



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 1

**DATE:** April 26, 2020

**TO:** Mayor Jerry L. Demings  
and the  
Board of County Commissioners

**THROUGH:** Paul Sladek, Manager *PS*  
Real Estate Management Division

**FROM:** Elizabeth Price Jackson, Senior Title Examiner *EPJ by PS*  
Real Estate Management Division

**CONTACT PERSON:** Paul Sladek, Manager

**DIVISION:** Real Estate Management  
Phone: (407) 836-7090

**ACTION REQUESTED:** Approval and execution of Subordination of Drainage Easement Agreement for Project 429-205 between Central Florida Expressway Authority and Orange County and authorization to record instrument

**PROJECT:** CFX Project 429-205 (Wekiva Parkway)  
  
District 2

**PURPOSE:** To resolve County's interests in eminent domain litigation filed by the Central Florida Expressway Authority.

**ITEM:** Subordination of Drainage Easement Agreement for Project 429-205

**APPROVALS:** County Attorney's Office  
Public Works Department

**REMARKS:**

This Subordination of Drainage Easement Agreement for Project 429-205 (Subordination) will subordinate County's interest in an existing drainage easement obtained by County in 1997 for County's Haas Road Paving and Drainage Improvement project to the interests of the Central Florida Expressway Authority (CFX) in the same lands obtained by CFX in 2015 as part of CFX's State Road 429 project.

This item is being processed for Board approval at the request of the County Attorney's Office, which negotiated this Subordination with CFX as part of the CFX eminent domain case (*Central Florida Expressway Authority v. Shollenberger, et al.*, Ninth Judicial Circuit Case No. 2015-CA-005566-O) by which CFX obtained its interest in said lands and in which County was named by CFX as a defendant.

CFX to pay recording fees.

**MAY 19 2020**

Prepared By and Return To:  
Linda S. Brehmer Lanosa, Deputy General Counsel  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807

**SUBORDINATION OF DRAINAGE EASEMENT AGREEMENT**  
**FOR PROJECT 429-205**

**THIS SUBORDINATION OF DRAINAGE EASEMENT AGREEMENT FOR PROJECT 429-205**, entered into this 12 day of December, 2019, by and between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a public corporation of the State of Florida ("CFX"), having an address of 4974 ORL Tower Road, Orlando, Florida 32807, and **ORANGE COUNTY**, a political subdivision of the State of Florida and charter county, ("County"), having an address of 201 South Rosalind Avenue, Orlando, Florida 33801.

**RECITALS:**

WHEREAS, CFX has completed the construction of State Road 429 also known as the Wekiva Parkway, including the construction of an expressway bridge over a portion of Parcel 289 and appurtenant facilities (collectively referred to as the "Expressway System" as defined in Section 348.752(5), Florida Statutes); and

WHEREAS, County has a drainage easement recorded in **O.R. Book 5203, Page 4002**, included as part of the CFX eminent domain case (*Central Florida Expressway Authority v. Shollenberger, et al.*, Ninth Judicial Circuit Case No. 2015-CA-005566-O), hereinafter "**Easement Area**," encumbering certain lands hereinafter described that have been determined necessary for expressway purposes; and

WHEREAS, the use of these lands for expressway purposes requires subordination of the interest in such lands by County to CFX; and

WHEREAS, County has the authority to subordinate its interest as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, County and CFX agree as follows:

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

2. **Subordination.** County subordinates to CFX, its successors and assigns, any and all of its existing or future easement only to the extent they encumber the listed property in the lands described in the Easement Area to the property rights of CFX for the purpose of constructing, improving, and maintaining the Expressway System over, through, upon, and/or across such lands.

3. **Reservation of Rights.** County reserves the right to construct, operate, maintain, improve, add to, upgrade, remove, or relocate facilities on, within, and upon the lands described within Easement Area herein in accordance with CFX's current minimum standards, as may be amended, for such facilities as required by the State of Florida Department of Transportation ("FDOT"), Utility Accommodation Guide. Prior to entering CFX's property or engaging in any activities within CFX's property, County shall apply for a permit from CFX. In the exercise of the rights and privileges under this paragraph, County shall not damage or disturb any improvements located outside of the Easement Area and, upon completion of any work, shall repair and restore any damage to CFX property or improvements to the satisfaction of CFX. County shall be responsible for the proper construction, operation, maintenance and repair of the facilities installed and maintained by County, and CFX shall assume no responsibility or liability for the maintenance, repair or safe operation of such facilities. In addition to the foregoing, County shall have reasonable right to enter upon the lands, described herein, for the purpose of trimming such trees, brush, and growth which may endanger or otherwise interfere with such facilities, provided that such rights do not interfere with the operation and safety of CFX's facilities. All entries upon property owned by CFX by County, its employees, agents and contractors, shall be at County's risk and expense.

4. **Non-Interference with Facilities.** CFX covenants not to interfere with County's facilities within the Easement Area.

5. **General Provisions.** No failure of either party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein shall constitute a waiver of either party's right to demand strict compliance with the terms hereof. This Agreement contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Any amendment to this Agreement shall not be binding upon any of the parties hereto unless such amendment is in writing and executed by the parties. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns. Time is of the essence of this Agreement. The headings inserted at the beginning of each paragraph are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph. This Agreement shall be interpreted under the laws of Florida. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

Signed, sealed and delivered  
in our presence as witnesses:

Mimi Lamante  
Mimi Lamante  
(Print Name)

Rita Moore  
Rita Moore  
(Print Name)

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

By: Jay Madara

Print Name: JAY MADARA

Title: CHAIRMAN

Approved as to form for execution by the  
Authorized Signatory of the Central  
Expressway Authority

By: Linda S. Brehmer-Laposa  
~~Deputy General Counsel~~ Wendy ESPINOZA

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of Dec., 2019, by Jay Madara as Chairman of CENTRAL FLORIDA EXPRESSWAY AUTHORITY, an agency of the State of Florida, who ☒ is personally known to me or ☐ has produced n/a as identification.

Regla Lamante  
Notary Public  
Regla Lamante  
Print Name

Notary Public, State of Florida  
Commission No. \_\_\_\_\_  
My commission expires: \_\_\_\_\_



**REGLA CARIDAD LAMAUTE**  
Commission # GG 352738  
Expires November 6, 2023  
Bonded Thru Budget Notary Services

IN WITNESS WHEREOF, the said County has hereunto affixed its hand and seal on the date set forth below.



ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

BY: *Brynn W. Brooks*  
for Jerry L. Demings  
Orange County Mayor

DATE: 21 May 2020

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

BY: *Craig Stopyra*  
for Deputy Clerk  
Craig Stopyra  
Printed Name