



Orange County Government

Orange County
Administration Center
201 S Rosalind Ave.
Orlando, FL 32802-1393

Legislation Text

File #: 25-228, **Version:** 1

Interoffice Memorandum

DATE: January 23, 2025

TO: Mayor Jerry L. Demings and County Commissioners

THROUGH: N/A

FROM: Joseph C. Kunkel, P.E., Director, Public Works Department

CONTACT: Brian R. Sanders, Manager

PHONE: (407) 836-8022

DIVISION: Transportation Planning Division

ACTION REQUESTED:

Approval and execution of Agreement between Orange County, Florida and Central Florida Expressway Authority regarding the westerly extension of New Independence Parkway. District 1.
(Transportation Planning Division)

PROJECT: N/A

PURPOSE:

The Public Works Department is completing review of the final design, engineering, and permitting for the New Independence Parkway Extension westerly from Avalon Road (CR 545) to the Lake County line pursuant to the Town Center West (Silverleaf) Road Network Agreement ("Silverleaf Agreement") approved by the Board on September 1, 2020. Lake County has their portion of Wellness Way (the name for New Independence Roadway in Lake County) from US 27 to the Orange County line currently under construction, and, together with Orange County's project, will complete an important east-west connection in south Lake and west Orange Counties connecting US 27 to SR 429.

While the roadway project is currently a delivery obligation of a private party, scheduling is largely dependent on available funding based on the pace of development activity within certain portions of the Horizon West Town Center. The design, engineering, and permitting and right of way phases are complete; however, the project will be funding constrained. Over the past several months, staff have worked with the developer to put together a funding package predicated on amendments to several public-private partnership agreements that would allow the County to assist in accelerating the New

Independence Parkway Extension project.

While a specific County contribution and funding agreement is still being finalized, Orange County and the Central Florida Expressway Authority (CFX) have negotiated the Agreement between Orange County, Florida and Central Florida Expressway Regarding the westerly extension of New Independence Parkway ("Agreement") to provide for an additional contribution by CFX for the purpose of accelerating construction of New Independence Parkway which mutually benefits both agencies, serves a public purpose as a feeder road, and is consistent with CFX's bond covenants. Upon approval of a road construction contract and confirmation that certain requirements under the Silverleaf Agreement have been satisfied, CFX has agreed to pay Orange County \$2,500,000 as a grant contribution towards the New Independence Parkway Extension.

The County Attorney's Office, Risk Management Division and Transportation Planning Division have reviewed the Agreement as to form and found it acceptable.

BUDGET: N/A

BCC Mtg. Date: February 11, 2025

Prepared by:
Andrew Mai, Esquire
Orange County Attorney's Office
P.O. Box 1393
Orlando, FL 32802-1393

**AGREEMENT BETWEEN ORANGE COUNTY, FLORIDA AND
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
REGARDING THE WESTERLY EXTENSION OF
NEW INDEPENDENCE PARKWAY**

THIS AGREEMENT (the "**Agreement**"), effective as of the latest day of execution (the "**Effective Date**"), is entered into by and between **ORANGE COUNTY**, a charter county and political subdivision of the state of Florida, whose mailing address is P.O. Box 1393, Orlando, Florida 32802-1393 ("**County**"), and **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body politic and corporate and an agency of the state, under the laws of the State of Florida, whose mailing address is 4974 ORL Tower Road, Orlando, Florida 32807 ("**CFX**").

RECITALS

WHEREAS, a portion of a County roadway known as New Independence Parkway currently extends a short distance west of CR 545/Avalon Road in western Orange County; and

WHEREAS, County has acquired title to the right-of-way to accommodate the westerly extension of New Independence Parkway to the Lake County line (the "**Extension**"); and

WHEREAS, attached as Exhibit "A" is an aerial photo depicting the alignment of the Extension; and

WHEREAS, County desires to complete construction of the Extension as a functionally classified County road and pursuant to a public-private partnership with Hamlin Partners at Silverleaf, LLC as Constructing Owner in accordance with the Silverleaf Road Network Agreement as originally entered into between County and Jen Florida 36, LLC, a Florida limited

liability company, approved by the County on September 1, 2020 and recorded at Doc #20200467436, as thereafter amended (collectively the “**Silverleaf Road Agreement**”); and

WHEREAS, CFX and County agree that the Extension will serve a public purpose and is necessary; and

WHEREAS, CFX is willing to contribute a portion of the cost of the Extension to accelerate construction of the Extension and increase traffic flow to SR 429; and

WHEREAS, the Extension meets the definition of a Feeder Road under applicable CFX bond covenants and CFX is willing to partner with County to complete the Extension; and

WHEREAS, CFX and County now desire to set forth certain terms and conditions related to the above referenced partial CFX funding of the Extension construction.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the receipt and sufficiency of which is hereby acknowledged, County and CFX agree as follows:

Section 1. Recitals. The above recitals are true and correct, and are incorporated herein by this reference.

Section 2. Extension Design and Construction. The Extension shall be designed, engineered, permitted, and constructed pursuant to the provisions of the Silverleaf Road Agreement requiring County approved final construction plans, permits, the final construction contract, approval of the general contractor and inspection and payment procedures, all as more fully set forth in the Silverleaf Road Agreement. Upon completion of construction, approval of all inspections by County and acceptance by County for maintenance, the Extension shall constitute a public roadway.

Section 3. CFX Contribution. Promptly upon receipt of notification from County that it has approved the final Extension construction plans, the final construction contract, including applicable payment and performance bonds, and confirming that all other requirements under the

Silverleaf Road Agreement to permit commencement of Extension construction have been satisfied, CFX shall pay to County Two Million Five Hundred Thousand Dollars (\$2,500,000.00) as its contribution (the "**CFX Contribution**") to the Extension cost, which as agreed above constitutes a Feeder Road. No portion of the CFX Contribution shall be applied to any other County roadway. At such time as CFX has remitted the full payment of the CFX Contribution to County, CFX's obligation hereunder shall be satisfied and this Agreement may be terminated as hereafter provided.

Section 4. Termination of Agreement. County and CFX may terminate this Agreement without penalty, and such termination shall not be considered a breach by either party, (i) at such time that the entire CFX Contribution has been paid to County, or (ii) in the event that County removes the Extension from its Capital Improvement Program and abandons completion of the Extension.

Section 5. Recording of Agreement. An executed original of this Agreement shall be recorded in the Public Records of Orange County, Florida within thirty (30) days after the Effective Date, at the County's expense.

Section 6. Further Documentation; Cooperation. The parties agree to confer as reasonably necessary with respect to the terms of this Agreement.

Section 7. Entire Agreement. This Agreement, along with its Exhibit, constitutes the entire Agreement between the parties regarding the subject matter hereof. Accordingly, any prior oral or written agreements or understandings of any kind between the parties relating to the subject matter hereof are null and void and of no effect.

Section 8. Amendments. This Agreement may be amended only by express written instrument properly executed by the parties' respective governing boards in the same manner as this Agreement.

Section 9. Validity. County and CFX each represents, warrants, and covenants to and with the other its respective power under Florida law to enter into this Agreement; acknowledges the

validity and enforceability of this Agreement; and waives any future right of defense based on claim of illegality, invalidity, or unenforceability of any nature. Additionally, County and CFX each represents, warrants, and covenants to and with the other that this Agreement has been validly approved, and that this Agreement constitutes a legal, valid, and binding contract enforceable against the other party in accordance with the terms hereof.

Section 10. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any action arising out of or related to this Agreement shall be in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida.

Section 11. Disputes. Any disputes with regard to the rights and obligations of the parties shall be governed by and subject to the provisions of Chapter 164, Florida Statutes, including but not limited to the duty to negotiate under Section 164.1041.

Section 12. Counterparts. This Agreement and any amendments thereto may be executed in up to two (2) counterparts, each of which shall be deemed an original and both of which shall constitute one and the same instrument.

Section 13. Third Party Beneficiaries. This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person or entity other than County and CFX.

Section 14. Severability. The provisions of this Agreement are declared by the parties to be severable only to the extent that the remaining provisions can effectuate the purpose and intent of the parties.

Section 15. Construction. Both parties have been allowed equal input regarding the terms and wording of this Agreement and have had the benefit of consultation with their respective legal counsel prior to execution of this Agreement, such that all language herein shall be construed equally against the parties, and no language shall be construed strictly against its drafter.

Section 16. Headings. The headings or captions of sections or subsections used in this Agreement are merely for the convenience of the parties for reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.

Section 17. Notices. Any notice required to be given or otherwise given by one party to the other party shall be in writing and shall be deemed delivered when given by hand delivery; five (5) days after being deposited in the United States Mail, postage prepaid, certified or registered; or the next business day after being deposited with a recognized overnight mail or courier delivery service; or when transmitted by facsimile or telecopy transmission, with receipt acknowledged upon transmission; and addressed as follows:

If to County: Orange County Administrator
 P.O. Box 1393
 Orlando, FL 32802-1393
 Email: byron.brooks@ocfl.net

With copy to: Director, Orange County Public Works Department
 4200 South John Young Parkway
 Orlando, Florida 32839
 Email: joseph.kunkel@ocfl.net

County Attorney
Orange County Administration Center
201 South Rosalind Avenue
Orlando, Florida 32802

If to CFX: Executive Director
 Central Florida Expressway Authority
 4974 ORL Tower Road
 Orlando, FL 32807

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

In all cases, notices shall be deemed delivered to a party only upon delivery of copies to the persons indicated above in the same manner as for the party being notified. Either party may change its designated official or address for receipt of notice by giving notice of such change to the other party in the manner provided in this section.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Agreement: Orange County, signing by and through its Mayor, authorized to execute same by Board action on the 11 day of February, 2025,, and Central Florida Expressway Authority, signing by and through its Executive Director, authorized to execute same by Board action of the 13th day of February, 2025.

ATTEST: Phil Diamond,
Orange County Comptroller
as Clerk of the Board of County
Commissioners

By: Jennifer Lara-Klimetz
Deputy Clerk

COUNTY

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: Jerry Demmings
for Jerry Demmings
Orange County Mayor



Print Name: Jennifer Lara-Klimetz

Date: February 11, 2025

APPROVED AS TO FORM FOR
EXECUTION BY A SIGNATORY OF THE
CENTRAL FLORIDA EXPRESSWAY
AUTHORITY

By: Angela J. Wallace
General Counsel
2-13-2025

CFX

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY, a body politic and corporate,
and an agency of the state, under the laws of the
State of Florida

By: Michelle Maikisch

Title: Executive Director

Date: 2/13/2025

EXHIBIT "A"

Depiction of proposed alignment of extension to New Independence Parkway

