

# CFX CODE OF POLICIES

## Chapter 13: Real Property

### EFFECTIVE DATES

Art.	Title	Resolution No.	Approval Date
1	Property Acquisition, Disposition, and Permitting Policy	2024-442	September 12, 2024

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# ARTICLE 1: PROPERTY ACQUISITION, DISPOSITION, AND PERMITTING POLICY

Resolution No. 2024-442

Approval Date: September 12, 2024

## Division I: General Provisions

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### Section 13.1 Title

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The provisions of this Article shall be known and cited as the “**Property Acquisition, Disposition, and Permitting Policy**”.

### Section 13.2 Authority

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- 13.2.1 Section 348.759, Florida Statutes, authorizes the Central Florida Expressway Authority (“**CFX**”) to acquire private or public property and property rights by gift, devise, purchase, or condemnation by eminent domain proceedings, as CFX deems necessary for any of the purposes of Chapter 348, Part III, Florida Statutes.
- 13.2.2 Section 348.754(2)(j), Florida Statutes, grants the power of eminent domain to CFX, including the procedural powers granted under both Chapters 73 and 74, Florida Statutes.
- 13.2.3 Section 348.754(2)(c), Florida Statutes, authorizes CFX to acquire, purchase, hold, lease as lessee, and use any franchise or property, real, personal, or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out CFX's purposes and to sell, lease as lessor, transfer, and dispose of any property or interest therein at any time acquired by it.

### Section 13.3 Statement of Policy

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- 13.3.1 The Governing Board (“**Board**”) of CFX hereby adopts this Property Acquisition, Disposition, and Permitting Policy with the intent of providing governing policies to CFX employees, consultants, and the Right of Way Committee (“**ROW Committee**”) for purposes of acquisition, disposition, use, and management of real property interests by CFX.
- 13.3.2 This policy is intended for use when CFX is the acquiring or disposing agency, except in such circumstances where such activities by CFX are otherwise required by rule, regulation, or law to be governed otherwise.
- 13.3.3 The Executive Director and General Counsel may delegate the routine day-to-day functions and responsibilities herein delegated to them to staff or consultants, subject to oversight by the individual delegating the responsibility. Any responsibility specifically attributed to the Executive Director or the General Counsel implicitly extends to anyone that the individual delegating authority has explicitly delegated it to.
- 13.3.4 Nothing in this policy shall be construed as restricting or placing any conditions or limitations on the Board’s authority to approve any conveyance of a real property interest by or to CFX should the Board determine that such conveyance would be in the best interest of CFX.

## **Section 13.4 Real Property Procedures Manual**

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- 13.4.1 The Executive Director shall, with the assistance of the Chief of Infrastructure and General Counsel and in a manner consistent with this policy, develop, maintain, review, and, when prudent or necessary, revise the Real Property Procedures Manual, which shall be annually reviewed and approved by the Executive Director in consult with General Counsel.
- 13.4.2 Such Real Property Procedures Manual shall include, at minimum, procedures setting forth:
- (A) The guidelines staff shall use to identify, negotiate, and acquire any real property interests, as discussed in **Division II: Real Property** Acquisition of this Article below; and
  - (B) The process staff shall follow to dispose of surplus property, as discussed in **Division III: Real Property** Disposition of this Article below.

## **Division II: Real Property Acquisition**

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### **Section 13.5 General Acquisition Guidelines**

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- 13.5.1 CFX shall acquire any real property interest (e.g., fee-simple, easement, etc.) deemed to be necessary for an authorized public purpose.
- 13.5.2 It is hereby the policy of the Board that:
- (A) If acquisition of any real property interest by CFX would leave an impacted property owner with an uneconomic remnant, CFX shall consider acquisition of the entire property.
  - (B) Every property owner shall receive full, just, and adequate compensation for their property, or any real property interest acquired by CFX therein, in accordance with the laws of the State of Florida.
  - (C) CFX shall attempt to negotiate in good faith to obtain a voluntary purchase from property owners, which may include providing non-monetary consideration as compensation for the property interests acquired.

### **Section 13.6 Board Oversight**

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- 13.6.1 Unless otherwise expressly provided by the Board, the Board has sole and final responsibility for all decisions related to the acquisition of real property interests and authorization of eminent domain proceedings.
- 13.6.2 More specifically, the Board shall approve and/or authorize the following:
- (A) Approval of preferred alternative/alignment pursuant to Project Development and Environment studies;
  - (B) Approval and adoption of Resolutions of Necessity; and
  - (C) Initiation of eminent domain proceedings.

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**Section 13.7 Right of Way Committee Oversight**

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- 13.7.1 The ROW Committee, as established through its Board-approved charter, shall perform such duties as outlined in its charter and this policy.
- 13.7.2 Unless otherwise expressly provided by the Board, any acquisitions of real property interest by CFX shall be reviewed by the ROW Committee and approved by the Board prior to execution by the Executive Director.

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**Section 13.8 Duties and Responsibilities of Executive Director**

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- 13.8.1 Approvals of real property interest acquisitions by the Board will confer upon the Executive Director the authority to execute, on behalf of CFX, any documents reasonably required to effectuate such acquisitions (e.g., purchase and sale agreement, closing documents, easements, licenses, and evidence of any consents, waivers, addendums, etc.).
- 13.8.2 **Limited Delegation to Executive Director**
- (A) In addition to the settlement authority delegated in **Section 13.12: Post Resolution of Necessity Settlements** below, the Board hereby delegates to the Executive Director the authority to, without seeking review by the ROW Committee or Board approval:
    - (1) Approve acquisitions of real property interests where the global amount (i.e., inclusive of all fees and costs) of the acquisition does not exceed \$500,000.00, so long as such global acquisition amount is no more than 125% of the established value of the real property interest being acquired; and
    - (2) Execute, on behalf of CFX, any documents reasonably required to effectuate such acquisitions (e.g., purchase and sale agreement, closing documents, easements, licenses, and evidence of any consents, waivers, addendums, etc.).
  - (B) For the purposes of this Subsection, the “established value” of a real property interest shall be determined as provided in the Real Property Procedures Manual.
  - (C) Such delegated authority shall be exercised in accordance with this policy and the Real Property Procedures Manual.

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**Section 13.9 Duties and Responsibilities of General Counsel**

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- 13.9.1 General Counsel is responsible for advising and supporting the Board and the Executive Director in the execution of their duties, including the supervision of all outside counsel, the acquisition coordinator, and other consultants retained by CFX for acquisition of any real property interest by CFX.
- 13.9.2 General Counsel shall provide counsel on any proposed settlements and mediations and advise the Board and Executive Director on compliance with any applicable state and federal laws.

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**Section 13.10 Use of Consultants**

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- 13.10.1 CFX may retain the services of and utilize consultants necessary to carry out the various real property acquisition services as required by the complexity and magnitude of the property

acquisition program (e.g., outside legal counsel services, land planning services, appraisal services, title services, acquisition coordinator services, etc.).

- 13.10.2 Such consultants shall provide CFX with the necessary expertise at a reasonable cost and shall be selected in accordance with the Board's most recently adopted Procurement Policy.
- 13.10.3 General Counsel may confer with the ROW Committee from time to time to determine what type of consultant services are required to accomplish right of way and real property acquisition services.

#### **Section 13.11 Settlements and Offers**

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- 13.11.1 Contingent offers and/or contingent settlements of compensation in any amount may be made, approved, and executed on behalf of CFX by either the Executive Director or the designee thereof or General Counsel or the designee thereof, so long as there is joint concurrence between both such individuals regarding any such offer or settlement. Any such contingent offer or contingent settlement shall include a provision providing that such offer or settlement is contingent upon ROW Committee review and Board approval.
- 13.11.2 Offers and/or settlements made within any authority herein delegated to the Executive Director shall not require ROW Committee review or Board approval and are therefore not required to be contingent.

#### **Section 13.12 Post Resolution of Necessity Settlements**

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- 13.12.1 **Limited Delegation of Authority.** Once the Board has approved and adopted a Resolution of Necessity regarding a particular property or real property interest therein, the Executive Director is hereby delegated the authority to, without seeking or requiring review by the ROW Committee or Board approval:
  - (A) Approve settlements for the acquisition of real property interests where the total global amount (i.e., inclusive of all fees and costs) of the acquisition does not exceed \$500,000.00, regardless as to the value reflected in the most current CFX-obtained appraisal.
  - (B) Execute, on behalf of CFX, any documents reasonably required to effectuate such settlements and related acquisitions (e.g., purchase and sale agreement, closing documents, easements, licenses, and evidence of any consents, waivers, addendums, etc.).
- 13.12.2 Global settlements that do not meet the criteria provided in **Subsection 13.12.1** above and any settlements that are not global in nature shall require prior ROW Committee review and Board approval, after which the Executive Director shall be authorized to execute all related documents.
- 13.12.3 Nothing in this Section shall be construed as preventing the Executive Director or their designee from bringing a settlement within the authority granted herein before the ROW Committee for review and/or the Board for approval should, using their discretion, the Executive Director or their designee, with consult of the General Counsel, determine that so-doing would be in the best interest of CFX.



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### **Section 13.13 Real Property Acquisition Transaction Reports**

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- 13.13.1 The Executive Director or designee thereof shall, on a no-less-than quarterly basis and in a manner compliant with the Real Property Procedures Manual, submit a report to both the ROW Committee and Board reflecting all finalized real estate acquisition transactions.

### **Division III: Real Property Disposition**

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#### **Section 13.14 Determination of Surplus Real Property**

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- 13.14.1 CFX may, from time to time, determine that certain real property is no longer needed for the operation of its facilities.
- 13.14.2 The Board may determine that any real property located outside of the current operating right of way limits of the Expressway System not currently needed to support the existing Expressway System is no longer essential for present or future construction, operation, or maintenance of the Expressway System or for essential CFX purposes and thereafter declare such real property to be surplus real property.

#### **Section 13.15 Disposition of Surplus Real Property**

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- 13.15.1 CFX may dispose of surplus real property by selling it or exchanging it with private or public entities or persons in accordance with the procedures established in accordance with both CFX's Amended and Restated Master Bond Resolution and the Real Property Procedures Manual.

### **Division IV: Other Real Property Interests**

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#### **Section 13.16 Less Than Fee-Simple Interests**

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- 13.16.1 The Board recognizes that there will be circumstances where another person or entity seeks to acquire, grant, or reserve certain "less than fee-simple" (e.g., easements, leases, releases, etc.) real property interests in CFX's property.
- 13.16.2 The Board may periodically convey "less than fee-simple" interests in CFX-owned real property to private or public parties if such conveyances are in accordance with both CFX's Amended and Restated Master Bond Resolution and the Real Property Procedures Manual.

#### **Section 13.17 Limited Delegation of Authority**

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- 13.17.1 The Executive Director, or the designee thereof, is hereby delegated the authority to, without seeking or requiring review by the ROW Committee or Board approval, approve and execute conveyances and documents related to such conveyances of any such "less than fee-simple" real property interest, whether temporary or permanent in nature, to or from private or public parties so long as:
- (A) The established value, as determined in accordance with **Subsection 13.8.2(B)** above, of any such "less than fee-simple" property interest conveyed does not exceed the Informal

Procurement Threshold, as set and adjusted in accordance with the Board's most recently adopted Procurement Policy;

- (B) If a temporary property interest, the duration of such interest does not exceed one year; and
- (C) Such conveyance is in the best interest of the public in accordance with CFX's Amended and Restated Master Bond Resolution and the Real Property Procedures Manual.

## **Division V: Permits and Licenses**

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### **Section 13.18 Access and Use Permits/Licenses**

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#### **13.18.1 Permits/Licenses Issued by CFX**

- (A) The Board recognizes that there will be circumstances where another person or entity seeks to access, enter, or otherwise be present on or maintain a permitted presence on real property owned by CFX with permission but without obtaining a real property interest in such CFX-owned property.
- (B) **Delegation of Authority**
  - (1) The Executive Director and the Chief of Infrastructure are hereby each individually delegated the authority to, without seeking or requiring review by the ROW Committee or Board approval, approve and execute permits, licenses, and other related documents granting public or private persons or entities permission to use, access, enter, or otherwise be present on or maintain a presence on CFX-owned property. Such delegation of authority includes without limitation the approval and execution of temporary rights of entry and utility permits.
  - (2) The Executive Director and the Chief of Infrastructure may each delegate the authority granted to them in this Section to a designee, subject to oversight by the individual delegating such authority.

#### **13.18.2 Permits/Licenses Issued to CFX**

- (A) The Board recognizes that there will be circumstances where CFX will need to access, enter, or otherwise be present on or maintain a presence on real property owned by another person or entity with permission and without obtaining a real property interest in such real property.
- (B) **Limited Delegation of Authority**
  - (1) The Executive Director and the Chief of Infrastructure are hereby each individually delegated the authority to, without seeking or requiring review by the ROW Committee or Board approval, approve and execute applications, permits, licenses, agreements, and related documents required to access, enter, or otherwise be present or maintain a presence on real property owned by another person or entity so long as the total cost associated with such application, permit, license, and/or agreement does not exceed the Informal Procurement Threshold, as set and adjusted in accordance with the Board's most recently adopted Procurement Policy.

- (2) The Executive Director and the Chief of Infrastructure may each delegate the authority granted to them in this Section to a designee, subject to oversight by the individual delegating such authority.

### **Section 13.19 Regulatory Permits**

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13.19.1 The Board recognizes that there will be circumstances where CFX will need permission from a regulatory agency (e.g., the Army Corps of Engineers, the Environmental Protection Agency, the Florida Department of Environmental Protection, applicable water management districts, etc.) to complete a certain task, objective, or project.

#### **13.19.2 Limited Delegation of Authority**

- (A) The Executive Director and the Chief of Infrastructure are hereby each individually delegated the authority to, without seeking or requiring review by the ROW Committee or Board approval, approve and execute applications and related documents required to request and obtain any such permissions or permits required by any applicable regulatory authority, regardless of the cost associated with such application and/or related documents.
- (B) The Executive Director and the Chief of Infrastructure may each delegate the authority granted to them in this Section to a designee, subject to oversight by the individual delegating such authority.