

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**AGENDA  
RIGHT OF WAY COMMITTEE MEETING  
September 21, 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 MAY 25, 2022 RIGHT OF WAY COMMITTEE MEETING MINUTES (Action Item)**

**D. AGENDA ITEMS**

**1. NOTICE OF EXTENSION BETWEEN THE CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY AND ORANGE COUNTY, FLORIDA**

**PROJECT: STATE ROAD 429**

*Laura Newlin Kelly, Associate General Counsel (Action Item)*

**2. REPLACEMENT TEMPORARY ACCESS EASEMENT BETWEEN THE CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY, BRIGHTLINE TRAINS FLORIDA, LLC, AND WHARTON  
ORLANDO 7707, LLC**

**PROJECT: 528-1240, PARCEL: 528-708**

*Laura Newlin Kelly, Associate General Counsel (Action Item)*

**E. OTHER BUSINESS**

**F. ADJOURNMENT**

(CONTINUED ON PAGE 2)

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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](mailto: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 may be 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  
May 25, 2022

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**Committee Members Present:**

Steven Kane, Osceola County Representative  
Laura F. Carroll, City of Orlando Representative, Alternate  
Mindy Cummings, Orange County Representative  
Neil Newton, Seminole County Representative, Alternate  
Christopher Murvin, Citizen Representative  
Juan Diaz, Citizen Representative  
Brian Sheahan, Lake County Representative, Committee Chairman  
John Denninghoff, Brevard County Representative, Appeared Telephonically

**CFX Staff Present:**

Diego "Woody" Rodriguez, General Counsel  
Lisa Lumbar, Chief Financial Officer  
Sandy Kemraj, Recording Secretary  
Mala Iley, Former Recording Secretary

**Item A: CALL TO ORDER**

The meeting was called to order at 2:00 p.m. by Chairman Brian Sheahan. Recording Secretary Sandy Kemraj called the roll and announced there was a quorum.

General Counsel Rodriguez introduced new member Juan Diaz and new alternate Laura Carroll.

**Item B: PUBLIC COMMENT**

There was no public comment.

**Item C: APPROVAL OF JANUARY 19, 2022 RIGHT OF WAY COMMITTEE MEETING MINUTES**

A motion was made by Mindy Cummings and seconded by Christopher Murvin to approve the January 19, 2022 minutes.

**Vote:** The motion carried unanimously with all members present voting AYE by voice vote.

**Item D.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**

General Counsel Woody Rodriguez requested the Committee's recommendation for Board approval of the Slope Easement Agreement and the Second Temporary Construction Easement, both between Randall Park Community Development District ("CDD") and Central Florida Expressway Authority ("CFX").

General Counsel Rodriguez provided the Committee with a brief history of the project. He advised that in the Slope Easement Agreement the CDD is granting CFX a perpetual slope easement over a limited area where CFX, or third parties assigned the rights by CFX, can construct, maintain, and repair the slopes and embankments necessary to support the expansion or future improvements of State Road 528 and the intercity passenger rail project operated by Brightline.

General Counsel Rodriguez further advised the Committee that CFX and Mattamy (Jacksonville) Partnership previously entered into a Temporary Construction Easement ("TCE") that is anticipated to expire in October 2024. The purpose of this Second Temporary Construction Easement ("Second TCE") is to preserve CFX's right to build in the temporary construction area without having to go back to the CDD for their approval. Accordingly, the Second TCE will allow CFX, or any parties assigned the right by CFX, to construct improvements in the temporary construction easement area for the intercity passenger rail and any future projects by CFX, including the expansion of State Road 528 and a potential intermodal rail system project. The Second TCE is over a retention pond for the Randall Park neighborhood. The term of the Second TCE is dependent upon when CFX elects to move forward with any future project and expires upon the earlier of (1) five (5) years from the notice of commencement of construction of the future project; (2) completion of the future project; or (3) fifty (50) years from the expiration of the TCE, or approximately October 2074.

**A motion was made by Mindy Cummings and seconded by Steve Kane to recommend to the Board approval of the Slope Easement Agreement and Second Temporary Construction Easement both between Randall Park Community Development District and the Central Florida Expressway Authority and subject to any minor or clerical modifications approved by the General Counsel or the Executive Director.**

**Vote: The motion carried unanimously with all members present voting AYE by voice vote.**

**Item D.2.: PROPERTY ACQUISITION & DISPOSITION PROCEDURES MANUAL**

General Counsel Rodriguez provided an update on the status and revision of the Property Acquisition and Disposition Procedures Manual ("ROW Manual"). General Counsel Rodriguez advised that the delay in presenting item D2 pertains to a thorough review of the ROW Manual as CFX is working with their auditors, Protiviti, to provide some recommendations in amending the ROW Manual. It is anticipated that a proposed draft will be presented to the Committee in either July or August.

**Item E: OTHER BUSINESS**

Chairman Brian Sheahan advised the Committee that there will be no meeting in June and that the next Right of Way Committee meeting is scheduled for Wednesday, July 20, 2022 at 2:00 p.m.

**Item F: ADJOURNMENT**

Chairman Sheahan adjourned the meeting at approximately 2:18 p.m.

**Minutes approved on September \_\_\_\_, 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 certain applicable Committee meetings are maintained and available upon request to the Custodian of Public Records at (407) 690-5326, [publicrecords@CFXWay.com](mailto:publicrecords@CFXWay.com) or 4974 ORL Tower Road, Orlando, Florida 32807.*

DRAFT

## MEMORANDUM

TO: CFX Right of Way Committee Members

FROM: Laura Newlin Kelly, Associate General Counsel

DATE: September 14, 2022

SUBJECT: Notice of Extension between the Central Florida Expressway Authority and Orange County, Florida  
Project: State Road 429

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### BACKGROUND

The Central Florida Expressway Authority's predecessor in interest ("OOCEA"), Orange County, Florida ("Orange County") and Florida Power Cooperation ("FPC") entered into that certain Collocation of Bike Path and Transmission Line Agreement dated January 23, 2001 ("Collocation Agreement") whereby OOCEA agreed to convey to Orange County the real property referred to as the Bike Path Property in the Collocation Agreement, for the construction, operation, and maintenance of a bike path. OOCEA conveyed the Bike Path Property to Orange County for the construction, operation and maintenance of the bike path pursuant to that certain Quit-Claim Deed dated January 7, 2003 and recorded January 16, 2004 in Official Records Book 7269, Page 3217 in the Public Records of Orange County, Florida ("Deed").

Pursuant to the terms and conditions of the Deed and Section 1.2(d) of the Agreement, the Central Florida Expressway Authority ("CFX") has the right, in its sole option, to require Orange County to reconvey and quit claim to CFX the Bike Path Property in the event Orange County fails to complete the construction of the bike path in accordance with the terms and conditions of the Collocation Agreement within twenty (20) years of the recording of the Deed ("Construction Deadline"). The Construction Deadline is currently anticipated to expire on January 16, 2024. Orange County has been working diligently to commence the design, permitting and construction of the bike path on the Bike Path Property; however, due to funding priorities, Orange County does not anticipate it will complete the construction of the entire bike path by the Construction Deadline.

The proposed bike path is part of the Horizon West Trail adjacent to State Road 429. The proposed trail is being developed in two phases as shown on the map attached hereto as **Attachment "A"** ("Trail Map"). Phase 1 of the Horizon West Trail consists of approximately 2.23 miles and is currently in the design phase and is anticipated to be completed in a minimum of two (2) years. Phase two of the Horizon West Trail consists of approximately 2.97 miles. There is currently no funding available for Phase 2 of the Horizon West Trail, but County is working with MetroPlan Orlando to endeavor to obtain state or federal funding. Therefore, Orange County has requested an extension of the Construction Deadline for an additional ten (10) years from the expiration of the current Construction Deadline in accordance with the terms and conditions of the proposed Notice of Extension attached hereto as **Attachment "B"** ("Notice").

Orange County staff has reviewed and approved the form of the Notice, and the Notice is scheduled to be included on the Board of County Commissioners' September 13, 2022 agenda.

**REQUEST**

A recommendation by the Right of Way Committee for CFX Board's approval of the Notice between CFX and Orange County in a form substantially similar to the attached Notice, subject to any minor or clerical modifications or revisions approved by the General Counsel or designee.

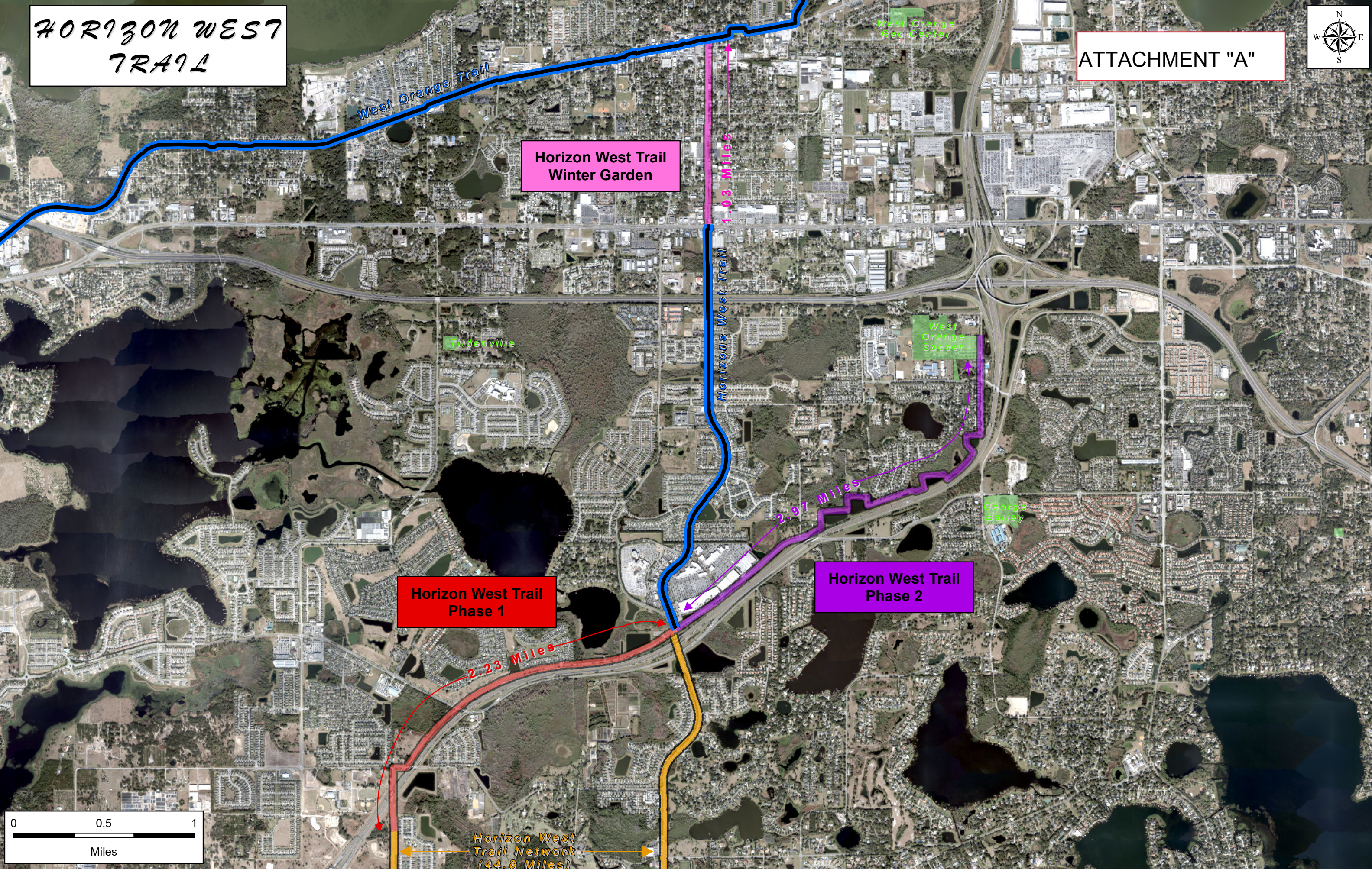
**ATTACHMENTS**

- A. Trail Map
- B. Notice of Extension



# HORIZON WEST TRAIL

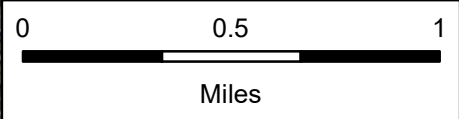
## ATTACHMENT "A"



Horizon West Trail  
Winter Garden

Horizon West Trail  
Phase 1

Horizon West Trail  
Phase 2



Horizon West  
Trail Network  
(44.8 Miles)

West Orange Trail

Horizon West Trail

Tidenville

West Orange  
Soccer

George's  
Bailey

West Orange  
Rec Center

1.03 Miles

2.97 Miles

2.23 Miles



# ATTACHMENT "B"

This document was prepared by:  
Laura L. Kelly  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

Project State Road 429  
Bike Path Property

## NOTICE OF EXTENSION

**THIS NOTICE OF EXTENSION** (“Notice”) is made and entered into as of the Effective Date (hereinafter defined) by and between **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 **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida, whose address is P.O. Box 1393, Orlando, Florida 32801-1393 (“County”). CFX and County are referred to herein sometimes as a “Party” or the “Parties”.

## RECITALS

**WHEREAS**, CFX was created pursuant to Part III, Chapter 348, Florida Statutes (“CFX Act”) to, among other things, construct, improve, maintain and operate a limited access toll road known as the Central Florida Expressway System, as defined in the CFX Act, and was granted all powers necessary and convenient to conduct its business, including the power to contract with other public agencies; and

**WHEREAS**, CFX’s predecessor in interest, Orlando-Orange County Expressway Authority (“OOCEA”), County, and Florida Power Cooperation (“FPC”) entered into that certain Collocation of Bike Path and Transmission Line Agreement dated January 23, 2001 (“Collocation Agreement”), whereby OOCEA agreed to convey to the County the Bike Path Property, as such real property is defined in the Collocation Agreement, for the construction, operation and maintenance of a Bike Path, as defined in the Collocation Agreement; and

**WHEREAS**, OOCEA conveyed to County the Bike Path Property for the construction, operation, and maintenance of the Bike Path pursuant to that certain Quit-Claim Deed dated January 7, 2003 and recorded January 16, 2004 in Official Records Book 7269, Page 3217, in the Public Records of Orange County, Florida (“Deed”); and

**WHEREAS**, pursuant to the terms and conditions of the Deed and Section 1.2(d) of the Collocation Agreement, CFX has the right, in its sole option, to require the County reconvey and quit claim to CFX the Bike Path Property in the event the County fails to complete the construction of the Bike Path in accordance with the terms and conditions of the Collocation Agreement within twenty (20) years of the recording of the Deed (“Construction Deadline”); and

**WHEREAS**, County has been working diligently to commence the design, permitting and construction of the Bike Path on the Bike Path Property; however, due to funding priorities, the County does not anticipate it will complete the construction of the Bike Path on the Bike Path Property by the Construction Deadline; and

WHEREAS, County has requested, and CFX is agreeable to, extending the Construction Deadline for an additional ten (10) years in accordance with the terms and conditions more specifically provided herein.

NOW THEREFORE, for and in consideration of the premises hereof, the mutual covenants herein contained and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

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

2. **Grant of Extension.** CFX and County hereby agree to extend the Construction Deadline in the Deed and Collocation Agreement to January 16, 2034. In no event shall CFX's agreement to extend the Construction Deadline impact any other requirements, obligations, or restrictions of the County more specifically set forth in the Deed or Collocation Agreement, and County shall remain responsible for producing and submitting to CFX and FPC for review and approval the construction plans for the Bike Path and any appurtenant improvements prior to the commencement of construction on the Bike Path. Notwithstanding anything contained herein to the contrary, in the event County fails to complete the construction of the Bike Path on or prior to the extended Construction Deadline, CFX shall have the sole and absolute right to exercise its right to require County to reconvey the Bike Path Property to CFX in accordance with the requirements of the Deed and Collocation Agreement.

3. **Compliance with all Legal Rules.** County shall, at its sole expense, comply with all present and future valid and applicable laws, ordinances, and regulations of the federal government and its agencies, the State of Florida, and Orange County.

4. **Notices.** All notices, demands, approvals, requests, and other communication required or permitted hereunder shall be in writing and shall be deemed to be delivered and received upon the earlier of (i) actual receipt; (ii) the next business day following its deposit with a reputable overnight courier or (iii) the third (3<sup>rd</sup>) day following its deposit in a regularly maintained receptacle for the United States Mail, as registered or certified mail, return receipt requested, postage fully prepaid, addressed to the addressee as its address is set forth below, or at such other address as such addressee may have specified by notice delivered in accordance with this paragraph and actually received by the addressee

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

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



Telephone: (407) 690-5000

County: Orange County Real Estate Management Division  
P.O. Box 1393  
Orlando, Florida 32802-1393  
Attn: Manager  
Telephone: (407)836-7070  
Facsimile: (407) 836-5969

With a copy to: Orange County Attorney's Office  
P. O. Box 1393  
Orlando, Florida 32802-1393  
Telephone: (407) 836-7320  
Facsimile: (407) 836-5888

5. **Default.** Except as otherwise set forth herein, in the event either of the Parties fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by said part under the terms and provisions of this Notice, the other party, in its sole discretion, and after thirty (30) days prior written notice and opportunity to cure, shall be entitled to: (i) exercise any and all rights and remedies available to said party at law and in equity, including, without limitation, the right of specific performance, or (ii) terminate this Notice, whereupon the Notice shall be deemed null and void and of no further force and effect, and no party hereto shall have any further rights, obligations or liability hereunder. Upon any such termination, this Notice and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect.

6. **Miscellaneous Provisions.**

a. **No Other Parties.** This Notice is solely for the benefit of the Parties, and no rights are intended, nor shall any rights accrue, to any third party unless expressly provided in this Notice.

b. **Binding Effect.** This Notice shall be binding on the Parties, and upon all entities operating for or on behalf of the Parties pursuant to this Notice. The provisions of this Notice shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns.

c. **Governing Law; Venue.** The Florida law shall govern the validity, enforcement and interpretation of this Notice, and the Parties agree that venue for any action arising hereunder shall lie in Orange County, Florida

d. **Entire Agreement.** This Notice constitutes the entire understanding and agreement between the Parties and shall not be changed, altered, or modified, except by an instrument in writing signed by the Parties.

e. **Non-Waiver.** The failure of any party to insist upon the other party's compliance with its obligations under this Agreement in any one or more instances shall not operate to release such other party from its duty to comply with such obligations in all other instances.

f. Recording. County shall, at its sole cost and expense, cause this Notice to be recorded in the Public Records of Orange County, Florida.

g. Amendments. The rights hereby granted, created and declared shall be perpetual in duration and may not be changed, amended, modified, canceled or terminated other than as expressly provided herein, except by an instrument in writing, executed by the then owners of the benefited property and all mortgagees of any portion thereof.

h. Covenants Running with the Property. The easements, covenants, agreements and conditions contained or expressed herein shall not be personal (except as otherwise expressly provided herein) but shall run with the land and shall be binding upon and inure to the benefit of the owners of all portions of the benefited property and the easement area, their mortgagees, any purchaser at a foreclosure sale, each of the successors and assigns of all such parties, as well as the tenants, agents, licenses, guests and invitees of each of them.

i. Time. Time is of the essence of this Notice.

j. Legal Construction and Headings. Wherever, under the terms and provisions of this Notice, the time for performance falls upon a Saturday, Sunday, or Legal Holiday, such time for performance shall be extended to the next business day. The headings inserted at the beginning of each paragraph are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph.

k. Severability. This Notice 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 Notice 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 Notice 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.

l. Electronic Signatures and Counterparts. To facilitate execution, CFX and Owner agree that this Notice may be executed and transmitted by electronic (including digital) signature in compliance with Chapter 668, Florida Statutes, to the other Party and that the executed electronic or digital shall be binding and enforceable as an original. This Notice may also be executed in as many counterparts as may be required and it shall not be necessary that the signature of, or on behalf of, each Party, or that the signatures of all persons required to bind any Party, appear on each counterpart; it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the persons required to bind any Party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single agreement.

m. Effect on Deed and Collocation Agreement. Except as modified herein, the Deed and Collocation Agreement remain in full force and effect.

n. Effective Date. The effective date of this Notice shall be the date upon which the CFX governing board has approved this Notice and the last of the Parties executes this Notice (“Effective Date”).

*[SIGNATURE PAGES TO FOLLOW]*



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

Signed, sealed, and delivered  
in the presence of:

**“CFX”**

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Sean Parks, Chairman

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Regla (“Mimi”) Lamaute  
Recording Clerk

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 \_\_\_\_\_        )

The foregoing instrument was acknowledged before me by means of [ ] physical presence  
or [ ] online notarization on this \_\_\_ day of \_\_\_\_\_, 2022, by Sean Parks, as Chairman of  
the Central Florida Expressway Authority, on behalf of the organization. He is personally known  
to me OR produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Signature of Notary Public - State of Florida  
Print Name: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**“COUNTY”**

**ORANGE COUNTY, FLORIDA**

By: Board of County Commissioners

By: \_\_\_\_\_

Jerry L. Demings  
Orange County Mayor

Date: \_\_\_\_\_

ATTEST: Phil Diamond, CPA, County  
Comptroller, Clerk to the Board of County  
Commissioners

By: \_\_\_\_\_

Deputy Clerk

Print Name: \_\_\_\_\_



## MEMORANDUM

TO: CFX Right of Way Committee Members

FROM: Laura Newlin Kelly, Associate General Counsel

DATE: September 14, 2022

SUBJECT: Replacement Temporary Access Easement between the Central Florida Expressway Authority, Brightline Trains Florida, LLC, and Wharton Orlando 7707, LLC  
Project: 528-1240  
Parcel: 528-708

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## BACKGROUND

The Central Florida Expressway Authority (“CFX”) and Neo Land, LLC (“Neo Land”) entered into that certain Temporary Construction Easement dated as of October 20, 2015 (“Existing Easement”) whereby Neo Land granted CFX a temporary construction easement over real property owned by Neo Land for the construction of the proposed passenger rail project between Miami and Orlando by Brightline Trains Florida, LLC (“Brightline”). The Existing Easement will automatically expire no later than December 31, 2026. The Existing Easement is depicted in the map attached hereto as **Attachment “A”** (“Map of Easements”).

One or about June 7, 2022, Wharton Orlando 7707, LLC (“Wharton”) acquired the subject property from Neo Land’s successor in interest subject to the Existing Easement. In order to develop the real property encumbered by the Existing Easement, Wharton has requested CFX terminate CFX’s interest in the Original Easement and has agreed to grant Brightline a replacement temporary construction easement to access the passenger rail project until March 31, 2023 in accordance with the terms and conditions of the proposed Replacement Temporary Construction Easement attached hereto as **Attachment “B”** (“Agreement”). Brightline is in agreement with the termination of the Existing Easement and revised location and term of the replacement easement outlined in the Agreement.

Pursuant to CFX’s Property Acquisition, Disposition & Permitting Procedures Manual (“ROW Manual”), CFX staff and CFX’s General Engineering Consultant (“GEC”) have examined the proposed Agreement and determined that Existing Easement is no longer essential to the operation of the Expressway System and that the termination of the Existing Easement would not impede or restrict the current or future construction, use, operation, repair or maintenance of the Expressway System. A copy of the certification from the GEC is attached hereto as **Attachment “C”**.

### **REQUEST**

A recommendation by the Right of Way Committee for CFX Board's approval of the Agreement Between CFX, Brightline and Wharton in a form substantially similar to the attached Agreement, subject to any minor or clerical modifications or revisions approved by the GEC, General Counsel or designee.

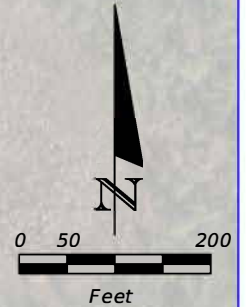
### **ATTACHMENTS**

- A. Map of Easements
- B. Replacement Temporary Construction Easement
- C. Certificate from CFX's General Engineering Consultant



# ATTACHMENT "A"

BRIGHTLINE CORRIDOR



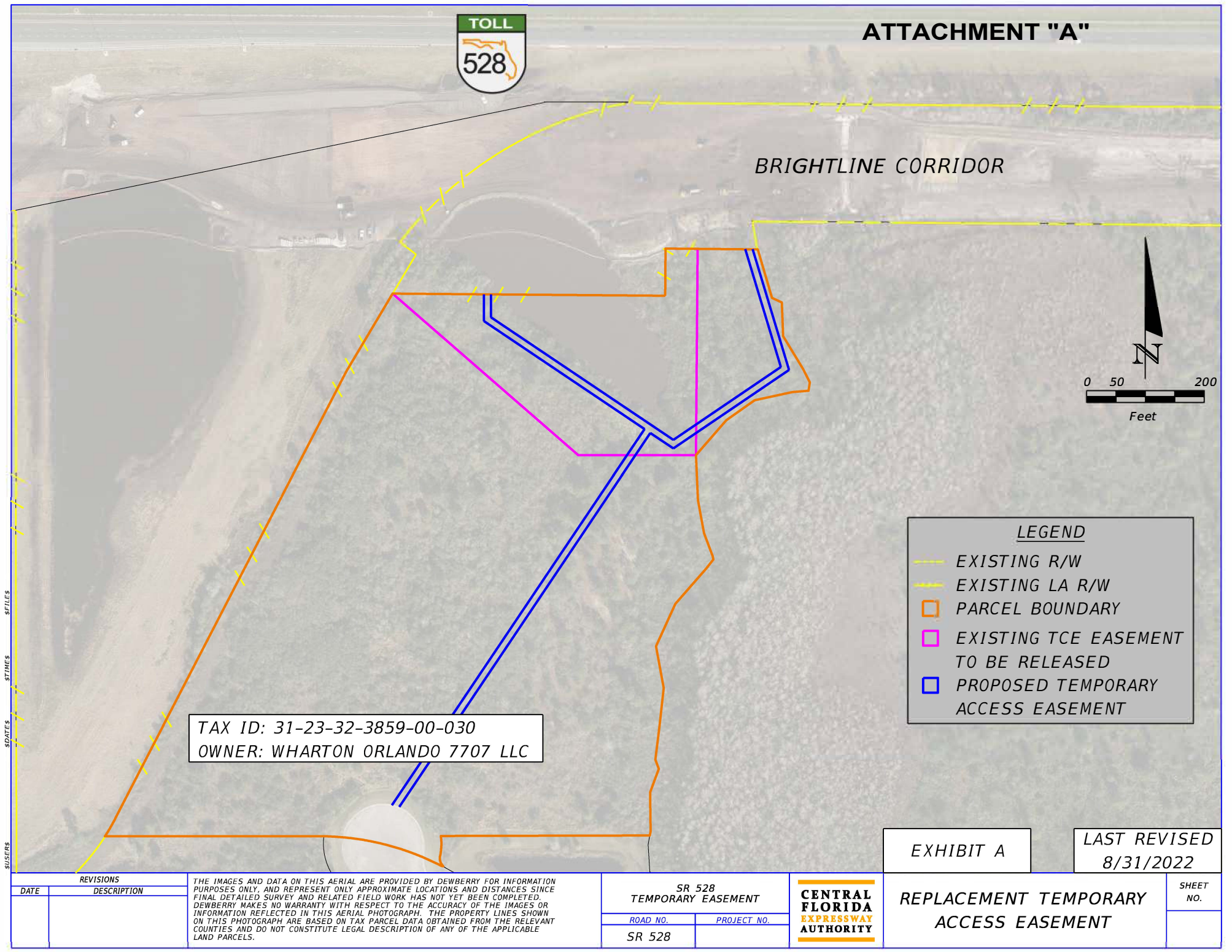
**LEGEND**

- EXISTING R/W
- - - EXISTING LA R/W
- PARCEL BOUNDARY
- EXISTING TCE EASEMENT TO BE RELEASED
- PROPOSED TEMPORARY ACCESS EASEMENT

TAX ID: 31-23-32-3859-00-030  
 OWNER: WHARTON ORLANDO 7707 LLC

EXHIBIT A

LAST REVISED  
8/31/2022



REVISIONS	
DATE	DESCRIPTION

THE IMAGES AND DATA ON THIS AERIAL ARE PROVIDED BY DEWBERRY FOR INFORMATION PURPOSES ONLY, AND REPRESENT ONLY APPROXIMATE LOCATIONS AND DISTANCES SINCE FINAL DETAILED SURVEY AND RELATED FIELD WORK HAS NOT YET BEEN COMPLETED. DEWBERRY MAKES NO WARRANTY WITH RESPECT TO THE ACCURACY OF THE IMAGES OR INFORMATION REFLECTED IN THIS AERIAL PHOTOGRAPH. THE PROPERTY LINES SHOWN ON THIS PHOTOGRAPH ARE BASED ON TAX PARCEL DATA OBTAINED FROM THE RELEVANT COUNTIES AND DO NOT CONSTITUTE LEGAL DESCRIPTION OF ANY OF THE APPLICABLE LAND PARCELS.

SR 528 TEMPORARY EASEMENT	
ROAD NO. SR 528	PROJECT NO.



**REPLACEMENT TEMPORARY  
ACCESS EASEMENT**

SHEET NO.
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Prepared by and Return to:

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

**REPLACEMENT TEMPORARY ACCESS EASEMENT**

**THIS REPLACEMENT TEMPORARY ACCESS EASEMENT (the "Replacement Easement")**, made effective as of this \_\_\_\_ day of \_\_\_\_\_, 2022, by and among **WHARTON ORLANDO 7707, LLC**, a Delaware limited liability company, whose address is 488 Madison Avenue, 18<sup>th</sup> Floor, New York, NY 10022 (together with its successors and/or assigns, "Grantor"), **BRIGHTLINE TRAINS FLORIDA LLC**, a Delaware limited liability company, whose address is 161 NW 6<sup>th</sup> Street, Suite 900, Miami, Florida 33136 (together with its successors and/or assigns, "Grantee") and **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body politic and corporate, and an agency of the state, under the laws of the State of Florida ("CFX"). Grantor, Grantee and CFX are referred to herein, individually, as a "Party", and collectively, as the "Parties".

**RECITALS:**

**WHEREAS**, NEO LAND, LLC, a Florida limited liability company ("NEO"), as grantor, and CFX, as grantee, entered into that certain Temporary Construction Easement dated as of October 20, 2015 and recorded in the Public Records of Orange County, Florida, on December 8, 2015 in Book 11024, Page 3971 ("Original Easement") affecting the real property located in Orange County, Florida, more particularly described on **Exhibit "A,"** attached hereto and incorporated herein by reference ("Grantor's Property"); and

**WHEREAS**, Grantor is now the fee simple owner of Grantor's Property pursuant to that certain Special Warranty Deed dated June 7, 2022 and recorded as Document No. 20220364162 in the Official Records of Orange County, Florida; and

**WHEREAS**, Grantee is constructing and developing a passenger rail project that will transport individuals between Miami and Orlando with initial stops in Fort Lauderdale and West Palm Beach, Florida ("Rail Project") and which Rail Project includes, without limitation, the property described and/or depicted on **Exhibit "B,"** attached hereto and incorporated herein by reference (the "Rail Project Property"); and

**WHEREAS**, the Rail Project Property abuts the Grantor's Property; and

**WHEREAS**, Grantor has requested termination of the Original Easement, and the Parties have agreed to terminate and release the Original Easement, provided that Grantor grant and convey to Grantee, a non-exclusive temporary easement for access (including without

limitation, pedestrian and vehicular ingress and egress) in over, upon and through the Temporary Easement Area (as hereinafter defined) in replacement of and to supersede the Original Easement, all in accordance with the terms and conditions provided herein.

**NOW, THEREFORE,** in consideration of the mutual covenants and agreements set forth herein, the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

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

2. **Grant of Temporary Access Easement.** Grantor hereby grants, bargains, sells, conveys and declares a non-exclusive temporary access (including without limitation, pedestrian and vehicular ingress and egress) easement, not less than twelve feet (12') wide, for the benefit of Grantee, Grantee's successors and assigns, and their respective employees, agents, contractors, subcontractors, independent contractors, and licensees (the "Temporary Access Easement") over, upon and through the portion of Grantor's Property more particularly described and/or depicted on **Exhibit "C"** attached hereto and incorporated herein by reference (the "Temporary Easement Area").

3. **Purpose of Temporary Construction Easement.** The purpose of the Temporary Access Easement shall be to permit Grantee, through itself, its employees, agents, contractors, subcontractors, and independent contractors, to enter upon the Temporary Easement Area, twenty-four (24) hours a day, seven days a week (inclusive of holidays), to provide access, including without limitation, pedestrian and vehicular, ingress and egress (a) from the public right-of-way known as Amsterdam Drive to the Rail Project Property; and (b) from the Rail Project Property to the public right-of-way known as Amsterdam Drive, together with the privileges and rights herein granted. For the full enjoyment of the rights granted herein, Grantee shall have the further right to: (a) trim, cut, or remove trees, bushes, undergrowth, and other obstructions from the Temporary Easement Area which unreasonably interfere with its right to enter upon and travel on the Temporary Easement Area; and (b) travel on the Temporary Easement Area on vehicles including, without limitation, trucks, tractor trailers, construction vehicles, and trailers hauling materials and or equipment for the Rail Project, provided that Grantee shall repair any damage to the Temporary Easement Area caused by Grantee's use of the Temporary Easement Area, reasonable wear and tear excepted. Grantor shall provide to Grantee instructions, keys and/or combinations to locks on any gates necessary for Grantee and its employees, agents, contractors, subcontractors, independent contractors to gain access to the Temporary Easement Area for the purposes set forth in this Replacement Easement. Grantor shall also provide telephone number(s) and contact person(s) that Grantee or its contractors can reach twenty-four (24) hours a day, seven (7) days a week regarding its use of the Temporary Access Easement. Grantee shall indemnify and hold harmless Grantor from and against any third party claim for damage or loss arising out of Grantee's and its employees, agents, contractors, subcontractors, and independent contractors use of the Temporary Access Easement, but only to the extent caused by Grantee or its employees, agents, contractors, subcontractors, or independent contractors. Grantor further grants to Grantee the reasonable right to enter upon the adjoining lands of Grantor for the purposes of exercising the rights herein granted.

4. **Use of Temporary Access Easement Area.** The Temporary Access Easement is non-exclusive, and nothing in this Replacement Easement shall limit Grantor's present or future use of the Temporary Access Easement Area, including, without limitation, Grantor's development and construction of improvements thereon, provided that such use, construction or development does not obstruct, prevent, frustrate or unreasonably interfere with Grantee's use and enjoyment of the Temporary Access Easement for the purposes provided for in this Replacement Easement.

5. **Term of Easement.** The term of the easement granted herein shall begin on the date of this Replacement Easement and end on March 31, 2023.

6. **Governing Law: Venue.** This Replacement Easement 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 Replacement Easement shall be brought and prosecuted in such court or courts located in Orange County, Florida.

7. **Covenants Run With the Land.** The Temporary Access Easement granted herein, and any other terms and conditions of this Replacement Easement are hereby declared and shall hereinafter be deemed to be covenants running with Grantor's Property 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.

8. **Grantor's Representations and Covenants.** Grantor hereby warrants and covenants (a) that Grantor is the owner of the fee simple title to Grantor's Property, including, without limitation, the Temporary Access 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 Grantor's Property, including, without limitation, the Temporary Easement Area. Grantor covenants not to interfere with the Rail 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 Easement Area as described herein, or otherwise impair Grantee's enjoyment of the rights granted herein.

9. **Termination and Release.** Grantor and CFX hereby (i) terminate the Original Easement and all of CFX's rights and Grantor's obligations under the Original Easement; and (ii) declare that Original Easement shall be of no further force and effect. CFX hereby releases and relinquishes any and all interest CFX may have in and to Grantor's Property pursuant to the Original Easement. Grantor hereby releases, relinquishes, and waives any and all interest, claims, or causes of action, Grantor may have now or in the future, against CFX, arising from the use of the Original Easement or CFX's or Grantee's use of the Grantor's Property thereunder.

10. **Recording.** This Replacement Easement shall be recorded in the Public



Records of Orange County, Florida, at Grantor's sole cost and expense.

*[Signature Pages to Follow]*

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

WITNESSES

GRANTOR:

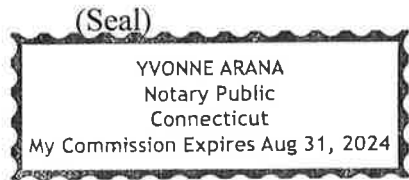
WHARTON ORLANDO 7707, LLC

By: [Signature]  
Print Name: STEVEN GUSTAFSON  
By: [Signature]  
Print Name: MARC BLITZER

By: [Signature]  
Name: Gary Korn  
Title: Authorized Signatory

State of Connecticut  
County of Fairfield

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 18<sup>th</sup> day of AUGUST, 2022, by Gary Korn, as Authorized Signatory of Wharton Orlando 7707, LLC, a Delaware limited liability company, on behalf of the company.



[Signature]  
Signature of Notary  
(Printed, Typed, or Stamped Name of Notary)

Personally Known OR  
 Produced Identification  
Type of Identification\* CT DL057666017  
X526/23

WITNESSES

By: [Signature]  
Print Name: Nicholas Cobb  
By: Jessica Perez  
Print Name: Jessica Perez

GRANTEE:

BRIGHTLINE TRAINS FLORIDA LLC

By: [Signature]  
Name: Kolleen Cobb  
Title: Vice President

State of Florida  
County of Miami-Dade

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 25<sup>th</sup> day of August, 2022, by Kolleen Cobb as Vice President of Brightline Trains Florida LLC, a Delaware limited liability company, on behalf of the company.

(Seal)

Jessica Perez  
Signature of Notary)  
(Printed, Typed, or Stamped Name of Notary)



Personally Known OR  
 Produced Identification  
Type of Identification\* \_\_\_\_\_



WITNESSES

CFX:

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Laura Kelley, Executive Director

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Regla ("Mimi") Lamaute  
Board Services Coordinator

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 \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Laura Kelley, as Executive Directory of the Central Florida Expressway Authority, a body politic and corporate, and an agency of the state, under the laws of the State of Florida, behalf of the agency.

(Seal)

\_\_\_\_\_  
Signature of Notary)  
(Printed, Typed, or Stamped Name of Notary)

[ ] Personally Known OR  
[ ] Produced Identification  
Type of Identification\* \_\_\_\_\_

EXHIBIT "A"

Grantor's Property

Parcel ID # 31-23-32-3859-00-030

Legal Description:

The land referred to herein below is situated in the County of Orange, State of Florida, and is described as follows:

Lot 3 of INTERNATIONAL CORPORATE PARK PARCEL 10, according to the Plat thereof as recorded in Plat Book 67, Page(s) 56 through 58, of the Public Records of Orange County, Florida.

LESS AND EXCEPT:

Part A

A parcel of land lying in Section 31 Township 23 South, Range 32 East, Orange County, Florida, being a portion of Lot 3 INTERNATIONAL CORPORATE PARK – PARCEL 10 according to the plat thereof as recorded in Plat Book 67 at Page 56 of the Public Records of Orange County, Florida, being more particularly described as follows:

Commence at a 4"x4" concrete monument (PRM LB7153) marking the Northeast Corner of Tract 3 of said plat, lying on the existing south Limited Access Right of Way line of State Road 528 per Orlando Orange County Expressway Authority Right-of-Way Map, International Corporate Park Interchange; thence run North 89°33'17" West, along said existing south Limited Access Right of Way line and north line of said plat, a distance of 121.75 feet, to the northeast corner of Lot 3, for the Point of Beginning; thence run South 00°26'43" West, along the east line of said Lot 3, a distance of 27.77 feet; thence run South 82°58'53" West, along the east line of said Lot 3, a distance of 15.13 feet; thence run South 09°08'54" East, along the east line of said Lot 3, a distance of 167.55 feet; thence run South 09°06'44" East, along the east line of said Lot 3, a distance of 37.30 feet; thence run South 16°31'17" East, along the east line of said Lot 3, a distance of 16.30 feet; thence departing said east line, run North 89°33'17" West, a distance of 596.23 feet to the west line of said plat and said existing south Limited Access Right of Way line; thence run North 52°04'38" West, along said west line and said existing south Limited Access Right of Way line, a distance of 13.96 feet to a non-tangent curve concave to the southeast; thence run northeasterly along the arc of said curve, along said west line and said existing south Limited Access Right of Way line, having a radius of 639.49 feet, a central angle of 41°36'10", a chord length of 454.20 feet bearing North 58°43'23" East, an arc distance of 464.34 feet; thence run South 89°33'17" East, non-tangent to said curve and along the north line of said plat and said existing south Limited Access Right of Way line, a distance of 197.09 feet to the Point of Beginning.

Part B

The following described property:

A parcel of land lying in Section 31 Township 23 South, Range 32 East, Orange County, Florida, being a portion of Lot 3 INTERNATIONAL CORPORATE PARK – PARCEL 10 according to the plat thereof as recorded in Plat Book 67 at Page 56 of the Public Records of Orange County, Florida, being more particularly described as follows:

[continues on the next page]

Commence at a 4"x4" concrete monument (PRM LB7153) marking the Northeast Corner of Tract 3 of said plat, lying on the existing south Limited Access Right of Way line of State Road 528 per Orlando Orange County Expressway Authority Right-of-Way Map, International Corporate Park Interchange; thence run North 89°33'17" West, along said existing south Limited Access Right of Way line and north line of said plat, a distance of 121.75 feet, to the northeast corner of Lot 3; thence run South 00°26'43" West, along the east line of said Lot 3, a distance of 27.77 feet; thence run South 82°58'53" West, along the east line of said Lot 3, a distance of 15.13 feet; thence run South 09°08'54" East, along the east line of said Lot 3, a distance

of 167.55 feet; thence run South 09°06'44" East, along the east line of said Lot 3, a distance of 37.30 feet; thence run South 16°31'17" East, along the east line of said Lot 3, a distance of 16.30 feet; thence departing said east line, run North 89°33'17" West, a distance of 156.26 feet for the Point of Beginning; thence run South 00°26'43" West, a distance of 80.00 feet; thence run North 89°33'17" West, a distance of 462.60 feet to the west line of said plat and said existing south Limited Access Right of Way line; thence run North 30°44'53" East, along said west line and said existing south Limited Access Right of Way line, distance of 77.87 feet; thence run North 52°04'38" West, along said west line and said existing south Limited Access Right of Way line, distance of 20.99 feet; thence departing said existing south Limited Access Right of Way line, run South 89°33'17" East, a distance of 439.97 feet to the Point of Beginning.

Ends of legal description.

Aerial photograph of Grantor's Property appears on the next page.  
(See attached)

# Aerial Photograph of Grantor's Property



01/21/2022



EXHIBIT "B"

Rail Project Property

Parcel IDs.: 31-23-32-3859-00-031; and 31-23-32-3859-00-032

Legal Descriptions:

**Project 528-1240**

**Parcel No.: 108**

**Part A**

A parcel of land lying in Section 31 Township 23 South, Range 32 East, Orange County, Florida, being a portion of Lot 3 INTERNATIONAL CORPORATE PARK – PARCEL 10 according to the plat thereof as recorded in Plat Book 67 at Page 56 of the Public Records of Orange County, Florida, being more particularly described as follows:

Commence at a 4"x4" concrete monument (PRM LB7153) marking the Northeast Corner of Tract 3 of said plat, lying on the existing south Limited Access Right of Way line of State Road 528 per Orlando Orange County Expressway Authority Right-of-Way Map, International Corporate Park Interchange; thence run North 89°33'17" West, along said existing south Limited Access Right of Way line and north line of said plat, a distance of 121.75 feet, to the northeast corner of Lot 3, for the Point of Beginning; thence run South 00°26'43" West, along the east line of said Lot 3, a distance of 27.77 feet; thence run South 82°58'53" West, along the east line of said Lot 3, a distance of 15.13 feet; thence run South 09°08'54" East, along the east line of said Lot 3, a distance of 167.55 feet; thence run South 09°06'44" East, along the east line of said Lot 3, a distance of 37.30 feet; thence run South 16°31'17" East, along the east line of said Lot 3, a distance of 16.30 feet; thence departing said east line, run North 89°33'17" West, a distance of 596.23 feet to the west line of said plat and said existing south Limited Access Right of Way line; thence run North 52°04'38" West, along said west line and said existing south Limited Access Right of Way line, a distance of 13.96 feet to a non-tangent curve concave to the southeast; thence run northeasterly along the arc of said curve, along said west line and said existing south Limited Access Right of Way line, having a radius of 639.49 feet, a central angle of 41°36'10", a chord length of 454.20 feet bearing North 58°43'23" East, an arc distance of 464.34 feet; thence run South 89°33'17" East, non-tangent to said curve and along the north line of said plat and said existing south Limited Access Right of Way line, a distance of 197.09 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 2.56 acres, more or less.

[continues on the next page]

Together, with

**Part B**

The following described property:

A parcel of land lying in Section 31 Township 23 South, Range 32 East, Orange County, Florida, being a portion of Lot 3 INTERNATIONAL CORPORATE PARK – PARCEL 10 according to

the plat thereof as recorded in Plat Book 67 at Page 56 of the Public Records of Orange County, Florida, being more particularly described as follows:

Commence at a 4"x4" concrete monument (PRM LB7153) marking the Northeast Corner of Tract 3 of said plat, lying on the existing south Limited Access Right of Way line of State Road 528 per Orlando Orange County Expressway Authority Right-of-Way Map, International Corporate Park Interchange; thence run North 89°33'17" West, along said existing south Limited Access Right of Way line and north line of said plat, a distance of 121.75 feet, to the northeast corner of Lot 3; thence run South 00°26'43" West, along the east line of said Lot 3, a distance of 27.77 feet; thence run South 82°58'53" West, along the east line of said Lot 3, a distance of 15.13 feet; thence run South 09°08'54" East, along the east line of said Lot 3, a distance of 167.55 feet; thence run South 09°06'44" East, along the east line of said Lot 3, a distance of 37.30 feet; thence run South 16°31'17" East, along the east line of said Lot 3, a distance of 16.30 feet; thence departing said east line, run North 89°33'17" West, a distance of 156.26 feet for the Point of Beginning; thence run South 00°26'43" West, a distance of 80.00 feet; thence run North 89°33'17" West, a distance of 462.60 feet to the west line of said plat and said existing south Limited Access Right of Way line; thence run North 30°44'53" East, along said west line and said existing south Limited Access Right of Way line, distance of 77.87 feet; thence run North 52°04'38" West, along said west line and said existing south Limited Access Right of Way line, distance of 20.99 feet; thence departing said existing south Limited Access Right of Way line, run South 89°33'17" East, a distance of 439.97 feet to the Point of Beginning.

Containing 0.81 acres, more or less.

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.

End of legal descriptions.

Aerial Photographs of the Rail Project Property – Parcel 108 Part A and Parcel 108 Part B appear on the next two pages.

(See attached)

# Aerial Photograph of Parcel 108 Part A



01/21/2022



# Aerial Photograph Parcel 108 Part B



01/21/2022

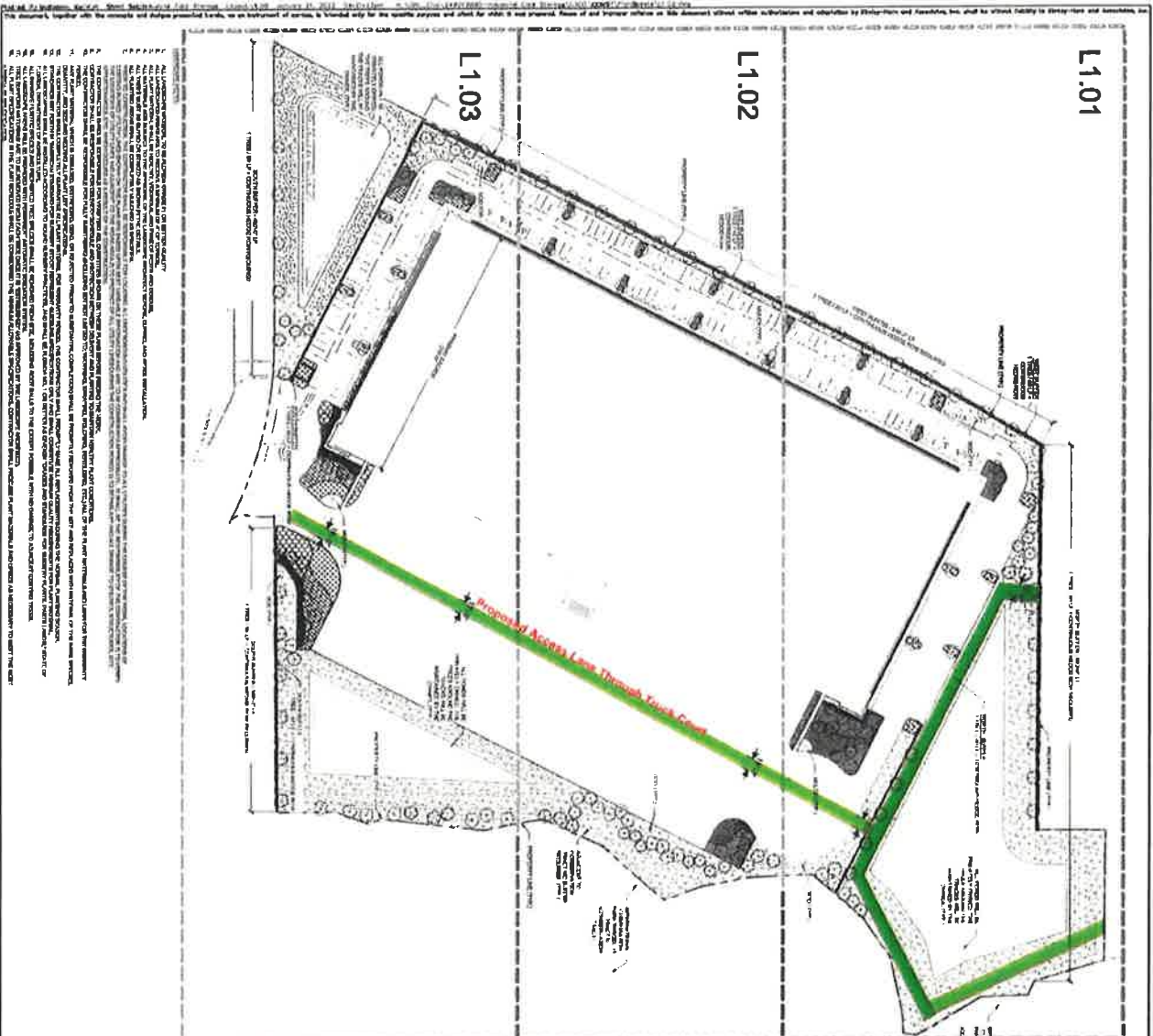


EXHIBIT "C"

Temporary Easement Area

(See attached)

Temporary Easement Area is shown in green in the attached drawing/sketch of Grantor's Property.



LANDSCAPE CALCULATIONS		REQUIRED	PROVIDED
PLANTING	...	...	...
...	...	...	...

NO.	SYMBOL	PLANT NAME	PLANT SIZE	PLANT TYPE	PLANT QUANTITY	PLANT NOTES
1	...	...	...	...	...	...
2	...	...	...	...	...	...
3	...	...	...	...	...	...
4	...	...	...	...	...	...
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49	...	...	...	...	...	...
50	...	...	...	...	...	...

September 21, 2022

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

**RE: DISPOSITION OF PROPERTY**

SR 528, Project 1240  
CFX Parcel 528-708 - Replacement Temporary 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 included in the Temporary Construction Easement as depicted in Exhibit A. In our opinion, we certify that this temporary construction easement is no longer essential for the operation of the CFX system and disposition of this parcel, subject to the replacement easement in favor of Brightline Trains Florida, LLC, and 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