

**AGENDA
RIGHT OF WAY COMMITTEE MEETING
May 25, 2022
2:00 p.m.**

**Meeting location: Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807
Boardroom**

A. CALL TO ORDER

B. PUBLIC COMMENT

Pursuant to Section 286.0114, Florida Statutes and CFX Rule 1-1.011, the Right of Way Committee provides for an opportunity for public comment at the beginning of each regular meeting. The Public may address the Committee on any matter of public interest under the Committee's authority and jurisdiction, regardless of whether the matter is on the Committee's agenda but excluding pending procurement issues. Public Comment speakers that are present and have submitted their completed Public Comment form to the Recording Secretary at least 5 minutes prior to the scheduled start of the meeting will be called to speak. Each speaker shall be limited to 3 minutes. Any member of the public may also submit written comments which, if received during regular business hours at least 48 hours in advance of the meeting, will be included as part of the record and distributed to the Committee members in advance of the meeting.

C. APPROVAL OF JANUARY 19, 2022 RIGHT OF WAY COMMITTEE MEETING MINUTES (Action Item)

D. AGENDA ITEMS

1. SLOPE EASEMENT AGREEMENT AND SECOND TEMPORARY CONSTRUCTION EASEMENT BETWEEN RANDALL PARK COMMUNITY DEVELOPMENT DISTRICT AND THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY

PROJECT NUMBER: 528-1240

PARCEL NUMBER: 104

Laura Newlin Kelly, Associate General Counsel (Action Item)

2. PROPERTY ACQUISITION & DISPOSITION PROCEDURES MANUAL

Graham Wigle and Evan Maggi, Consultants, Protiviti Inc.

Diego "Woody" Rodriguez, General Counsel (Discussion Item)

(CONTINUED ON PAGE 2)

E. OTHER BUSINESS

F. 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, they will need a record of the proceedings, and that, for such purpose, they 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.

Persons who require translation services, which are provided at no cost, should contact CFX at (407) 690-5000 x5316 or by email at Iranetta.Dennis@cfxway.com at least three (3) business days prior to the event.

In accordance with the Americans with Disabilities Act (ADA), if any person with a disability as defined by the ADA needs special accommodations to participate in this proceeding, then they should contact the Central Florida Expressway Authority at (407) 690-5000 no later than two (2) business days prior to the proceeding.

Please note that participants attending meetings held at the CFX Headquarters Building are subject to certain limitations and restrictions in order to adhere to the CDC guidelines and to ensure the safety and welfare of the public.

MINUTES
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
Right of Way Committee Meeting
January 19, 2022

Committee Members Present:

Steven Kane, Osceola County Representative
Laurie Botts, City of Orlando Representative, Acting Committee Chairman
Mindy Cummings, Orange County Representative
John Denninghoff, Brevard County Representative
Neil Newton, Seminole County, Representative, Alternate
Christopher Murvin, Citizen Representative

Committee Member Not Present:

Brian Sheahan, Lake County Representative, Committee Chairman

CFX Staff Present:

Diego "Woody" Rodriguez, General Counsel
Will Hawthorne, Director of Engineering
Laura Newlin Kelly, Associate General Counsel
Mala Iley, Recording Secretary

Item A: CALL TO ORDER

The meeting was called to order at 2:00 p.m. by Acting Chairman Botts. Recording Secretary Mala Iley called the roll and announced there was a quorum.

Item B: PUBLIC COMMENT

There was no public comment.

Item C: APPROVAL OF DECEMBER 2, 2021 RIGHT OF WAY COMMITTEE MEETING MINUTES

A motion was made by Christopher Murvin and seconded by Steven Kane to approve the December 2, 2021 minutes.

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

Item D.1.: RIGHT OF WAY TRANSFER AND CONTINUING MAINTENANCE AGREEMENT BETWEEN THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND CITY OF OCOEE, FLORIDA PROJECT NUMBER: 429-603, PARCEL NUMBERS: PARCELS 62-161 PART A, PORTION 3 (TRACT 3), 62-161 PART B, PORTION 1 (TRACT 1), AND 62-161 PART B, PORTION 4 (TRACT 2)

General Counsel Woody Rodriguez requested the Committee's recommendation for Board approval of a Right of Way Transfer and Continuing Maintenance Agreement between the Central Florida Expressway Authority ("CFX") and City of Ocoee ("City").

General Counsel Rodriguez provided the Committee with a brief history of the project. CFX acquired certain real property for the benefit of the local jurisdictions and constructed thereon certain roadways and other improvements and relocated, reconfigured and realigned local roadways to ensure a minimal disruption of traffic to the citizens and to provide for a smooth transition to the Central Florida Expressway System, thus making both the Central Florida Expressway System and the local road system compatible.

General Counsel Rodriguez advised that the City desires to enter into the proposed Right of Way Transfer and Continuing Maintenance Agreement to ensure all local road right of way and associated facilities are owned by the City and all right of way and associated facilities operated as a part of the Central Florida Expressway System are owned and maintained by CFX.

Pursuant to the terms of the proposed Agreement, the conveying instrument will include a deed restriction and reverter in the event the City fails to utilize the subject property for public purposes. The City will agree to undertake the continuing maintenance of the subject property.

A motion was made by Mindy Cummings and seconded by Neil Newton to recommend to the Board approval of the Resolution Declaring Property as Surplus Property Available for Sale, Authorizing the Transfer of Surplus Property with City of Ocoee and the Approval of the Right of Way Transfer and Continuing Maintenance Agreement between CFX and the City in a form substantially similar to the agreement attached to the Right of Way Committee agenda package, subject to the following: (1) separate notice to the local government in which the subject property is located is not required; (2) conveyance of the subject property will be via Quit Claim Deed, rather than Special Warranty Deed, subject to a deed restriction and right of reverter restricting the use of the subject property for public purposes; and subject to any minor or clerical modifications or revisions approved by the General Counsel or designee.

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

Item D.2.: DECLARATION OF PROPERTY AS SURPLUS PROPERTY AVAILABLE FOR SALE
PROJECT NUMBER: 429-603, PARCEL NUMBER: 62-161 PART B

General Counsel Woody Rodriguez requested the Committee's recommendation for Board approval of a Resolution Declaring Property as Surplus Property Available for Sale.

Pursuant to CFX's Property Acquisition, Disposition & Permitting Procedures Manual, CFX staff and CFX's General Engineering Consultant have examined the subject property and determined that the subject property is not needed to support existing Central Florida Expressway System.

Accordingly, CFX's General Engineering Consultant has certified that the subject property is not essential for present or future construction, operation or maintenance of the Central Florida Expressway System or for CFX's purposes and that the disposition of the subject property would not impede or restrict the Central Florida Expressway System.

A motion was made by Steven Kane and seconded by Christopher Murvin to recommend to the Board approval the Resolution Declaring Property as Surplus Property Available for Sale in a form substantially similar to the agreement attached to the Right of Way Committee agenda package, subject to any minor or clerical modifications or revisions approved by the General Counsel or designee.

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

Item E: OTHER BUSINESS

Acting Chairman Botts advised the Committee that the next Right of Way Committee meeting is scheduled for Wednesday, February 16, 2022 at 2:00 p.m.

Item F: ADJOURNMENT

Acting Chairman Botts adjourned the meeting at approximately 2:13 p.m.

Minutes approved on _____ 2022.

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: CFX Right-of-Way Committee Members

FROM: Laura Newlin Kelly, Associate General Counsel *LNK*

DATE: May 18, 2022

SUBJECT: Slope Easement Agreement and Second Temporary Construction Easement
between Randal Park Community Development District and the Central Florida
Expressway Authority
Project: 528-1240
Parcel: 104

BACKGROUND

The Central Florida Expressway Authority (“CFX”) and Brightline Trains Florida LLC, f/k/a All Aboard Florida – Operations LLC (“Brightline”) entered into that certain Central Florida Expressway Rail Line Easement dated November 30, 2015 and recorded December 1, 2015 as Document #20150620722, Official Records Book 11020, Page 4646, Public Records of Orange County, Florida (“Rail Line Easement”) for the construction and development of a passenger rail project that will transport individuals between Miami and Orlando (“Rail Project”). In order to facilitate the development of the Rail Project, Randall Park Community Development District (“CDD”) has agreed to grant a perpetual easement over a portion of the real property adjacent to State Road 528 (“SR 528”) owned by the CDD as more particularly depicted in the map attached hereto as **Attachment “A”** (“Map of Easements”). The perpetual easement from the CDD to CFX will permit CFX to construct and maintain the slopes and embankments necessary to support the Rail Project in accordance with the terms and conditions of the proposed Slope Easement Agreement attached hereto as **Attachment “B”** (“Slope Easement”). The rights and obligations of CFX pursuant to the terms of the Slope Easement may be extended by CFX to Brightline and other third parties.

Mattamy (Jacksonville) Partnership and CFX previously entered into that certain Temporary Construction Easement dated May 29, 2015, which is set to expire on October 2, 2024 (“First TCE”). Pursuant to the terms of the First TCE, CFX was permitted to construct, improve, expand and maintain the improvements for SR 528. The purpose of the proposed Second Temporary Construction Easement (“Second TCE”) is to preserve CFX’s right to enter upon the real property owned by the CDD as more particularly depicted in the Map of Easements (“TCE Property”) to construct, expand, improve, or maintain SR 528 and any future improvements thereto, including, without limitation, any slopes or embankments in accordance with the terms and conditions of the Slope Easement for the Rail Project. A copy of the proposed Second TCE is attached hereto as **Attachment “C”**.

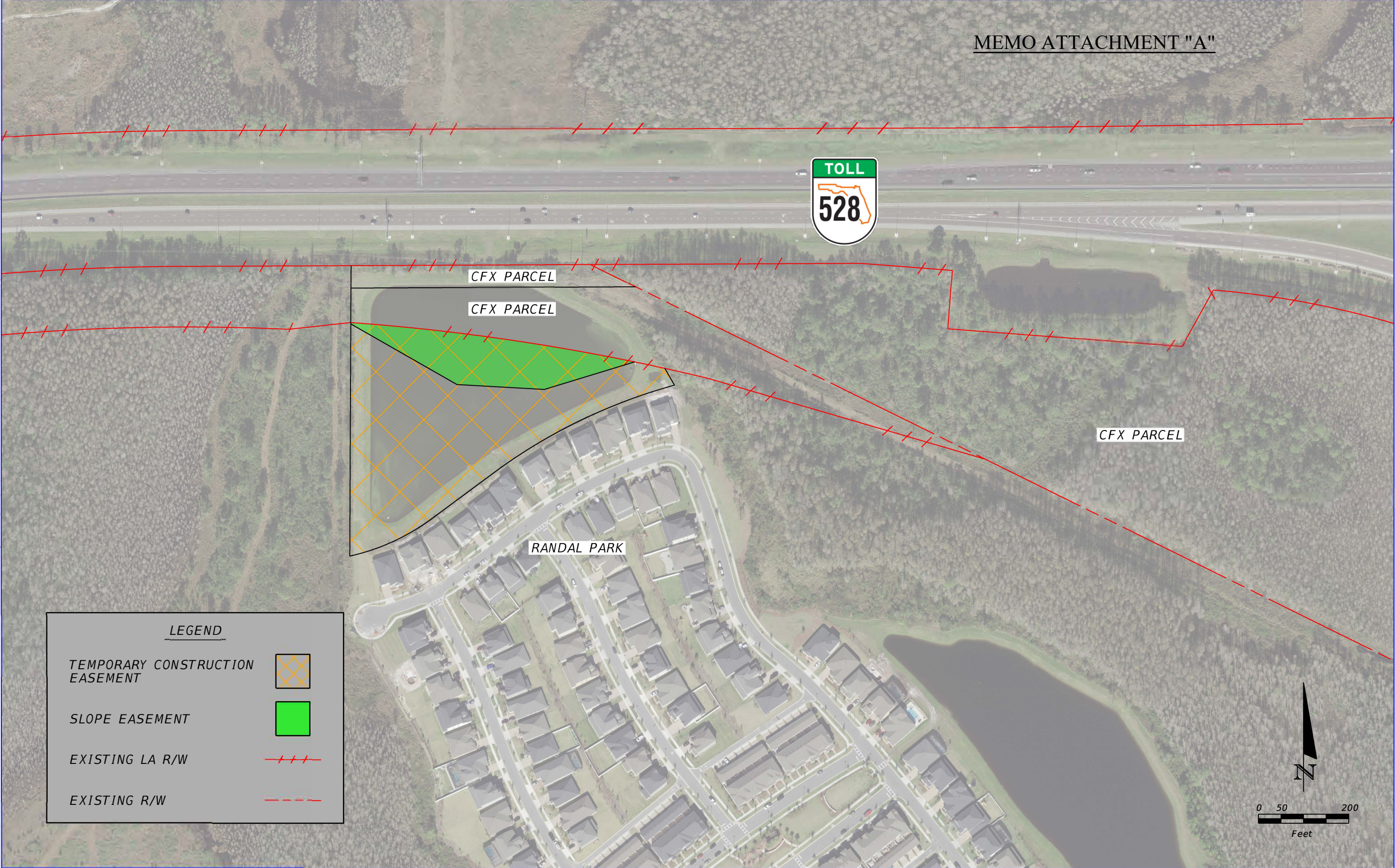
CFX staff and CFX's General Engineering Consultant ("GEC") have examined the proposed Slope Easement and Second TCE and the proposed location, maintenance functions, and maintenance responsibilities set forth in these agreements.

REQUEST

A recommendation by the Right-of-Way Committee for CFX Board's approval of (1) the Slope Easement Agreement; and (2) the Second Temporary Construction Easement, both between CDD and CFX in forms substantially similar to the attached Slope Easement and Second TCE, subject to any minor or clerical modifications or revisions approved by the GEC, General Counsel or designee.

ATTACHMENTS

- A. Map of Easements
- B. Slope Easement Agreement
- C. Second Temporary Construction Easement



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11:28:52 AM
5/9/2022
zfischer

LEGEND

TEMPORARY CONSTRUCTION EASEMENT

SLOPE EASEMENT

EXISTING LA R/W

EXISTING R/W

REVISIONS				SR 528 Right-of-Way			RANDAL PARK SLOPE EASEMENT	SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION					
				ROAD NO.	PROJECT NO.			
				SR 528				

Prepared by and, after
recording, return to:
Ambarina A. Perez, Esq.
700 NW 1st Avenue, Suite 1620
Miami, Florida 33136

SLOPE EASEMENT AGREEMENT

THIS SLOPE EASEMENT AGREEMENT (this “**Agreement**”) is made as of the _____ day of January 2022 (the “**Effective Date**”) by and between **RANDAL PARK COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special purpose government created under Chapter 190, *Florida Statutes*, whose address is c/o Governmental Management Services - Central Florida, LLC, 219 East Livingston Street, Orlando, Florida 32801 (together with its successors and/or assigns, “**Grantor**”) and **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and politic existing pursuant to Chapter 38, *Florida Statutes*, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 (together with its successors and/or assigns, “**Grantee**”, Grantor and Grantee, each a “**Party**” and collectively, the “**Parties**”).

WITNESSETH:

WHEREAS, Grantor is the owner of the real property described on **Exhibit “A”** attached hereto and made a part hereof (the “**Grantor’s Parcel**”);

WHEREAS, Grantee is the owner of the real property described on **Exhibit “B”** attached hereto and made a part hereof (the “**Grantee’s Parcel**”);

WHEREAS, Grantee’s Parcel is subject to that certain Central Florida Expressway Authority Rail Line Easement dated November 30, 2015 and recorded December 1, 2015, Document # 20150620722, Book 11020, Page 4646 of the Public Records of Orange County, Florida (as amended, the “**Rail Line Easement**”) for the construction and development by the grantee of the Rail Line Easement (together with its successors and/or assigns, the “**Rail Line Grantee**”) of a passenger rail project that will transport individuals between Miami and Orlando with initial stops in Fort Lauderdale and West Palm Beach, Florida (the “**Rail Project**”);

WHEREAS, Grantor has agreed to grant to Grantee a perpetual easement on the portion of the Grantor’s Parcel more particularly described on **Exhibit “C”** attached hereto and made a part hereof (the “**Easement Area**”) for the sole purpose of construction and maintenance of slopes and embankments to support the improvements of the Rail Project in the Rail Line Easement and such other future improvements which do not interfere with Intercity Passenger Rail Service (as defined in the Rail Line Easement) which the Grantee may construct on the Southern Slope Property (as defined in the Rail Line Easement) of the Grantee’s Parcel, subject to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the premises, the covenants and the agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Grant of Easement.** Grantor hereby grants, dedicates and establishes, subject to the terms and conditions of this Agreement and subject to all covenants, restrictions, easements and other matters of record affecting the Grantor's Parcel, (a) a perpetual and non-exclusive easement in favor of Grantee, its Third Party Users (as hereinafter defined) and their respective employees, agents, representatives, contractors, and subcontractors (each an "**Agent**" and collectively, the "**Agents**"), on, over, under, through and across the Easement Area solely for access (including, without limitation, pedestrian and vehicular ingress and egress) to construct, install, use, operate, maintain, repair, improve, modify, replace and remove earthen fill slopes and embankments (collectively, the "**Slope Improvements**") to support (i) the Rail Line Easement and the construction and operation of the Intercity Passenger Rail Service thereon; (ii) the Southern Slope Improvements (as defined in the Rail Line Easement) to be constructed and maintained on the Southern Slope Property on Grantee's Parcel in accordance with the Rail Line Easement; and (iii) subject to the terms and conditions of the Rail Line Easement, any future Intermodal Rail Improvements (as defined in the Rail Line Easement) or other improvements for proposed future uses, including, without limitation, any construction, installation, repair, improvement, modification, replacement or removal of the Southern Slope Improvements or Slope Improvements for the Intercity Passenger Rail Service necessitated by the construction, installation, use, operation, repair, and maintenance of the Intermodal Rail Improvements as may be coordinated with the Rail Line Grantee in accordance with the terms of the Rail Line Easement (collectively, the "**Future Improvements**"), which the Grantee or a Third Party User (other than the Rail Line Grantee), may in the future construct on the Southern Slope Property of the Grantee's Parcel, and (b) a perpetual and non-exclusive vehicular and pedestrian access easement on, over, across and upon the Grantor's Parcel as reasonably necessary for the purpose of accessing and performing construction, installation, use, operation, maintenance, repair, improvement, replacement and removal of the Slope Improvements ("collectively, the "**Easements**"). As used in this Agreement, a "**Third Party User**" or "**Third Party Users**" shall mean the Grantee's licensees, lessees, or easement grantees of the Grantee's Parcel, including, without limitation, the Rail Line Grantee. Without limiting the Easements herein granted, and subject to the prior written approval of the Grantee (not to be unreasonably withheld), the Grantor reserves the right to use the Easement Area (including, without limitation, planting and maintaining trees, shrubs and perennials thereon), provided such use shall not undermine the Slope Improvements thereon, or unreasonably interfere with or frustrate the rights of the Grantee and/or its Third Party User's to the Easements pursuant to this Agreement. Grantee reserves the right to review any landscape plans and approve, in its sole and absolute discretion, the type, species, location, size, and density of the plantings. Grantor acknowledges and agrees that in the event Grantor installs any improvements, structures, facilities, plantings, or other landscaping within the Easement Area, Grantee reserves the right to require Grantor, at Grantor's sole cost and expense, to remove or relocate said improvements to the extent they otherwise unreasonably undermine the Slope Improvements thereon, or otherwise interfere with or frustrate the rights of the Grantee and/or its Third Party User's to the Easements pursuant to this Agreement. Grantor's use of the Easement Area in accordance with the foregoing sentence shall be at the sole cost and expense of the Grantor and shall not impose additional liability or obligation on the Grantee or its Third Party Users. No dump trucks, pickups or other vehicles will be parked or left overnight on the Grantor's Parcel. No materials shall be placed

or stored on the Grantor's Parcel. The Grantee agrees and acknowledges that the Grantor makes no representations or warranties of any kind that the Grantor's Parcel is suitable for vehicular, or any other use; the Grantee's use of the Grantor's Parcel is solely at its own risk. Grantee shall be responsible for securing all required approvals, utility approvals and permits, if any, from the applicable governmental entity or agency having jurisdiction therefore in connection with the Grantee's use of Grantor's Parcel. Except as expressly provided in this Agreement, nothing herein shall be interpreted or construed to grant any easement or other rights, temporary or otherwise, over any property other than the Easement Area.

2. **Standards for Completion of Work and Maintenance.** Grantee shall, and shall cause its Third Party Users and their respective Agents doing work in the Easement Area to, comply with the following minimum standards with regard to the construction of the Slope Improvements, maintenance, thereof and other work permitted by this Agreement within the Easement Area: (a) all work shall be performed in a good and workmanlike manner, at no cost to the Grantor; (b) Grantee shall be responsible for, or shall cause any Third Party User to be responsible for, the design, construction, maintenance, use and repair of the Slope Improvements in the Easement Area in accordance with all governmental requirements, including, without limitation, all applicable municipal, county, state and federal laws, ordinances, codes, statutes, rules and regulations (collectively referred to as "**All Applicable Laws**"); and (c) Grantee shall, and shall cause its Third Party Users and their respective Agents doing work in the Easement Area to obtain, at no cost to Grantor, all necessary governmental permits and approvals in connection therewith, including but not limited to South Florida Water Management District permits. Grantee shall abide by all conditions contained in the permits and approvals, Grantee shall maintain copies of all required permits and approvals and Grantee shall provide same to the Grantor prior to the start of construction. Copies of any citations and/or notices of non-compliance received from regulatory agencies shall be provided to the Grantor within 24 hours of receipt. Grantee shall implement any and all measures necessary to ensure compliance immediately upon receipt of any sch citation and/or notice. The Grantor is a local unit of special purpose government created in accordance with the Uniform Community Development District Act of 1980, Chapter 190, *Florida Statutes*. Grantee agrees to comply with all applicable requirements of the "Sunshine Law," the "Public Records Law," the Community Development Districts Law, and all other statutes and regulations applicable to Grantor.

NOTICE IS HEREBY GIVEN THAT GRANTOR WILL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIAL FURNISHED OR TO BE FURNISHED TO OR FOR THE GRANTEE OR ITS THIRD PARTY USERS OR TO ANYONE PROVIDING LABOR, SERVICES, MATERIALS OR EQUIPMENT THROUGH OR UNDER GRANTEE OR ANY OF ITS THIRD PARTY USERS, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES, MATERIALS OR EQUIPMENT WILL ATTACH TO OR AFFECT THE INTERESTS OF GRANTOR. GRANTEE WILL AND WILL CAUSE ITS THIRD PARTY USERS USING THE EASEMENT AREA TO DISCLOSE THE FOREGOING PROVISIONS TO ANY AND ALL CONTRACTORS ENGAGED BY OR THROUGH GRANTEE AND ITS THIRD PARTY USERS TO PROVIDE LABOR, SERVICES, MATERIALS AND/OR EQUIPMENT TO OR ABOUT THE GRANTOR'S PARCEL.

3. **Indemnification by Grantee.** To the full extent permitted by law, Grantee hereby agrees to indemnify, defend, protect and hold harmless Grantor and its partners, officers, directors, shareholders, agents, parent company, subsidiaries, affiliates, members, servants, insurers, lenders and employees from and against any and all claims, costs, damages, demands, encumbrances, expenses, injuries, liens, losses, damages, expenses, penalties, actions, lawsuits, orders and other proceedings, awards, fines, judgments and/or liabilities (including, without limitation, reasonable attorneys' fees and court costs incurred in connection therewith, such as those incurred in connection with the enforcement of this indemnity) (collectively, "**claims**") to the extent arising from or relating to the use of, or access to, the Grantor's Parcel (including the Easement Area) by or through the Grantee, its Third Party Users and/or their respective Agents doing work in the Easement Area, including, without limitation, claims related to accidents, bodily injury, personal injury, loss or damage of or to any person (including employees, agents or representatives of the parties hereto) or property, but excluding any claims to the extent resulting from the Grantor's or its Agents' gross negligence, recklessness or intentional misconduct. The Parties agree that nothing contained herein shall be deemed or shall constitute a waiver of either Party's limitation on liability and sovereign immunity set forth in Section 768.28, Florida Statutes, and other law as applicable.

4. **Condition of Easement Grantor's Parcel.** Grantee hereby accepts the Easement Area in its "AS-IS, WHERE-IS" condition "WITH ALL FAULTS," and no representations, statements or warranties, express or implied, have been made by or on behalf of the Grantor in respect thereof. The Grantor will have no obligation whatsoever to make any improvements to the Easement Area. To the extent any repair is necessitated by, or damage is otherwise incurred as the result of actions of, the Grantee, its Third Party Users or their respective Agents, such repair shall be made or damage corrected at no cost to Grantor.

5. **Limitation of Liability.** The rights to use of the Grantor's Parcel (including the Easement Area) granted herein shall be at the sole risk of the Grantee and the Grantor shall have no liability for any claims, including, without limitation, any claims for bodily injury, personal injury or property damage, incurred by or through Grantee or any Third Party User, or their respective Agents in connection with same.

6. **Maintenance and Repair by Grantee.** Grantee, at its sole cost and expense, shall maintain, or cause any Third Party Users to maintain, the Easement Area and the Slope Improvements thereon in a good, clean and safe condition and in compliance with All Applicable Laws and Grantee, or its Third Party Users, shall, at its sole cost and expense, promptly repair any damage to the Slope Improvements and the Easement Area caused by or through the Grantee and/or any Third Party User or their respective Agents in connection with the rights granted under this Agreement. In the event Grantor, or its Agents, disturb or damage any areas, facilities, improvements or property within the Easement Area, Grantor, or its Agents, shall, at its sole cost and expense, promptly repair, replace and restore any such damage or disturbed areas to its original condition.

7. **Running with the Land.** It is the intention of the Parties hereto that the rights and Easements herein established shall run with, and be appurtenant to, the Grantor's Parcel, including the Easement Area, and shall be burdens upon those parcels upon which they are imposed, shall

run with each of said parcels and shall bind and benefit the owner of said parcels and their successors, assigns, successors-in-title, and mortgagees only for the purposes stated herein.

8. **Grantor's Representations and Covenants.** Grantor hereby warrants and covenants (a) that Grantor is the owner of the fee simple title to the Easement Area, (b) that Grantor has full right and lawful authority to grant and convey the easements, rights and privileges described herein to Grantee, (c) that Grantee shall have quiet and peaceful possession, use and enjoyment of said easements, rights and privileges described herein, and (d) that Grantor shall obtain the joinder and consent of any mortgage or lien encumbering the Easement Area. Grantor covenants not to undermine the Slope Improvements in the Easement Area, or unreasonably interfere with or frustrate the rights of the Grantee and/or its Third Party User's to the Easements pursuant to this Agreement, nor allow any use or uses that will prevent or unreasonably restrict Grantee's ingress and egress to the Easement Area as described herein, or otherwise impair Grantee's or the Third Party User's enjoyment of the rights granted herein.

9. **Invalidity.** If any part of this Agreement is contrary to, prohibited by or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder hereof shall not be invalidated thereby and shall be given full force and effect so far as possible.

10. **Waiver.** The failure or delay of any Party at any time to require performance by another Party of any provision of this Agreement, even if known, shall not affect the rights of such Party to require performance of that provision or to exercise any right, power or remedy hereunder, and any waiver by any Party of any breach of any provision of this Agreement should not be construed as a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to or demand on any Party in any case shall, of itself, entitle such Party to any other or further notice or demand in similar or other circumstances.

11. **Third Parties.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the Parties hereto and their respective legal representatives, mortgagees, successors and assigns, nor is anything to this Agreement intended to relieve or discharge the obligation or liability of any third persons to any Party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any Party to this Agreement.

12. **Applicable Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the internal laws of the State of Florida without regard to principles of conflicts of laws. Venue for any and all actions arising out of or in any way related to the interpretation, validity, performance or breach of this Agreement shall lie within Orange County, Florida.

13. **Notices.** All notices given pursuant to this Agreement shall be in writing and shall be given by certified or registered United States mail, postage or delivery charge prepaid, return receipt requested, by personal delivery or by nationally recognized overnight express delivery service (such as FedEx) addressed to the person and address designated below:

Notices as to Grantor shall be sent to: **Randal Park Community Development District**
c/o Governmental Management Services -
Central Florida LLC
219 East Livingston Street
Orlando, Florida 32801-2435
Attention: Jason Showe, District Manager

With a copy to: **Latham, Luna, Eden & Beaudine, LLP**
201 South Orange Avenue, Suite 1400
Orlando, Florida 32801
Attention: Jan A. Carpenter, District
Counsel

Notices as to Grantee shall be sent to: **Central Florida Expressway Authority**
4974 ORL Tower Road
Orlando, Florida 32807
Attention: Executive Director

Copies to: **Central Florida Expressway Authority**
4974 ORL Tower Road
Orlando, Florida 32807
Attention: Chief of Infrastructure

Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, Florida 32807
Attention: Director of Maintenance

Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, Florida 32807
Attention: General Counsel

The person and address to which notices are to be given may be changed at any time by any Party upon written notice to the other Parties. All notices given pursuant to this Agreement shall be deemed given upon the date of delivery of the notice or other document, or in the case of refusal to accept delivery or inability to deliver the notice or other document, the date of the attempted delivery or refusal to accept delivery.

14. **Estoppel Certificates.** Each of the Parties hereto agree, promptly upon request from any other Party hereto, to furnish from time to time in writing certificates containing truthful estoppel information and/or confirmations of the agreements, obligations and easements contained in this Agreement and otherwise in a form and substance reasonably satisfactory to the Party from whom such certificate is sought.

15. **Amendments.** This Agreement may not be amended, modified or supplemented except in writing executed by all Parties hereto. Further, no amendment, modification or supplement shall be effective unless in writing, duly executed, acknowledged and recorded in the Public Records of Orange County, Florida.

16. **Counterparts and Digital Signatures.** This Agreement may be executed in any number of counterparts and by the separate Parties hereto in separate counterparts, including by electronic or digital signatures in compliance with Chapter 668, each of which when taken together shall be deemed to be one and the same instrument.

17. **Construction.** The section headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation hereof. All the Parties to this Agreement have participated fully in the negotiation of this Agreement, and accordingly, this Agreement shall not be more strictly construed against any one of the Parties hereto. In construing this Agreement, the singular shall be held to include the plural, the plural shall be held to include the singular, and reference to any gender shall be held to include every other and all genders.

18. **Recording.** This Agreement shall be recorded in the Public Records of Orange County, Florida, at the Grantee's sole cost and expense.

19. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, understandings and arrangements, both oral and written, between the Parties with respect thereto.

20. **Insurance.**

(a) Grantee shall carry and maintain, and shall cause its contractor performing any work in the Easement Area to carry and maintain, at no cost or expense to Grantor, the following types of insurance, which shall provide coverage on an occurrence basis, with respect to the Easement Area, in the amounts specified:

(i) **Commercial General Liability Insurance.** Commercial general liability ("CGL") insurance covering claims arising from personal injury, death and property damage occurring in or about the Easement Area with minimum limits of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate. The CGL policy shall include contractual liability coverage of all liabilities arising pursuant to this Agreement.

(ii) **Comprehensive Automobile Liability Insurance.** Comprehensive automobile liability insurance with a limit of not less than \$1,000,000.00 per occurrence for bodily injury, \$500,000.00 per person and \$100,000.00 property damage or a combined single limit of \$1,000,000.00 for both owned and non-owned vehicles.

(iii) **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance covering all employees of Grantee, as required by the laws of the State of Florida, and Employers' Liability coverage subject to a limit of no less than \$500,000.00 for

bodily injury by accident per accident/\$500,000.00 for bodily injury by disease per employee/\$1,000,000.00 for bodily injury by disease policy limit.

(b) All policies referred to above shall: (i) name Grantor as an additional insured; (ii) be non-contributing with, and shall apply only as primary and not as excess to any other insurance available to the Grantor; and (iii) contain an obligation of the insurers to notify the Grantor by certified mail not less than thirty (30) days prior to any material change, cancellation, or termination of any such policy. Grantee shall deliver certificates of insurance to the Grantee on or before the commencement of the Term.

21. **Default.** Any default by any party under this Agreement shall entitle any other to all remedies available at law or in equity, which may include but not be limited to the right of actual damages, injunctive relief and/or specific performance. Nothing contained herein shall cause or be construed as a waiver of the Grantee's or the Grantor's immunity or limitations on liability granted pursuant to Section 768.28, *Florida Statutes*, or other law, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which could otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

22. **Enforcement of Agreement.** In the event that either the Grantor or Grantee seek to enforce this Agreement by court proceedings or otherwise, the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorneys' fees and costs for trial, alternative dispute resolution or appellate proceedings.

23. **Controlling Law.** This Agreement shall be construed, interpreted and controlled according to the laws of the State of Florida.

24. **Public Records.** Grantor understands and agrees that all documents of any kind provided to the Grantor or the Grantor's Staff in connection with this Agreement are public records and are to be treated as such in accordance with Florida law.

25. **Authorization.** By execution below, the undersigned represent that they have been duly authorized by the appropriate body or official of their respective entity to execute this Agreement and that each party has complied with all requirements of law and has full power and authority to comply with the terms and provisions of this instrument.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the Parties hereto have executed this instrument as of the date and year first set forth above.

WITNESSES

By: [Signature]
Print Name: Logan Smith
By: [Signature]
Print Name: Alex Perigo

GRANTOR:

**RANDAL PARK COMMUNITY
DEVELOPMENT DISTRICT**

By: [Signature]
Name: Stephany Cornelius
Title: Chairperson

WITNESSES

By: _____

Print Name: _____

By: _____

Print Name: _____

ATTEST: _____

Regla ("Mimi") Lamaute
Board Services Coordinator

GRANTEE:

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

By: _____

Name: _____

Title: _____

Date: _____

Approved as to form and legality by legal counsel to
the Central Florida Expressway Authority on this
____ day of _____, 2022 for its
exclusive use and reliance

By: _____

Diego "Woody" Rodriguez
General Counsel

State of Florida

County of Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 21st day of January, 2022, by Stephany Grnelius as Chairperson for Randal Park Community Development District.

(Seal) _____

(Signature of Notary)

(Printed, Typed, or Stamped Name of Notary)

☒ Personally Known OR

☐ Produced Identification

Type of Identification* _____



State of Florida

County of _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2022, by _____ as _____ for Central Florida Expressway Authority.

(Seal) _____

(Signature of Notary)

(Printed, Typed, or Stamped Name of Notary)

☐ Personally Known OR

☐ Produced Identification

Type of Identification* _____

EXHIBIT "A"

LEGAL DESCRIPTION OF THE GRANTOR'S PARCEL

Tract B-NV3, Randal Park --- Phase 5 Plat, according to Plat Book 89, Page 66 of the Public Records of Orange County, Florida.

EXHIBIT "B"

LEGAL DESCRIPTION OF THE GRANTEE'S PARCEL

[SEE ATTACHED]

**CENTRAL FLORIDA
EXPRESSWAY AUTHORITY
STATE ROAD 528
PROJECT No. 528-1240
PARCEL No. 104
PURPOSE: LIMITED ACCESS RIGHT-OF-WAY
ESTATE: FEE SIMPLE**

A parcel of land lying in Section 32 Township 23 South, Range 31 East, Orange County, Florida, being a portion of those lands described in Official Records Book 10459 at Page 0063 of the Public Records of Orange County, Florida, being more particularly described as follows:

Commence at a 4"x4" concrete monument marking the Northwest Corner of Section 32, Township 23 South, Range 31 East, Orange County, Florida; thence run South 00°13'49" West, along the west line of the Northwest 1/4 of said Section 32, a distance of 312.61 feet to the existing south Right of Way line of State Road 528 as described in Official Records Book 1516 at Page 915 of said Public Records for the Point of Beginning; thence run North 89°45'06" East, along said existing south Right of Way line, a distance of 629.95 feet to a point on the southerly line of Parcel #41-104 Mitigation Area Taking, as recorded in Official Records Book 4068 at Page 3668 of said Public Records, also being a point on the northerly line of a 60.00 foot wide Florida Power Corporation Right-of-Way Easement recorded in Official Records Book 1893 at Page 946 of said Public Records; thence run South 63°45'43" East, along said southerly line and northerly line of easement, a distance of 861.24 feet; thence, departing said southerly line and northerly Right-of-Way line, run North 73°45'36" West, a distance of 639.09 feet to a point of curvature of a non-tangent curve concave to the south; thence run westerly along the arc of said curve, having a radius of 4851.15 feet, a central angle of 09°26'39", a chord length of 798.71 feet bearing North 81°07' 44" West, an arc distance of 799.62 feet to said west line; thence run North 00°13'49" East along said west line, a distance of 76.12 feet to the Point of Beginning.

Together with all rights of ingress, egress, light, air and view to, from or across any of the above described right-of-way property which may otherwise accrue to any property adjoining said right-of-way.

Containing 3.05 acres, more or less.

LEGEND:

(C) = Calculated
(D) = Deed
(M) = Measured
(P) = Plat
O.R.B. = Official Records Book
Pg. = Page
R = Radius
L = Length of curve (arc distance)
C = Chord distance
Delta = central angle
CB = Chord Bearing
ID = Identification
✓ = Line Not To Scale
PID = Parcel Identification Number
S.R. = State Road
CFX = Central Florida Expressway Authority
R/W = Right-of-Way
C = Centerline
--- = Limited Access Right-of-way line
PC = Point of Curvature
PT = Point of Tangency
PCC = Point of Compound Curvature
PRC = Point of Reverse Curvature
(NT) = Non Tangent
CM = Concrete Monument
--- = section line
--- = 1/4 section line

Surveyors Notes

1. Bearings and distances depicted hereon are relative to the North American Datum of 1983/ Adjustment of 2011 (NAD83/11) and are expressed in the Florida State Plane Coordinate System (FSPCS), Florida East Zone (901), US Survey Foot, based on the west line of the northwest 1/4 of Section 32, Township 23 South, Range 31 East as being South 00° 13' 49" West. The average combined scale factor is 0.999943
2. The lands described and depicted hereon were not abstracted by this firm for rights-of-way, easements, ownership or other instruments of record.
3. This legal description and sketch is not valid without the signature and original raised seal of the signing Florida registered surveyor and mapper.
4. The location and configuration of the lands described and depicted hereon were provided by the client.
5. This legal description and sketch may have been reduced in size by reproduction.
6. A Commitment for Title Insurance prepared by First American Title Insurance Company, Dated December 1, 2014, file number NCS-586539MTMY-ORL was reviewed by this firm. Schedule B-II exceptions, if any, that can be plotted are shown hereon.

I hereby certify that this legal description and sketch is correct to the best of my knowledge and belief. I further certify that this legal description and sketch meets the Standards of Practice as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Chapter 472, Florida Statutes. Subject to notes and notations shown hereon.

Robert M. Jones, PLS

Florida Surveyor and Mapper, License No. LS-0004201

THIS IS NOT A SURVEY

FOR: CENTRAL FLORIDA EXPRESSWAY AUTHORITY
DESIGNED BY: HNTB DATE: 03/04/2015
DRAWN BY: PEW AMEC JOB No.: 6374130684
APPROVED BY: RMJ CFX PROJECT No.: 528-1240

LEGAL DESCRIPTION and SKETCH



AMEC Environment & Infrastructure, Inc.
75 East Amelia Street, Suite 200
Orlando, FL 32801 USA
Phone: (407) 522-7570
Certificate of Authorization Number LB-0007932

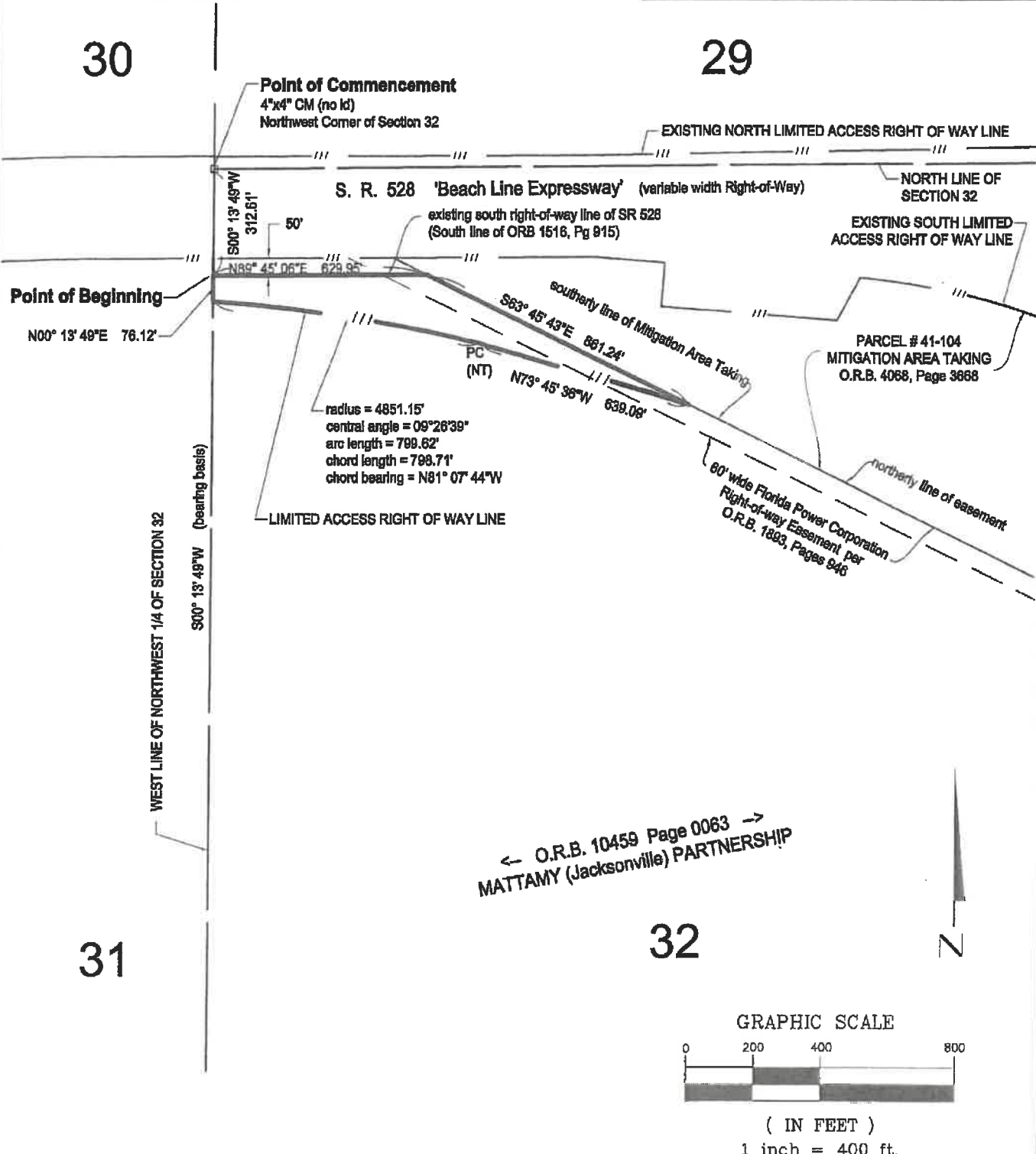
SHEET 1 OF 2

REVISIONS

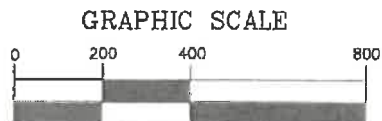
DATE	BY

DRAWING NAME: CFX - Wetland Bill.dwg

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY
STATE ROAD 528
PROJECT No. 528-1240
PARCEL No. 104
PURPOSE: LIMITED ACCESS RIGHT-OF-WAY
ESTATE: FEE SIMPLE



← O.R.B. 10459 Page 0063 →
MATTAMY (Jacksonville) PARTNERSHIP



(IN FEET)
1 inch = 400 ft.

THIS IS NOT A SURVEY

FOR: CENTRAL FLORIDA EXPRESSWAY AUTHORITY
DESIGNED BY: HNTB DATE: 03/04/2015
DRAWN BY: PEW AMEC JOB No.: 6374130684
APPROVED BY: RMJ CFX PROJECT No.: 528-1240

LEGAL DESCRIPTION and SKETCH

amec

AMEC Environment & Infrastructure, Inc.
75 East Amelia Street, Suite 200
Orlando, FL 32801 USA
Phone: (407) 622-7670
Certificate of Authorization Number LB-0007932

SHEET 2 OF 2
REVISIONS
DATE BY
DRAWING NAME: CFX - Mattamy & 1.cwg

EXHIBIT "C"

LEGAL DESCRIPTION OF THE EASEMENT AREA

[SEE ATTACHED]

SCHEDULE A
LEGAL DESCRIPTION AND SKETCH
ESTATE: EASEMENT
PURPOSE: POND SLOPE AREA
BRIGHTLINE PROJECT: SEGMENT C02
CFX PROJECT: 528-1240

A parcel of land lying in Section 32 Township 23 South, Range 31 East, Orange County, Florida, being a portion of Tract Pond B-NV3 Stormwater, Randal Park -Phase 5, according to the plat thereof recorded in Plat Book 89 at page 66 of the Public Records of Orange County, Florida, being more particularly described as follows:

Commence at a 4"x4" concrete monument marking the Northwest Corner of Section 32, Township 23 South, Range 31 East, Orange County, Florida; thence run South 00°13'49" West, along the west line of the Northwest 1/4 of said Section 32, a distance of 388.73 feet to a point lying on the southerly limited access right-of-way line of State Road 528 as described in Official Records Book 10927 at Page 6420 of said Public Records and the **POINT OF BEGINNING** of the herein described parcel, said point being the northwest corner of said Tract Pond B-NV3 Stormwater and lying on a non-tangent curve concave to the south with a radius of 4851.15 feet; thence easterly along said southerly limited access right of way line and north boundary of said Tract Pond B-NV3 Pond, being a curve to the right through a central angle of 7°29'18", an arc distance of 634.02 feet where the chord bears S 82° 06' 24" East a chord distance of 633.57 feet to the point of intersection with a non-tangent line; thence departing said southerly limited access right of way line and said north line, run S73°03'24"W, a distance of 208.50 feet; thence N86°50'02"W, a distance of 193.64 feet; thence N60°18'25"W, a distance of 270.28 feet to said west line and the west boundary of said Tract Pond B-NV3 Stormwater; thence N00°13'49"E, along said west line and west boundary, a distance of 3.19 feet to the **POINT OF BEGINNING**.

Containing 44489 square feet or 1.02 acres, more or less

Surveyors Notes:

1. Bearings and distances depicted hereon are relative to the North American Datum of 1983/ Adjustment of 2011 (NAD83/11) and are expressed in the Florida State Plane Coordinate System (FSPCS), Florida East Zone (901) , US Survey Foot, based on the west line of the northwest 1/4 of Section 32, Township 23 South, Range 31 East as being South 00° 13' 49" West. The average combined scale factor is 0.999943
2. The lands described and depicted hereon were not abstracted by this firm for rights-of-way, easements, ownership or other instruments of record.
3. This legal description and sketch is not valid without the signature and original raised seal of the signing Florida registered surveyor and mapper.
4. The location and configuration of the lands described and depicted hereon were based on digital files provided by the client.
5. This legal description and sketch may have been reduced in size by reproduction.

LEGEND:

AAF = ALL ABOARD FLORIDA
(C) = Calculated
(D) = Deed
(M) = Measured
(P) = Plat
O.R.B. or ORB = Official Records Book
Pg. = Page
R = Radius
L = Length of curve (arc distance)
CH = Chord distance
Delta = central angle
CB = Chord Bearing
ID or id = Identification
PB = Plat Book
PID = Parcel Identification Number
S.R. = State Road
C.F.X. = Central Florida Expressway Authority
R/W = Right-of-Way
C = Centerline
---|||--- = Limited Access Right-of-way line
PC = Point of Curvature
PT = Point of Tangency
PCC = Point of Compound Curvature
PRC = Point of Reverse Curvature
(NT) = Non Tangent
CM = Concrete Monument
===== = section line
----- = 1/4 section line
No. = number

I hereby certify that this legal description and sketch is correct to the best of my knowledge and belief. I further certify that this legal description and sketch meets the Standards of Practice as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Chapter 472, Florida Statutes. Subject to notes and notations shown hereon.

Robert M. Jones, PLS
Florida Surveyor and Mapper
License No. LS-0004201

THIS IS NOT A SURVEY

FOR: BRIGHTLINE TRAINS LLC		LEGAL DESCRIPTION and SKETCH Wood Environment & Infrastructure Solutions, Inc.  650 Northlake Blvd., Suite 1000 Altamonte Springs, FL 32701 USA Phone: (407) 822-7570 Certificate of Authorization Number LB-0007832	SHEET 1 OF 2	
DESIGNED BY: HNTB	DATE: 11/25/2020		REVISIONS	
DRAWN BY: PEW / TW	AMEC JOB No.: 6374191203		DATE	BY
APPROVED BY: RMJ	Task No.: 58		DRAWING NAME: Slope Easement.dwg	

C:\Wood Jobs\Task 58- Zone 3 SOD for Mattamy Ponds Slope and Maintenance Esmts\AutoCAD Civil 3D 2018\Slope Easement.dwg, 11/25/2020 1:09:14 PM



LEGAL DESCRIPTION and SKETCH
Wood Environment & Infrastructure Solutions, Inc.
wood.
 550 Northlake Blvd., Suite 1000
 Altamonte Springs, FL 32701 USA
 Phone: (407) 522-7570
 Certificate of Authorization Number 18-0007632

SHEET 2 OF 2	
REVISIONS	
DATE	BY
___/___/___	___
DRAWING NAME: Slope Easement.dwg	

Prepared by and Return to:

Ambarina A. Perez, Esq.
700 NW 1st Avenue
Suite 1620
Miami, Florida 33126

SECOND TEMPORARY CONSTRUCTION EASEMENT

THIS INDENTURE, made effective as of this ____ day of January, 2022 (the "Effective Date"), by **RANDAL PARK COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special purpose government created under Chapter 190, *Florida Statutes*, whose address is c/o Governmental Management Services - Central Florida, LLC, 219 East Livingston Street, Orlando, Florida 32801 (together with its successors and/or assigns, the "Grantor"), for the benefit of **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body politic and corporate, and an agency of the state, under the laws of the State of Florida, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 and any future owner or easement holder constructing the Future Intermodal Rail Improvements, as defined herein, (the "Grantee").

RECITALS:

WHEREAS, Grantee was created by Part III, Chapter 348, *Florida Statutes*, and charged with constructing, holding, improving, maintaining and operating a tolled road network in Brevard, Lake, Orange, Osceola and Seminole Counties, Florida, known as the Central Florida Expressway Authority System (the "System"); and

WHEREAS, in furtherance of: (a) Grantee's future construction, improvement, expansion, and maintenance of SR 528, an authorized roadway and/or related facilities or for other appropriate and legally authorized uses; and (b) Grantee's, or any future owner, licensee, lessor, or easement holder, construction of future intermodal rail improvements (the "Future Intermodal Rail Improvements"), (collectively, the "Future Project"); and

WHEREAS, Grantor and Grantee are also parties to that certain Slope Easement Agreement dated _____ ("**Slope Easement Agreement**"), by which Grantor granted to Grantee a non-exclusive easement on, over, under, through and across the Easement Area (as defined in the Slope Easement Agreement) for the construction, installation, operation, maintenance, repair, and replacement of Slope Improvements (as defined in the Slope Easement Agreement) to support the Intercity Passenger Rail Service (as defined in the Rail Line Easement) and Future Improvements (as defined in the Slope Easement Agreement), all subject to the terms and conditions of the Slope Easement Agreement; and

WHEREAS, Grantor is the fee simple owner of certain real property located in Orange County, Florida, more particularly depicted and/or described on **Exhibit "A,"** attached hereto and

incorporated herein by reference (the "Temporary Construction Easement Area"), which Temporary Construction Easement Area is located at or adjacent to the Future Project; and

WHEREAS, Grantor and Grantee are also parties of that certain Temporary Construction Easement, entered into on May 29, 2015 and which expires on October 2, 2024, whereby Grantee conveyed a temporary construction easement over, under, upon and through the Temporary Construction Easement Area (the "First Temporary Construction Easement"); and

WHEREAS, Grantee has requested, and Grantor has agreed to grant and convey to Grantee, upon the expiration of the First Temporary Construction Easement, a second non-exclusive temporary construction easement over, under, upon and through the Temporary Construction Easement Area, in accordance with the terms and conditions provided herein;

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, said Grantor does hereby covenant and agree as follows:

1. **Recitals.** The foregoing Recitals are true and correct and are incorporated herein as material provisions of this Indenture.

2. **Grant of Second Temporary Construction Easement.** Grantor hereby grants, bargains, sells, conveys and declares a second, non-exclusive temporary construction easement for the benefit of Grantee, Grantee's successors and assigns, and their respective employees, agents, contractors, subcontractors, independent contractors, and licensees (the "Second Temporary Construction Easement") over, under, upon and through the Temporary Construction Easement Area.

3. **Purpose of Temporary Construction Easement.** The purpose of the Second Temporary Construction Easement shall be to permit Grantee, through itself, its employees, agents, contractors, subcontractors, and independent contractors (collectively, "Agents"), to enter upon the Temporary Construction Easement Area solely to access, construct and maintain the Future Project and as is otherwise necessary or convenient to construct the Future Project, including, without limitation, the construction, placement, installation, repair, renovation, replacement, of the Future Project or any other improvements associated with the Future Project, together with the privileges and rights herein granted. For the full enjoyment of the rights granted herein, the Grantee shall have the further right to trim, cut, or remove trees, bushes, undergrowth, and other obstructions (other than the existing retention pond) reasonably interfering with the location, construction, and maintenance of the Future Project and, as necessary or convenient, importing fill or changing the grade within the easement area, provided Grantee restores such grade prior to the expiration or termination of this easement. The Grantor further grants to Grantee the reasonable right to enter upon the adjoining lands of the Grantor for the purposes of exercising the rights herein granted upon notice and approval by the Grantee. To the extent permitted by law and subject to any applicable sovereign immunity, the Grantee shall indemnify and hold harmless the Grantor from and against any and all damage or loss arising out of the construction activities of the Grantee and/or its contractors, agents and assigns within the Temporary Construction Easement Area. No dump trucks, pickups or other vehicles will be parked or left overnight on the Grantor's

property, including the Temporary Construction Easement Area. No materials shall be placed or stored on the Grantor's property. The Grantee agrees and acknowledges that the Grantor makes no representations or warranties of any kind that the Grantor's property is suitable for vehicular, or any other use; the Grantee's use of the Grantor's property is solely at its own risk. Grantee shall be responsible for securing all required approvals, utility approvals and permits, if any, from the applicable governmental entity or agency having jurisdiction therefore in connection with the Grantee's use of Grantor's property. Nothing herein shall be interpreted or construed to grant any easement or other rights, temporary or otherwise, over any property other than the Temporary Construction Easement Area.

4. **Incidental Rights.** The Second Temporary Construction Easement herein granted and conveyed by the Grantor to the Grantee grants the right of Grantee, its employees, agents, contractors, subcontractors, and independent contractors: (a) to patrol, inspect, alter, improve, maintain, repair, rebuild, and remove all or any part of the improvements consistent with the terms of this Indenture; (b) to trim, cut, or remove trees, bushes, undergrowth and other obstructions or improvements that negatively impact the Future Project (other than the existing retention pond); (c) to enter onto any portion of Grantor's real property necessary for Grantee to exercise the rights granted in this Indenture, upon reasonable notice to Grantor; (d) to exercise any and all rights of Grantee under the Slope Easement Agreement, and (e) all other rights and privileges reasonably necessary or convenient for Grantee's enjoyment and use of the foregoing Second Temporary Construction Easement for the purposes described above and in furtherance of the provisions set forth herein.

5. **Use of Temporary Construction Easement Area.** The Second Temporary Construction Easement is non-exclusive, and nothing in this Indenture shall limit Grantor's present or future use of the Temporary Construction Easement Area, including, without limitation, the Grantor's development and construction of improvements of any type thereon or the further reduction or change in grading of the retention pond that is located on the Temporary Construction Easement Areas; provided, however, the Grantee may not change or alter the grade of the Temporary Construction Easement Area in any manner or make any other modifications to the Temporary Construction Easement Area that negatively impacts the integrity and functionality of the Future Project, the Easement Area as defined in the Slope Easement Agreement, or any other improvements associated therewith. Grantee shall not have access to the Temporary Construction Easement Area through Grantor's adjoining residential development. In the event Grantor, or its Agents, disturb or damage any areas, facilities, improvements or property within the Temporary Construction Easement Area or related to the Future Project, Grantor, or its Agents, shall, at its sole cost and expense, promptly repair, replace and restore any such damage or disturbed areas to its original condition.

6. **Maintenance and Repair by Grantee.** Grantee, at its sole cost and expense, shall maintain, or cause any Agents, to maintain, the Temporary Construction Easement Area in a good, clean and safe condition and in compliance with all governmental requirements, including, without limitation, all applicable municipal, county, state and federal laws, ordinances, codes, statutes, rules and regulations. Grantee, or its Agents, shall, at its sole cost and expense, promptly repair any damage to the Future Project and the Temporary Construction Easement Area caused by or through the Grantee and/or any Agents in connection with the rights granted hereunder.

7. **Term of Easement.** The term of the Temporary Construction Easement granted herein shall begin on the date the Grantee provides Grantor written notice that it intends to begin construction of the Future Project on the Grantee's adjoining land ("Notice of Construction of the Future Project") and end on the earlier of: (1) five (5) years from the date of the Notice of Construction of the Future Project; (2) completion of the Future Project; or (3) fifty (50) years following the expiration of the First Temporary Construction Easement.

8. **Governing Law; Venue.** This Indenture and the provisions contained herein shall be construed and interpreted in accordance with, and controlled and governed by, the laws of the State of Florida. To the maximum extent permitted by applicable law, any action to enforce, arising out of, or relating in any way to, any of the provisions of this Indenture shall be brought and prosecuted in such court or courts located in Orange County, Florida.

9. **Covenants Run With the Land.** The Second Temporary Construction Easement granted herein and any other terms and conditions of this Indenture are hereby declared and shall hereinafter be deemed to be covenants running with the Temporary Construction Easement Area and shall be binding upon and inure to the benefit of Grantor and Grantee, and each of their heirs, administrators, executors, personal representatives, successors and assigns.

10. **Grantor's Representations and Covenants.** Grantor hereby warrants and covenants (a) that Grantor is the owner of the fee simple title to the Temporary Construction Easement Area, (b) that Grantor has full right and lawful authority to grant and convey the easements, rights and privileges described herein to Grantee, (c) that Grantee shall have quiet and peaceful possession, use and enjoyment of said easements, rights and privileges described herein, and (d) that Grantor shall obtain the joinder and consent of any mortgage or lien encumbering the Temporary Construction Easement Area. Grantor covenants not to interfere with the Future Project or any other improvements or activities associated therewith, now existing or in the future, nor allow any use or uses that will prevent or unreasonably restrict Grantee's ingress and egress to the Temporary Construction Easement Area as described herein, or otherwise impair Grantee's enjoyment of the rights granted herein.

11. **Recording.** This Indenture shall be recorded in the Public Records of Orange County, Florida, at the Grantee's sole cost and expense.

12. **Sovereign Immunity.** Nothing contained herein shall cause or be construed as a waiver of either the Grantee's sovereign immunity rights under Section 768.28, *Florida Statutes*, or the Grantor's immunity or limitations on liability granted pursuant to Section 768.28, *Florida Statutes*, or other law, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which could otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

13. **Liens.** NOTICE IS HEREBY GIVEN THAT GRANTOR WILL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIAL FURNISHED OR TO BE FURNISHED TO OR FOR THE GRANTEE OR ITS THIRD PARTY USERS OR TO ANYONE PROVIDING LABOR, SERVICES, MATERIALS OR EQUIPMENT THROUGH OR UNDER

GRANTEE OR ANY OF ITS THIRD PARTY USERS, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES, MATERIALS OR EQUIPMENT WILL ATTACH TO OR AFFECT THE INTERESTS OF GRANTOR. GRANTEE WILL AND WILL CAUSE ITS THIRD PARTY USERS USING THE TEMPORARY CONSTRUCTION EASEMENT AREA TO DISCLOSE THE FOREGOING PROVISIONS TO ANY AND ALL CONTRACTORS ENGAGED BY OR THROUGH GRANTEE AND ITS THIRD PARTY USERS TO PROVIDE LABOR, SERVICES, MATERIALS AND/OR EQUIPMENT TO OR ABOUT THE GRANTOR'S PROPERTY.

14. **Indemnification by Grantee.** To the full extent permitted by law, Grantee hereby agrees to indemnify, defend, protect and hold harmless Grantor and its partners, officers, directors, shareholders, agents, parent company, subsidiaries, affiliates, members, servants, insurers, lenders and employees from and against any and all claims, costs, damages, demands, encumbrances, expenses, injuries, liens, losses, damages, expenses, penalties, actions, lawsuits, orders and other proceedings, awards, fines, judgments and/or liabilities (including, without limitation, reasonable attorneys' fees and court costs incurred in connection therewith, such as those incurred in connection with the enforcement of this indemnity) (collectively, the "claims") to the extent arising from or relating to the use of, or access to, the Grantor's Property (including the Temporary Construction Easement Area) by or through the Grantee, its Third Party Users and/or their respective Agents doing work in the Temporary Construction Easement Area, including, without limitation, claims related to accidents, bodily injury, personal injury, loss or damage of or to any person (including employees, agents or representatives of the parties hereto) or property, but excluding any claims to the extent resulting from the Grantor's or its Agents' gross negligence, recklessness or intentional misconduct. Grantor and Grantee agree that nothing contained herein shall be deemed or shall constitute a waiver of either Grantee's or Grantor's limitation on liability and sovereign immunity set forth in Section 768.28, Florida Statutes, and other law as applicable.

15. **Condition of Easement Grantor's Parcel.** Grantee hereby accepts the Temporary Construction Easement Area in its "AS-IS, WHERE-IS" condition "WITH ALL FAULTS," and no representations, statements or warranties, express or implied, have been made by or on behalf of the Grantor in respect thereof. The Grantor will have no obligation whatsoever to make any improvements to the Temporary Construction Easement Area. To the extent any repair is necessitated by, or damage is otherwise incurred as the result of actions of, the Grantee, its Third Party Users or their respective Agents, such repair shall be made or damage corrected at no cost to Grantor.

16. **Limitation of Liability.** The rights to use of the Grantor's Property (including the Temporary Construction Easement Area) granted herein shall be at the sole risk of the Grantee and the Grantor shall have no liability for any claims, including, without limitation, any claims for bodily injury, personal injury or property damage, incurred by or through Grantee or any Third Party User, or their respective Agents in connection with same.

17. **Insurance.**

(a) Grantee shall carry and maintain, and shall cause its contractor performing any work in the Temporary Construction Easement Area to carry and maintain, at no cost or expense to Grantor, the following types of insurance, which shall provide coverage on an occurrence basis, with respect

to the Temporary Construction Easement Area, in the amounts specified:

(i) **Commercial General Liability Insurance.** Commercial general liability (“CGL”) insurance covering claims arising from personal injury, death and property damage occurring in or about the Temporary Construction Easement Area with minimum limits of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate. The CGL policy shall include contractual liability coverage of all liabilities arising pursuant to this Indenture.

(ii) **Comprehensive Automobile Liability Insurance.** Comprehensive automobile liability insurance with a limit of not less than \$1,000,000.00 per occurrence for bodily injury, \$500,000.00 per person and \$100,000.00 property damage or a combined single limit of \$1,000,000.00 for both owned and non-owned vehicles.

(iii) **Workers’ Compensation and Employers’ Liability Insurance.** Workers’ Compensation Insurance covering all employees of Grantee, as required by the laws of the State of Florida, and Employers’ Liability coverage subject to a limit of no less than \$500,000.00 for bodily injury by accident per accident/\$500,000.00 for bodily injury by disease per employee/\$1,000,000.00 for bodily injury by disease policy limit.

(b) All policies referred to above shall: (i) name Grantor as an additional insured; (ii) be non-contributing with, and shall apply only as primary and not as excess to any other insurance available to the Grantor; and (iii) contain an obligation of the insurers to notify the Grantor by certified mail not less than thirty (30) days prior to any material change, cancellation, or termination of any such policy. Grantee shall deliver certificates of insurance to the Grantor on or before the commencement of the term.

18. **Default.** Any default by any party under this Indenture shall entitle any other to all remedies available at law or in equity, which may include but not be limited to the right of actual damages, injunctive relief and/or specific performance. Nothing contained herein shall cause or be construed as a waiver of the Grantee’s or Grantor’s immunity or limitations on liability granted pursuant to Section 768.28, *Florida Statutes*, or other law, and nothing in this Indenture shall inure to the benefit of any third party for the purpose of allowing any claim which could otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

19. **Public Records.** Grantor understands and agrees that all documents of any kind provided to the Grantor or the Grantor’s Staff in connection with this Indenture are public records and are to be treated as such in accordance with Florida law.

20. **Authorization.** By execution below, the undersigned represent that they have been duly authorized by the appropriate body or official of their respective entity to execute this Indenture and that each party has complied with all requirements of law and has full power and authority to comply with the terms and provisions of this instrument.

21. **Notices.** All notices given pursuant to this Agreement shall be in writing and shall be given by certified or registered United States mail, postage or delivery charge prepaid, return receipt requested, by personal delivery or by nationally recognized overnight express delivery service (such as FedEx) addressed to the person and address designated below:

Notices as to Grantor
shall be sent to:

Randal Park Community Development District
c/o Governmental Management Services – Central Florida, LLC
219 East Livingston Street
Orlando, Florida 32801
Attention: Jason Showe, District Manager

With a copy to:

Latham, Luna, Eden & Beaudine, LLP
201 South Orange Ave., Suite 1400
Orlando, Florida 32801
Attention: Jan A. Carpenter, District Counsel

Notices as to Grantee
shall be sent to:

Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, Florida 32807
Attention: Executive Director

Copies to:

Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, Florida 32807
Attention: Chief of Infrastructure

Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, Florida 32807
Attention: Director of Maintenance

Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, Florida 32807
Attention: General Counsel

22. **Counterparts and Digital Signatures.** This Agreement may be executed in any number of counterparts and by the separate Parties hereto in separate counterparts, including by electronic or digital signatures in compliance with Chapter 668, each of which when taken together shall be deemed to be one and the same instrument.

[SIGNATURE(S) ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, the Parties hereto have executed this instrument as of the date and year first set forth above.

WITNESSES

GRANTOR:

**RANDAL PARK COMMUNITY
DEVELOPMENT DISTRICT**

By: [Signature]
Print Name: Loren Smith
By: [Signature]
Print Name: Alex Pincas

By: [Signature]
Name: Stephany Cornelius
Title: Chair person

State of Florida

County of Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 21st day of January, 2022, by Stephany Cornelius as Chair person for Randal Park Community Development District.

(Seal)

(Signature of Notary)

(Printed, Typed, or Stamped Name of Notary)

☒ Personally Known OR

☐ Produced Identification

Type of Identification* _____

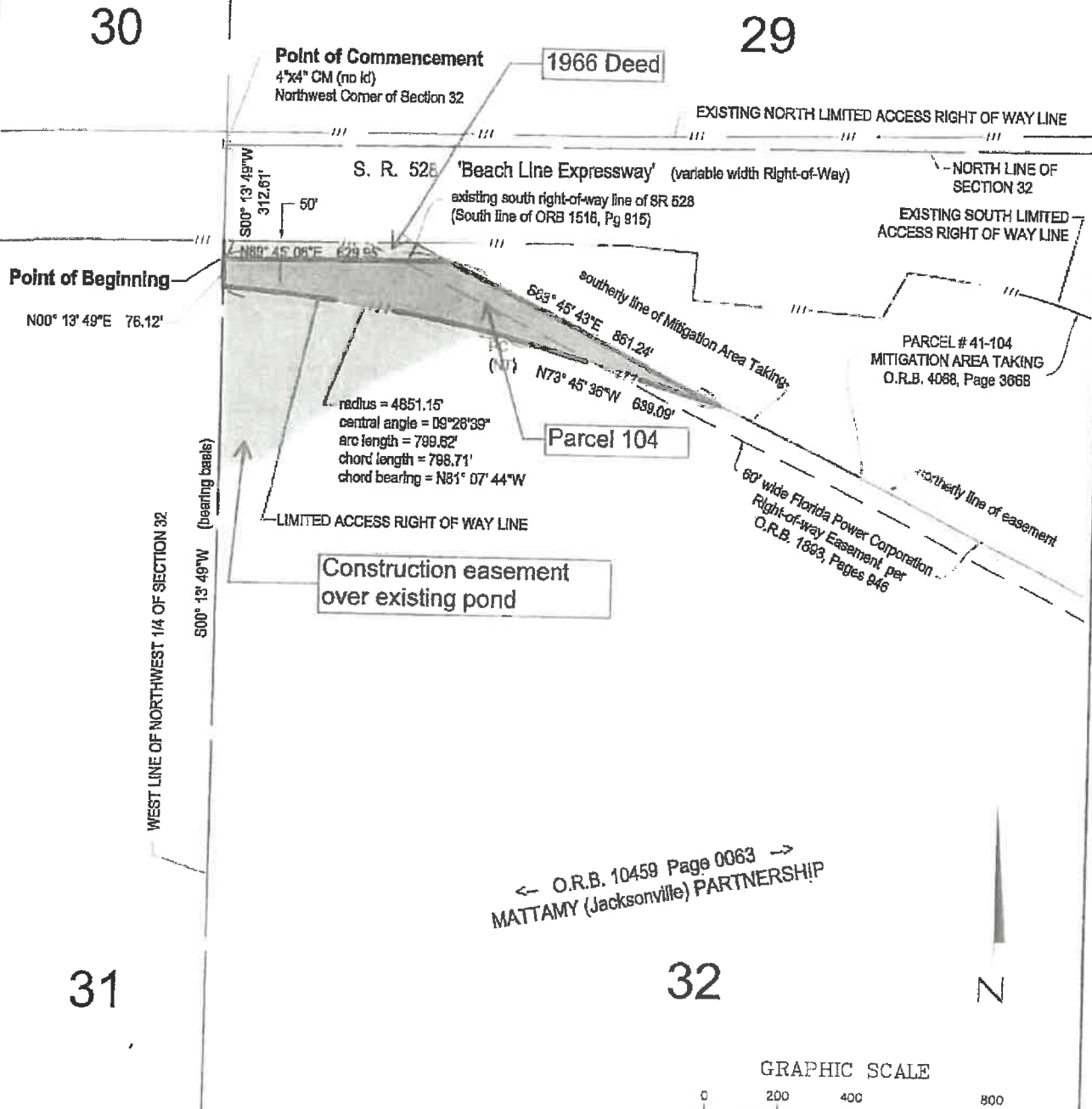


EXHIBIT "A"

[See attached]

EXHIBIT "A"

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY
STATE ROAD 528
PROJECT No. 528-1240
PARCEL No. 104
PURPOSE: LIMITED ACCESS RIGHT-OF-WAY
ESTATE: FEE SIMPLE



← O.R.B. 10459 Page 0063 →
MATTAMY (Jacksonville) PARTNERSHIP

GRAPHIC SCALE

0 200 400 800

(IN FEET)

1 inch = 400 ft.

THIS IS NOT A SURVEY

FOR: CENTRAL FLORIDA EXPRESSWAY AUTHORITY
DESIGNED BY: HNTB DATE: 03/04/2015
DRAWN BY: PEW AMEC JOB No.: 6374130684
APPROVED BY: RMJ CFX PROJECT No.: 528-1240



AMEC Environment & Infrastructure, Inc.
75 East Amelia Street, Suite 200
Orlando, FL 32801 USA
Phone: (407) 522-7570

Certificate of Authorization Number LB-0067932

SHEET 2 OF 2
REVISIONS
DATE BY
DRAWING NAME: CFX - Mattamy & HNTB

THERE ARE NO
BACKUP
MATERIALS FOR
THIS ITEM