

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
APPLICATION FOR UTILITY PERMIT**

CFX ROAD INFORMATION

Permit No.:	County:
CFX Road No.:	Nearest Cross Road:

APPLICANT INFORMATION

The Utility Agency/Owner (“UAO”) shall be identified in the Application for a Utility Permit (“Permit”). When the UAO desires to have a Utility Builder (“UB”) construct the proposed project, the UB and the UAO shall both be identified as applicants and shall be referred to collectively as “Applicant.” A UB alone cannot apply for a Permit without the UAO adding them as a joint applicant. A private individual or entity alone cannot apply for a Permit.

UTILITY AGENCY/OWNER Name:	
Name and Title of Contact Person:	
Address:	
City/State/Zip:	
Telephone:	
E-Mail:	

UTILITY BUILDER Name: (only applicable when the UAO is a City or County)	
Name and Title of Contact Person:	
Address:	
City/State/Zip:	
Telephone:	
Email:	

WORK DESCRIPTION

Type and Specifications of Utilities (Casing, conduit, overhead, etc.): _____ _____ _____
Utility Work Area and Final Utility Location: _____ _____ _____

Requested Term	Anticipated Start Date: _____	Calendar Days to Complete Work: _____
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ATTACHMENTS FROM APPLICANT

Failure to attach and label all required attachments will result in the application being deemed incomplete and denied.

- A. Precise Description of Final Utility Location/Utility Work Area and Plans
- B. Evidence of Insurance (e.g. Certificate of Insurance (COI))
- C. Other: _____

Attachment from CFX: Attachment D. Certificate from GEC

Based upon the above, the Applicant requests permission from Central Florida Expressway Authority (“CFX”) to enter upon real property that the UAO and UB represent is owned by CFX (“CFX’s Property”), for the limited purpose of constructing the proposed utilities in the area described in the Utility Work Area and Plans with a precise description of the Final Utility Location limited to the area delineated in **Attachment A**. The Applicant understands and acknowledges that,

without limiting anything contained herein or in any subsequent permit or amendment, by execution of this application for the Permit, Applicant hereby agrees to the terms and conditions of *Section 337.401, et. Seq.*, Florida Statutes ("F.S."), the 2017 edition of the Florida Department of Transportation Utility Accommodation Manual, as modified from time to time (the "UAM"), Part 8 of the CFX Property Acquisition, Disposition and Permitting Procedures Manual, as modified from time to time (the "CFX Permit Policy"), the Terms and Conditions attached hereto, and any Special Conditions set forth below.

UTILITY AGENCY/OWNER:

UTILITY BUILDER:

By signing below, I represent that I have the authority to bind the Utility Agency/Owner.

By signing below, I represent that I have the authority to bind the Utility Builder.

Signature: _____
Print Name: _____
Title: _____

Signature: _____
Print Name: _____
Title: _____

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Special Conditions: _____

In reliance upon the representations and commitments of Applicant, including the terms and conditions above, CFX approves the Application for a Utility Permit and grants to Applicant, and its employees and contractors, a temporary, non-exclusive right to enter the CFX's Property for the sole and limited purpose of Utility Work described in **Attachment A**, for the period

commencing on: _____ and expiring on: _____,
Start Date and Time End Date and Time

By: _____ Date: _____
Chief of Infrastructure

APPROVED AS TO FORM: _____ Date: _____
General Counsel /Deputy General Counsel

PERMIT CLOSEOUT INSPECTION (FOR CFX USE ONLY)

Describe any outstanding items: _____

Has the site restored? _____

Has CFX received the As-Built Documentation? _____

Inspected By: _____ Date: _____

Print Name: _____

TERMS AND CONDITIONS

Based upon the above, the Applicant requests permission from CFX to enter upon real property that the UAO represents is owned by CFX (“CFX’s Property”), for the limited purpose of constructing the proposed utilities in the area described in the Utility Work Area and Plans with a precise description of the Final Utility Location limited to the area delineated in **Attachment A** (“Work Area”), and, as a condition of approval, the Applicant agrees to the terms and conditions herein. The Applicant understands that, without limiting anything contained herein or in any subsequent permit, this application and any Permit granted by CFX shall be subject to the terms and conditions of *Section 337.401, et. Seq.*, of the Florida Statutes (“F.S.”), the 2017 edition of the Florida Department of Transportation Utility Accommodation Manual, as modified from time to time (the “UAM”), Part 8 of the CFX Property Acquisition, Disposition and Permitting Procedures Manual, as modified from time to time (the “CFX Permit Policy”), and these Terms and Conditions as follows:

1. The Applicant represents and warrants that the information contained in the application for Permit is true, correct, and complete.
2. **Photographs.** Unless otherwise waived in writing by CFX, upon initial entry onto CFX’s Property and prior to commencing any activity or work on CFX’s Property, the Applicant shall provide CFX with a minimum of six (6) photographs documenting the Work Area.
3. It is expressly stipulated that this Permit is a license for permissive use only and that the placing of utilities, wires, cables, pipes, or other structures or alterations upon CFX’s Property pursuant to this Permit shall not operate to create or vest any property right in the Applicant. The granting of this Permit does not modify an existing executed subordination agreement with CFX.
4. **General Utility Work Conditions.** The Applicant further agrees to the following conditions:
 - a. The Applicant shall or shall cause its agent to apply for and obtain all necessary permits, including permits issued by or through the Florida Department of Transportation, and comply with all applicable laws, rules, ordinances, regulations, and CFX criteria, policies, and procedures while working on CFX’s Property, including, without limitation, the UAM and Permit Policy.
 - b. Under no circumstances may the Applicant block any CFX roadway or operation or impede or restrict the normal current or future operation of CFX or its Expressway System, as defined in Section 348.752, F.S. without the prior written consent and approval from CFX.
 - c. Above-ground improvements are not allowed in CFX’s limited-access property except as expressly approved by CFX in writing and in advance of any such work.
 - d. All work, materials, and equipment located on CFX’s Property shall be subject to inspection and approval by CFX at any time. Without limiting the foregoing, CFX may require the Applicant to provide additional construction, engineering and inspection oversight services by a third-party engineer acceptable to CFX to ensure that the Utility Work is performed in compliance with UAM, CFX Permit Policy, this Permit, any applicable laws, CFX standards and these Terms and Conditions.
 - e. The Applicant shall take any and all action reasonably necessary to ensure that the Utility Work does not interfere with the property and rights of a prior applicant or permittee or an existing structure, facility, utility, improvement, or use.
 - f. In the event Applicant encounters any abnormal condition which may indicate the presence of a hazardous substance, toxic waste, or pollutants, the Applicant shall immediately cease the Utility Work and notify CFX. Abnormal conditions may include discolored earth or groundwater, visible fumes or smoke, abnormal odors, excessively hot soil or water, tanks or barrels, or other conditions which appear abnormal. CFX shall notify the Applicant of any suspension or revocation of the Permit to allow for contamination assessment and remediation. Said suspension or revocation shall remain in effect until otherwise notified by CFX.
 - g. If CFX reasonably determines that the Utility Work or any utility placed on CFX’s Property, in whole or in part, unreasonably interferes in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion of the Expressway System, the Applicant shall, upon receipt of oral or written notice, immediately alleviate the interference at no cost to CFX in accordance with the requirements of *Section 337.403, F.S.* As a condition for the issuance of this Permit, the Applicant understands and acknowledges that in the event of such interference, CFX may require, in CFX’s sole discretion, and the Applicant hereby agrees to perform, or cause to be performed, any of the following, at the sole cost and expense of the Applicant: (i) the removal or relocation of all structures, wires, cables, pipes, utilities, or other improvements within, under or over CFX’s

Property; (ii) immediate cessation of the Utility Work; (iii) restoration of CFX's Property; or (iv) such other work that alleviates interference. Such corrective action or cessation of activity must be completed within the time frame stated in the notice from CFX, unless otherwise mutually agreed upon by CFX and the Applicant. This provision shall not be limited by the General Conditions set forth in Section 5 below. This paragraph shall survive the termination or expiration of this Permit.

- h. The Applicant shall not install, operate or maintain any utility on or near a CFX structure, expressway or facility that: (a) creates a hazard to the public; (b) affects the integrity of the CFX structure, expressway, or facility; (c) unreasonably hinders inspection and maintenance operations of the CFX structure, expressway, or facility; (d) alters the aesthetics of CFX structures, expressways, or facilities placed in aesthetically sensitive environments; (e) damages any CFX structure's reinforcement or stressing ducts or strands; (f) attaches to CFX bridge girders; (g) resides inside a CFX box girder; (h) lowers the CFX structure's vertical clearance; (i) restricts the CFX structure's ability to expand and contract.

5. General Conditions

- a. The Applicant shall comply with all state, federal and local rules and regulations, as applicable to the permitted facilities and work performed pursuant to the Permit, which includes: any and all federal, state, and local laws, bylaws, ordinances, rules regulations, orders, permits, or decrees including environmental laws, rules, regulations, permits, the UAM and the CFX Permit Policy. When a CFX requirement is more stringent than those of other agencies, the Applicant shall comply with the CFX requirement.
- b. When a UB and UAO are joint utility permit applicants, the UB and UAO shall be severally liable such that the UB shall be required to comply with all the Permit requirements applicable to the construction of the city or county utilities, as applicable, and the city or county, or utility provider, shall be required to comply with Permit requirements post construction, including, but not limited to those applicable to operation and maintenance. The post-construction obligations of the city or county, as applicable, shall commence upon completion of final inspection by CFX. CFX shall provide the city or county, as applicable, with written notice of such date. The city or county, as applicable, shall be entitled to observe CFX's final inspection and shall inform CFX of any apparent failure to comply with the terms of the permit by the UB; provided, the final determination of compliance by the UB shall be made by CFX. This paragraph shall survive the termination or expiration of this Permit.
- c. In the case of non-compliance with CFX's requirements in effect as of the date the Permit is approved, the Permit shall immediately terminate upon oral or written notice from CFX and the Utility Work will have to be brought into compliance or removed from CFX's property at no cost to CFX within the timeframe requested by CFX. This provision shall not limit the authority of CFX pursuant to *Section 337.403, F.S.*, or any other law. In the event of failure to so comply within the specified time by CFX, CFX may restore CFX's Property and the Applicant shall be responsible for all removal and restoration costs. This paragraph shall survive the termination or expiration of this Permit.
- d. Damage to CFX. Pursuant to *Section 337.402, F.S.*, when any CFX's Property is damaged or impaired in any way because of the installation, inspection, or repair of a utility located on CFX's Property, the Applicant shall, at their own expense, restore CFX's Property to its original condition before such damage. If the Applicant fails to make such restoration, CFX is authorized to do so and charge the cost thereof against the Applicant under the provisions of *Section 337.404, F.S.* Pursuant to *Section 337.401(2), F.S.*, the Applicant is responsible for damage resulting from the issuance of the Permit. CFX may initiate injunctive or other legal proceedings to enforce provisions of this subsection. This section shall not be applied to damage or impairment shown in the Permit. This paragraph shall survive the termination or expiration of this Permit.
- e. When the operation of any CFX Expressway System property is damaged or impaired or loses revenue in any way because of or related to this Permit or the installation, inspection, or repair of a utility located on CFX's Property, the Applicant is responsible for all damage and lost revenue resulting therefrom. CFX may initiate injunctive or other legal proceedings to enforce the provisions of this subsection. However, said liability is limited to the requirements of *Section 768.28, F.S.* for any governmental agency. This paragraph shall survive the termination or expiration of this Permit.
- f. After the expiration of the term of this Permit, any entry onto CFX's Property requires a new application.

6. Special Conditions for Underground Activity

- a. As-Built Documentation. In the event permanent improvements are installed on CFX's Property, the Applicant shall provide As-Built documentation of the completed installation of Utility Work within ninety (90) days of completion of Utility Work. As-Built documentation shall include plans signed and sealed by a professional

engineer licensed in the State of Florida as well as GIS Inventory data outlined in section 612 *GIS Inventory* of the CFX ITS Specifications.

- b. Locator Services. In connection with retention of any locator services, the Applicant shall register with the applicable Florida One Call agency per *Chapter 556, F.S.* The Applicant, at its expense, will be responsible for performing utility locates for its improvements within CFX's right-of-way on behalf of any party needing such locates, to protect the systems from accidental cuts and dig-ups. Prior to performing a utility locate, the Applicant shall coordinate with CFX staff listed below, and arrange a mutually convenient time for the utility locate in the presence of CFX. The Applicant understands and agrees that accidental cuts and dig-ups may occur causing damage to its improvements, and that the Applicant is solely responsible for repairing such damage. No liability shall be imposed upon CFX attributable to mislocation of any improvement by any locator service. No liability shall be imposed upon CFX for any damage to improvements in, on, under or over CFX's Property, unless directly caused by the sole negligence of CFX. This paragraph shall survive the termination or expiration of this Permit.

7. Coordination. The Utility Work shall be coordinated with CFX prior to the initiation of the activity. Coordination with CFX shall be accomplished through contact via email and cooperation with:

<u>Name/Title</u>	<u>Email</u>	<u>Telephone No.</u>
Bryce Rainey, CFX Sr. Roadway Inspector	Bryce.Rainey@CFXWay.com	407-893-0172

and _____

at least 72 hours in advance to assist in locating the existing CFX roadway lighting lines, fiber optic network lines, and any other underground improvements and to confirm no on-going maintenance in the area.

8. Restoration of Site; Final Site Inspection. The Applicant shall be responsible for any and all costs related to the Utility Work, including, but not limited to, installation, operation and removal and restoration of equipment on CFX's Property. At the Applicant's sole cost and expense, the Applicant shall remove from CFX's Property all materials generated during its activities within CFX's Property and the Applicant shall be fully responsible for the proper disposal of such materials in accordance with applicable laws, rules, ordinances and regulations. Additionally, the Applicant agrees to promptly repair any and all damage to CFX's Property caused by the Utility Work with specific attention to surface sod, concrete, and asphalt. Restoration of CFX's Property shall be equal or superior to its present condition as nearly as may reasonably be possible. Upon completion of the Utility Work, including restoration, the Applicant shall contact CFX staff listed above, who shall inspect the CFX's Property and, if satisfied, issue a notice of satisfaction, which notice may be transmitted by electronic mail. Failure to obtain said notice of satisfaction may result in pursuit by CFX against the Applicant, its contractors or agents for damages and costs associated with proper restoration of CFX's Property. In the event of failure to restore CFX's Property within the specified time, CFX may restore CFX's Property and the Applicant shall be responsible for all removal and restoration costs. This paragraph shall survive the termination or expiration of this Permit.

9. Indemnification. Unless specifically prohibited or limited by statute, the Applicant shall indemnify, defend and hold CFX (which used herein includes CFX and its past, present and future employees, officers and Board members and any of their successors and assigns) harmless and shall cause its contractors and agents to indemnify, defend and hold CFX harmless from and against any and all lawsuits, actions, proceedings claims, demands, losses, costs, expenses, fines, fees (including attorneys' fees at the trial or appellate level), judgments, liabilities, damages, injuries (including death) which arise from or may be related to the Utility Work or this Permit, or the privileges granted thereby, including but not limited to construction, maintenance, use, or occupancy of CFX's Property or ingress and egress to or from CFX's Property, either directly or indirectly, and are caused in whole or in part by the acts, omissions or negligence of the Applicant or its employees, contractors, or agents, excepting only those claims arising from the sole negligence of CFX, its officials, or employees. Legal counsel provided to CFX must be acceptable to CFX. This obligation to indemnify and defend CFX includes, but is not limited to, any cost or expense to CFX due to delay caused by the Applicant to a CFX contractor. However, said indemnification as applied to the UAO as a governmental agency is limited to that allowed by law. This paragraph shall survive the termination or expiration of this Permit.

10. Sovereign Immunity. Nothing contained in this Permit shall be construed as a waiver or attempt at a waiver by CFX or any UAO, if said UAO is a governmental agency, of its sovereign immunity under the Constitution, the Florida Statutes, and laws of the State of Florida. This paragraph shall survive the termination or expiration of this Permit.

11. Insurance Requirements. Except as otherwise waived by CFX in writing, the Applicant shall provide, pay for and maintain in full force and effect insurance outlined below for coverage at not less than the prescribed minimum limits of liability, covering the activities of the Applicant and those of any and all subcontractors (including officers, employees or agents of each and their successors). All insurance shall be provided through companies authorized to do business in the State of Florida and considered acceptable by CFX. Compliance with the insurance requirements below

shall not relieve or limit the Applicant's liabilities and obligations under this Permit. Failure of CFX to demand such certificate or evidence of full compliance with these insurance requirements or failure of CFX to identify a deficiency from evidence provided will not be construed as a waiver of the obligation to maintain such insurance. The acceptance of delivery by CFX of any certificate of insurance or endorsement evidencing the required coverage and limits does not constitute approval or agreement by CFX that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

a. The Applicant shall require all insurance policies in any way related to the Utility Work to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against CFX. The Applicant shall require sub-contractors, by appropriate written agreements, to include similar waivers each in favor of all parties enumerated in this section. When required by the insurer, or should a policy condition not permit an endorsement, the Applicant agrees to notify the insurer and obtain an endorsement for a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. **All insurance coverage required of the Applicant shall be primary over any insurance or self-insurance program carried by CFX.**

b. The Applicant, at Applicant's expense, shall provide evidence of all required coverages by providing CFX a certificate of insurance and any applicable endorsements, setting out the current limits of its Commercial General Liability, Business Automotive Liability, and Worker's Compensation Coverage insurances. Unless otherwise waived in writing by CFX, the Applicant shall, at a minimum, provide the following coverages:

i. Commercial General Liability: Shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. CFX shall be listed as an additional insured utilizing an endorsement Form. The policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the Applicant, and its employees, contractors, agents and sub-contractors.

ii. Business Automobile Liability: Shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. In the event the Applicant does not own automobiles, the Applicant shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy. CFX shall be listed as an additional insured utilizing an endorsement Form. The policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the Applicant, and its employees, contractors, agents and sub-contractors.

iii. Workers' Compensation Coverage: Workers' Compensation and Employer's Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer's Liability insurance shall be provided in amounts not less than \$100,000 per accident for bodily injury by accident, \$100,000 per employee for bodily injury by disease, and \$500,000 minimum policy coverage by disease. The policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the Applicant, and its employees, contractors, agents and sub-contractors.

iv. **CHECK ALL APPLICABLE ADDITIONAL INSURANCE REQUIREMENTS**

_____ Railroad Insurance, as set forth in the attached Addendum, if applicable, is required if the Work Area encompasses any part of a railroad track or facility.

_____ Pollution Legal/Environmental Liability Insurance (CPL), as set forth in the attached Addendum, if applicable, is required for any activities involving or related to hazardous waste.

_____ Excess or Umbrella Coverage in the amount of \$ _____ is required if the cost of the Utility Work or the potential impact to CFX is greater than the CGL coverage.

c. No later than thirty (30) days prior to the expiration of the Certificate of Insurance, the Applicant shall provide CFX with a renewed Certificate of Insurance.

d. If requested by CFX in writing, the Applicant shall provide performance and payment bonds with penal sums in the full contract value of the Utility Work. CFX shall be named as an obligee, or the performance and payment bonds shall include a dual obligee rider, naming CFX as an obligee. The performance and payment bonds, along with all riders, modifications, and so forth, shall be in forms satisfactory to CFX.

12. Assumption of Risk; Release. The Applicant, on behalf of its employees, contractors, and agents, assumes the risk associated with any activities arising out of this Permit or on or around CFX's Property. The Applicant, on behalf of itself, its employees, contractors, and agents, hereby releases CFX, its officials, officers, employees, contractors and agents from any and all liability, loss, claims, damages, costs and expenses of any nature in connection with any injury

or damage to any person or any real or personal property which the Applicant and its employees, contractors, or agents may suffer or incur in connection with the Utility Work or this Permit. This paragraph shall survive the termination or expiration of this Permit.

13. Reservation of Rights. CFX expressly reserves all rights to pursue any claims it may have against the Applicant, its employees, contractors or agents for damages, violations, contributions and indemnity, or for any other losses which may have been caused by the Applicant, its employees, contractors, or agents within CFX's Property. In the event that the Applicant fails to comply with the terms of this Permit, CFX has the right to immediately terminate the Permit upon oral or written notice. This paragraph shall survive the termination or expiration of this Permit.
14. Governing Law. All parties agree that this Permit and the contents thereof are to be interpreted and enforced pursuant to the laws of the State of Florida. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Permit or any provision hereof shall be instituted and maintained only in the courts of Orange County, Florida. This paragraph shall survive the termination or expiration of the term of this Permit.
15. Notice. Except as otherwise provided herein, all written notices required to be delivered to the Applicant or CFX shall be delivered via certified mail return receipt requested to the respective parties at the following addresses: (a) with respect to the Applicant, to the address provided on page 1; and (b) with respect to CFX, to CENTRAL FLORIDA EXPRESSWAY AUTHORITY, 4974 ORL Tower Road, Orlando, FL 32807-1684, Attention: Chief of Infrastructure, with a copy to the same address, but to the Attention of CFX's General Counsel. This paragraph shall survive the termination or expiration of this Permit.
16. Authorized Signatories. The Applicant represents and warrants that the person signing below is duly authorized to sign this Application for Permit to which the Applicant and its employees, contractors, and agents will be duly bound.
17. Termination. This Permit is terminable at will by the CFX. Unless terminated sooner, this Permit expires upon the earlier of: (a) the termination date; (b) completion of Utility Work, including restoration; (c) expiration of the required insurance, unless a renewal of the insurance certificate is provided prior to said expiration ; or (d) written or oral notice by CFX. Upon such termination, CFX may require the Applicant to remove any utilities at Applicant's sole cost and expense.
18. Assignment. This Permit may not be assigned without the written consent of CFX.
19. Recording. The Parties agree that neither this Permit nor any memorandum or notice of the same shall be recorded in the Official Records of Orange County, Florida or any other County in the State of Florida.
20. Counterparts and Digital Signatures. This Permit may be executed in multiple counterparts, including by electronic or digital signatures in compliance with *Chapter 668, F.S.*, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement.
21. Eligibility. The Applicant warrants that it has fulfilled all of the terms and conditions in prior CFX permits, including the delivery of as-built construction plans. If the Applicant has not fulfilled all of the requirements of a prior CFX permit, the Applicant will not be eligible to apply for a new permit. Upon satisfaction of all of a prior or existing permit's terms and conditions, the Applicant will become eligible to apply for a new permit.
22. Expiration due to Inactivity. In the event the Applicant fails to respond to requests for additional information within sixty (60) days, the permit application shall automatically expire.
23. Cost of Unauthorized Lane Closures; Damage. The cost of a lane closure without CFX's prior written approval is \$1,000 per minute per lane. In the event of an unauthorized lane closure, CFX shall provide the Applicant an invoice detailing the time, date, location and duration of the unauthorized lane closure and the fee for such closure. The Applicant agrees to pay CFX the cost of any unauthorized lane closure within thirty (30) days of an invoice from CFX. When any CFX's Property is damaged or impaired in any way because of the activities arising from or related to this Permit, the Applicant shall, at their own expense, restore CFX's Property to its original condition before such damage. If the Applicant fails to make such restoration, CFX is authorized to do so and charge the cost thereof against the Applicant. This paragraph shall survive the termination or expiration of this Permit.