

52 | **WHEREAS**, the Wekiva Parkway—PD&E Study recommended preferred
53 | alignment alternative must be approved by the OOCEA, FDOT, Orange
54 | County, Lake County, Seminole County, the Cities of Mount Dora and
55 | Apopka, the SCEA and other local, state and federal entities; and
56 |

57 | **WHEREAS**, the Wekiva Parkway is critical to accommodate
58 | intensifying growth in inter-county travel between Seminole, Lake and
59 | Orange Counties and will relieve congestion on Interstate 4 through
60 | Seminole and Orange Counties and on U.S. Highway 441, S.R. 46 and
61 | local roads, and complete the beltway on the West side of Metropolitan
62 | Orlando; and
63 |

64 | **WHEREAS**, in furtherance of the statutory directive related to
65 | coordination of potable water supply and development of alternative
66 | water supply sources within the Wekiva Study Area on a multi-county
67 | basis, expressed in §369.322(1) and (2), Fla. Stat., the development
68 | of the Wekiva Parkway affords a unique opportunity to provide for an
69 | easement along or adjacent to the limited access portions of the
70 | Wekiva Parkway service and/or frontage road rights-of-way, for
71 | regional water and wastewater utility mains capable of connecting
72 | facilities of Seminole County with those of Lake County or West Orange
73 | County, and the possibility of construction of such utility mains as
74 | part of the Wekiva Parkway construction project; and
75 |

76 | **WHEREAS**, the construction of the Wekiva Parkway will ease the
77 | flow of vehicular traffic within Seminole County and Lake County and
78 | provide more convenient and direct access to Interstate 4 and the
79 | Western Beltway, thereby providing the citizens of Seminole County and
80 | Lake County, tourists and other visitors to Seminole County and Lake
81 | County a direct connection to the Central Florida area beltway; and
82 |

83 | **WHEREAS**, the Wekiva Parkway has been studied and included as part
84 | of the Seminole County Comprehensive Plan, the Lake County
85 | Comprehensive Plan, the Orange County Comprehensive Plan, the Lake-
86 | Sumter MPO 2025 Long Range Transportation Plan, Metroplan Orlando's
87 | 2030 Long Range Transportation Plan, East Central Florida Regional
88 | Planning Council's Strategic Regional Policy Plan, and FDOT's Adopted
89 | Work Program; and
90 |

91 | **WHEREAS**, Seminole County has determined that the construction of
92 | the Wekiva Parkway consistent with the terms of this Agreement is in
93 | the best interests of the citizens of Seminole County; and
94 |

95 | **WHEREAS**, pursuant to Section 369.317(5), Florida Statutes, within
96 | Seminole County, the SCEA, and the FDOT shall locate the precise
97 | corridor and interchanges for the Wekiva Parkway consistent with the
98 | legislative intent expressed in the Wekiva Parkway Protection Act and
99 | the Wekiva PD&E Study; and
100 |

101 | **WHEREAS**, the OOCEA is currently only responsible for the
102 | development, design, financing, right-of-way acquisition, permitting,

103 construction, operation and maintenance of the limited access portion
104 of the Wekiva Parkway in Orange County; and
105

106 **WHEREAS**, the consent of both Seminole County (§348.754(2)(n),
107 Fla. Stat.) and the SCEA (§§348.760 and 348.952(2) Fla. Stat.) is
108 necessary for the OOCEA to exercise the foregoing powers and
109 responsibilities within the jurisdiction of Seminole County; and
110

111 **WHEREAS**, to insure the development of the entire Wekiva Parkway,
112 Seminole County and the SCEA desire that the OOCEA also undertake the
113 development, design, financing, right-of-way acquisition, permitting,
114 construction, operation and maintenance of the limited access portion
115 of the Wekiva Parkway located in Seminole County; and
116

117 **WHEREAS**, the OOCEA is willing to develop, design, finance,
118 acquire right-of-way, permit, construct, operate and maintain the
119 limited access portion of the Wekiva Parkway in Seminole County, and
120 to develop, design, finance, acquire right-of-way, permit, and
121 construct any necessary frontage roads, approaches, bridges and
122 avenues of access, and to develop funding for the costs associated
123 with the entire Wekiva Parkway as a limited access toll road; and
124

125 **WHEREAS**, Seminole County and the SCEA acknowledge that the
126 exercise of eminent domain power by the OOCEA is necessary in the
127 event that certain parcels cannot be obtained through negotiations
128 between the property owners and the OOCEA, and have agreed and are
129 willing to consent to the OOCEA exercising its power of eminent domain
130 within the jurisdiction of Seminole County, as described herein; and
131

132 **WHEREAS**, this Agreement acknowledges the possibility of
133 circumstances and events, the occurrence of which may result in the
134 failure of the OOCEA to develop a portion, or all of, the Wekiva
135 Parkway within Seminole County. In such eventuality, it is the intent
136 of Seminole County and the SCEA that the consents, authorizations and
137 delegations granted herein to the OOCEA shall be automatically
138 modified in scope and effect so that, to the extent that either
139 Seminole County or the SCEA or both decide to develop any such
140 portion of the Wekiva Parkway within Seminole County not so developed
141 by the OOCEA, then either Seminole County or the SCEA or both shall
142 have the option of exercising any such rights and powers with respect
143 to such portion. This shall include rights of development of plans
144 and specifications, right of way acquisition and ownership,
145 construction, operation, maintenance, financing including the setting
146 and enforcement of tolls or other funding sources, and traffic
147 enforcement, and all other rights and powers herein granted to the
148 OOCEA; and
149

150 **WHEREAS**, Seminole County has informed the OOCEA that Seminole
151 County's citizens have expressed concerns with respect to Seminole
152 County agreeing to permit a government agency that is not accountable
153 to the electorate in Seminole County to exercise control over the
154 development and operation of a major toll road in Seminole County.

155 ~~The areas of such citizen concerns~~ that include, but are not limited
156 to, the selection of the final alignment for the Wekiva Parkway, the
157 location of toll collection facilities, the setting of tolls, phasing
158 of construction within Seminole County, buffers and the aesthetics of
159 the Parkway project; and
160

161 **WHEREAS**, the OOCEA has agreed to permit Seminole County to ~~name a~~
162 nominate a qualified representative from Seminole County to be one of
163 the three members of the OOCEA Right of Way Committee to afford
164 Seminole County a voice in important right of way acquisition
165 decisions related to the Parkway project; and
166

167 **WHEREAS**, the OOCEA, Seminole County and the SCEA desire to enter
168 into this Agreement to memorialize the understanding of the parties to
169 this Agreement regarding the development of the Wekiva Parkway in
170 Seminole County.
171

172 **NOW, THEREFORE**, for and in consideration of the mutual promises
173 contained herein, and other good and valuable consideration, the
174 receipt and sufficiency of which are hereby acknowledged, the parties
175 agree as follows:
176

177 **ARTICLE I**
178 **INCORPORATION OF RECITALS AND DEFINITIONS**
179

180 **Section 1.01. Incorporation of Recitals.** The above recitals
181 are true and correct and are incorporated into and made a part hereof.
182

183 **Section 1.02. Definitions.** Words importing the singular number
184 shall include the plural in each case and vice versa, and words
185 importing persons shall include firms and corporations. The terms
186 "herein," "hereunder," "hereby," "hereto," "hereof," and any other
187 similar terms, shall refer to this Agreement; the term "heretofore"
188 shall mean before the execution of this Agreement; and the term
189 "hereafter" shall mean after execution of this Agreement. Wherever
190 used herein, the term "limited access portion" shall mean the mainline
191 toll road facility constructed as part of the Wekiva Parkway Project,
192 consistent with the definition of "limited access expressway" at
193 Section 348.752(10), Florida Statutes. This Agreement shall not be
194 construed more strongly against any party regardless that such party,
195 or its counsel, drafted this Agreement.
196

197 **Section 1.03. Section Headings.** Any headings preceding the
198 texts of the several Articles and Sections of this Agreement, and any
199 table of contents or marginal notes appended to copies hereof, shall
200 be solely for convenience of reference and shall neither constitute a
201 part of this Agreement nor affect its meaning, construction, or
202 effect.
203

204 **ARTICLE II**
205 **REPRESENTATIONS**
206

207 **Section 2.01. Representations of the OOCEA.** The OOCEA makes
208 the following representations as the basis for its undertakings
209 contained herein:

- 210
- 211 A. The OOCEA is duly organized and validly existing as a body
- 212 politic and corporate agency of the State of Florida.
- 213 B. The OOCEA has full power and authority to enter into this
- 214 Agreement and to carry out its obligations hereunder.
- 215 C. The OOCEA is authorized by Sections 348.7543 and 348.7546,
- 216 Florida Statutes, to finance the Wekiva Parkway with any funds
- 217 available to the Authority for such purpose including revenue
- 218 bonds issued by the Authority under §11, Art. VII of the State
- 219 Constitution and Section 348.755(1)(b), Florida Statutes.
- 220 D. The OOCEA is not in default under any provisions of the laws
- 221 of the State material to the performance of its obligations
- 222 under this Agreement.
- 223 E. The OOCEA has duly authorized the execution and delivery of
- 224 this Agreement.
- 225 F. To the OOCEA's knowledge, the authorization, execution and
- 226 delivery of this Agreement and the compliance by the OOCEA
- 227 with the provisions herein will not conflict with or
- 228 constitute a material breach of, or default under, any
- 229 existing law, court or administrative regulation, decree,
- 230 order or any provision of the Constitution or laws of the
- 231 State of Florida relating to the OOCEA or its affairs, or any
- 232 ordinance, resolution, agreement, or other instrument to which
- 233 the OOCEA is subject or by which it is bound.
- 234 G. To the OOCEA's knowledge, there is no action, suit, proceeding
- 235 or investigation at law or in equity before or by any court,
- 236 public board or body pending or, to the best knowledge of the
- 237 OOCEA, threatened against or affecting the OOCEA, where an
- 238 unfavorable decision, ruling or finding would materially
- 239 adversely affect the validity of this Agreement.
- 240

241 **Section 2.02. Representations of Seminole County.** Seminole
242 County makes the following representations as the basis for its
243 undertakings contained herein:

- 244
- 245 A. Seminole County is duly organized and validly existing as a
- 246 body politic and corporate agency of the State of Florida.
- 247 B. Seminole County has full power and authority to enter into
- 248 this Agreement and to carry out its obligations hereunder.
- 249 C. Seminole County is not in default under any provisions of the
- 250 laws of the State material to the performance of its
- 251 obligations under this Agreement.
- 252 D. Seminole County has duly authorized the execution and delivery
- 253 of this Agreement.
- 254 E. To Seminole County's knowledge, the authorization, execution
- 255 and delivery of this Agreement and the compliance by Seminole
- 256 County with the provisions herein will not conflict with or
- 257 constitute a material breach of, or default under, any
- 258 existing law, court or administrative regulation, decree,

259 order or any provision of the Constitution or laws of the
260 State of Florida relating to Seminole County or its affairs,
261 or any ordinance, resolution, agreement, or other instrument
262 to which Seminole County is subject or by which it is bound.
263 F. To Seminole County's knowledge, there is no action, suit,
264 proceeding or investigation at law or in equity before or by
265 any court, public board or body pending or, to the best
266 knowledge of Seminole County, threatened against or affecting
267 Seminole County, where an unfavorable decision, ruling or
268 finding would materially adversely affect the validity of this
269 Agreement.

270
271 **Section 2.3. Representations of the SCEA.** The SCEA makes the
272 following representations as the basis for its undertakings contained
273 herein:

- 274
275 A. The SCEA is duly organized and validly existing as a body
276 politic and corporate agency of the State of Florida.
277 B. The SCEA has full power and authority to enter into this
278 Agreement and to carry out its obligations hereunder.
279 C. The SCEA is not in default under any provisions of the laws of
280 the State material to the performance of its obligations under
281 this Agreement.
282 D. The SCEA has duly authorized the execution and delivery of
283 this Agreement.
284 E. To the SCEA's knowledge, the authorization, execution and
285 delivery of this Agreement and the compliance by the SCEA with
286 the provisions herein will not conflict with or constitute a
287 material breach of, or default under, any existing law, court
288 or administrative regulation, decree, order or any provision
289 of the Constitution or laws of the State of Florida relating
290 to the SCEA or its affairs, or any ordinance, resolution,
291 agreement, or other instrument to which the SCEA is subject or
292 by which it is bound.
293 F. To the SCEA's knowledge, there is no action, suit, proceeding
294 or investigation at law or in equity before or by any court,
295 public board or body pending or, to the best knowledge of the
296 SCEA, threatened against or affecting the, where an
297 unfavorable decision, ruling or finding would materially
298 adversely affect the validity of this Agreement.

299
300 **ARTICLE III**
301 **CONSIDERATION AND MUTUAL BENEFITS OF AGREEMENT**

302
303 By this agreement, both Seminole County and the SCEA,
304 respectively, grant to the OOCEA specified consents, delegations and
305 authorizations that the OOCEA must have in order to complete the
306 Wekiva Parkway. All such consents, delegations and authorizations are
307 granted to the OOCEA, subject to the OOCEA's ongoing observation of
308 specified conditions enumerated herein.

309
310 **ARTICLE IV**

311 **REPRESENTATION ON OOCEA RIGHT OF WAY COMMITTEE**
312

313 The OOCEA shall permit Seminole County to ~~name~~ nominate a
314 qualified representative from Seminole County to be one of three
315 members of the OOCEA Right-of-Way Committee. ~~This Committee approves~~
316 ~~acquisition and fair market value determinations, and generally~~
317 ~~handles all OOCEA land purchases~~ Upon approval of the nomination by
318 the OOCEA Board, the nominee shall serve in accordance with the
319 Property Acquisition & Disposition Procedures Manual of the OOCEA, the
320 OOCEA's governing documents, and such other rules, regulations, and
321 guidelines as may be applicable.
322

323 **ARTICLE V**
324 **WEKIVA PARKWAY**
325

326 **Section 5.01. General.**
327

- 328 A. ~~The Wekiva Parkway is being designed as a limited access~~
329 ~~toll road beginning at the planned S.R. 429 interchange~~
330 ~~at U.S. 441 in Apopka, Florida, continuing North and then~~
331 ~~East along the current S.R. 46 alignment and connecting~~
332 ~~to Interstate 4 at the S.R. 417 interchange in Sanford,~~
333 ~~Florida, including a proposed S.R. 46 Bypass beginning at~~
334 ~~U.S. 441 and S.R. 46 near Mount Dora, Florida, and~~
335 ~~connecting to the Wekiva Parkway at a systems~~
336 ~~interchange.~~ The Wekiva Parkway, as described in Section
337 369.317, Florida Statutes, is being designed as a limited
338 access toll road beginning at the planned S.R. 429
339 interchange at U.S. 441 in Apopka, continuing North and
340 then East along the current S.R. 46 alignment and
341 connecting to Interstate 4 at the S.R. 417 interchange in
342 Sanford, Florida, including a proposed S.R. 46 Bypass
343 beginning at U.S. 441 and S.R. 46 near Mt. Dora, Florida,
344 and connecting to the Wekiva Parkway at a systems
345 interchange, together with all necessary frontage roads,
346 approaches, bridges and avenues of access that all
347 constitute a part of the project.
348 B. In accordance with Section 348.7546, Florida Statutes,
349 the OOCEA is authorized to exercise its condemnation
350 powers, construct, finance, operate, own and maintain the
351 Wekiva Parkway as part of the OOCEA's long range capital
352 improvement plan. The project may be financed with any
353 funds available to the OOCEA for such purpose, or revenue
354 bonds issued by the OOCEA under Section 11, Article VII
355 of the State Constitution and Section 348.755(1)(b),
356 Florida Statutes.
357 C. Seminole County and the SCEA, respectively, consent to
358 the OOCEA exercising its power of eminent domain within
359 the jurisdiction of Seminole County, in accordance with
360 the requirements of general law, but such consent is
361 strictly limited in scope to the acquisition of those
362 parcels and property interests necessary for the

363 development and continued operation and maintenance of
364 the Wekiva Parkway and facilities appurtenant thereto
365 including stormwater ponds and environmental mitigation
366 and such other purposes related to the Parkway listed in
367 §348.759, Fla. Stat. Such consent shall expire only if
368 this Agreement ceases to have effect under Section 5.01F,
369 below. Seminole County and the SCEA, respectively,
370 further covenant and agree to permit the OOCEA to
371 peacefully and quietly hold, enjoy and operate the Wekiva
372 Parkway as a limited access toll road, without hindrance
373 from Seminole County and the SCEA, subject to the terms
374 and conditions of this Agreement.

375 D. Pursuant to the requirements of Sections 348.754(2)(n),
376 and 348.952(2), Florida Statutes, Seminole County and the
377 SCEA, respectively, consent to the OOCEA developing,
378 constructing, operating and maintaining the Wekiva
379 Parkway within the jurisdiction of Seminole County,
380 together with the right to construct, repair, replace,
381 operate, install and maintain electronic toll payment
382 systems thereon, with all necessary and incidental powers
383 to accomplish the foregoing, and to do all acts and
384 things necessary or convenient for the conduct of the
385 OOCEA's business and the general welfare of the OOCEA,
386 and in order to carry out the powers granted to the OOCEA
387 in Part V, Chapter 348, Florida Statutes, or any other
388 law.

389 E. Subject to the limitations imposed by the terms and
390 conditions of the OOCEA's applicable bond covenants, and
391 so long as the grant is consistent with those covenants,
392 the OOCEA agrees to grant Seminole County an easement or
393 easements within the service and/or frontage road portion
394 of the Wekiva Parkway right-of-way for construction,
395 installation and maintenance of regional water and
396 wastewater mains; ~~the OOCEA further agrees that it will~~
397 consider a joint project agreement with Seminole County
398 for construction of such regional utility mains as part
399 of the OOCEA's construction of the Wekiva Parkway
400 project, upon a satisfactory demonstration by Seminole
401 County that Seminole County has the ability to timely
402 obtain all funding, design, permitting and other
403 necessary project requirements for such utility
404 facilities' construction, such that Seminole County's
405 utility work may be incorporated into the Wekiva Parkway
406 project without causing any material delays thereto. Any
407 such joint project agreement will contain specific
408 provisions authorizing the OOCEA to protect its project
409 from any material delays that may be caused by Seminole's
410 utility work, and shall further agree with Seminole
411 County, contingent upon Seminole County obtaining
412 necessary funding, to a separate joint project agreement
413 to allow Seminole County to design and construct such
414 regional utility mains. Seminole County shall own such

415 ~~utility mains. Seminole County will be responsible for~~
416 ~~obtaining and paying the costs of any and all necessary~~
417 ~~permits for the mains discussed in this subsection,~~
418 ~~including, without limitation, right-of-way utilization~~
419 ~~permits.~~ Seminole County will further be responsible for
420 the design and all costs associated with construction,
421 maintenance, and repair of said mains, including, without
422 limitation, repairs to improvements made by OOCEA or
423 others necessitated by the construction, maintenance, or
424 repair of said mains.

425 F. This Agreement is irrevocable beginning upon its
426 Effective Date and shall continue to be in full force and
427 effect until one of the following events occurs: (1) the
428 OOCEA provides the notice specified in Section 5.03B
429 below; (2) the OOCEA transfers ownership and control of
430 the Wekiva Parkway to the FDOT; or (3) the OOCEA ceases
431 to exist as a body politic and corporate and an agency of
432 the state. The intent of the parties to this Agreement
433 is that the Agreement shall continue indefinitely so long
434 as OOCEA is engaged in the activities contemplated
435 herein, including, without limitation, the construction,
436 operation, and maintenance of the Wekiva Parkway.
437

438 **Section 5.02. Ownership.** The limited access portions of the
439 Wekiva Parkway shall be owned and operated by the OOCEA as a limited
440 access toll road in the manner that the OOCEA owns and operates the
441 other facilities that comprise its Expressway System, except as
442 conditioned by this Agreement.
443

444 **Section 5.03. Funding of Costs of Acquisition and Construction.**
445

- 446 A. The OOCEA will be responsible for arranging funding of the
447 costs associated with the development of the Wekiva Parkway,
448 including the costs associated with any land acquisitions
449 necessary for the project. Funding sources may include, and
450 are not limited to any funds available to the OOCEA for such
451 purpose, revenue bonds issued by the OOCEA, agreements with
452 governmental agencies which jurisdictions are being served by
453 the Wekiva Parkway, the FDOT, Florida's Turnpike Enterprise
454 and the Federal Highway Administration.
- 455 B. Should funding be unavailable to the OOCEA, in its sole
456 determination, prohibiting the OOCEA's development of all or
457 any part of the Wekiva Parkway, Seminole County and the SCEA,
458 respectively, agree that the OOCEA shall have the right to
459 terminate its efforts to develop the Wekiva Parkway or any
460 portion thereof. The OOCEA shall notify both Seminole County
461 and the SCEA in writing within ten (10) days of making such
462 determination. In the event that the OOCEA determines funding
463 is unavailable, Seminole County or the SCEA, individually, or
464 jointly, may elect to complete any portion of the Wekiva
465 Parkway that the OOCEA elects not to develop. The OOCEA
466 consents to any such development by Seminole County or the

467 SCEA under such circumstances. In such event, Seminole County
468 or the SCEA, respectively, shall succeed to all powers and
469 responsibilities granted herein to the OOCEA as to the Wekiva
470 Parkway within Seminole County.
471

472 **Section 5.04. Tolls, Collection and Enforcement.**
473

474 A. Subject to conditions stated herein, the OOCEA shall have the
475 sole authority and responsibility to establish toll rates for
476 the Wekiva Parkway, including any toll rate adjustments, in
477 accordance with the applicable rules and requirements of the
478 OOCEA.

479 The tolls charged at toll collection facilities within
480 Seminole County (as revised from time-to-time) must be non-
481 discriminatory compared to other segments of the OOCEA
482 Expressway.

483 B. The OOCEA shall be solely responsible for the collection of
484 tolls and the enforcement of toll violations on the Wekiva
485 Parkway.

486 C. There shall be no free service on the limited access portions
487 of the Wekiva Parkway except for law enforcement and emergency
488 service vehicles while in the discharge of their official
489 duties, officials or employees of the OOCEA or FDOT while
490 engaged in official business, or except as required by
491 existing law.

492 D. The parties hereto understand that at all times the OOCEA is
493 required to and shall maintain rates at a level which in its
494 discretion provide for appropriate coverage of debt service,
495 meet debt service ratios, and otherwise are in accordance with
496 governing Florida law and applicable bond covenants.

497 E. The OOCEA shall make all necessary arrangements for traffic
498 enforcement on the limited access portions of the Wekiva
499 Parkway and may enter into any agreements necessary for
500 appropriate patrolling and traffic enforcement.
501

502 **ARTICLE VI**
503 **PLANNING, DESIGN AND CONSTRUCTION**
504

505 **Section 6.01. Planning and Design.**
506

507 A. The Wekiva PD&E Study is underway, which began in January
508 2005, and a recommended preferred ~~has been completed and an~~
509 ~~approved alternative was proposed~~ has been presented to
510 Seminole County. A formal public hearing shall be scheduled
511 and noticed in Seminole County for approval of the recommended
512 preferred alternative. Seminole County and the SCEA,
513 respectively, consent to the OOCEA constructing, operating and
514 maintaining the Wekiva Parkway in the to-be-approved alignment
515 within Seminole County's and the SCEA's jurisdiction.

516 B. The OOCEA shall be solely responsible for developing all plans
517 and specifications for the Wekiva Parkway project. Seminole
518 County's County Engineer shall be provided meaningful

519 opportunities to review OOCEA's plans and specifications at
520 the various stages of development, and Seminole County may
521 request reasonable revisions related to aesthetic issues for
522 the portion of the Wekiva Parkway in Seminole County; and (3)
523 | during the PD&E Study, the OOCEA shall give consideration to
524 requests from Seminole County and the SCEA with respect to the
525 location of toll collection facilities within Seminole County.
526 The OOCEA shall be responsible for obtaining any necessary
527 permits and approvals from any and all governmental agencies
528 that may be required for the construction, installation and
529 equipping of the Wekiva Parkway.
530

531 **Section 6.02. Construction.** The parties agree that it will be
532 necessary to develop the Wekiva Parkway in segments. It is the desire
533 of Seminole County that the first phase or segment of such
534 construction be the segment from the Wekiva River east to the SR
535 417/I-4 interchange located in Seminole County; but it is agreed that
536 the OOCEA shall have the sole discretion as to which order the
537 segments of the Wekiva Parkway shall be constructed. Subject to the
538 foregoing conditions, the OOCEA will be responsible for developing any
539 and all schedules related to the acquisition, construction and
540 equipping of the Wekiva Parkway and the phasing of the acquisition,
541 construction and equipping of any segments of the Wekiva Parkway.
542

543 **Section 6.03. Indemnification.** To the extent permitted by law,
544 the OOCEA shall indemnify, defend and save Seminole County, its
545 agents, and employees, and, the SCEA, its agents, and employees,
546 harmless against all damages, claims, expenses, injuries and demands
547 of any kind arising from any decision, act, negligence or omission by
548 the OOCEA that may occur by reason of its obligations, arising out of
549 this Agreement. To the extent permitted by law, Seminole County and
550 the SCEA, respectively, shall indemnify, defend and save the OOCEA,
551 its agents, and employees, harmless against all damages, claims,
552 expenses, injuries and demands of any kind arising from any decision,
553 act, negligence or omission by Seminole County or the SCEA that may
554 occur by reason of its respective obligations arising out of this
555 Agreement.
556

557 **ARTICLE VII**
558 **MISCELLANEOUS PROVISIONS**
559

560 **Section 7.01. Waiver.** This Agreement may not be amended,
561 modified, altered, or changed in any respect whatsoever, except by a
562 further agreement in writing duly executed by the parties hereto. No
563 failure by either party to insist upon the strict performance of any
564 covenant, duty, agreement or condition set forth in this Agreement or
565 to exercise any right or remedy upon a breach thereof shall constitute
566 a waiver of any such breach or of such or any other covenant,
567 agreement, term or condition. Any party hereto, by notice, may, but
568 shall be under no obligation to, waive any of its rights or any
569 conditions to its obligations hereunder, or any duty, obligation or
570 covenant of any other party hereto. No waiver shall affect or alter

571 this Agreement, but each and every covenant, agreement, term and
572 condition of this Agreement shall continue in full force and effect
573 with respect to any other then-existing or subsequent breach thereof.
574

575 **Section 7.02. Cooperation with Representatives.** The parties
576 pledge mutual cooperation between all representatives of the OOCEA,
577 Seminole County, and the SCEA. The parties shall provide such data,
578 reports, certifications and other documents or assistance reasonably
579 requested by the other. The provision of such information shall not
580 in any manner diminish the parties' rights or obligations under any
581 other provision hereof. The parties further agree to cooperate in the
582 development and execution of any ancillary agreements necessary to
583 carry out the terms and conditions of this Agreement.
584

585 **Section 7.03. Limitation on Third Party Beneficiaries.** This
586 Agreement shall not create any third party beneficiary hereunder, nor
587 shall this Agreement authorize anyone not a party hereto to maintain a
588 suit of any type whatsoever, including, but not limited to, a suit for
589 personal injury or property damage pursuant to the terms or provisions
590 hereof.
591

592 **Section 7.04. Governing Law.** This Agreement shall be governed
593 by and construed in accordance with the law of the State of Florida.
594

595 **Section 7.05. Notices and Communications.**
596

597 A. All notices required or permitted by law or by this Agreement
598 to be given to the parties shall be in writing and may be
599 given by either personal delivery or by registered or
600 certified U.S. Mail sent return receipt requested, or by a
601 recognized overnight courier service. Notices shall be sent
602 to the parties at the addresses set forth below or at such
603 other addresses as the parties shall designate to each other
604 from time to time in writing:
605

606 **Seminole County:**
607 Joseph Forte, Acting County Manager
608 Seminole County, Florida
609 1101 East First Street
610 Sanford, FL 32771
611

612 **With a copy to:**
613
614 Robert A. McMillan
615 County Attorney
616 1101 East First Street
617 Sanford, FL 32771-1468
618

619 **Seminole County Expressway Authority**
620 _____, Executive Director
621 520 W. Lake Mary Boulevard, Suite 200
622 Sanford, Florida 32773

623
624 **Orlando-Orange County Expressway Authority:**

625 Michael Snyder, Executive Director
626 Orlando-Orange County Expressway Authority
627 4974 ORL Tower Road
628 Orlando, FL 32807
629

630 **With a copy to:**

631 Joseph Passiatore, General Counsel
632 Orlando-Orange County Expressway Authority
633 4974 ORL Tower Road
634 Orlando, FL 32807
635

636 B. Any notice or demand given, delivered or made by registered or
637 certified United States mail sent return receipt requested,
638 shall be deemed so given, delivered or made on the date of
639 actual receipt. Notices sent by overnight courier service
640 shall be deemed or made on the date of actual receipt. Any
641 notice, demand or document that is personally delivered shall
642 be deemed to be delivered upon receipt by the party to whom
643 the same is given, delivered or made. Notices given by
644 facsimile or telecopy shall not be deemed effective for
645 purposes of this Agreement.
646

647 **Section 7.06. Interpretation.** References to statutes or
648 regulations include all statutory or regulatory provisions
649 consolidating, amending, or replacing the statute or regulation
650 referred to. Words not otherwise defined that have well-known
651 technical or industry meanings, are used in accordance with such
652 recognized meanings. References to persons include their respective
653 permitted successors and assigns and, in the case of governmental
654 persons, persons succeeding to their respective functions and
655 capacities.
656

657 **Section 7.07. Severability.** The invalidity or unenforceability
658 of any portion or provisions of this Agreement shall not affect the
659 validity or enforceability of any other portion or provision. Any
660 invalid or unenforceable portion or provision shall be deemed severed
661 from this Agreement and the balance hereof shall be construed and
662 enforced as if this Agreement did not contain such invalid or
663 unenforceable portion or provision.
664

665 **Section 7.08. Opinions of Counsel.** If requested, each party
666 shall provide to the other an opinion of counsel regarding the
667 validity and enforceability of this Agreement.
668

669 **Section 7.09. Entire Agreement.** This Agreement, including the
670 Exhibits (if any) attached hereto, constitutes the entire and
671 integrated agreement between the parties hereto and supersedes and
672 nullifies all prior and contemporaneous negotiations, representations,
673 understandings and agreements, whether written or oral, with respect
674 to the subject matter hereof.

675
676 **Section 7.10. Waiver of Jury Trial.** Each party waives its
677 right to a trial by jury in any litigation or other court proceeding
678 with respect to any matter arising from or related to this Agreement.
679

680 **Section 7.11. Filing.** In accordance with Section 163.01(11),
681 Florida Statutes, this Agreement shall be filed with the Clerk of
682 Court of the Circuit Court for Seminole County, Florida, and with the
683 Clerk of Court of the Circuit Court for Orange County.
684

685 **Section 7.12. Counterparts.** This Agreement may be signed in
686 several counterparts, each of which shall be an original and all of
687 which shall constitute but one and the same instrument.
688

689 **Section 7.13. Effective Date.** The Effective Date of this
690 Agreement shall be the date upon which this Agreement receives final
691 approval by the OOCEA governing body.
692

693 **IN WITNESS WHEREOF,** the parties have made and executed this
694 Agreement on the respective dates indicated below.
695

696
697 Orlando-Orange County Expressway Authority through its
698 Board of Directors, signed by and through its Executive
699 Director, authorized to execute this Agreement by Board
700 action on the ____ day of _____, 2010.
701

702 Seminole County through its Board of County Commissioners,
703 signed by and through its Chair or Vice Chair, authorized
704 to execute this Agreement by Board action on the ____ day
705 of _____, 2010.
706

707 Seminole County Expressway Authority through its Board of
708 Directors, signed by and through its Executive Director,
709 authorized to execute this Agreement by Board action on the
710 ____ day of _____, 2010.
711

712
713 ORLANDO-ORANGE COUNTY
714 EXPRESSWAY AUTHORITY
715

716 SEMINOLE COUNTY, FLORIDA
717

718 By: _____
719 Michael Snyder,
720 Executive Director
721

722 By: _____
723 Bob Dallari, Chair
724 Board of County
725 Commissioners
726

727 Approved as to form for
728 execution by a signatory
729 of the Orlando-Orange
730 County Expressway Authority
731 By Joseph Passiatore,

732 Approved as to form
733 by Office of County
734 Attorney Seminole County
735 Florida by Robert A.
736 McMillan, County

727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760

General Counsel

By: _____
Joseph Passiatore

Attorney

By: _____
Robert A. McMillan

Maryanne Morse, Clerk to
the Board of County
Commissioners in and for
the County of Seminole,
Florida

SEMINOLE COUNTY
EXPRESSWAY AUTHORITY

By _____
Gary L. Brender
Chairman

Approved as to Form by
Susan E. Dietrich,
Counsel for Seminole County
Expressway Authority

By: _____
Susan E. Dietrich

P/MGM/OCEEA draft of 7 7 10_MGM_Corrected 7 29 10.docx
8/6/10 -dre