the north side of S.R. 429. Selling to the City transfers all maintenance responsibilities to the City. Based on fees established in the City's current Mowing Services Contract, the cost to maintain this one small parcel will be approximately \$500.00 per month, making the sale of this property a \$6,000.00 per year savings to CFX.

CFX and the City of Apopka have entered into many successful maintenance agreements and jurisdictional transfers in the past as a result of the construction of S.R. 429, the Wekiva Parkway, and the three interchanges that are located within the City. All have brought benefit to both parties. We see this request as the next opportunity for CFX and the City to continue our collaborative relationship. This is a winning opportunity for both CFX and the City and we respectfully ask for your consideration of our request.

The City of Apopka stands ready to move forward with this project and willing to discuss the terms of an agreement that will enable CFX to convey or sell the property and road right-of-way discussed herein. Please contact me at your earliest convenience to discuss next steps.

Sincerely,

A handwritten signature in black ink that reads "Bryan Nelson". The signature is written in a cursive, flowing style.

Bryan Nelson
Mayor, City of Apopka

cc: Linda Lanosa, Esq.
Glenn Pressimone, P.E.
Edward Bass

RESOLUTION NO. 2019-08

A RESOLUTION OF THE COUNCIL OF THE CITY OF APOPKA, FLORIDA, SUPPORTING A PLANNED ROADWAY NETWORK FOR THE AREA KNOWN AS THE WESTERN GATEWAY TO THE CITY.

WHEREAS, the City of Apopka is responsible for planning for future land use, roadways, and utilities to serve the residents of the City; and

WHEREAS, the City of Apopka has an opportunity to attract higher quality development that will support job creation and economic development to the City; and

WHEREAS, the western gateway to the City, specifically the property north of U.S. 441, east of Hermit Smith Road, and west of Plymouth Sorrento Road, is a prime location to expect quality development to emerge due to the area's proximity to U.S. 441, Plymouth Sorrento Road and S.R. 429; and

WHEREAS, the City can set this in motion only by working with our public and private sector partners to ensure optimal roadway networks, utilities, and amenities such as enhanced pedestrian trails, are laid out in a thoughtful plan, setting the foundation for smart growth and economic development in the area; and

WHEREAS, the City must also work with our public and private sector partners to acquire needed right-of-way to connect the existing roadway network, utilities and amenities with those that are planned; and

WHEREAS, the City Council determines that the adoption of this resolution is in the best interest of the residents of the City of Apopka.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, as follows:

Section 1. The forgoing recitals are ratified and incorporated herein.

Section 2. The City Council resolves to interact with our public and private partners to ensure the creation and implementation a well thought out plan for development in this area is one that brings economic growth to the City of Apopka and is in the best interest of the City's residents.

Section 3. This resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED THIS 20 DAY OF March, 2019.








Bryan Nelson, Mayor

ATTEST:


Linda F. Goff, City Clerk

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LEGEND

-  SOUTHFORK DR. PARCEL
-  CFX TO RETAIN PERMANENT EASEMENT
-  CFX PROPOSED PERMANENT EASEMENT
-  EXISTING LA R/W
-  PROPOSED LA R/W
-  PERMANENT EASEMENT LINE

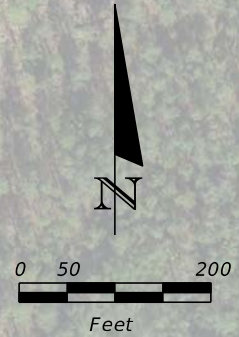
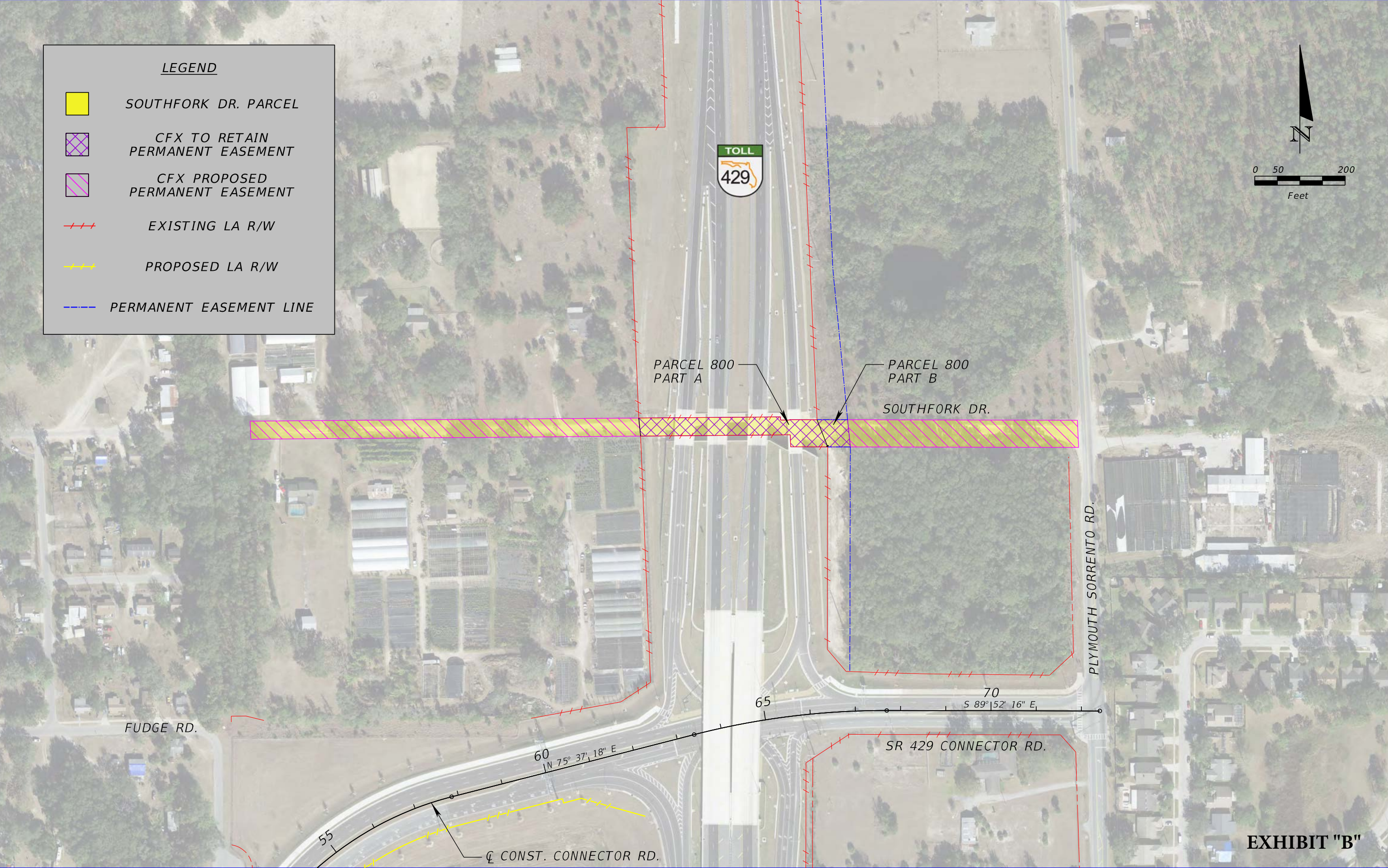



EXHIBIT "B"

REVISIONS		REVISIONS		Wekiva Parkway Right-of-Way			SOUTHFORK DRIVE SALE & EASEMENT EXHIBIT		SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION	ROAD NO.	PROJECT NO.				3
				SR 429	201, 202				



October 15, 2019

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

DRAFT

RE: DISPOSITION OF FRACTIONAL INTEREST IN PROPERTY
SR 429, Projects 429-201 & 429-202
CFX's Fractional Interest in Southfork Drive
Reserving Parcel 800 (Parts A & B) and an Access Easement

Dear Mr. Pressimone:

On behalf of Dewberry Engineers, Inc., as Consulting Engineer (the "Consulting Engineer") to the Central Florida Expressway Authority ("CFX") does here by certify as follows:

1. We have reviewed the limits of the parcel for Southfork Drive described in Exhibit A attached. In our opinion, we certify that ownership interest of this parcel is no longer essential for the operation of the CFX system provided that the following interests are reserved: (a) the existing easements referred to as Parcel 800 (Parts A and B) and (b) an access easement across the entire area of Southfork Drive. **Therefore, a disposition of CFX's fractional interest in Southfork Drive subject to the easements, as described in Exhibit A attached, would not impede or restrict the current or future construction, operation or maintenance of the CFX System.**
2. Furthermore, this certificate is being provided by the Consulting Engineer to CFX **solely for the purposes of complying with Section 5.4 of CFX's Amended and Restated Master Bond Resolution and the requirements set forth in CFX's Manual** and may not be relied on by any other person or party for any other purpose.

Sincerely,

R. Keith Jackson, P.E.
Program Manager

Attachments

cc: Linda Brehmer Lanosa, Esq. CFX (w/ enc.)

EXHIBIT "C"

**A RESOLUTION OF THE
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
DECLARING THE SOUTHFORK DRIVE PARCEL
AS SURPLUS PROPERTY**

WHEREAS, Central Florida Expressway Authority (“CFX”), is empowered by Chapter 348, Part V, Florida Statutes, to acquire, hold, construct, improve, maintain, and operate the Central Florida Expressway System (the “Expressway Facility”), and is further authorized to sell, lease, transfer or otherwise dispose of any property or interest therein at any time acquired by CFX; and

WHEREAS, CFX has adopted that certain Policy Regarding the Disposition of Excess Lands, section 5-6.01, *et. seq.*, of CFX’s Property Acquisition, Disposition & Permitting Procedures Manual (referred to herein as the “Policy”), which Policy provides for the disposal of real property unnecessary or unsuitable for CFX’s use; and

WHEREAS, pursuant to the Policy, “Excess Property” is “[r]eal 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;” and

WHEREAS, pursuant to the Policy, where excess property is not essential for present or future construction, operation or maintenance of an Expressway Facility or for CFX purposes, the CFX Board may declare such excess property to be “Surplus Property” through the adoption of a resolution and direct that the Surplus Property be sold; and

WHEREAS, Southfork Drive is an unpaved private road located in Orange County, Florida, beginning in the east at Plymouth Sorrento Road and running west under the overpass of State Road (“SR”) 429 also known as the Wekiva Parkway and continuing beyond the western limited access right-of-way line; and

WHEREAS, CFX acquired a one-eighth fractional interest in Southfork Drive as part of the Wekiva Parkway Project, Project Nos. 429-201 and 429-202 and, additionally, CFX acquired permanent easements from the other undivided fractional owners of Southfork Drive for a bridge over Southfork Drive and for utilities (“Bridge and Utilities Easement”) in the eminent domain case styled *Central Florida Expressway Authority v. Robert M. Grossenbacher*, Case No. 2014-CA-8617-O, Parcel 800 (Parts A & B), as memorialized in the Orders of Taking and Stipulated Final Judgments; and

WHEREAS, CFX staff and its General Engineering Consultant have examined the footprint of CFX’s fractional interest in Southfork Drive (“Southfork Drive Parcel”) and the General Engineering Consultant has certified that the Southfork Drive Parcel will not be needed for the present or future construction, operation or maintenance of the Expressway Facilities,

subject to the reservation of the Bridge and Utilities Easement and an access easement over Southfork Drive; and

WHEREAS, in light of the foregoing circumstances and reservations, CFX's Right of Way Committee has recommended that that the CFX Board adopt a resolution declaring Southfork Drive Parcel to be Surplus Property.

NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AS FOLLOWS:

1. CFX hereby finds that the Southfork Drive Parcel, further described in **Exhibit "A"** attached hereto, is not essential for present or future construction, operation or maintenance of an Expressway Facility or essential for CFX purposes and is Excess Property, provided that CFX reserves a Bridge and Utilities Easement and an access easement over Southfork Drive.

2. Finding it is in the best interest of CFX and the public to declare the Parcel as Surplus Property, CFX hereby declares Southfork Drive Parcel as Surplus Property available for sale, subject to the reservations of a Bridge and Utilities Easement and an access easement over Southfork Drive.

3. This Resolution shall take effect immediately upon adoption by the CFX governing Board.

ADOPTED this _____ day of _____ 2019.

Jay Madara, Chairman

ATTEST: _____
Regla Lamaute
Board Services Coordinator

Approved as to form and legality







Diego "Woody" Rodriguez
General Counsel

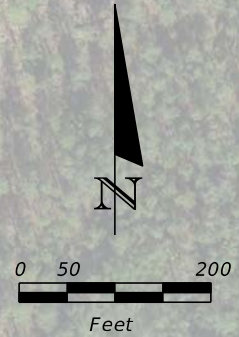
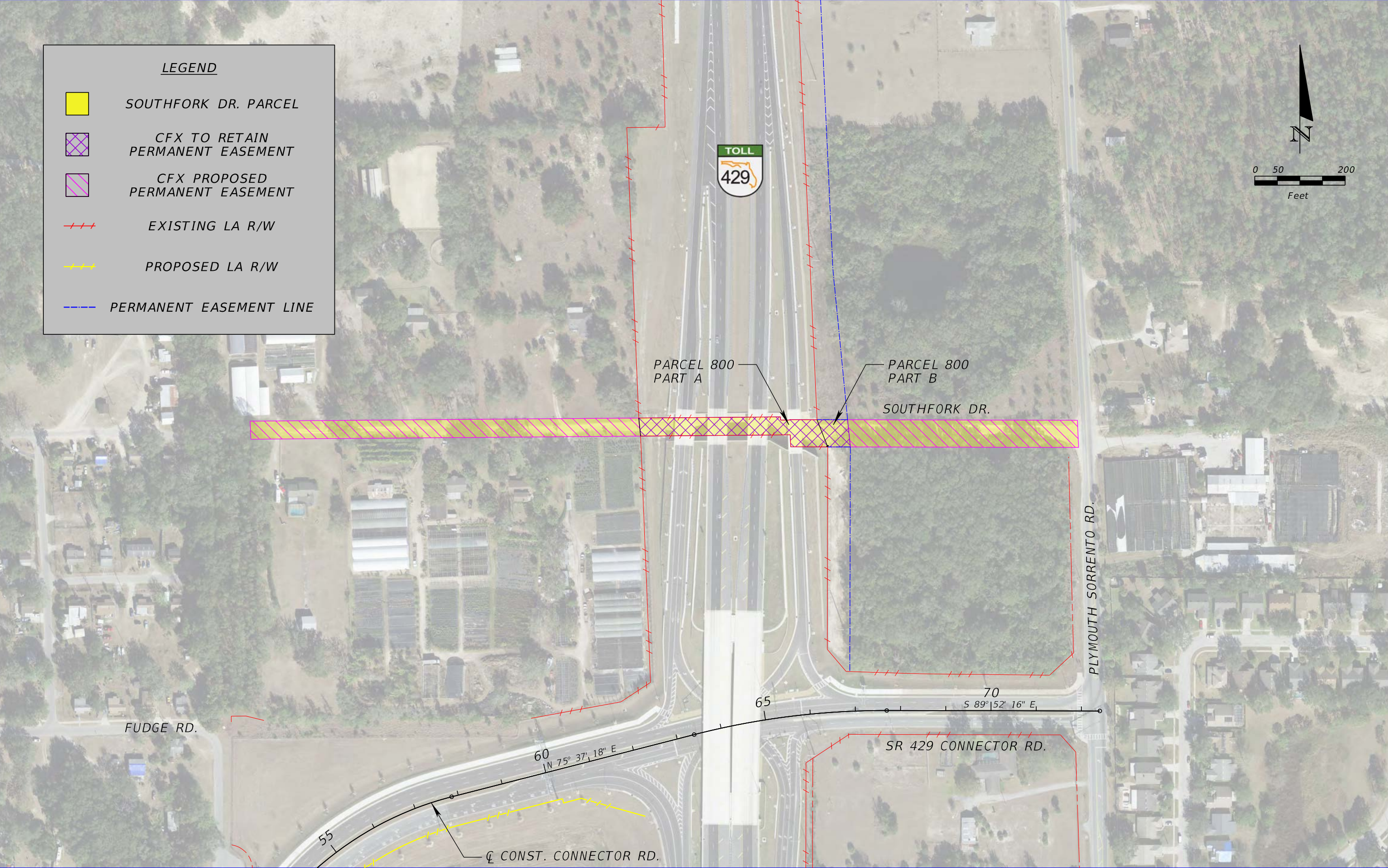
Resolution No. 2019-_____
SR 429, Project 429-201 & 202
Parcel: CFX's Interest in Southfork Drive

Exhibit "A"

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LEGEND

-  SOUTHFORK DR. PARCEL
-  CFX TO RETAIN PERMANENT EASEMENT
-  CFX PROPOSED PERMANENT EASEMENT
-  EXISTING LA R/W
-  PROPOSED LA R/W
-  PERMANENT EASEMENT LINE

REVISIONS	
DATE	DESCRIPTION

DATE	DESCRIPTION

Wekiva Parkway Right-of-Way	
ROAD NO.	PROJECT NO.
SR 429	201, 202



**SOUTHFORK DRIVE
SALE & EASEMENT EXHIBIT**

SHEET NO.
3

**A RESOLUTION OF THE
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AUTHORIZING THE SALE OF CFX'S INTEREST IN
SOUTHFORK DRIVE TO THE CITY OF APOPKA FOR
PUBLIC ROAD RIGHT OF WAY PURPOSES**

WHEREAS, Central Florida Expressway Authority ("CFX"), is empowered by Chapter 348, Part V, Florida Statutes, to acquire, hold, construct, improve, maintain, and operate the Central Florida Expressway System (the "Expressway Facility"), and is further authorized to sell, lease, transfer or otherwise dispose of any property or interest therein at any time acquired by CFX; and

WHEREAS, CFX has adopted that certain Policy Regarding the Disposition of Excess Lands, section 5-6.01, *et. seq.*, of CFX's Property Acquisition, Disposition & Permitting Procedures Manual (referred to herein as the "Policy"), which Policy provides for the disposal of real property unnecessary or unsuitable for CFX's use; and

WHEREAS, section 5-1.01 of the Policy allows CFX to waive the procedures in a particular circumstance where deemed to be in the best interest of CFX and the public, provided that such waiver is not in conflict with state or federal law; and

WHEREAS, Southfork Drive is an unpaved private road located in Orange County, Florida, beginning in the east at Plymouth Sorrento Road and running west under the overpass of State Road ("SR") 429 also known as the Wekiva Parkway and continuing beyond the western limited access right-of-way line as shown in the map and aerial attached as **Exhibit "A,"** and CFX's one-eighth fractional interest in Southfork Drive has be declared to be surplus property ("the Parcel"), provided that CFX reserves a bridge and utilities easement and an access easement over Southfork Drive ("the Easements"); and

WHEREAS, the City of Apopka, a municipal corporation existing under the laws of the State of Florida, has made an application to CFX to purchase the Parcel for public road right of way and to pay CFX the appraised value of Forty-One Thousand Six Hundred Dollars (\$41,600) and, for additional consideration, the City of Apopka has agreed to accept the maintenance responsibilities for Connector Road; and

WHEREAS, CFX's Right of Way Committee has determined that the sale of the Parcel subject to the reservation of Easements in favor of CFX, is in the best interest of CFX and the public; and

WHEREAS, after reviewing the City of Apopka's application, CFX's Right of Way Committee has recommended that the Parcel be sold to the City of Apopka for public road right of way as described herein.

NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AS FOLLOWS:

1. CFX hereby finds that it is in the interest of both CFX and the public to sell the Parcel, subject to the reservation of Easements, as more particularly described in **Exhibit "A,"** to the City of Apopka for a public road right of way.

2. Accordingly, CFX hereby declares that the Parcel may be sold to the City of Apopka public road right of way via Quit Claim Deed, with the reservation of easements in favor of CFX, for the appraised value of Forty-One Thousand Six Hundred Dollars (\$41,600) plus the additional consideration, in a manner substantially similar to the Real Estate Agreement to Sell and Purchase the Southfork Drive Parcel attached as **Exhibit "B,"** subject to minor changes with the approval of CFX's Chief of Infrastructure, General Engineering Consultant, and General Counsel, or their designees.

3. The CFX Board will not require separate notice to the local government in which the Parcel is located.

4. This Resolution shall take effect immediately upon adoption by the CFX governing Board.

ADOPTED this _____ day of _____ 2019.

Jay Madara, Chairman

ATTEST: _____
Regla Lamaute
Board Services Coordinator

Approved as to form and legality







Diego "Woody" Rodriguez
General Counsel

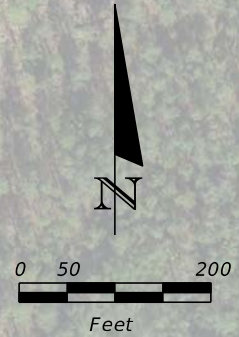
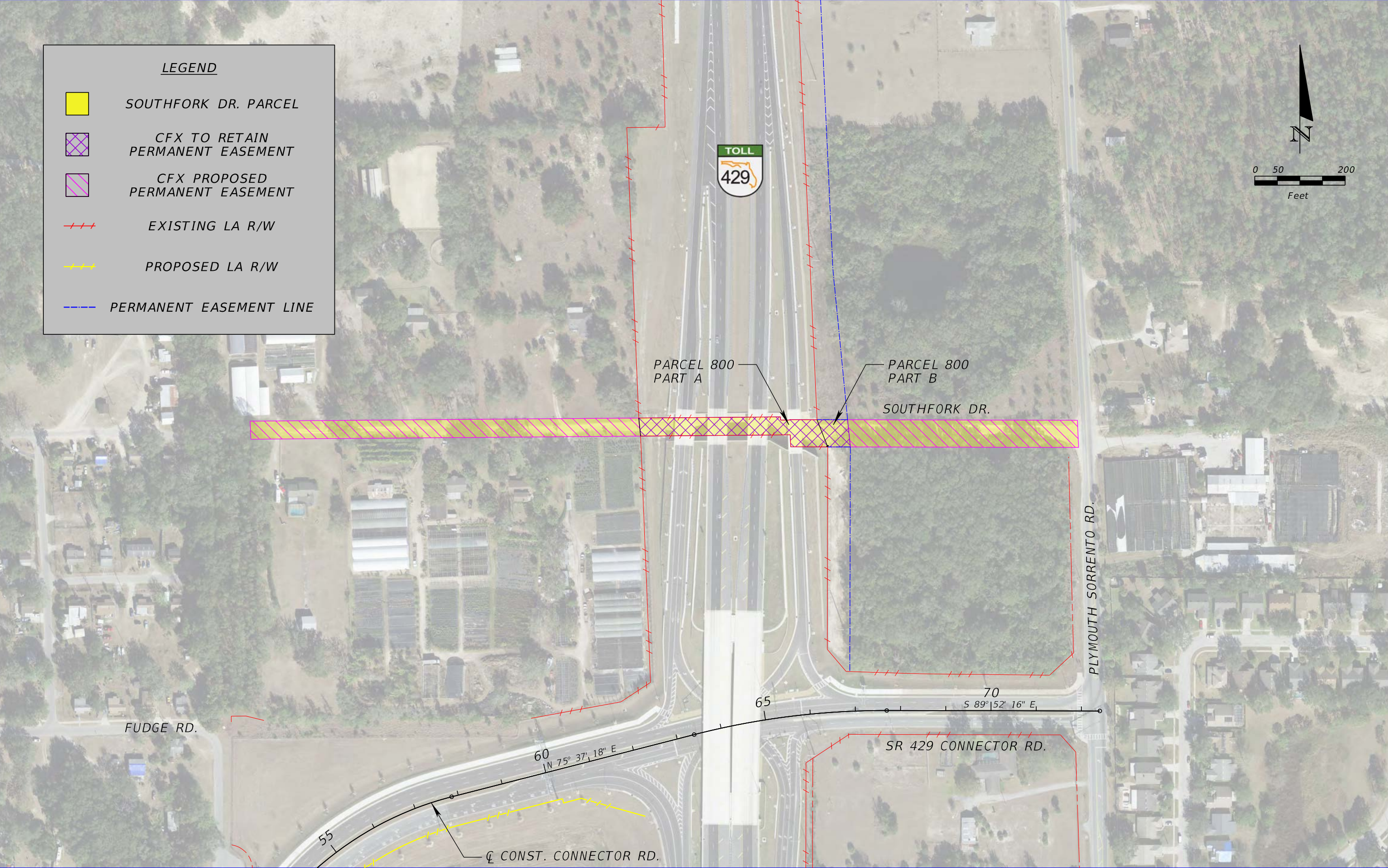
Resolution No. 2019-_____
SR 429, Project 429-201 & 202
Parcel: CFX's Interest in Southfork Drive

EXHIBIT "A"
DESCRIPTION OF PARCEL

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LEGEND

-  SOUTHFORK DR. PARCEL
-  CFX TO RETAIN PERMANENT EASEMENT
-  CFX PROPOSED PERMANENT EASEMENT
-  EXISTING LA R/W
-  PROPOSED LA R/W
-  PERMANENT EASEMENT LINE

REVISIONS	
DATE	DESCRIPTION

DATE	DESCRIPTION

Wekiva Parkway Right-of-Way	
ROAD NO.	PROJECT NO.
SR 429	201, 202



**SOUTHFORK DRIVE
SALE & EASEMENT EXHIBIT**

SHEET NO.
3

Resolution No. 2019-_____
SR 429, Project 429-201 & 202
Parcel: CFX's Interest in Southfork Drive

EXHIBIT "B"

**REAL ESTATE AGREEMENT TO SELL AND PURCHASE
THE SOUTHFORK DRIVE PARCEL**

PROJECT 429-201 & 429-202
SURPLUS PARCEL: Undivided Fractional
Interest in Southfork Drive

REAL ESTATE AGREEMENT TO SELL AND PURCHASE
THE SOUTHFORK DRIVE PARCEL

THIS AGREEMENT, made this _____ day of _____ 2019, between **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a public corporation and agency of the State of Florida, with an address of 4974 ORL Tower Road, Orlando, Florida 32807, (“CFX”) and the **CITY OF APOPKA**, a charter city and political subdivision of the State of Florida, whose address is 120 E. Main Street, Apopka Florida 32703 (“City” or “Purchaser”). CFX and City are sometimes collectively referred to herein as the “Parties.”

RECITALS:

WHEREAS, CFX is an agency of the State of Florida, created by Section 348.753, Florida Statutes, and is empowered to build and support an expressway system (“Expressway System”) in the Central Florida area, including the authority to acquire real property by donation and to do everything necessary or convenient for the conduct of its business and the general welfare of CFX;

WHEREAS, Southfork Drive is an unpaved private road located in Orange County, Florida, beginning in the east at Plymouth Sorrento Road and running west under the overpass of State Road (“SR”) 429 also known as the Wekiva Parkway and continuing beyond the western limited access right-of-way line;

WHEREAS, CFX owns an undivided fractional interest in Southfork Drive by virtue of a Warranty Deed recorded at **O.R. Book 9964, Page 3691**, which included a permanent easement over Southfork Drive, and a Quit Claim Deed recorded at **O.R. Book 10039, Page 3051** from Antoinette C. Valenson;

WHEREAS, as part of the Wekiva Parkway project, CFX acquired permanent easements on and over Southfork Drive for a bridge for SR 429 and for utilities in the eminent domain case styled *Central Florida Expressway Authority v. Robert M. Grossenbacher*, Case No. 2014-CA-8617-O, Parcel 800 (Parts A & B), as memorialized in the Orders of Taking and Stipulated Final Judgments recorded as Document #20140481016, #20160045408 (Grossenbacher), #20160094411 (Smith), #20160101244 (Connelly), #20190142760 (Wilson), #20190142765 (Jones), #20190266903 (Guy), and other such documents, hereinafter collectively referred to as “CFX’s Parcel 800 Easement”;

WHEREAS, CFX has completed the Wekiva Parkway project;

WHEREAS, the City desires to purchase CFX’s undivided fractional interest in Southfork Drive, hereinafter “the Southfork Drive Parcel”, subject to CFX’s Parcel 800 Easement, in order to implement its Western Gateway Transportation Master Plan Improvements and intends to use the Southfork Drive Parcel for public right-of-way purposes;

WHEREAS, as consideration, the City will pay to CFX the fair market value of CFX's undivided fractional interest in the Southfork Drive Parcel and assume maintenance responsibilities for the Southfork Drive Parcel;

WHEREAS, pursuant to Section 166.021, Florida Statutes, the City is empowered to provide and maintain arterial and other roads for the benefit of its citizen;

WHEREAS, as a condition precedent to the effective date of this Agreement, CFX must determine that the Southfork Drive Parcel is non-essential for present or future construction, operation or maintenance of the Expressway System and can be declared as surplus property, subject to certain reservations and conditions, available for sale in accordance with CFX's Policy Regarding the Disposition of Excess Lands as set for in CFX's Property Acquisition, Disposition & Permitting Procedures Manual ("Manual"), which determination is subject to confirmation and certification by CFX's general engineering consultant and the adoption of the appropriate resolutions by the CFX Board finding that the sale is in the best interest of the public and CFX; and

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, CFX and Purchaser 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 Sell and Purchase the Southfork Drive Parcel.** Subject to the terms and conditions contained herein, CFX agrees to sell to Purchaser and Purchaser agrees to purchase from CFX the Southfork Drive Parcel in the manner and upon the terms and conditions hereinbelow set forth in this Agreement.

3. **Purchase Price.** The purchase price (the "Purchase Price") to be paid by Purchaser to CFX for the Southfork Drive Parcel shall be the appraised value of the Southfork Drive Parcel which is Forty-One Thousand Six Hundred Dollars (\$41,600.00). The Purchase Price shall be paid by Purchaser to CFX at closing by cashier's check or by wire transfer of funds, subject to appropriate credits, adjustments and prorations as hereinbelow provided.

4. **Title.** Purchaser has the right to order a title report at Purchaser's expense. Purchaser may order an ALTA owner's title commitment (the "Commitment") at its option and expense. If obtained, Purchaser shall provide a copy to CFX. It is expressly acknowledged and agreed that the Quit Claim Deed conveying the Southfork Drive Parcel shall contain a restriction that all rights of ingress, egress, light, air and view between CFX's Expressway System (State Road 429 and appurtenances) and the Southfork Drive Parcel is reserved in CFX and shall not be conveyed by the Quit Claim Deed. The Quit Claim Deed shall expressly state that: "CFX is not conveying or restoring any other abutter's rights including, without limitation, any claims for

ingress, egress, air, light and view between the Surplus Parcels being conveyed, any abutting property, and CFX's property." (Manual, § 5-6.09)

5. **Survey.** Purchaser, at Purchaser's expense, may obtain a survey of the Southfork Drive Parcel (the "Survey") within twenty (20) days after the Approval Date. If obtained, Purchaser shall provide a copy of the Survey to CFX.

6. **Inspections; Condition of the Southfork Drive Parcel.**

a. Purchaser shall have fifteen (15) days after the Approval Date (the "Inspection Period"), to determine, in Purchaser's sole and absolute discretion, that the Southfork Drive Parcel is suitable and satisfactory for Purchaser's intended use. During the Inspection Period, Purchaser and/or its representatives shall have the right to enter upon the Southfork Drive Parcel for the purposes of making soil tests, site studies and surveys; provided, however, such entry shall be coordinated with CFX and shall not unreasonably damage the Southfork Drive Parcel or interfere with CFX's or any third party's use or occupancy of the Southfork Drive Parcel. Purchaser shall repair any damage occurring as a result of such activities and restore the Southfork Drive Parcel to substantially the condition it was in immediately prior to Purchaser's entry thereon. All such entries onto the Southfork Drive Parcel shall be at the sole risk and expense of Purchaser and CFX shall have no liability for any injuries or damages sustained by Purchaser or any of Purchaser's agents or contractors or any other third parties. Purchaser agrees to indemnify and hold CFX harmless from any and all loss, claim, action, demand or liability which may arise against CFX or the Southfork Drive Parcel arising out directly or indirectly out of Purchaser's exercise of its rights pursuant to this Paragraph 6(a), including any damage to the Southfork Drive Parcel. The foregoing indemnities shall survive the expiration or termination of this Agreement. If Purchaser elects to not proceed with the purchase of the Southfork Drive Parcel, Purchaser shall notify CFX in writing within the Inspection Period that Purchaser elects to cancel this Agreement (the "Cancellation Notice") and this Agreement shall automatically terminate and be null and void, and neither party hereto shall have any further liability or obligation hereunder, except those expressly surviving the termination or expiration of this Agreement. In the event Purchaser shall fail to provide CFX with the Cancellation Notice within the Inspection Period, Purchaser shall be deemed to have waived Purchaser's right to cancel this Agreement.

Purchaser acknowledges and agrees that CFX is affording Purchaser full and complete access to the Southfork Drive Parcel for the purpose of making any and all tests, inspections, or evaluations thereof as desired by Purchaser, including, but not limited to any environmental assessments or audits deemed advisable by Purchaser, and that Purchaser has inspected the Southfork Drive Parcel to the extent desired by Purchaser. Purchaser expressly acknowledges and agrees that the Southfork Drive Parcel and the premises are to be conveyed by CFX, and accepted by Purchaser in "AS IS" and "WHERE IS" condition, and that neither CFX, nor any officer, director, bondholder, employee, agent, representative, or other person or entity whatsoever, has made or does make hereby any warranty, representation, statement, guarantee, assertion or opinion, written or oral, express or implied, about or concerning the Southfork Drive Parcel or the premises, or about or concerning the physical condition thereof or for any use or purpose, or any similar matter. Purchaser covenants and agrees that the acceptance by Purchaser

of the Southfork Drive Parcel in “AS IS” and “WHERE IS” condition, and without any representation or warranty of any kind or nature whatsoever was and is a material part of the consideration bargained for by CFX, and that Purchaser’s agreements in such regard were and are a material inducement for CFX to enter into and perform this Agreement. Purchaser hereby covenants and agrees that Purchaser does and shall assume any and all risks concerning the Southfork Drive Parcel, and the physical condition and characteristics thereof, and any defects or problems concerning the Southfork Drive Parcel, whether patent or latent, known or unknown. (Manual, § 5-6.09)

b. In the event Purchaser does not close on the purchase of the Southfork Drive Parcel, within seven (7) days after the termination of this Agreement, Purchaser shall deliver to CFX copies of all tests, reports, surveys, environmental audits and other audits relating to the Southfork Drive Parcel which have been prepared by, on behalf of, or for Purchaser.

7. **Conditions Precedent.** The effective date of this Agreement shall be the date the last of the following has occurred, each of which is a condition precedent:

- a. Approval by the City and execution by its Mayor or another duly authorized official; and
- b. Approval by the CFX Board and execution by its Executive Director or another duly authorized CFX official; and
- c. CFX’s receipt of a certificate from its Consulting Engineer (as such term is defined in CFX’s Amended and Restated Master Bond Resolution adopted by CFX’s governing Board on February 3, 2003, as supplemented and amended from time to time, (the “Master Bond Resolution”) stating, in the opinion of such Consulting Engineer, that the sale of the Surplus Properties as provided herein will not impede or restrict the operation by CFX of the Expressway System, as is required by Section 5.4 of the Master Bond Resolution and is non-essential for present or future construction, operation or maintenance of the Expressway System; and
- d. The CFX Board approves a Resolution declaring the Southfork Drive Parcel to be surplus property available for sale; and
- e. The CFX Board approves a Resolution authorizing the sale of the Southfork Drive Parcel to Purchaser for public road right-of-way purposes; and
- f. Purchaser and CFX have entered into a Right-of-Way Transfer and Continuing Maintenance Agreement pertaining to Connector Road, Connector Road has been transferred to City, and a limited-access line in favor of CFX has been established along the south side of Connector Road.

8. **Closing Date and Closing Procedures and Requirements.**

a. Closing Date. The closing of the purchase and sale contemplated under this Agreement (the “Closing”) shall take place within thirty (30) days after the Effective Date on a date and time specified by CFX (the “Closing Date”) upon not less than five (5) days’ written notice to Purchaser. Closing shall be held at the offices of CFX or at such other place as Purchaser and CFX shall agree. Notwithstanding the foregoing, closing may be by mail and/or overnight courier.

b. Conveyance of Title to the Southfork Drive Parcel. At the Closing, CFX shall execute and deliver to Purchaser the Quit Claim Deed in the substantial form and content as the Quit Claim Deed attached hereto as **Exhibit “B”** incorporated herein by reference.

c. Reverter. The parties agree that if Purchaser no longer uses the Southfork Drive Parcel for public right-of-way purposes, then all right, title, and interest to Southfork Drive Parcel shall revert back to CFX at CFX’s option and at no cost to CFX.

d. Delivery of Possession; Risk of Loss. Purchaser shall be given possession of the Southfork Drive Parcel on the Closing Date. All risk of loss prior to closing shall be borne by CFX, except to the extent of Purchaser’s liability for damage to the Southfork Drive Parcel caused by Purchaser, its employees, agents or contractors, which shall be borne by Purchaser.

e. Closing Costs; Prorations. CFX shall prepare and pay for the cost of preparation of the Quit Claim Deed and Easement. CFX shall record the Easement and pay all costs of the recording of the Easement (including documentary stamp taxes, if any). Purchaser shall record the Deed and pay all costs of the recording of the Deed (including documentary stamp taxes, if any); the cost of preparation of the survey and other costs of Purchaser’s due diligence of the Southfork Drive Parcel; all costs, if any, related to Purchaser’s financing of the property (including all costs related to any note and mortgage obtained by Purchaser, any lender charges or fees, documentary stamps, intangible taxes and recording fees); cost of CFX’s appraisal and review appraisal, and the premium for the title policy to be issued at closing, if any. The Parties shall each pay their own attorney’s fees. Real property taxes and assessments on the Southfork Drive Parcel, if any, shall be prorated as of the date of closing. 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 parties shall sign a closing statement or statements and such other documents as are necessary to complete the transaction. CFX shall sign an affidavit that CFX 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 CFX’s taxpayer identification numbers and address or a withholding certificate from the Internal Revenue Service stating that CFX is exempt from withholding tax on the Purchase Price under FIRPTA).

9. **Failure of Performance.**

a. On the part of CFX: In the event of a default by CFX under this Agreement, then as Purchaser’s sole remedy hereunder, Purchaser may recover a refund of its

initial deposit, if any. Purchaser expressly waives any and all other remedies, legal or equitable, including any action for damages.

b. On the part of Purchaser: In the event of a default by Purchaser under this Agreement, then CFX shall have the right to immediately claim the initial deposit, if any, and the initial deposit shall be deemed nonrefundable.

10. **No Recording.** Neither this Agreement nor any record or memorandum thereof shall be recorded in the Public Records of any county in the State of Florida. Recording of this Agreement or any of the terms and provisions hereof, or any record or memorandum thereof by Purchaser shall, at the option of CFX, immediately constitute a material breach and default by Purchaser hereunder, and grounds for termination of the Agreement by CFX. Nevertheless, this Agreement will be included in the official records of CFX as a public record.

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, 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

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

Purchaser: CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attention: Mayor
Telephone: (407) 703-1601

With a copy to: CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attention: City Attorney
Telephone: (407) 703-1658

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 Purchaser 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. 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. Purchaser 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 or after closing if desirable or necessary to assist in correcting errors or omissions. This Agreement shall be interpreted under the laws of the State of Florida. Purchaser and CFX acknowledge that this Agreement was prepared after substantial negotiations between the parties and this Agreement shall not be interpreted against either party solely because such party or its counsel drafted the Agreement. The parties hereto agree that venue for any legal action authorized hereunder shall be *exclusively* in the courts of Orange County, Florida. **TIME IS OF THE ESSENCE OF THIS AGREEMENT AND EACH AND EVERY PROVISION HEREOF.**

13. **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.

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

15. **Approval Date.** It is specifically acknowledged and agreed that this Agreement is subject to final approval by CFX's Right of Way Committee and CFX's Board and, if applicable, the Appraisal and a review appraiser's certification certifying the proposed sale price as reasonable. The date of CFX's Board's final approval of this Agreement, shall be deemed the "Approval Date". If this Agreement is not approved by CFX's Board, the Agreement shall be

terminated and the Parties shall have no further obligations or liabilities hereunder except those expressly surviving termination of this Agreement.

16. **Brokerage.** Purchaser and CFX hereby represent and warrant each to the other that said warranting party has not engaged or dealt with any agent, broker, or finder in regard to this Agreement.

17. **Radon Gas Notification.** Radon is a 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 public health unit.

18. **Release of CFX.** By execution of this Agreement, Purchaser acknowledges and agrees that upon the recording of the Quit Claim Deed by Purchaser, Purchaser remises, releases, acquits, satisfies, and forever discharges 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 Purchaser ever had, then have, or which any personal representative, successor, heir or assign of Purchaser, 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 CFX's conveyance of the Southfork Drive Parcel to Purchaser, including, without limitation, any claims for air, light and view between any abutting property and CFX's property. (Manual § 5-7.05)

19. **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 Southfork Drive Parcel.

20. **Inspector General.** Purchaser agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. Purchaser agrees to incorporate in all subcontracts the obligation to comply with Section 20.055(5).

IN WITNESS WHEREOF, the Parties have hereunto set their hands the day and year above written.

[SIGNATURES TO FOLLOW]

CITY OF APOPKA, FLORIDA

By: City Commission

BY: _____
MAYOR

Date: _____

ATTEST: _____
City Clerk

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

BY: _____

Title: _____

Date: _____

ATTEST: _____
Regla ("Mimi") Lamaute
Board Services Coordinator

APPROVED AS TO FORM

By: _____
General Counsel

Exhibits

- Exhibit "A." Legal Description of the Southfork Drive Parcel
- Exhibit "B." Quit Claim Deed from CFX to Purchaser for the Southfork Drive Parcel
- Exhibit "C." Easement Agreement over Southfork Drive
- Exhibit "D." Aerial

EXHIBIT "A"

**LEGAL DESCRIPTION OF THE SOUTHFORK DRIVE PARCEL
(PROJECT 429-201 & 429-202)**

Central Florida Expressway Authority
State Road 429
Project: 429-201 & 429-202
Purpose: Right of Way Transfer
Estate: Undivided Fractional Interest in Southfork Drive
Parcel: Southfork Drive

Together with Easements for ingress, egress and utilities as recorded in O.R. Book 3048, Page 1566, and O.R. Book 3048, Page 1568, which easements were conveyed by Deed recorded as Document #20090679460, O.R. Book 9964, Page 3691, Public Records of Orange County, Florida; and

An undivided interest in and to the following-described property:

The North 60 feet of the South 675.45 feet of the Southwest 1/4 of Section 31, Township 20 South, Range 28 East, lying West of Plymouth-Sorrento Road, Orange County, Florida (includes all of vacated street immediately West of North 60 feet of South 675.45 feet);

and

Vacated street running East and West through center of Block P (Less West 132 feet) of TOWN OF PLYMOUTH, Plat Book B, Pages 17 and 18; and

Together with an undivided interest in that part of the Southeast 1/4 of the Southeast 1/4 of Section 36, Township 20 South, Range 27 East, Orange County, Florida, bounded and described as follows:

Beginning at a point on the East line of said Section 36 that is North 1°49'10" West, 642.77 feet, thereon from the Southeast corner of said Section 36; thence North 1°49'10" West 32.78 feet, on said East line of Section 36; thence North 89°43'59" West 20.0 feet; thence North 1°49'10" West 7.11 feet; thence South 89°56'18" West 1173.36 feet; thence South 2°13'00" East 40.00 feet; thence North 89°56'18" East 1193.08 feet to the Point of Beginning.

Reserving all rights of ingress, egress, light, air and view to, from or across any State Road 429 right of way property which may otherwise accrue to any property adjoining said right of way.

EXHIBIT "B"
QUIT CLAIM DEED FROM CFX TO PURCHASER FOR
THE SOUTHFORK DRIVE PARCEL

Return to:

CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attention: City Attorney

Reserved for Recording

Project 429-201 & 429-202
Surplus Parcel: Undivided Fractional
Interest in Southfork Drive

This deed is exempt from Florida documentary stamp tax under Department of Revenue Rules 12B-4.002(4)(a), 12B-4.014(10), F.A.C., and Section 201.02(6), Florida Statutes.

QUIT CLAIM DEED

THIS QUIT CLAIM DEED, made and executed on the ____ day of _____, 2019, by CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 (“GRANTOR”) and CITY OF APOPKA, a charter city and political subdivision of the State of Florida, whose address is 120 E. Main Street, Apopka Florida 32703 (“GRANTEE”).

WITNESSETH: That the GRANTOR, for and in consideration of the sum of \$10.00 and other valuable considerations, the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release, and forever quit-claim unto the said GRANTEE, all the right, title, interest, claim, and demand which the GRANTOR has in and to the following described lots, pieces, or parcels of land, situate, lying and being in the county of Orange, state of Florida, hereinafter “the Property,” to-wit:

SEE ATTACHED EXHIBIT “A”

Property Appraiser’s Parcel Identification Number: Not Assigned

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining and all the estate, right, title, interest, lien, equity, and claim whatsoever of the GRANTOR, either in law or equity, for the proper use, benefit, and behoove of the GRANTEE forever.

Project 429-201 & 429-202
Surplus Parcel: Undivided Fractional
Interest in Southfork Drive

SUBJECT TO the easements, covenants, conditions and restrictions set forth below:

- a) GRANTOR reserves unto itself, its successors and assigns the Easement for Expressway Facilities acquired as part of the Wekiva Parkway Project, in the eminent domain case styled *Central Florida Expressway Authority v. Robert M. Grossenbacher*, Case No. 2014-CA-8617-O, Parcel 800 (Parts A & B) recorded as Document numbers 20140481016 (Order of Taking), 20160045408 (Grossenbacher), 20160094411 (Smith), 20160101244 (Connelly), 20190142760 (Wilson), 20190142765 (Jones), 20190266903 (Guy), and other such documents.
- b) GRANTOR reserves unto itself, its successors and assigns the Easement for Expressway Facilities recorded in the Official Records of Orange County, Florida, as Document Number _____.
- c) GRANTOR reserves unto itself, its successors and assigns, all rights of ingress, egress, light, air, and view to, from, or across the Expressway System, including State Road 429 and appurtenances, which may otherwise accrue to any property adjoining said right of way. GRANTEE has no rights of ingress, egress, or access to SR 429 from the Property, nor does GRANTEE have any rights of light, air or view from SR 429. CFX is not conveying or restoring any abutter's rights including, without limitation, any claims for air, light and view between the Property, any abutting property, and CFX's property.
- d) GRANTEE expressly agrees for itself and its successors and assigns, to refrain from any use of the Property which would interfere with the Expressway System, or otherwise constitute a hazard for the Expressway System.
- e) GRANTEE expressly agrees for itself, its successors and assigns that if GRANTEE no longer uses the Property for public right-of-way purposes, then GRANTOR has a right of first refusal to all right, title, and interest to the Property at no cost. GRANTEE grants, transfers, and delivers to GRANTOR a right of first refusal to acquire all right, title, and interest to the Property at no cost to GRANTOR. GRANTEE shall give GRANTOR at least 180 days written notice of the occurrence of events that give rise to GRANTOR's right of first refusal. GRANTEE shall give GRANTOR an additional 180 days to exercise its right of first refusal upon request.

Project 429-201 & 429-202
Surplus Parcel: Undivided Fractional
Interest in Southfork Drive

GRANTEE acknowledges and agrees that as of the date of the acceptance of this deed, GRANTEE hereby remises, releases, acquits, satisfies, and forever discharges GRANTOR, 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 GRANTEE ever had, then have, or which any personal representative, successor, heir or assign of GRANTEE, thereafter can, shall or may have, against GRANTOR, for, upon or by reason of any matter, cause or thing whatsoever, arising out of or in any way connected with the Property or GRANTOR's conveyance of the Property, both before and after the date of this instrument.

IN WITNESS WHEREOF, the said GRANTOR has caused these presents to be signed in its name by its duly authorized representative.

Signed and sealed in the presence of:

First Witness:

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

Signature

By: _____

Print Name

Title: _____

Second Witness:

Date: _____

Signature

Print Name

ATTEST: _____
Regla ("Mimi") Lamaute
Board Services Coordinator

APPROVED AS TO FORM

By: _____
General Counsel

STATUTORY SHORT FORM OF ACKNOWLEDGMENT PER § 695.25, FLA. STAT.

STATE OF FLORIDA)

COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this ____ day of _____, 201____, by _____, as _____, of the Central Florida Expressway Authority, on behalf of the Central Florida Expressway Authority, who is personally known to me OR produced _____ as identification.

NOTARY PUBLIC

Signature:

Signature of Notary Public - State of Florida

Print, Type or Stamp Commissioned Name of Notary Public

EXHIBIT "C"
EASEMENT

Prepared By and Return To:

Linda S. Brehmer Lanosa
Deputy General Counsel
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

Project 429-201 & 429-202

This document is exempt from Florida documentary stamp tax under Department of Revenue Rules 12B-4.002(4)(a), 12B-4.014(10), F.A.C., and Section 201.02(6), Florida Statutes.

**EASEMENT AGREEMENT OVER SOUTHFORK DRIVE
FOR EXPRESSWAY FACILITIES**

THIS EASEMENT AGREEMENT is executed this _____ day of _____, 2019, by the **CITY OF APOPKA**, a Florida Municipal Corporation existing under the laws of the State of Florida. whose address is 120 East Main Street, Apopka, Florida 32703 (“City”) to and in favor of **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, public corporation and an agency of the State of Florida, whose mailing address is 4974 ORL Tower Road, Orlando, Florida 32807 (“CFX”).

WITNESSETH:

WHEREAS, pursuant to section 348.753, Florida Statutes, CFX is empowered to construct, improve, maintain, and operate the Central Florida Expressway System (“Expressway System”) and, in connection therewith, to construct any extensions, additions or improvements to said system or appurtenant facilities, including all necessary approaches, roads, bridges and avenues of access;

WHEREAS, pursuant to Section 166.021, Florida Statutes, the City is empowered to provide and maintain arterial and other roads for the benefit of its citizens;

WHEREAS, pursuant to Section 335.0415, Florida Statutes, “public roads may be transferred between jurisdictions . . . by mutual agreement;”

WHEREAS, Southfork Drive is an unpaved private road located in Orange County, Florida, beginning in the east at Plymouth Sorrento Road and running west under the overpass of SR 429 and continuing beyond the western limited access right-of-way line;

Project 429-201 & 429-202
Easement over Southfork Drive

WHEREAS, as part of the Wekiva Parkway project, CFX acquired permanent easements on and over Southfork Drive for a bridge for SR 429 and for utilities in the eminent domain case styled *Central Florida Expressway Authority v. Robert M. Grossenbacher*, Case No. 2014-CA-8617-O, Parcel 800 (Parts A & B), as memorialized in the Orders of Taking and Stipulated Final Judgments recorded as Document #20140481016, #20160045408 (Grossenbacher), #20160094411 (Smith), #20160101244 (Connelly), #20190142760 (Wilsons), #20190142765 (Jones), #20190266903 (Guy), and other such documents, hereinafter collectively referred to as “CFX’s Parcel 800 Easement”; and

WHEREAS, by separate instrument, the City is acquiring or has acquired CFX’s undivided fractional interest in Southfork Drive for public road right-of-way purposes, subject to the reservation of easements in favor of CFX, including CFX’s Parcel 800 Easement, and this easement preserving CFX’s right to use Southfork Drive for the operation, maintenance, expansion, or removal of the Expressway System.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration and the covenants and promises of the parties hereto, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, it is thereupon understood and agreed as follows:

1. **Recitals.** That all of the foregoing recitals contained in this Easement Agreement are true and correct and are incorporated herein by this reference. The Parties acknowledge and reaffirm CFX’s Parcel 800 Easement.

2. **Grant of Easement for Expressway Facilities.** The City hereby grants and conveys to CFX and its successors and assigns, a perpetual, exclusive easement for the Expressway Facilities over Southfork Drive, beginning in the east at Plymouth Sorrento Road and running west under SR 429 and continuing beyond the western limited access right-of-way line, as more particularly described in **Exhibit “1”**, referred to as “Easement Property,” including the right to access, install, construct, use, operate, maintain, alter, improve, repair, replace, renew, expand, and remove all or part of the Expressway Facilities over, through, across, and under the Easement Property. In addition, the City hereby grants and conveys to CFX and its successors and assigns, a perpetual, non-exclusive easement for limited-access fences, signs and related structures and facilities, including the right to access, install, construct, use, operate, maintain, alter, improve, repair, replace, renew, expand, and remove on, over, through, across, and under the Easement Property. The City or its successors in interest shall be entitled to make reasonable use of the Easement Property for local right-of-way purposes not inconsistent with CFX’s use; provided, any use by the City of the Easement Property shall not in any manner adversely affect the exercise of CFX’s rights hereunder, use or enjoyment of the Easement Property. The City expressly agrees for itself and its successors and assigns, to refrain from any use of the Easement Property which would interfere with the Expressway Facilities or the Expressway System, or otherwise constitute a hazard for the Expressway Facilities or Expressway System.

Project 429-201 & 429-202
Easement over Southfork Drive

3. **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 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

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

CITY: CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attn: Mayor

Copy to: CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attn: City Attorney

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

4. **Modification.** This Easement Agreement may not be amended, modified, altered, or changed in any respect whatsoever, except by a further agreement in writing duly executed by the parties hereto and recorded in the Public Records of Orange County, Florida.

5. **Successors and Assigns.** All easements contained herein shall be appurtenant to the lands herein described, and, except as hereinafter set forth, shall run with said lands forever and be binding upon and inure to the benefit of and be enforceable by the heirs, legal representatives, successors and assigns of the parties hereto. All obligations of the City and CFX hereunder shall be binding upon their respective successors-in-title and assigns; provided the covenants and obligations herein are only personal to and enforceable against the parties or successors-in-title, as the case may be, owning title to the respective properties at the time any liability or claim arising under this Easement Agreement shall have accrued, it being intended

Project 429-201 & 429-202
Easement over Southfork Drive

that upon the conveyance of title by a party, the party conveying title shall thereupon be released from any liability hereunder as to the property conveyed for any breach of this Agreement or claim arising under this Agreement accruing after the date of such conveyance. The easements set forth in this Agreement shall be perpetual.

6. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the transactions contemplated herein, and it supersedes all prior understandings or agreements between the parties.

7. **No Public Rights.** This instrument is not intended to, and shall not, create any rights in favor of the general public.

8. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the City has caused this Easement Agreement to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the date first above written.

[SIGNATURES TO FOLLOW]

Project 429-201 & 429-202
Easement over Southfork Drive

CITY OF APOPKA, a Florida Municipal Corporation existing under the laws of the State of Florida.

(Print Name)

By: _____
Title: _____
Print: _____
Date: _____

(Print Name)

Approved as to form and legality for the execution by a signatory of the City of Apopka

Legal Counsel:
By: _____
Print: _____
Date: _____

STATE OF FLORIDA

COUNTY OF ORANGE

Before me, the undersigned authority, duly authorized under the laws of the State of Florida to take acknowledgments, this day personally appeared _____ as _____, of the City of Apopka, personally known to me to be the individual and officer described in and who executed the foregoing instrument on behalf of said City of Apopka.

(Signature of Notary Public)

(Print or Type Name of Notary Public)
Notary Public, State of Florida

Commission No. & Expiration _____

Project 429-201 & 429-202
Easement over Southfork Drive

IN WITNESS WHEREOF, the Central Florida Expressway Authority has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered
in the presence of:

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**, an agency of the State of
Florida

Print Name: _____

By: _____
Title: _____

Print Name: _____

Attest: _____
Executive Secretary

APPROVED FOR EXECUTION

By: _____
Date: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ___ day of _____,
20___, by _____, as _____
of **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a public corporation and an agency
of the State of Florida, on behalf of the agency. She is personally known to me.

(Signature of Notary Public)

(Print or Type Name of Notary Public)
Notary Public, State of Florida

Commission No. & Expiration _____

EXHIBIT "1"
EASEMENT OVER SOUTHFORK DRIVE

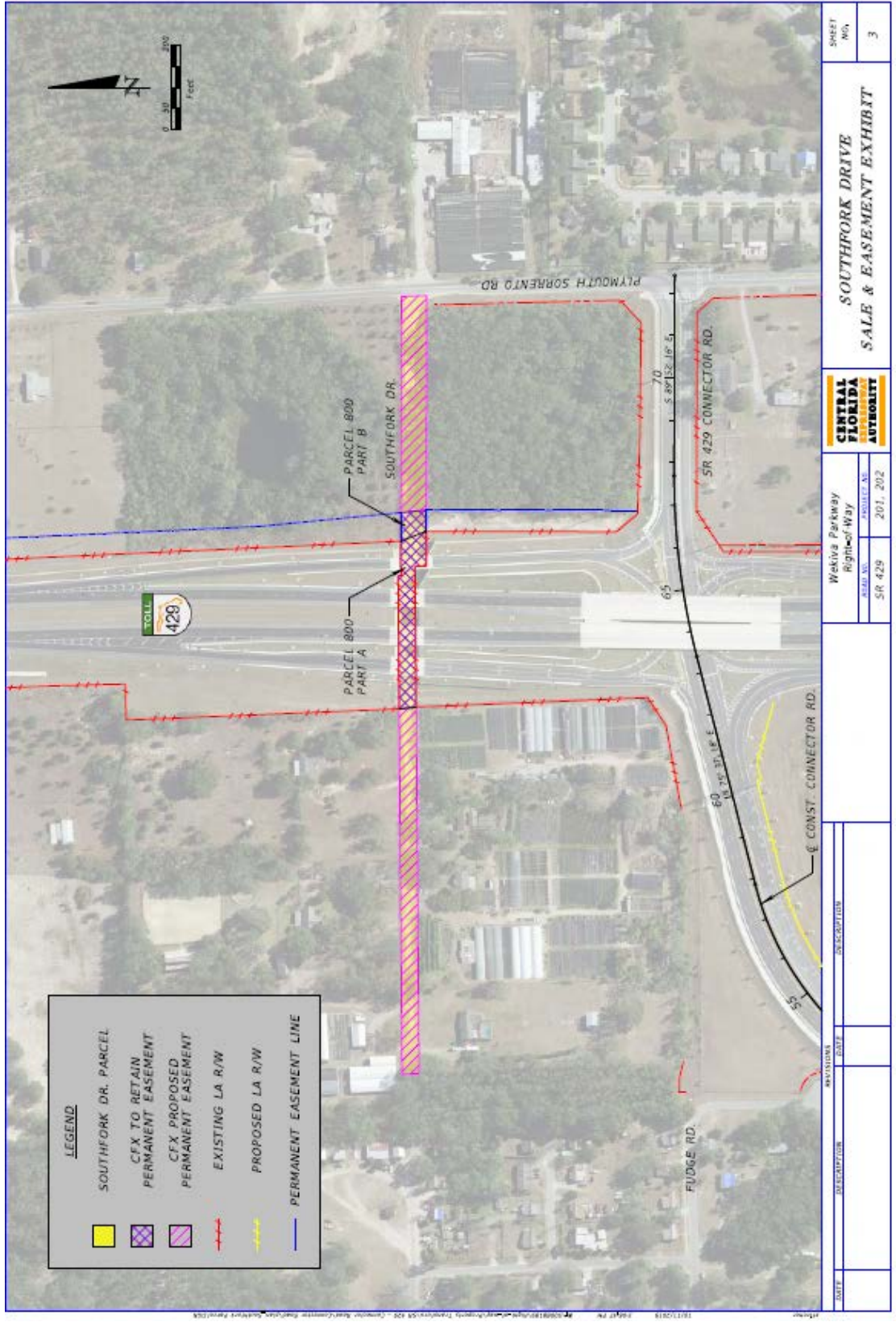
Central Florida Expressway Authority
State Road 429, Project: 429-201
Estate: Easement
Parcel: Southfork Drive

An undivided interest in and to the following-described property:
The North 60 feet of the South 675.45 feet of the Southwest 1/4 of Section 31, Township 20 South, Range 28 East, lying West of Plymouth-Sorrento Road, Orange County, Florida (includes all of vacated street immediately West of North 60 feet of South 675.45 feet);
and
Vacated street running East and West through center of Block P (Less West 132 feet) of TOWN OF PLYMOUTH, Plat Book B, Pages 17 and 18; and

Together with an undivided interest in that part of the Southeast 1/4 of the Southeast 1/4 of Section 36, Township 20 South, Range 27 East, Orange County, Florida, bounded and described as follows:

Beginning at a point on the East line of said Section 36 that is North 1°49'10" West, 642.77 feet, thereon from the Southeast corner of said Section 36; thence North 1°49'10" West 32.78 feet, on said East line of Section 36; thence North 89°43'59" West 20.0 feet; thence North 1°49'10" West 7.11 feet; thence South 89°56'18" West 1173.36 feet; thence South 2°13'00" East 40.00 feet; thence North 89°56'18" East 1193.08 feet to the Point of Beginning.

EXHIBIT "D"
AERIAL OF THE SOUTHFORK DRIVE PARCEL



LEGEND


	SOUTH FORK DR. PARCEL
	CFX TO RETAIN PERMANENT EASEMENT
	CFX PROPOSED PERMANENT EASEMENT
	EXISTING LA R/W
	PROPOSED LA R/W
	PERMANENT EASEMENT LINE

DATE	DESCRIPTION	REVISIONS	DATE	DESCRIPTION
SOUTH FORK DRIVE SALE & EASEMENT EXHIBIT				
Wekiwa Parkway Right-of-Way ROAD NO. SR 429		PROJECT NO. 201, 202		
SHEET NO. 3				

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: Right of Way Committee Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel 

DATE: October 15, 2019

RE: City of Apopka's Request for a Ground License for a 300-Foot Public Safety Communications Tower

PROJECT: 429-205, Wekiva Parkway Project

PARCEL: 291 (Partial)

LOCATION: 6578 Mt. Plymouth Road, Apopka, Florida

INTRODUCTION

The City of Apopka ("Apopka") has made an application to Central Florida Expressway Authority ("CFX") to license a portion of property located at 6578 Mt. Plymouth Road for a 300-foot public safety communications tower ("Parcel 291 Partial" or "Tower Site"). The proposed Tower Site is located at the southwest corner of SR 429 and CR 435 a/k/a Mt. Plymouth Road. For consideration, Apopka has agreed to be fully responsible for maintenance, management, marketing and sublicensing of the Tower Site to third-party carriers and to pay CFX half of any gross rent received. Apopka's request is attached hereto as **Exhibit "A."**

The CFX Right of Way Committee ("ROW Committee") is tasked with two responsibilities in this proposed request. First, it must evaluate whether Parcel 291 Partial should be declared surplus property. If deemed to be surplus, the ROW Committee should recommend approval of a resolution to that effect to be approved by the CFX Board. Second, if Parcel 291 Partial is deemed to be surplus property, the ROW Committee should evaluate whether to authorize a ground license on Parcel 291 Partial to the City of Apopka and the terms of the ground license. This includes a review and recommendation for approval of the attached Ground License Agreement.

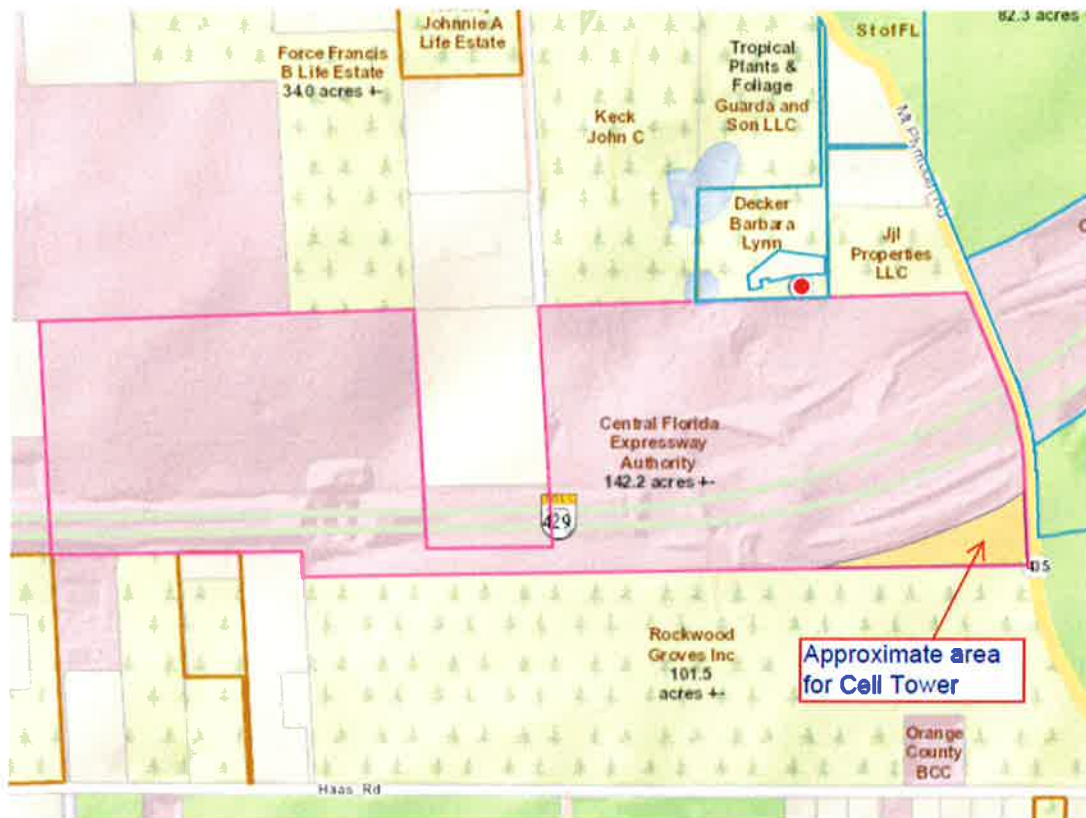
DESCRIPTION OF THE PROPOSED TOWER SITE

The proposed Tower Site has a maximum size of 4.7 acres. The actual footprint of the Tower Site will not be determined until Apopka evaluates the site, prepares a site plan, obtains all of the necessary permits and complies with all of the applicable laws, rules, ordinances, regulations, and CFX's criteria, policies and procedures.

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

Apopka's Request for a Ground License
for a Public Safety Communication Tower
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The proposed Tower Site is located in the southeastern portion of Parcel 291 as shown in the map and aerial below. Parcel 291 consisted of the acquisition of the northern 143-acres of a 243.6-acre parent tract, as authorized by Section 369.317(6) of the Wekiva Parkway and Protection Act. The acquisition occurred in December 2012 through a negotiated agreement for sale and purchase under the threat of condemnation. CFX paid roughly \$50,000 per acre. Approximately 40 acres of Parcel 291 were used for Wekiva Parkway. The remainder is still in its natural vegetative state.





ANALYSIS

CFX has adopted a Policy Regarding the Disposition of Excess Lands, codified in section 5-6.01, *et. seq.*, of CFX's Property Acquisition, Disposition & Permitting Procedures Manual (referred to herein as the "Policy"). The Policy provides, in part, for the disposal of real property unnecessary or unsuitable for CFX's use. "Excess Property" is defined as "[r]eal 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." Where Excess Property is not essential for present or future construction, operation or maintenance of an Expressway Facility or for CFX purposes, the CFX Board may declare such Excess Property to be "Surplus Property" through the adoption of a resolution and direct that the Surplus Property be sold. Further, the Policy allows CFX to waive any procedure for the disposition of surplus property upon a recommendation of the Right of Way Committee and Executive Director, where deemed to be in the best interest of CFX and the public. Policy, §§ 5-1.01 & 5-6.04.

CFX staff and CFX's General Engineering Consultant ("GEC") have examined the City of Apopka's request and have preliminarily determined that the proposed Tower Site meets the definition of surplus property. Accordingly, CFX's General Engineering Consultant will be able to certify the proposed Tower Site will not be needed for the present or future construction, operation or maintenance of the Expressway Facility and that the encumbrance of the parcel with a ground license would not impede or restrict the Expressway System. As a result, and upon

receipt of the GEC's certificate, the Tower Site can be declared Surplus Property by the CFX Board through the adoption of a resolution.

Next and based upon Apopka's intended use for a public safety communications tower, the share of any rent received, and Apopka's agreement to be fully responsible for the Tower Site, it is recommended that the ROW Committee find the approval of a ground license to the City of Apopka be in the best interest of CFX and the public and that the Tower Site be licensed to the City of Apopka as set forth in the Resolution.

REQUEST

We request the Committee's recommendation for Board approval of the following:

- (1) Resolution Declaring Partial 291 Partial as Surplus Property; and
- (2) Resolution Authorizing a Ground License on Surplus Property with the City of Apopka for a Public Safety Communications Tower in return for half of the gross rent received, for a term of ten (10) years with ten successive one (1) years renewals, as more particularly described in the attached Resolution and the Ground License Agreement.

EXHIBITS

- A. Apopka's Request
- B. General Engineering Consultant's Draft Certificate
- C. Resolution Declaring Partial 291 Partial as Surplus Property
- D. Resolution Authorizing a Ground License on Surplus Property to the City of Apopka and Ground License Agreement



120 E. Main St. · APOPKA, FLORIDA 32703-5346
PHONE (407) 703-1700

October 15, 2019

Ms. Laura Kelley, Executive Director
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Request for Use of a CFX Property to Install City Owned Public Safety Radio Communication Tower

Dear Ms. Kelley,

The City of Apopka would like to enter into an agreement with Central Florida Expressway to use a small piece of property the Expressway owns on the north side of Apopka to locate a public safety radio communication tower. In this area of the City, reception is so poor our firefighters and police officers are unable to communicate with the dispatch office. This site that the City would like to use is located at 6758 Mount Plymouth Road. It has been analyzed by the tower manufacturer and declared a suitable site that will provide good reception.

The City only needs a small part of the 142-acre parcel to accommodate the 300 feet tall tower. The parcel already has appropriate future land use and zoning category in place to allow a radio communication tower, which will allow us to move forward in a more expeditious manner than on a property that would require a change of land use and zoning.

The City proposes to enter into a Ground License Agreement with CFX to use the property. The City will assume full responsibility for maintenance and management of the site. The term of the agreement is ten (10) years and will automatically renew for ten (10) successive one-year renewals. In return for use of the property, the City will pay CFX 50% of any revenue generated by leasing space on the tower to other third-party carriers.

The City will work to provide all necessary documentation and plans for development review. CFX will have an opportunity to review the site plan and make comments. Site preparation, including tree removal, grading, driveway, and landscaping will be the responsibility of the City.

The City is ready to move forward with this important public safety project and looks forward to a positive response to this request.

Sincerely,

Edward Bass
City Administrator

EXHIBIT "A"



October 15, 2019

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

DRAFT

RE: GROUND LICENSE OF PROPERTY
SR 429, Project 429-205
CFX Parcel 291 (Partial)
Apopka Public Safety Communication Tower Site

Dear Mr. Pressimone:

On behalf of Dewberry Engineers, Inc., as **Consulting Engineer (the “Consulting Engineer”)** to the **Central Florida Expressway Authority (“CFX”)** does here by certify as follows:

1. We have reviewed the limits of the parcel along SR 429 described in Exhibit A attached. In our opinion, we certify that the area described is no longer essential for the operation of the CFX system and lease of this parcel area, would not impede or restrict the current or future construction, operation or maintenance of the CFX System.
2. Furthermore, this certificate is being provided by the Consulting Engineer to CFX **solely for the purposes of complying with Section 5.4 of CFX’s Amended and Restated Master Bond Resolution and the requirements set forth in CFX’s Manual** and may not be relied on by any other person or party for any other purpose.

Sincerely,

R. Keith Jackson, P.E.
Program Manager

Attachments

cc: Linda Brehmer Lanosa, Esq. CFX (w/ enc.)

EXHIBIT "B"

**A RESOLUTION OF THE
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
DECLARING PARCEL 291 (PARTIAL)
AS SURPLUS PROPERTY**

WHEREAS, Central Florida Expressway Authority (“CFX”), is empowered by Chapter 348, Part V, Florida Statutes, to acquire, hold, construct, improve, maintain, and operate the Central Florida Expressway System (the “Expressway Facility”), and is further authorized to sell, lease, transfer or otherwise dispose of any property or interest therein at any time acquired by CFX; and

WHEREAS, CFX has adopted that certain Policy Regarding the Disposition of Excess Lands, section 5-6.01, *et. seq.*, of CFX’s Property Acquisition, Disposition & Permitting Procedures Manual (referred to herein as the “Policy”), which Policy provides for the disposal of real property unnecessary or unsuitable for CFX’s use; and

WHEREAS, pursuant to the Policy, “Excess Property” is “[r]eal 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;” and

WHEREAS, pursuant to the Policy, where excess property is not essential for present or future construction, operation or maintenance of an Expressway Facility or for CFX purposes, the CFX Board may declare such excess property to be “Surplus Property” through the adoption of a resolution and direct that the Surplus Property be sold; and

WHEREAS, pursuant to Section 369.317(6) of the Wekiva Parkway and Protection Act, CFX acquired Parcel 291, located at 6578 Mt. Plymouth Road, which consisted of the northern 143 acres of a 243.6-acre parent tract; and

WHEREAS, approximately forty (40) acres of Parcel 291 were used for Wekiva Parkway, including retention ponds and drainage structures, and the remainder is in its natural state; and

WHEREAS, the southeastern corner of Parcel 291, at the corner of SR 429 and Mt. Plymouth Road, as shown in the sketch, map, and aerial attached as **Composite Exhibit “A,”** hereinafter referred to as “Parcel 291 Partial,” consists of approximately 4.7 acres; and

WHEREAS, CFX staff and its General Engineering Consultant have examined the footprint of Parcel 291 Partial and the General Engineering Consultant has certified that Parcel 291 Partial will not be needed for the present or future construction, operation or maintenance of the Expressway Facilities; and

WHEREAS, in light of the foregoing circumstances, CFX's Right of Way Committee has recommended that that the CFX Board adopt a resolution declaring Parcel 291 Partial to be Surplus Property.

NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AS FOLLOWS:

1. CFX hereby finds that Parcel 291 Partial, further described in **Composite Exhibit “A”** attached hereto, is not essential for present or future construction, operation or maintenance of an Expressway Facility or essential for CFX purposes and is Excess Property.
2. Finding it is in the best interest of CFX and the public to declare the Parcel as Surplus Property, CFX hereby declares Parcel 291 Partial as Surplus Property available for sale.
3. This Resolution shall take effect immediately upon adoption by the CFX governing Board.

ADOPTED this _____ day of _____ 2019.

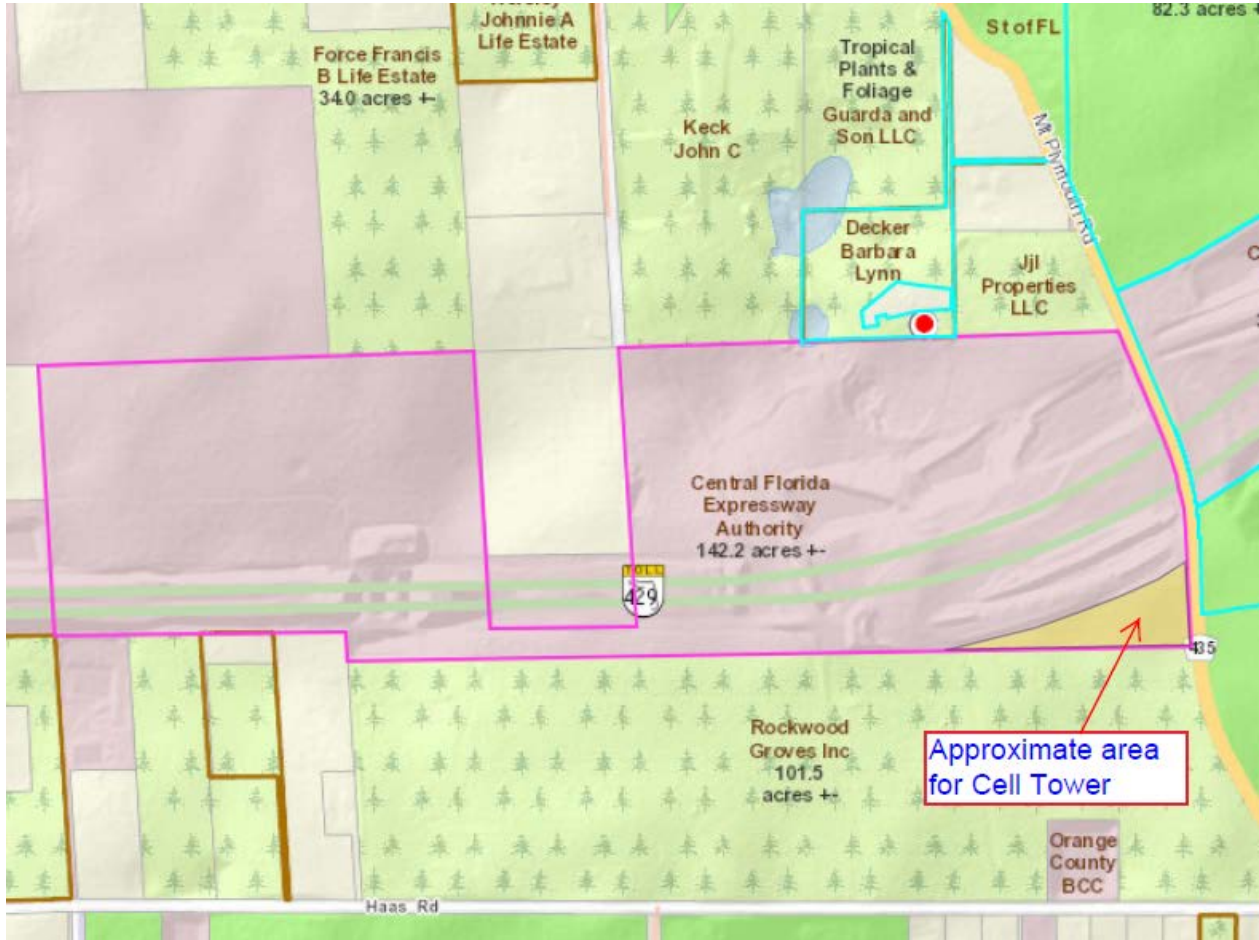
Jay Madara, Chairman

ATTEST: _____
Regla Lamaute
Board Services Coordinator

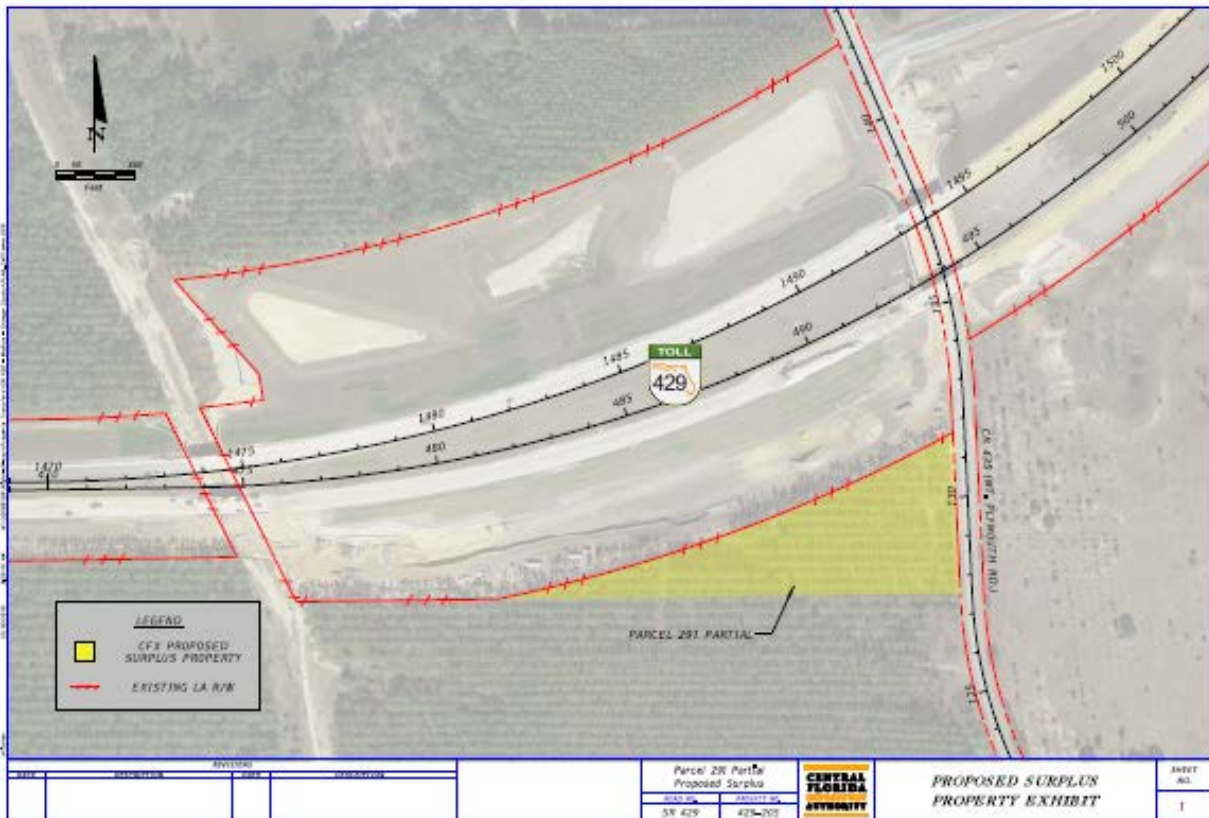
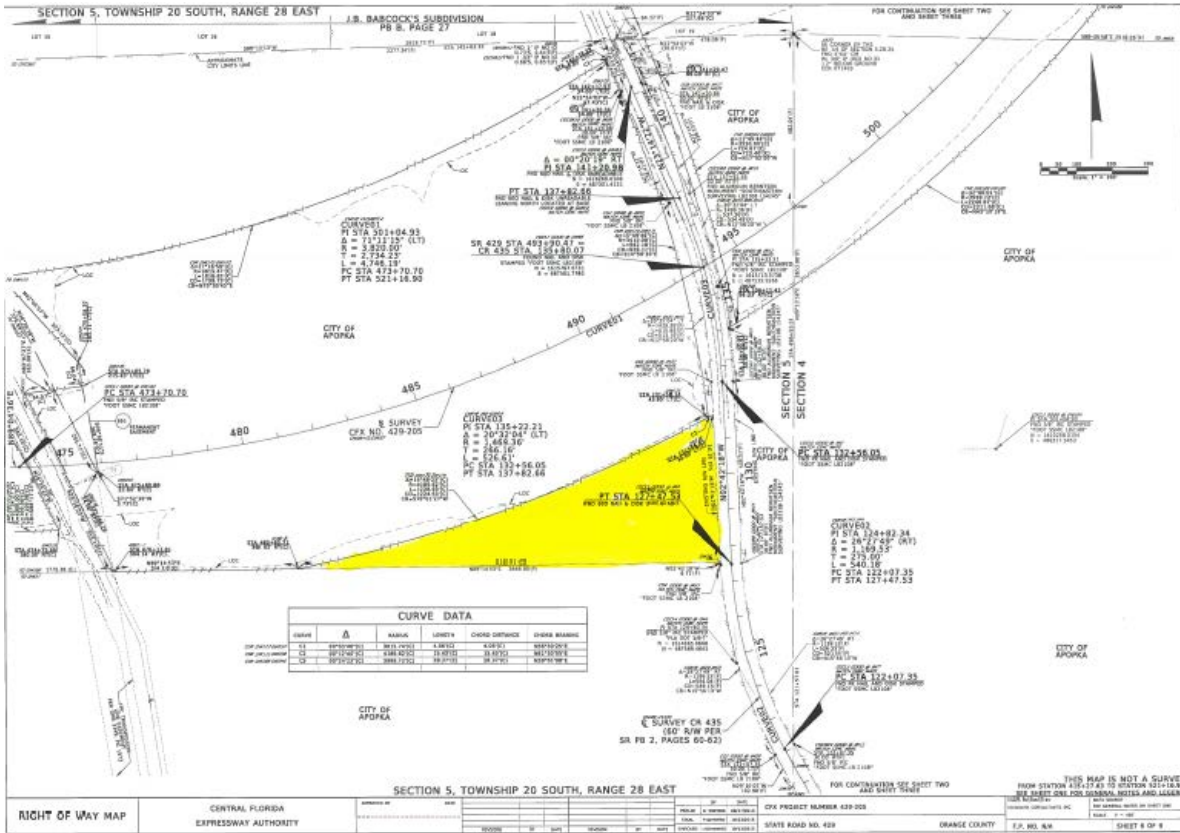
Approved as to form and legality

Diego “Woody” Rodriguez
General Counsel

COMPOSITE EXHIBIT "A"
DESCRIPTION OF PARCEL 291 AND PARCEL 291 PARTIAL



Resolution No. 2019-
S.R. 429, Project 429-205, Parcel 291 Partial



**A RESOLUTION OF THE
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AUTHORIZING A GROUND LICENSE ON SURPLUS
PROPERTY TO THE CITY OF APOPKA**

WHEREAS, Central Florida Expressway Authority (“CFX”), is empowered by Chapter 348, Part V, Florida Statutes, to acquire, hold, construct, improve, maintain, and operate the Central Florida Expressway System (the “Expressway Facility”), and is further authorized to sell, lease, transfer or otherwise dispose of any property or interest therein at any time acquired by CFX; and

WHEREAS, CFX has adopted that certain Policy Regarding the Disposition of Excess Lands, section 5-6.01, *et. seq.*, of CFX’s Property Acquisition, Disposition & Permitting Procedures Manual (referred to herein as the “Policy”), which Policy provides for the disposal of real property unnecessary or unsuitable for CFX’s use; and

WHEREAS, section 5-1.01 of the Policy allows CFX to waive the procedures in a particular circumstance where deemed to be in the best interest of CFX and the public, provided that such waiver is not in conflict with state or federal law; and

WHEREAS, the southeastern corner of Parcel 291, at the corner of SR 429 and Mt. Plymouth Road, as shown in the sketch, map, and aerial attached as **Composite Exhibit “A,”** hereinafter referred to as “Parcel 291 Partial,” consists of approximately 4.7 acres and has been declared by the CFX Board to be surplus property; and

WHEREAS, the City of Apopka, a municipal corporation existing under the laws of the State of Florida, has made an application to CFX to use Parcel 291 Partial for a public safety communications tower and has offered to assume full responsibility for maintenance, management, marketing, and sublicensing of the property and to pay CFX half of the gross rent received; and

WHEREAS, CFX’s Right of Way Committee has determined that the granting of a ground license over a portion of Parcel 291 Partial to the City of Apopka for a public safety communications tower would be in the best interest of CFX and the public; and

WHEREAS, after reviewing the City of Apopka’s application, CFX’s Right of Way Committee has recommended that a ground license on Parcel 291 Partial be granted to the City of Apopka for a public safety communications tower subject to the minimum terms and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AS FOLLOWS:

EXHIBIT "D"

1. CFX hereby finds that it is in the interest of both CFX and the public to grant a ground license over a portion of Parcel 291 Partial, as more particularly described in **Composite Exhibit "A,"** to the City of Apopka for a public safety radio communications tower.

2. Accordingly, CFX hereby declares that Parcel 291 Partial may be encumbered by a ground license to the City of Apopka for a public safety radio communications tower, in return for (a) the City of Apopka's assumption of full responsibility for maintenance, management, marketing, and sublicensing of the property; (b) the payment to CFX of the half of the gross rent received; and (c) an initial term of ten (10) years with ten successive one (1) year renewals subject to the right to terminate by either party with one-year notice, in a form substantially similar to the Ground License Agreement attached as **Exhibit "B,"** subject to minor changes with the approval of Chief of Infrastructure, CFX's General Engineering Consultant, and General Counsel, or their designees.

3. The CFX Board will not require separate notice to the local government in which the Parcel is located or appraisal reports.

4. This Resolution shall take effect immediately upon adoption by the CFX governing Board.

ADOPTED this _____ day of _____ 2019.

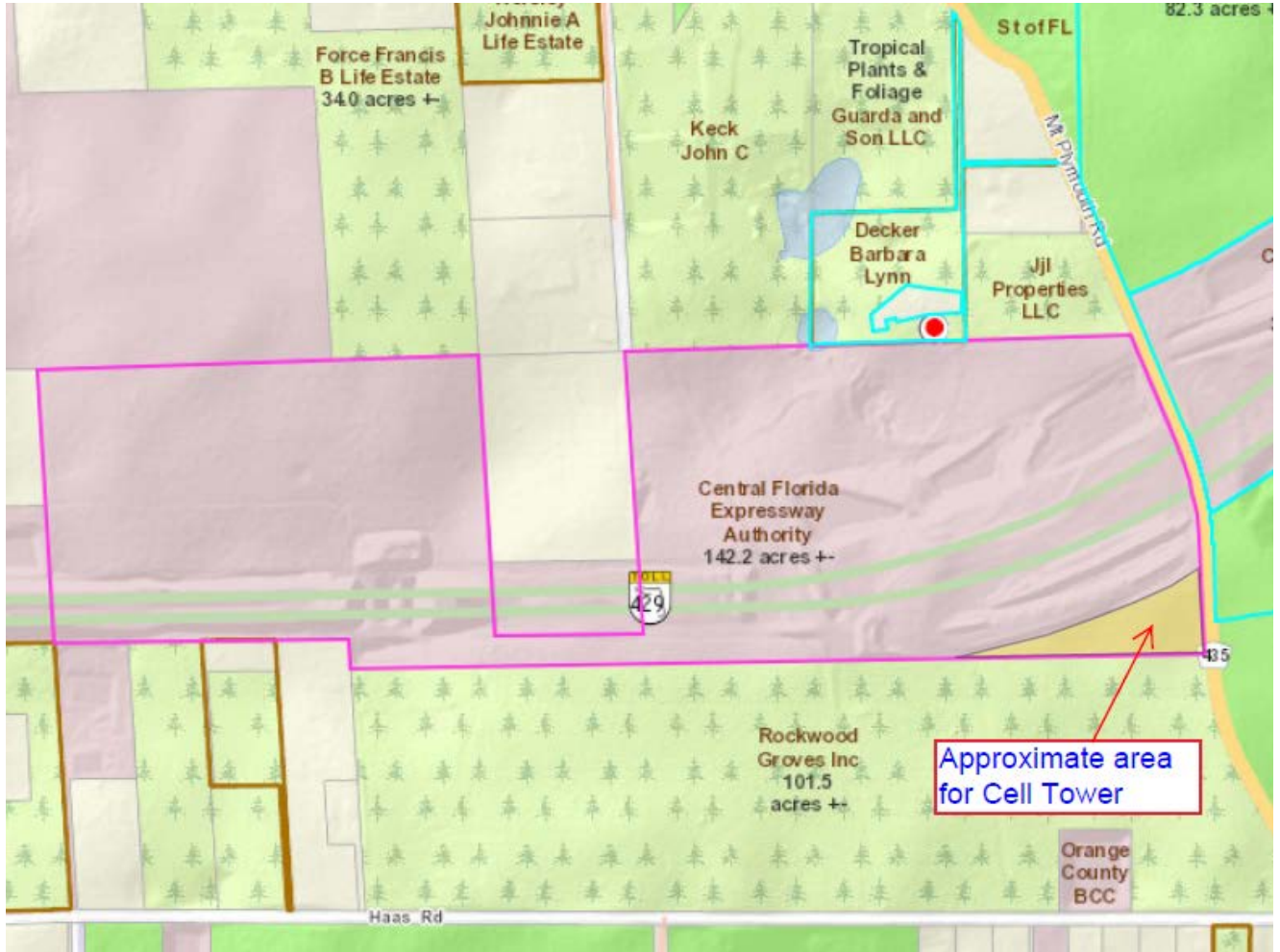
Jay Madara, Chairman

ATTEST: _____
Regla Lamaute
Board Services Coordinator

Approved as to form and legality

Diego "Woody" Rodriguez
General Counsel

COMPOSITE EXHIBIT "A"
DESCRIPTION OF PARCEL 291 AND PARCEL 291 PARTIAL



Resolution No. 2019-
SR 429, Project 429-205, Parcel 291 Partial

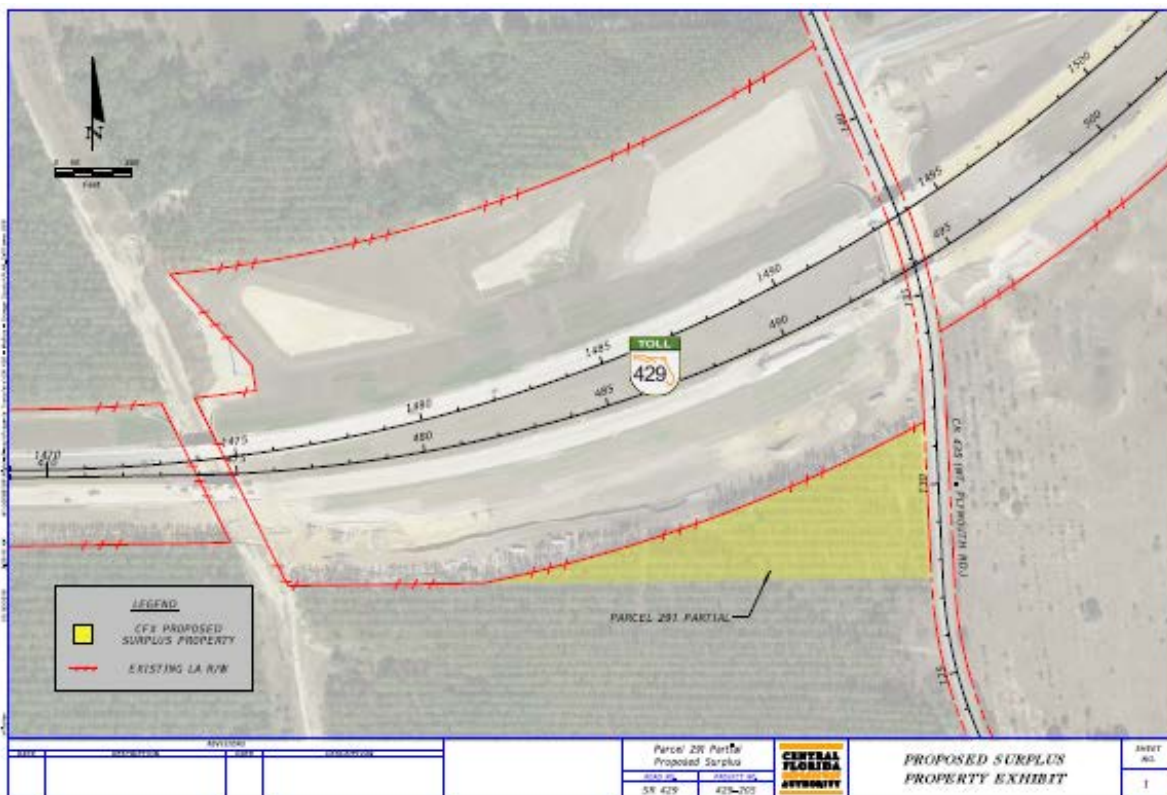
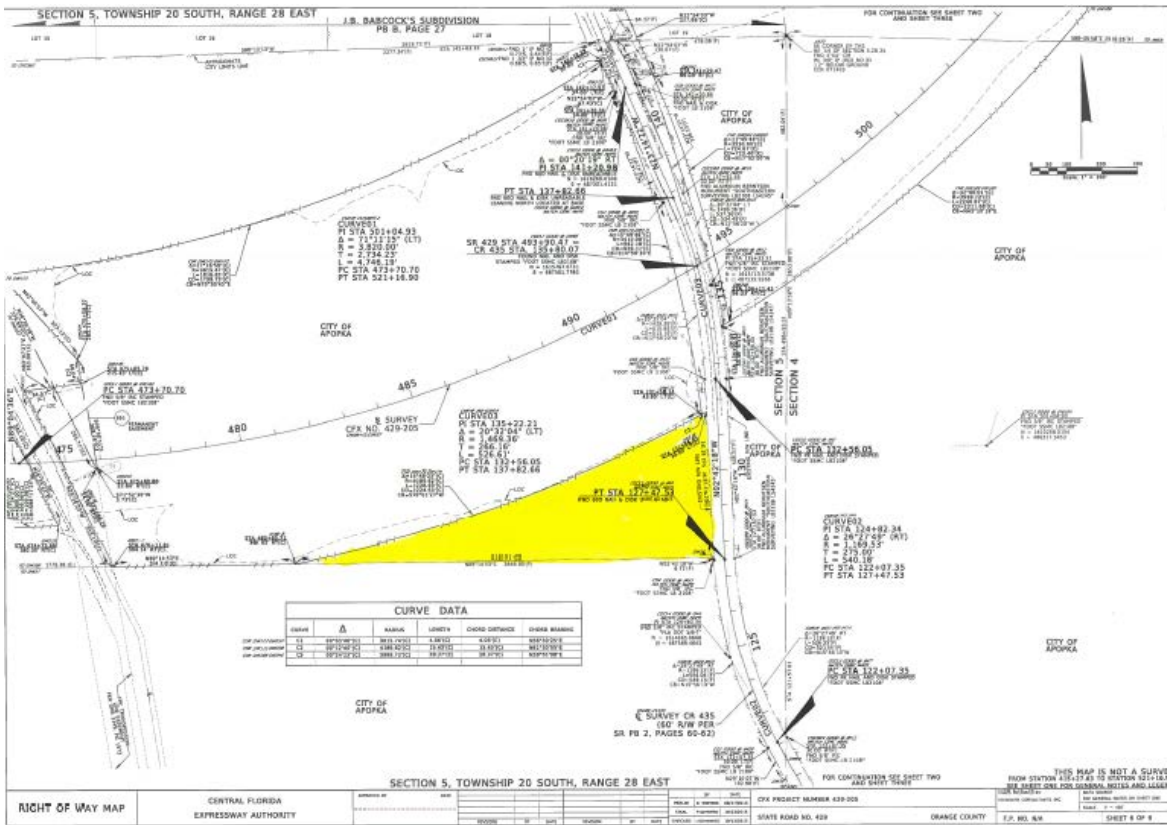


EXHIBIT "B"

GROUND LICENSE AGREEMENT

**GROUND LICENSE AGREEMENT
BETWEEN
CITY OF APOPKA, FLORIDA
AND
CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

THIS GROUND LICENSE AGREEMENT by and between the City of Apopka, Florida, a municipal corporation organized under the laws of the State of Florida (“CITY” or “Licensee”) whose address is 120 East Main Street, Apopka, Florida 32703 and Central Florida Expressway Authority (“CFX” or “Licensor”) a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807, hereinafter collectively referred to as the “Parties.”

WHEREAS, Section 163.01, Florida Statutes, provides that local governments may enter into interlocal agreements to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage; and

WHEREAS, CFX is the owner of certain real property generally located at 6578 Mt. Plymouth Road, Apopka, Orange County, Florida, attached hereto and incorporated herein, hereinafter “CFX’s Property,” acquired as part of the Wekiva Parkway Project in accordance with Section 369.317(7), Florida Statutes, through a negotiated purchase; and

WHEREAS, the CITY desires to construct a 300-foot tall cellular tower for public safety radio communications, including antennae, related cables, generation and other support equipment, for itself and for Lake County on a portion of CFX’s Property, hereinafter “the Licensed Premises”; and

WHEREAS, the CITY agrees to assume full responsibility for maintenance, management, marketing, and sublicensing of the Licensed Premises to third-party carriers and to pay CFX 50% of the gross rent received.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, understandings, conditions, premises, and covenants hereinafter set forth, and intending to be legally bound, CFX and the CITY agree as follows:

1. **Definitions.**

- A. “Agreement” means this Ground License Agreement.
- B. “CFX’s Property” means the real property generally located at 6578 Mt. Plymouth Road, Apopka, Orange County, Florida.
- C. “Hazardous Material” means any substance which is (i) designated, defined, classified or regulated as a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under any Environmental Law, as currently in effect or as hereafter amended or enacted, (ii) a petroleum hydrocarbon, including crude oil or any fraction thereof and all

petroleum products, (iii) PCBs, (iv) lead, (v) asbestos, (vi) flammable explosives, (vii) infectious materials, or (viii) radioactive materials. “Environmental Law(s)” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sections 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901, et seq., the Toxic Substances Control Act, 15 U.S.C. Sections 2601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. 5101, et seq., and the Clean Water Act, 33 U.S.C. Sections 1251, et seq., as said laws have been supplemented or amended to date, the regulations promulgated pursuant to said laws and any other federal, state or local law, statute, rule, regulation or ordinance which regulates or proscribes the use, storage, disposal, presence, clean-up, transportation or release or threatened release into the environment of Hazardous Material.

- D. “Improvements” means a 300-foot tall cellular tower supported by guide wires, including antennae, related cables, generation and other support equipment.
- E. “Licensed Premises” means the agreed upon portion of CFX’s Property that may be used for the Improvements. After Licensee has developed a site plan, Licensee will submit its site plan to CFX for review and approval. The Licensed Premises will be clearly depicted on the Site Plan and will be incorporated by reference into this Agreement.
- F. “Sublicense Revenue” means the total amount of monthly sublicense fees, including all forms of payments, with any escalations thereto, paid to Licensee by all Sublicensee(s) using the Licensed Premises under the sublicense(s) by CFX and Licensee, as modified, renewed, or assigned. For clarity, Sublicense Revenue otherwise includes all revenue received by Licensee for charges imposed by Licensee on a Sublicensee, whether one-time, monthly, or otherwise, and regardless of how such charges are characterized, if the sole or primary consideration to the Sublicensee in return for payment of the charge or charges is the right to use and occupy the Licensed Premises.
- G. “Sublicensee” means a third party to which Licensee has granted the right to use and occupancy of the Licensed Premises, subject to the terms and conditions contained herein.

- 2. **Recitals.** The foregoing recitals are true and correct and incorporated herein by reference.
- 3. **Grant of License.** CFX hereby grants to the CITY a non-exclusive license to the Licensed Premises, on the terms and conditions set forth in this Agreement, for the purpose of the CITY’s operation and maintenance of the CITY’s public safety radio communication tower and associated antennas, related cables, power generation and other support equipment, including the right of ingress and egress. It is expressly stipulated that this Agreement is for permissive use only and that the placing of utilities, wires, cables, pipes, or other structures or alterations within the Licensed Premises pursuant to this Agreement shall not operate to create or vest any property right in the CITY. Further, nothing herein shall be construed as creating a permanent license or easement that would survive any fee simple conveyance by CFX of the Licensed Premises or CFX’s Property. CFX agrees that it will permit no other use of the

property will interfere with the operation of the public safety radio communication tower and use by sublicensees.

4. **Use of Property.** The Licensed Premises shall be used for the purpose of constructing, maintaining and operating the Improvements and uses incidental thereto. The use of the Licensed Premises may be subject to additional site-specific conditions to be determined after review of the CITY's plans. All Improvements shall be constructed at Licensee's sole expense. Licensee will maintain the Licensed Premises in a safe condition. It is the intent of the Parties that the Licensee's tower shall not constitute a fixture. At no time shall the CITY use any CFX property outside the perimeter of the Licensed Premises. Any additional uses of the Licensed Premises by the CITY not addressed in this Agreement, including construction or installation of improvements, shall be allowed only by subsequent agreement between the Parties.
5. **Term and Termination.** The initial term of this Agreement begins upon the Effective Date and will remain in effect for a period of ten (10) years. The term of this Agreement shall automatically be extended for ten (10) successive one-year renewals. The Agreement may be terminated by either Party after first giving one (1) year written notice, with or without cause, to the non-terminating party. During that year, the CITY will vacate the Licensed Premises, providing for removal, at the CITY's expense, of the tower, antennas, cables, buildings, generation and other supporting equipment from the Licensed Premises, and restore the Licensed Premises as nearly as reasonably possible to its original condition, without, however, being required to replace any trees or other plants removed, or alter the then existing grading. Extensions of time may be granted with the written approval of both Parties.
6. **Rent; Adjustments.**
 - A. **Sublicensees.** The City intends to market the Licensed Premises to third-party carriers to co-locate on the tower and agrees to use reasonable efforts to secure Sublicensees and maximize Sublicense Revenue. CFX also has the right to market the Licensed Premises to third-party carriers. Third-party carrier co-location agreements shall be considered a sublicense and shall be approved by both the CITY and CFX. Any income received pursuant to such sublicense agreement(s) shall be divided equally between CFX and the CITY. Any sublicense agreement shall incorporate by reference the terms and conditions of this Agreement.
 - B. **Accounting.** At any time, CFX may request and Licensee shall provide an accounting of the Rent in such form and content as CFX may reasonably request.
 - C. **Audit.**
 - i) "Records" shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data in whatever form, related to the Ground

License, any sublicense, any improvement on the Licensed Premises, rent due or collected, and other documents relating to use of the Licensed Premises.

- ii) CFX has the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Records of the CITY or any sublicensee. If CFX requests access to or review of any Records and the CITY or a sublicensee refuses such access or review, or delays such access or review for over ten (10) business days, the CITY or the sublicensee, as applicable, shall be in default. The CITY and the sublicensees shall preserve all Records for the entire term of the Ground License or sublicense, as applicable, and for a period of five (5) years after the termination of the Ground License or sublicense. The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.
7. **Utilities.** The CITY shall be responsible for the consumption of electricity and any and all other utilities associated with operation of the tower on the Licensed Premises and shall timely pay all costs associated therewith. But such costs shall not be deducted from any revenues generated from any Sublicensee Revenues that may be generated pursuant to paragraph 6A above.
8. **Real Estate Taxes.** Licensee shall pay or cause to be paid directly to the applicable Government Entity or to CFX if CFX is invoiced by such Government Entity, all taxes, fees, assessments or other charges assessed by any Government Entity against the Improvements, equipment, or Licensee's use of the Licensed Premises. Licensee shall pay to CFX or the appropriate taxing authority, if and when due, any sales, use, ad valorem or other taxes or assessments which are assessed or due by reason of this Agreement or Licensee's use of the Licensed Premises. CFX shall provide notice of any assessments to be paid by Licensee promptly upon receipt. Said invoices shall be paid within thirty (30) days of Licensee's receipt.
9. **Insurance.** Licensee shall carry public liability insurance covering its use of the Licensed Premises with companies and in a form satisfactory to CFX. The policy shall name Licensee as insured and CFX as an additional insured. The policy shall bear endorsements to the effect that the insurer agrees to provide CFX with at least thirty (30) days prior notice of cancellation, except for non-payment of premium. At a minimum, Licensee, sublicensees, and all parties accessing the Licensed Premises for or on behalf of Licensee shall obtain the following insurance coverage: (i) Statutory Workers' Compensation including \$500,000 Employers' Liability; (ii) Comprehensive General Liability including personal injury, broad form property damage, independent contractor, XCU and products/completed operations with limits not less than \$2,000,000 per occurrence; (iii) Automobile Liability with limits not less than \$1,000,000 per occurrence; and (iv) Fire and extended coverage insurance on all of Licensee's improvements at the Licensed Premises including all of Licensee's facility and other personal property at the Licensed Premises. The amount of the insurance limits identified above shall be increased on every fifth (5th) anniversary of the date of this Agreement by twenty-five percent (25%) over the amount of the insurance limits for the immediately preceding five (5) year period. All insurers will be rated A.M. Best A-(FSC VIII) or better and must be licensed

to do business in the jurisdiction where the Licensed Premises is located. The insurance requirements in this Agreement shall not be construed to limit or otherwise affect the liability of Licensee. All policies required to be provided shall contain a waiver of subrogation in favor of CFX. Licensee shall provide certificates evidencing said coverage to CFX upon execution hereof. Licensee shall provide a copy of said policies to CFX upon request.

10. **Waiver of Claims and Rights of Subrogation.** The CITY hereby waives any and all rights of action for negligence against CFX on account of damage to the Improvements or to the Licensed Premises resulting from any fire or other casualty of the kind covered by property insurance policies with extended coverage, regardless of whether or not, or in what amount, such insurance is carried by the CITY. All policies of property insurance carried by the CITY for the Improvements, CFX's Property or the Licensed Premises shall include a clause or endorsement denying to the insurer rights by way of subrogation against CFX.

11. **As Is Condition; No Warranties.**

- A. The CITY acknowledges and agrees that the Licensed Premises is in an "AS IS" and "WHERE IS" condition, and that neither CFX, nor any officer, director, bondholder, employee, agent, representative, or other person or entity whatsoever, has made or does make hereby any warranty, representation, statement, guarantee, assertion or opinion, written or oral, express or implied, about or concerning the Licensed Premises, or about or concerning the physical condition thereof or for any use or purpose, or any similar matter. The CITY hereby covenants and agrees that the CITY does and shall assume any and all risks concerning the Licensed Premises, and the physical condition and characteristics thereof, and any defects or problems concerning the Licensed Premises, whether patent or latent, known or unknown. (Manual, § 5-6.09)
- B. The CITY shall be fully responsible for determining the suitability of the Licensed Premises for its intended use, including any and all certificates, permits, zoning, future land use, and other approvals that may be required presently or in the future by a Federal, State, or local authority. CFX makes no representations or warranties regarding the suitability of the Licensed Premises for the CITY's intended use. If the CITY determines that the Licensed Premises is not suitable for the intended use, the CITY has the right to immediately terminate this Agreement.

12. **CFX's Right to Review and Approve.**

- A. CFX shall have the right to review and approve all design, zoning, planning, or construction plans related to the Licensed Premises or to the Improvements prior to the submittal of those plans by the CITY to the regulatory agency and prior to any work being performed. CFX has thirty (30) days to review the plans and provide comments. If CFX comments on or objects to the plans, the CITY may submit modified plans to CFX in response to the comments or objections. If the Parties reach an impasse on a mutually satisfactory solution,

either Party shall have the option to terminate this Agreement with thirty (30) days written notice without incurring damages for the other Party.

- B. The CITY agrees that it will not construct, install, maintain and operate any Improvement, including a tower, antennas, related cables, generation or other support equipment, on the Licensed Premises until the proper zoning and future land use designation is obtained and all certificates, permits, and other approvals have been obtained. The CITY will be responsible to apply for the appropriate variances, permits, zoning approvals, site plan approval and building permits, in accordance with the applicable provisions in the Apopka Code and Land Development Code and any and all other applicable federal, state, or local laws, rules, and regulations. In the event such approval is denied, withheld or subsequently withdrawn, this Agreement may be immediately terminated at the request of either Party.

- 13. **Hazardous Materials.** Licensee agrees to defend, indemnify and hold harmless CFX from any and all damages, cost, claims, expenses, suits, losses, liabilities, or obligations of any kind including without limitation, environmental assessments, evaluations, remediation, fines, penalties and clean-up cost which may be asserted against or imposed upon or incurred by CFX arising from Licensee's discharge or disposal of any hazardous or toxic materials, trash, debris, refuse, waste or other materials ("Materials") related in any way to Licensee's operations herein. Licensee agrees that it shall dispose of all Materials in strict compliance with local, CFX, state and federal statutes, laws, ordinances, codes, rules, regulations, orders or decrees and shall provide evidence of such disposal satisfactorily to CFX as required by CFX's designated representative. In the event of Licensee's failure to comply with the paragraph, Licensee shall, at its sole cost and expense, promptly commence and diligently pursue any required investigation, assessment, cleanup, remediation, restoration, and monitoring of any waters and lands affected by Licensee's failure to comply and to restore the damaged water and/or land to the condition existing immediately prior to the occurrence which caused the damage. Upon discovery of a failure or violation related to its disposal operations, Licensee shall immediately notify such failure or violation to all applicable governmental agencies having jurisdiction and to CFX. The provisions of this paragraph shall survive the termination or expiration of the contract.

14. **General Conditions.**

- A. **Permits.** The CITY shall or shall cause its agent to apply for and obtain all necessary permits, including permits required by federal, state or local entities, and comply with all applicable laws, rules, ordinances, regulations, and CFX criteria, policies, and procedures.
- B. **Removal of Obstructions.** Subject to CFX's review and approval, Licensee has the right to remove obstructions from CFX's Property, including but not limited to vegetation, which may encroach upon, interfere with or present a hazard to Licensee's use of the Licensed Premises. Nevertheless, Licensee should clear and grade only those areas necessary for the tower construction, maintenance, and access, and leave the balance of the Licensed Premises in its current vegetative state. Licensee shall dispose of any materials removed.

- C. Security. The CITY may secure the Licensed Premises in the manner the CITY deems appropriate, subject to CFX's review and approval, at the CITY's expense. The CITY shall provide CFX with a key or other method to access the secure entry to the Licensed Premises.
- D. Inspection. All work, materials, and equipment shall be subject to inspection and approval by CFX at any time.
- E. Noninterference. The CITY shall ensure that its use does not interfere with the property and rights of a prior utility or an existing structure, facility, utility, improvement, or use.
- F. Duty to Alleviate. If CFX determines that the CITY's use, in whole or in part, unreasonably interferes in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion of the Expressway System, the CITY shall, upon receipt of oral or written notice, immediately alleviate the interference at no cost to CFX. The CITY understands and acknowledges that in the event of such interference, CFX may require, in CFX's sole discretion, and the CITY hereby agrees to perform, or cause to be performed, any of the following: (a) the removal or relocation of all structures, wires, cables, pipes, utilities, or other improvements within, under or over CFX's Property at no cost to CFX; (b) immediate cessation of the use; (c) restoration of CFX's property; or (d) such other work that alleviates interference. Such corrective action or cessation of activity must be completed within the time frame stated in the notice from CFX.
- G. Workmanlike Manner. All such work done by CITY shall be constructed and installed in a good and workmanlike manner and completed in compliance with all applicable laws, rules, ordinances, regulations and all local, State, and national code standards including, but not limited to, height and wind loading requirements. Further, the tower shall be constructed and maintained by the CITY to safely and effectively accommodate, at minimum, the CITY's antenna and support equipment. The CITY shall be responsible for the costs of damages or destruction of its antenna, tower, equipment, or facilities caused by any such construction, reconstruction, maintenance, upgrade or operations of the Improvements.
- H. Drawings, equipment lists, and essential technical data of the tower, radio antenna and related support equipment shall be consistent and located within the Licensed Premises pursuant the approved site plans and technical, operating compatibility requirements.
- I. Survey. Following completion of construction and installation of all Improvements, Licensee shall provide CFX with a copy of an "as-built" survey, which shall depict and identify the boundaries of the Licensed Premises and all improvements on, in, or under the Licensed Premises.

15. **Encumbrances**. At no time during the term of this Agreement or extensions thereof shall the CITY or any sublicensee pledge, mortgage, or hypothecate any interest in the Licensed Premises or the Improvements which are subject of this Agreement which would create an encumbrance, lien or security interest on CFX's Property.
16. **Maintenance**.
- A. The CITY shall be responsible for all costs relative to design, installation, construction, reconstruction, alteration, maintenance, repair, security and operation of its tower, antenna, cables, generation and supporting equipment on the Licensed Premises and shall keep same in good order, repair and condition during the term of this Agreement.
 - B. The CITY shall be responsible, at its costs, for maintaining the grassed areas and landscaping including, but not limited to, mowing and trash pick-up, within the Licensed Premises.
 - C. During the term of this Agreement, the CITY shall keep the Licensed Premises free of debris and any hazardous, dangerous, noxious or offensive matter which would create a hazard or undue vibration, heat, noise or any form of signal interference in connection with the use of the facilities.
17. **Compliance with Laws and Standards**. The CITY shall comply with all present and future Federal State and local laws, ordinances, rules, and regulations (including, but not limited to, laws, rules and regulations issued by the Federal Communication Commission (FCC) Federal Aviation Administration (FAA) and site standards in connection with the installation, use, operation, repair and maintenance of the tower and antenna facilities. The payment of any penalties or fines arising out of or in any way connected with the violation of, or non-compliance with, the foregoing shall be sole and exclusive responsibility of the CITY.
18. **Replacement Facility**. CFX is not under any obligation to provide a replacement location, tower or facility to the CITY under any circumstances including, but not limited to, condemnation, substantial damage to the tower or related site or improvements thereon attributable to act of God, explosion, fire, flood, wind, hurricane, tornado, sinkhole, substrate failure or any other form of natural or man-made disaster. Notwithstanding the above, in the event the CITY exercises its option to repair, replace or reconstruct the damaged site or facilities, the Parties shall have the right to continue under the terms of this Agreement as before or to terminate at their sole option, without being liable for damages to the other Party.
19. **Condemnation**. In the event either the Licensed Premises or CFX's Property are taken by eminent domain, in whole or in part, so as to materially hinder effective use of the Licensed Premises, CFX shall be entitled to any and all proceeds from any eminent domain proceeding or settlement from an anticipated eminent domain proceeding.
20. **Sale of Property**. In the event CFX decides to sell the Licensed Premises, CFX grants to the CITY the right of first refusal. Upon the City's failure to communicate its intention to exercise

its right of first refusal 30 days after receiving written notice of CFX's intent to sell the Licensed Premises, CFX will have the right to terminate this Agreement upon one (1) year of said written notice to the CITY.

21. **Hold Harmless.** The CITY agrees to defend, indemnify and hold harmless CFX, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorney's fees) attributable to its negligent acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from the CITY's negligent performance under this Agreement related to the Licensed Premises. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party.
22. **Limitation on Damages.** In no event shall the Parties be liable to each other for consequential, indirect, speculative or punitive damages in connection with or arising from this Agreement, or the use of the Licensed Premises.
23. **Right to Terminate for Cause.**
 - A. In addition to its termination rights under Paragraph 5 above, either party has the right to terminate for cause in the event of a substantial material breach of the terms and conditions in this Agreement. The non-defaulting party shall give the defaulting party written notice of such default. After receipt of such written notice, the defaulting party shall have thirty (30) days in which to cure any monetary default and sixty (60) days in which to cure any non-monetary default. The defaulting party shall have such extended periods as may be agreed to in writing by the Executive Director for CFX and the Mayor for the CITY.
 - B. In the event that Licensee is in substantial and material default beyond the applicable periods set forth above, CFX may, at its option, upon written notice: (i) terminate this Agreement, be relieved from all further obligations under this Agreement, and elect, at its sole discretion, to have the CITY surrender to CFX, for no consideration paid to the CITY, any Improvements together with the right of CFX to maintain any associated sublicenses as the CITY's successor-in-interest; (ii) take any actions that are consistent with CFX's rights; or (iii) sue for injunctive relief, sue for specific performance, or sue for damages.
 - C. In the event that CFX is in substantial and material default beyond the applicable periods set forth above, the CITY may, at its option, upon written notice: (i) terminate the License, vacate the Licensed Premises and be relieved from all further obligations under this Agreement; (ii) perform the obligation(s) of CFX specified in such notice, in which case any expenditures reasonably made by the CITY in so doing shall be deemed paid for the account of CFX and CFX agrees to reimburse the CITY for said expenditures; (iii) take any actions that are consistent with the CITY's rights; (iv) sue for injunctive relief, and/or sue for specific performance, and/or set-off from Rent any amount reasonably expended by the CITY Licensee as a result of such default.

24. **Assignment; Third Party Beneficiaries.** Neither CFX nor CITY shall assign, delegate, or otherwise transfer its rights and obligations hereunder to any another Party without the prior written consent of the other Party. There are no third-party beneficiaries to this Agreement.
25. **Modifications.** Unless otherwise specified herein, no modification, amendment, or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed by the Parties, with the same formality and of equal dignity herewith.
26. **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 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

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

CITY: CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attention: Mayor
Telephone: (407) 703-1601

With a copy to: CITY OF APOPKA
120 East Main Street
Apopka, Florida 32703
Attention: City Attorney
Telephone: (407) 703-1658

27. **Entire Agreement.** This document embodies the entire agreement between the Parties. It may not be modified or terminated except as provided herein.

28. **Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, it shall be considered deleted here from and shall not invalidate the remaining provisions.
29. **Governing Law and Venue.** This Agreement shall be governed by and interpreted according to the laws of the State of Florida. The Parties and their employees, agents, vendors and assigns shall comply with all Federal, State, and local laws, codes, and regulations relating to the performance of this Agreement. In the event legal action is taken regarding this Agreement, venue shall be in a court of competent jurisdiction in and for Orange County, Florida.
30. **No Recording.** Neither this Agreement nor any record or memorandum thereof shall be recorded in the Public Records of any county in the State of Florida. Recording of this Agreement or any of the terms and provisions hereof, or any record or memorandum thereof by Purchaser shall, at the option of CFX, immediately constitute a material breach and default by Purchaser hereunder, and grounds for termination of the Agreement by CFX. Nevertheless, this Agreement will be included in the official records of CFX as a public record.
31. **Counterparts.** This Agreement may be executed in any number of counterparts each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.
32. **Effective Date.** This Agreement shall become effective upon the date the last part hereto executes it ("Effective Date").

IN WITNESS WHEREOF, the Parties have made and executed this Interlocal Agreement on the respective dates under each signature: Central Florida Expressway through its Board of Directors signing by and through its Chairman and by the City of Apopka, Florida, through its City Council, signing by and through its Mayor.

Signed, sealed, and delivered in the presence of:

CITY OF APOPKA, FLORIDA

By: City Commission

First Witness:

Signature

BY: _____
MAYOR

Print Name

Date: _____

Second Witness:

Signature

APPROVED AS TO FORM FOR
RELIANCE BY AOPKA ONLY:

Joseph K. Byrd, City Attorney

Print Name

ATTEST: _____
City Clerk

Signed, sealed, and delivered in the presence of:

First Witness:

Signature

Print Name

Second Witness:

ATTEST: _____
Regla ("Mimi") Lamaute
Board Services Coordinator

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

BY: _____
CHAIRMAN JAY MADARA

Date: _____

**APPROVED AS TO FORM FOR
RELIANCE BY CFX ONLY**

By: _____
General Counsel