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**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**PROPERTY ACQUISITION, DISPOSITION  
& PERMITTING PROCEDURES MANUAL**

**2023**

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## I. PURPOSE

The Central Florida Expressway Authority (“CFX”) Property Acquisition, Disposition and Permitting Policy (hereinafter referred to as the “Policy”) was adopted to provide governing policies to CFX employees, consultants and the Right of Way Committee for purposes of:

- (i) obtaining necessary rights of way, easements and other property rights for roadway improvement projects and other projects for which CFX may be authorized to acquire such property rights;
- (ii) disposing of property rights deemed available for disposal by CFX; and
- (iii) managing and authorizing uses of CFX properties, such as leases, licenses or temporary right of entries.

The Policy provides delegated authority to the Executive Director with the assistance of the General Counsel and Chief of Infrastructure to adopt procedures to conduct the daily operations of CFX regarding property acquisition, disposition, and management of CFX property. The procedures contained in this Property Acquisition, Disposition and Permitting Procedures Manual (“Manual”) are to carry out those duties and responsibilities that have been delegated by the CFX Board.

## II. PROPERTY ACQUISITION PROCEDURES

This section provides an outline of the property acquisition process as it relates to CFX’s property acquisition program. The outline is not meant to be an all-encompassing description of the responsibilities and duties; rather it is meant as a general guide to the process.

- A. **Identification of Parcels.** CFX staff shall identify all property interests and ownership of property interests needed to construct, improve, maintain, operate or expand CFX’s Expressway System. The General Counsel’s office and acquisition coordinator shall develop a master list of parcels to be acquired, identified by parcel number, and shall provide the list to CFX’s Records Custodian. The list shall be revised from time to time to reflect changes in the parcels that are to be acquired.
- B. **Right of Way Determinations.** The following shall be prepared or obtained for CFX, if available:

1. Maps depicting preferred corridors and/or routes;
2. Right of Way maps;
3. Parcel sketches;
4. Legal description of parcels to be acquired;
5. Property interest(s) to be acquired; and
6. Project background reports and data.

**C. Title, Ownership, and Tenant Information.** Right of Way Legal Counsel, upon the direction of the General Counsel, is responsible for securing title search and title information. Upon commencement of property acquisition activities, the General Counsel's office will oversee:

1. The provision of maps, plans, legal descriptions and parcel sketches, and the obtaining of updated title information for the parcels in the project area;
2. Development of a list of property owners by parcel number; and
3. Identification of parcels that may be appropriate for Early Acquisition (hereinafter defined) and/or acquisition as total takes through negotiation or eminent domain and the commencement of negotiations.

**D. Appraisal of the Proposed Property.** Valuations of the proposed property to be acquired may be established through an appraisal or any other form of determination of value as acceptable to the Right of Way Committee and Executive Director in accordance with Article III hereof.

**E. Early Acquisition.** Notwithstanding anything to the contrary contained in this Manual, the Right of Way Committee may recommend, subject to approval by the CFX Board, acquiring property in advance of completing its acquisition procedures ("Early Acquisition"), provided that any negotiated purchase price of the property obtained is based on a reasonable determination of the fair market value of the property in accordance with Article III hereof. In determining whether Early Acquisition is appropriate with respect to any such property, the Right of Way Committee and CFX Board may consider, without limitation, savings and planning efficiencies which result from the Early Acquisition, any efforts to develop or improve the property, any proposed or pending sale of the property, any potential business damage claims, or any other circumstance that establishes that Early Acquisition of the property is in the best interest of CFX.

- F. Negotiations Prior to Eminent Domain Proceedings.** In accordance with Florida law, each property owner should be given full information as to the acquisition, the necessity of the proposed improvement and the potential impact of the improvement on the subject parcel. CFX may seek donation of right of way where appropriate or may negotiate property exchanges or non-monetary consideration for acquisition of property interests. If during the course of negotiations, certain factors or conditions concerning the property were not known or not evident at the time of valuation, then proper consideration and weight should be given to these factors, and said factors should be brought to the attention of the Right of Way Committee, which may request a reappraisal of the property or may authorize an administrative settlement or agreement based on the facts submitted by the negotiator.

Property acquisition negotiations may be conducted by the General Counsel, acquisition coordinator, or Right of Way Legal Counsel, under the supervision of the General Counsel's office. Staff or consultant negotiators may be assigned to specific parcels, depending on the perceived complexity of the negotiations, number of parcels involved in the assignment, and other factors as appropriate. It is CFX's practice to use best efforts to resolve the acquisition of any property through direct negotiations with property owners and without the use of condemnation proceedings. The Executive Director is authorized to execute purchase agreements, and the closing documents required to effectuate the closing set forth in the purchase agreement, for property with a purchase price of \$50,000 or less, exclusive of closing costs, without obtaining the recommendation of the Right of Way Committee or CFX Board.

- G. Documentation of Negotiations.** The negotiator shall maintain accurate, written records of all negotiations, including:

1. Persons contacted;
2. Potential settlement terms discussed with landowners before and after any first written offer;
3. Written offers and counteroffers;
4. Results of the discussions;
5. Appraisal and review appraisal, if applicable;
6. Any other data pertinent to the negotiation and settlement of the parcel; and
7. Copies of written contact records shall be maintained in the negotiators working file, in chronological order, so that the negotiation process can be readily reviewed throughout the acquisition program.

**H. Condemnation Proceedings.**

1. Compliance with Florida Statutes. Before initiating a condemnation action as to any property interest, Right of Way Legal Counsel shall consult with the General Counsel's office and Right of Way Committee and shall act in accordance with Chapters 73 and 74, Florida Statutes.
2. Initial Offers. The Executive Director and General Counsel shall have the authority to make initial offers of compensation in any amount on behalf of CFX and may extend any terms necessary to obtain a Stipulated Order of Taking of the property to be acquired. Right of Way Legal Counsel, in consultation with the General Counsel, may make an initial offer up to the higher of (i) 25% in excess of the appraised value or (2) the amount set forth in the Florida Department of Transportation's Right of Way Manual.
3. Settlement Agreements. Right of Way Legal Counsel, with oversight from the General Counsel's office, is responsible for negotiating settlement agreements achieved after the filing of eminent domain proceedings and will be responsible for securing approvals of such settlements from the CFX Board. Prior to approval by the CFX Board, Right of Way Legal Counsel shall present any negotiated settlements to the Right of Way Committee for their recommendations and review. If a settlement agreement cannot be reached, the Right of Way Legal Counsel, at the direction of the General Counsel, will be responsible for obtaining a final verdict as to compensation to be paid for the property interests to be acquired.
4. Authorization of Executive Director. In accordance with the Policy, the Executive Director is authorized to execute settlement agreements for property with a purchase price of \$50,000 or less, exclusive of closing costs, without obtaining the recommendation of the Right of Way Committee or CFX Board.

**I. Settlement Justification.** Any proposed negotiated purchase or settlement agreement shall be presented to the Right of Way Committee for consideration and recommendation to the CFX Board. The CFX Board provides final approval. All proposed acquisition settlements shall include a settlement memorandum which will document the basis for the settlement and include the appraised value of the property interest.

**J. Settlements and Closings.** Upon reaching a negotiated settlement with the property owner in the form of a signed agreement, the negotiator will:

1. Provide a statement of justification for the settlement and a recommendation to accept or reject the agreement to the Executive Director, Right of Way Committee and/or CFX Board, as required; and
2. Upon final approval of the settlement agreement, submit the agreement to the Executive Director for execution reflecting final approval by CFX.

Closing services shall be performed by the Right of Way Legal Counsel or title agent who shall be responsible for recording of the executed deed and other documents. The Right of Way Legal Counsel shall provide copies of the closing statement, deed, title insurance policy and other pertinent closing documents to CFX's Records Custodian.

**K. Advance Acquisition.** It is expressly found and declared by CFX that, in certain circumstances, it is necessary and appropriate for CFX to obtain or acquire right of way or other property interests prior to the time that funding for a CFX authorized project is finalized ("Advance Acquisition"). The CFX Board may authorize obtaining property in advance of funding for a CFX project being finalized, provided that as a part of the review of opportunities for advance acquisition of rights of way and property interests, CFX staff shall prepare an analysis of potential funding sources, both public and private, to defray all costs of such advance acquisition pending total funding for the applicable project. Appraisals shall be conducted in accordance with Article III hereof.

1. Determination of Advance Acquisition. In determining whether Advance Acquisition is appropriate, the Right of Way Committee and CFX shall consider, at a minimum, the following factors:
  - a. The likelihood that property values in a proposed project route will substantially appreciate prior to the anticipated date for construction and that savings will result from a program for Advance Acquisition;
  - b. Savings and planning efficiencies which would result from Advance Acquisition in conjunction with other CFX projects and/or coordination with planning or improvement projects by other governmental agencies;
  - c. The potential for future development within a proposed project corridor or area which would conflict with or impede a proposed project;
  - d. Environmental considerations which may support advance acquisition of right of way;



- e. The availability of additional and alternative funding sources for advance right of way acquisition, including, without limitation, the commitments of financial support and/or right of way donations by other governmental bodies or private entities;
  - f. The necessity to acquire additional property and/or right of way to preserve availability of previously acquired or donated rights and/or rights of way;
  - g. Other financial savings and logistical benefits achieved by advance acquisition of right of way;
  - h. The impact, if any, of acquiring rights of way not in accordance with guidelines from the Federal Highway Administration or other applicable federal agency and the necessity, if applicable, of obtaining a waiver to any such guidelines; and
  - i. Express authorizations by law or agreement for acquisition of property interests in advance of CFX funding of a related expressway project.
- 2. Requirements of Purchase Agreement. If applicable, a proposed purchase agreement shall contain provisions that (i) funding has not been completed for the subject project and that the contract is subject to funding by a CFX bond issue or other applicable sources, (ii) the design and location of any contemplated or proposed roadway systems or access scenarios are not guaranteed unless otherwise expressly provided; and (iii) CFX shall be released from any other claims by the landowner relating to the property acquisition and/or the applicable project, including, without limitation, claims for loss of access, air, light or view or other severance, business and consequential damages.
  - 3. Use of Consultants. Right of Way Counsel, with the supervision of General Counsel's office, shall be authorized to employ such consultants as may be required to assist in the acquisition process, subject to the requirements hereof. Such consultants may include, but are not limited to, appraisers, engineers, land planners, market consultants or others who may be required to testify as expert witnesses in required judicial proceedings.

### III. APPRAISALS

- A. **Appraisal Report.** Except as otherwise set forth herein, CFX staff, through its consultants, shall order an appraisal of any property interests estimated to be valued at over \$100,000. CFX may rely on alternative appraisal methods, including a good

faith estimate by a qualified agent or letter appraisal for property interests valued at or less than \$100,000. All appraisals used in the acquisition of property rights shall reflect the fair market value of the property or rights to be acquired, including any severance damages, less special benefits accruing to the property and shall be certified to CFX. Appraisals shall be prepared by qualified appraisers and shall conform to the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Standards Board of the Appraisal Foundation and certified to CFX. Where deemed appropriate by the CFX General Counsel, CFX may agree upon a single CFX/landowner appraiser to perform the appraisal or may accept an appraisal prepared by a landowner by a CFX approved appraiser. Notwithstanding the foregoing, CFX shall not be required to obtain an appraisal, or review appraisal, for any property interest transferred or conveyed to CFX through a donation, vacation or jurisdictional transfer.

- B. Appraisal Review.** Except as otherwise set forth herein, any appraisal report prepared on behalf of, or for the benefit of, CFX with a valuation of over \$250,000 shall be reviewed and certified by a qualified review appraiser for conformance with the Uniform Standards of Professional Appraisal Practice, to assure that all compensable items have been included in the appraisal report and to confirm the completeness and accuracy of the appraisal, including, without limitation, mathematical calculations.

#### **IV. PROPERTY MANAGEMENT**

- A. Inventory and Inspection.** CFX staff or consultants will inspect the property and coordinate post-acquisition maintenance and/or disposition of buildings and personal property acquired and shall maintain records documenting same.
- B. Interim Use/Extended Possession.** In certain instances, CFX may acquire a property in advance of the construction schedule and may authorize an interim use of the property. All interim uses shall be considered for approval by the Executive Director, or for recommendation for approval by the Right of Way Committee and approval by the CFX Board in accordance with the Policy.
- C. Repairs and Maintenance.** As required, CFX may authorize contractors to clear properties, mow and clean, affect building repairs, board and secure vacant structures, and undertake other ongoing maintenance activities as may be dictated. Properties will be maintained in a safe and secure manner.
- D. Sale of Improvements.** Sale of improvements for removal or salvage may be authorized when it is in the best interest of CFX to affect such a sale, and when project schedules permit such actions. Sale of improvements will be conducted in compliance with CFX's policies, Florida law and appropriate bond documents related to the expressway project.

## V. DISPOSITION OF SURPLUS PROPERTY

- A. Purpose and Authorization.** CFX may, from time to time, determine that certain properties are no longer needed for the operation of its Expressway System. CFX is authorized under Part III of Chapter 348, Florida Statutes, to implement all necessary policies and procedures incident to the creation and maintenance of the Expressway System, including the disposition of excess real property unnecessary or unsuitable for CFX's use.
- B. Declaration of Surplus Property.** The CFX Board, upon a recommendation from the Right of Way Committee and CFX staff in consultation with the General Engineering Consultant ("GEC"), may determine that any real property, of any monetary value, located outside of the current operating Right of Way limits of the Expressway System that is not currently needed to support the existing Expressway System, as determined by CFX staff, is no longer essential for present or future construction, operation or maintenance of the Expressway System or for essential CFX purposes. A determination that such property interest is no longer essential shall be made by the CFX Board designating such property as surplus property ("Surplus Property").
- C. Disposition of Surplus Property.** CFX may dispose of Surplus Property by selling it or exchanging it with private entities or persons. CFX may sell, exchange or grant less than a fee simple interest in Surplus Property. A declaration by the CFX Board that property is surplus property does not require CFX to dispose of the Surplus Property. CFX may dispose of Surplus Property through any of the following means:
1. Public Sale. Except as otherwise set forth herein, CFX will engage in a public sale utilizing either bid or proposal procedures as established by the Executive Director when the value of the Surplus Property is above \$50,000. Such procedures shall include notification procedures, a minimum value as determined by the appraisal, and any procedures for the disposition of Surplus Property if the minimum bid is not received via a public sale. A public sale is not required if the sale may occur through other means listed below.
  2. Negotiated Sale. CFX may engage in a negotiated sale of Surplus Property to a prospective purchaser for any Surplus Property determined to be valued at or below \$50,000, exclusive of transactional costs. Negotiated sales shall be entered into in writing using a sales contract as approved by the General Counsel's Office and subject to approval by the CFX Board after review by the Right of Way Committee. Any negotiated sales contract shall include provisions requiring the buyer to pay for all transactional costs associated with the sale, including the retention of any appraisers or experts, if applicable.

3. Inequitable Sale. CFX may engage in an inequitable sale of Surplus Property to an adjacent affected property owner by a negotiated sale, regardless of price, if the sale of Surplus Property to another property owner would unfairly or unjustly impact the adjacent affected owner. If more than one adjacent property owner desires to purchase the property, it shall be sold by a public sale.
4. Public Interest Sale. CFX may engage in a public interest sale, regardless of price, if the Surplus Property is being sold or transferred to any governmental agency, public or quasi-public agency or a charitable or other non-profit organization which submits a written request for the sale, transfer or exchange of a property interest in CFX Surplus Property for a stated public purpose. With any such Surplus Property with an established appraised value in excess of \$50,000, the sale, transfer or exchange of such Surplus Property to a governmental entity applicant is subject to the recommendation of approval from the Right of Way Committee and approval by the CFX Board.
5. Jurisdictional Transfer. CFX may engage in a jurisdictional transfer or exchange of Surplus Property between CFX and a federal, state or local governmental agency, regardless of price, to ensure that the applicable governmental agency is the sole owner of any federal, state or local roadways or public improvements or facilities that are impacted, designed or constructed as part of a CFX project, and CFX is the owner of any roadways or public improvements that are part of the Expressway System. In the event any CFX project impacts a federal, state or local roadway or public facility, CFX staff may negotiate to acquire, dispose of, or exchange the real properties necessary to complete the project. At the completion of the construction of the project, CFX will coordinate with, and enter into a jurisdictional transfer agreement with the federal, state or local governmental agency transferring all property for federal, state or local roadways or public improvements or facilities to the federal, state or local governmental agency and all property for the Expressway System to CFX. Appraisals are not required for a jurisdictional transfer.
6. Exchange of Property. If a prospective purchaser of Surplus Property, other than a public interest sale or jurisdictional transfer set forth above, wishes to exchange a parcel of real property which has value to CFX (the "Exchange Property") with a private party, CFX may take title to the Exchange Property in exchange for the Surplus Property, provided the CFX Board determines that acceptance of such Exchange Property is in the best interest of CFX and the public. Factors considered in such determination may include, without limitation, whether the Exchange Property is

contiguous to a current or planned Expressway System or whether the Exchanged Property would serve an important function for CFX.

If the CFX Board determines Surplus Property may be exchanged for Exchange Property, the exchange may be an equal exchange or, if the Exchange Property is worth less than the Surplus Property, the prospective purchaser shall pay the difference between the appraised value of the Exchange Property and the appraised value of the Surplus Property. If the Surplus Property is to be exchanged with a public entity or for a public purpose as a public interest sale, the CFX Board may agree to waive the appraisal requirement or waive payment of the differential if deemed appropriate under all of the circumstances.

- D. Valuation of Surplus Property.** Valuations of Surplus Property may be established through an appraisal or any other form of determination of value as acceptable to the Right of Way Committee and Executive Director. For properties valued at over \$250,000, an appraisal and a review appraisal shall be required; provided, however, valuations are not required for jurisdictional transfers regardless of value.
- E. Dispositions by Executive Director.** In accordance with the Policy, the Executive Director is authorized to execute sale agreements, and the closing documents required to effectuate the closing set forth in the sale agreement, for property with a purchase price of \$50,000 or less, exclusive of closing costs, without obtaining the recommendation of the Right of Way Committee or CFX Board.
- F. Public Sale.** In order to sell Surplus Property by public sale, CFX shall utilize either the bid or proposal procedures set forth below:

  - 1. Bid Procedure.

    - a. CFX shall advertise the sale, including at a minimum an advertisement in a newspaper of general circulation in the area where the property is located, and shall post the advertisement on CFX's website. The advertisement shall state the date, time and place of the proposed auction, bid due date, bid opening or other method of buyer and price selection. The advertisement shall briefly describe the property, the minimum bid amount, and the location of where to obtain additional information. The advertisement shall run in the newspaper at least one (1) day, which must occur at least fourteen (14) calendar days prior to the date of the public sale. At the election of CFX, more notice may be afforded, but not less. CFX shall reserve the right to reject any or all bids, to request and consider additional information from any bidder and to waive minor irregularities and technical defects in any bid.

- b. The public sale shall be held at CFX offices or such other place designated by CFX.
- c. The public sale shall be in sealed bid, auction format, or such other method determined by CFX and shall be conducted by a designated representative of CFX.
- d. CFX, may at its option, establish a minimum bid amount of not less than the appraised value of the property; however, the Right of Way Committee may make a recommendation, subject to CFX Board approval, that a lower bid be accepted in the event the minimum bid is not obtained pursuant to a public sale.
- e. Upon CFX's notice of the successful bid, the successful bidder shall be required to place a deposit in the amount of ten percent (10%) of the purchase price (the "Deposit") in an escrow account designated by CFX within five (5) business days after such notice. The Deposit shall be refundable pursuant to the terms of CFX's standard written contract only in the event CFX does not proceed to execute and/or close on a contract for sale of the subject property or, if after executing the contract, the purchaser determines within the inspection period not to proceed with the purchase of the property. Full payment of the purchase price shall be made to CFX at closing in either a cashier's check, money order, or other non-cancelable instrument.

2. Proposal Procedure.

- a. CFX may solicit proposals ("Request for Proposals") for the sale and purchase of CFX property. CFX shall advertise the Request for Proposals, including at a minimum an advertisement in a newspaper of general circulation in the area where the property is located and shall post the advertisement on CFX's website. The advertisement shall briefly describe the property and where to obtain additional information. The advertisement shall run in the newspaper at least one (1) day, which must occur at least fourteen (14) calendar days prior to the date the proposals are due. At the election of CFX, more notice may be afforded, but not less.
- b. The Request for Proposals shall constitute an invitation to submit offers to purchase and does not constitute an offer by CFX to sell any property. All sales are subject to approval and execution by the CFX Board of a written contract materially in CFX's standard form. CFX shall reserve the right to negotiate modifications to any offer that it deems acceptable, to reject any or all offers, to request and consider additional information from any submitter, and to waive

minor irregularities and technical defects in any proposal. CFX shall reserve the right to seek new proposals or offers when it determines that it is in its best interest to do so. CFX also reserves the right not to pursue sales of any specific properties identified in the Request for Proposals.

- c. The proposals shall be opened on a date specified in the Request for Proposals at CFX offices, or such other place designated by CFX, by a designated representative of CFX. CFX shall respond to all proposals by a date specified in the Request for Proposals. Upon CFX's notice of acceptance of an offer, the potential buyer shall be required to place a deposit in the amount of ten percent (10%) of the purchase price (the "Deposit") in an escrow account designated by CFX within five (5) business days after such notice. The Deposit shall be refundable pursuant to the terms of CFX's standard written contract only in the event CFX does not proceed to execute and/or close on a contract for sale of the subject property or, if after executing the contract, the purchaser determines within the inspection period not to proceed with the purchase of the property. Full payment of the purchase price shall be made to CFX at closing in either a cashier's check, money order, or other non-cancelable instrument.
  - d. As a condition precedent to CFX's obligation to sell any property listed in a Request for Proposal, all proposals to purchase such property will be subject to an appraisal to confirm that the offer is a reasonable market offer. The appraisal shall be paid for by the buyer of the property and shall be prepared by an appraiser acceptable to CFX.
  - e. Any successful proposer shall enter into CFX's standard written contract. Should a successful proposer fail to enter into CFX's standard written contract within the time specified in the Request for Proposal, or CFX's standard written contract, then the proposer shall be deemed to have abandoned the proposal and CFX may, but shall not be obligated to, pursue a transaction with any other potential proposers.
3. Confidentiality of Bids or Proposals. All potential bidders and proposers are placed on notice that CFX is a public agency and is subject to Chapter 119, Florida Statutes, regarding the disclosure of public records. Pursuant to Section 119.071(1)(b), Florida Statutes, sealed bids or proposals received by CFX are exempt from public disclosure until such time as CFX provides notice of an intended decision or until thirty (30) days after the bids or proposals are opened, whichever is earlier, at which time all bids or proposals received by CFX shall be made available to the public for



inspection and copying in accordance with Chapter 119, Florida Statutes. Any language in a bid or proposal attempting to keep all or part of such bid or proposal confidential is of no force and effect and will be disregarded as contrary to Florida law.

4. Closing. Closing for the sale of all Surplus Property shall occur at either CFX offices, at the office of Right of Way Legal Counsel, or at such other agreed upon location. Closing shall occur as provided in CFX's standard written contract. All funds from the sale of Surplus Property shall be deposited into CFX's General Revenue Fund account.
5. Conveyance of Title. Title to the Surplus Property shall be conveyed by a special warranty deed or quit claim deed, "as-is" and "where-is", without abutters' right to the Expressway System, subject to all matters of record and any matters set forth in the purchase and sale contract executed between CFX and the purchaser. CFX will execute an owner's affidavit for title insurance purposes if requested by the purchaser. If any structures are located on the Surplus Property, the purchaser shall receive a radon gas disclosure form which shall be executed by the purchaser. If the purchaser fails to purchase the property as provided in CFX's standard written contract, the purchaser shall forfeit the Deposit and CFX may proceed to sell the Surplus Property to other parties. Unless otherwise specifically agreed by CFX, no deed conveying surplus property shall be deemed to waive or release any limited-access line and the deed shall expressly state that CFX is not conveying or restoring any other abutter's rights including, without limitation, any claims for air, light and view between the Surplus Property conveyed, any abutting property and CFX's property.
6. Costs of Sale. At the sale of any property hereunder, the purchaser shall pay all costs associated with the closing, including, but not limited to the following:
  - a. Appraisal and review appraisal costs;
  - b. Recording the deed and any closing documents;
  - c. Title insurance (if provided under a CFX Sales Agreement);
  - d. Prorated ad valorem taxes, if any;
  - e. All survey and due diligence costs;
  - f. Preparation of a sketch of description;
  - g. Advertising for the public sale;



- h. All costs relating to buyers financing, if any;
- i. All costs of broker, attorneys or other consultants or contractors retained by the buyer; and
- j. All other costs specified under CFX's standard written contract.

## **VI. ACQUISITION AND DISPOSITION RECORDS AND FILE MAINTENANCE**

- A. Records to be Maintained.** In accordance with Chapter 119, Florida Statutes, files documenting property acquisition and disposition shall be established and maintained at CFX headquarters. Individual files for each parcel should be established by assigned parcel number. Original documents pertaining to property acquisition and disposition are to be included in the parcel file when available.
- B. Delivery of Acquisition and Disposition Records.** Right of Way Legal Counsel shall deliver the complete parcel file to CFX's Records Custodian no later than six (6) months from the date of final parcel activity. This deadline may be extended as necessary by General Counsel's office upon written request.

## **VII. OTHER PROPERTY INTERESTS**

The Executive Director and General Counsel are responsible for conducting the daily operations, management and maintenance of CFX property by CFX and third-party users.

### **A. Limited Access Lines.**

- 1. Determination of Impact of Release If an affected landowner or other third-party desires the release or partial release of any limited-access line rights held by CFX, the requesting party shall submit such request in writing to the Executive Director or their designee. The requesting party shall also provide such surveys, plans, title reports or other information as may be reasonably requested by CFX to determine the nature and purpose of the proposed release. Upon receipt of any such request, CFX staff and the GEC shall review the request and the applicable limited-access line, or portion thereof, to determine whether the release would (i) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of any portion of the Expressway System, (ii) otherwise impair traffic operations or public safety, or (iii) be prohibited by or conflict with any other laws, regulations, requirements, covenants or agreements binding upon CFX. If it is determined that the release would not result in any of the foregoing negative effects, CFX may, in its discretion, release the limited access line, or portion thereof.

2. Valuation Process. CFX shall obtain an appraisal of the release of limited access lines in accordance with the provisions governing Surplus Property. CFX staff and the Right of Way Committee may, in determining the proper consideration to be paid for the release or partial release of any limited-access line, consider not only the appraisal but also the price paid, or obligations incurred, by CFX in originally obtaining the limited-access line rights as well as such other facts and circumstances as deemed relevant by CFX. In the event the release of limited access lines is a part of a jurisdictional transfer or if the limited access lines will be re-established in the immediate area, an appraisal is not required.
3. Release of Claims. Any release of a limited access line shall be embodied in a written agreement approved by the General Counsel and Executive Director and shall be made without warranty or representation by CFX and shall be accepted "as is" by the applicant. Without limiting anything herein, CFX may release or partially release a limited-access line in exchange for the reestablishment of the limited access lines, other property, agreements or consideration by the applicant or other parties other than the payment of money. CFX may also release limited access lines in connection with the settlement of litigation.

**B. Easements.** CFX recognizes that there will be situations where CFX needs to purchase or acquire less than fee simple interest in property and an easement interest would suffice for the project needs. Further, there are situations where CFX may be willing to grant an easement interest over real property to a third-party user. In the event CFX is acquiring a perpetual easement interest in property or an easement interest with a value over \$50,000, CFX shall follow the acquisition requirements set forth in Article II above; provided, however, a separate independent appraisal shall not be required if the easement interest is assessed as part of, or as a condition of, the fee simple transfer or as part of the appraisal of the fee simple property. In the event CFX is granting a perpetual easement interest in property, CFX shall follow the dispositions requirements set forth in Article V above. Notwithstanding the foregoing, in the event CFX is acquiring from, or granting to, a third-party user an easement interest in property on either a temporary basis of one (1) year or less or whose value is less than \$50,000, the Executive Director is delegated the authority to enter into such easement agreements without the review of the Right of Way Committee or approval of the CFX Board.

**C. Licenses and Leases.** CFX recognizes that there will be situations where CFX needs to purchase or acquire less than fee simple interest in property and a license or lease interest would suffice for the project needs. Further there are situations where CFX may be willing to grant a license or lease interest over real property to a third-party user. In the event CFX is acquiring a license or lease in property over one (1) year or for a value greater than \$50,000, CFX shall follow the acquisition requirements set forth in Article II above; provided, however, a separate independent appraisal shall not be required if the lease or license is assessed as part

of, or as a condition of, the fee simple transfer or as part of the appraisal of the fee simple property. In the event CFX is granting a license or lease in property over one (1) year or for a value greater than \$50,000, CFX shall obtain an appraisal in accordance with the requirements set forth in Article V above. Notwithstanding the foregoing, in the event CFX is acquiring from, or granting to, a third-party user a license or lease in property on either a temporary basis of one (1) year or less or whose value is less than \$50,000, the Executive Director, in accordance with the Policy, is delegated the authority to enter into such license or lease without the review of the Right of Way Committee or approval of the CFX Board.

**D. Utility Permits.** CFX recognizes that there may be situations when there is a need for a utility agency or owner (“UAO”) to cross the Expressway System to install or adjust a utility line or utility facility. In order to minimize the impact to CFX’s Expressway System, approval of requests for utility crossings should be limited to circumstances when there are no other alternative routes or crossings for the UAO, as determined by CFX, in its sole discretion. Where possible and to minimize the impact to CFX’s Expressway System, utility crossings should occur within existing local road crossings over or under the Expressway System.

1. Adoption of FDOT Utility Accommodation Manual. CFX adopts, as minimum requirements for the issuance of a utility permit, Rule 14-46.001 of the Florida Administrative Code and the Florida Department of Transportation’s 2017 Utility Accommodation Manual (2017) (“UAM”), as they may be amended, replacing references to “FDOT” with “CFX.” The Executive Director shall adopt and impose such additional procedures and requirements that waive any of the UAM requirements or otherwise provide for the review and approval of requests from UAOs to install utilities within CFX’s property in a manner that will be in the best interest of CFX and that will further the safety and the protection of CFX’s Expressway System, including its operation, utilization, and future development, with due consideration given to public service afforded by adequate and economical utility installations.
2. Procedures and Requirements. In determining whether to approve a permit for a utility crossing (“Utility Permit”), the procedures and requirements below must be followed.
  - a. The UAO shall be identified in the Application for a Utility Permit. When the UAO is a County or City and desires to have the Utility Builder be a joint permit applicant, the Utility Builder shall also be identified as an applicant. A Utility Builder alone cannot apply for a utility permit without a UAO adding them as a joint applicant.
  - b. Utilities On or Near CFX Structures, Expressways, or Facilities. The UAO shall not install, operate or maintain any utility on or near a CFX structure, expressway or facility that does any of the following:

- i. Creates a hazard to the public;
  - ii. Affects the integrity of any CFX structure, expressway, or facility;
  - iii. Unreasonably hinders inspection and maintenance operations of any CFX structure, expressway, or facility;
  - iv. Alters the aesthetics of CFX structures, expressways, or facilities placed in aesthetically sensitive environments;
  - v. Damages any CFX structure's reinforcement or stressing ducts or strands;
  - vi. Attaches to CFX bridge girders;
  - vii. Resides inside a CFX box girder;
  - viii. Lowers any CFX structure's vertical clearance; or
  - ix. Restricts any CFX structure's ability to expand and contract.
- c. Longitudinal Utilities. The UAO may install, operate and maintain lines and associated appurtenances longitudinally within CFX's limited-access property that exclusively serve CFX. The UAO shall not install any other longitudinal utility lines unless an alternative is approved in accordance herewith.
- d. New Crossings. In expanding areas adjacent to CFX's limited-access property, the UAO shall design and install utilities to eliminate or minimize the need for crossing CFX's limited-access property. The UAO shall use commercially reasonable efforts to ensure the proposed utilities are located as perpendicular to CFX's limited-access property as possible. The UAO shall not cross CFX's limited-access property when other options are available within reasonable distances as determined by CFX's staff and GEC.
- e. The UAO shall perform all construction and maintenance outside CFX's limited-access property and CFX's limited-access line unless specifically addressed and approved in the Utility Permit.
- f. Above-ground improvements are not allowed in CFX's limited access property. Above-ground improvements are not allowed in CFX's non-limited-access property unless specifically addressed and approved in the Utility Permit.

- g. CFX's staff and GEC shall review and analyze the UAO's request and permit application for the following:
  - i. Compliance with all of CFX's policies and requirements;
  - ii. Compliance with the requirements of the UAM and Rule 14-46.001, Florida Administrative Code; and
  - iii. Impacts to the following:
    - (a) Public safety;
    - (b) CFX's current Master Plan and Five-Year Work Plan;
    - (c) CFX's construction projects;
    - (d) CFX's safety improvement projects;
    - (e) CFX's maintenance activities;
    - (f) CFX's scenic enhancement projects;
    - (g) CFX's landscaped vegetation;
    - (h) Trees within CFX's right-of-way;
    - (i) Local events and activities;
    - (j) Easements and agreements;
    - (k) Placement of future utilities; and
    - (l) Over-dimensional vehicle permits.
- 3. Applications for Utility Permits that do not comply with the above requirements shall not be approved. Request for waivers may not be approved by CFX staff.
- 4. Any entry onto CFX property after the term of the Utility Permit expires requires a new application.
- 5. Delegation of Authority. If the proposed application for a utility permit is consistent with this Manual, CFX's Chief of Infrastructure is delegated the authority to execute and issue a CFX utility permit with the General Counsel's approval.
- 6. Unreasonable Hardship. In the event that compliance with the prohibition against longitudinal lines would create an unreasonable hardship, the UAO may submit information to CFX establishing that:
  - a. All of the alternatives have been explored; and
  - b. Compliance with this requirement would create an unreasonable hardship for the UAO, and the UAO's design alternative would not unreasonably interfere with the safety, operation, maintenance, future improvement, or expansion of CFX's Expressway System.

The fact that the alternative is less costly will not be determinative of whether the alternative is approved. Economic concerns do not rise to the level of a hardship. Difficulties or delays in obtaining permission from another entity, such as a local government, do not rise to the level of an unreasonable hardship and such alternatives shall be presumed to be viable alternatives for the UAO.

In the event that CFX's staff and GEC determine that the UAO has satisfied the above requirements and all of the other requirements for a Utility Permit, the Chief of Infrastructure with General Counsel's approval may present the UAO's request for a waiver of the prohibition on longitudinal lines to the Right of Way Committee for review and recommendation to the CFX Board. If the Committee recommends approval, then the request may be considered by the CFX Board. The UAO's request for a waiver does not extend to the other requirements in this Manual.

**E. Temporary Right of Entry.** CFX recognizes that certain third parties may need, from time to time, a temporary right of entry ("TROE") to enter upon CFX properties for a variety of purposes.

1. Procedures and Requirements. Before a TROE may be granted, the following procedures and requirements must be met.
  - a. The Applicant shall be identified in the Application for a TROE.
  - b. The Applicant shall not do any of the following:
    - i. Create a hazard to the public;
    - ii. Unreasonably hinder CFX's operations or the operation of CFX's Expressway System;
    - iii. Adversely affect the aesthetics of CFX's Expressway System;
    - iv. Damage any property owned by CFX.
  - c. The Applicant shall perform all activities outside CFX's limited-access property and CFX's limited-access line unless specifically addressed and approved in the TROE.
  - d. Permanent structures, appurtenances, or improvements are not allowed under a TROE.

- e. CFX's staff and GEC shall review and analyze the Application for a TROE for the following:
  - i. Compliance with all of CFX's policies, requirements, rules, and regulations;
  - ii. Impacts to the following:
    - (a) Public safety;
    - (b) CFX's current Master Plan and Five-Year Work Plan;
    - (c) CFX's construction projects;
    - (d) CFX's safety improvement projects;
    - (e) CFX's maintenance activities;
    - (f) CFX's scenic enhancement projects;
    - (g) CFX's landscaped vegetation;
    - (h) Trees within CFX's right-of-way;
    - (i) Local events and activities;
    - (j) Easements and agreements;
    - (k) Placement of future utilities; and
    - (l) Over-dimensional vehicle permits.

- 2. Delegation of Authority. If the applicant for the TROE has fulfilled all of the requirements of CFX's procedures and timely and properly submitted an application with all requisite documentation, then CFX's Chief of Infrastructure is delegated the authority to issue a CFX TROE with the General Counsel's approval.

- F. **Certificate of GEC**. Prior to approving an easement, license, lease, utility permit, TROE, or release or reestablishment of limited access lines ("Property Interest"), CFX's staff shall obtain from the GEC a certificate addressing whether (i) the conveyance or grant of the proposed Property Interest would impede or restrict the operation of the Expressway System, (ii) materially affects or interferes with the present or future construction, use, operation, repair or maintenance of any portion of the Expressway System, (iii) otherwise impairs traffic operations or public safety, or (iv) be prohibited by or conflict with any other laws, regulations, requirements, covenants or agreements binding upon CFX.

## VIII. WAIVER OF MANUAL

Notwithstanding the provisions in this Manual, upon recommendation of the General Counsel, and where deemed in the best interest of CFX and the public, the Executive Director may waive any of the procedures for acquisition, disposition or management of CFX property contained in this Manual, provided that such waiver shall not be in conflict with the Policy, or any applicable state



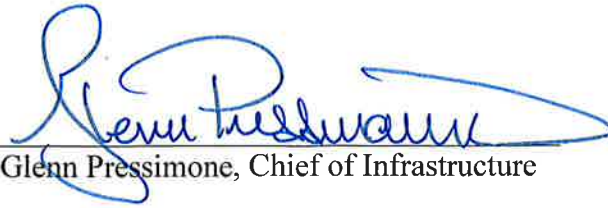
or federal laws. Such waiver of any of the procedures in this Manual shall be stated with specificity in any memorandum submitted to Executive Director for approval of the item.

## **IX. DELEGATION**

CFX's Executive Director, Chief of Infrastructure or General Counsel may delegate the routine day-to-day functions and responsibilities of the property acquisition and disposition process to CFX staff or consultants, subject to oversight by the individual delegating the authority. Any authority or responsibility specifically attributed to the Executive Director, the Chief of Infrastructure, or the General Counsel implicitly extends to anyone that the employee has explicitly delegated it to.



Reviewed by:

  
Glenn Pressimone, Chief of Infrastructure

Date:

5/17/2023

Reviewed by:

  
Diego "Woody" Rodriguez, General Counsel

Date:

5/17/2023

Approved by:

  
Michelle Maikisch, Executive Director

Date:

5/17/2023