

SCEA

SEMINOLE COUNTY EXPRESSWAY AUTHORITY
200 W. County Home Road; Sanford, Florida 32773 (407) 665-5601

A G E N D A
SEMINOLE COUNTY EXPRESSWAY AUTHORITY BOARD
SPECIAL CALL MEETING

Meeting Location: Seminole County Services Building
Room 1028 – Board of County Commissioners Chambers
1101 East First Street; Sanford, FL 32771

August 10, 2010

4:00 P.M.

(or as soon thereafter as possible)

1. **CALL TO ORDER** - *Commissioner Gary L. Brender, Chairman*

2. **INVOCATION / PLEDGE OF ALLEGIANCE**

3. **CHAIRMAN'S OPENING STATEMENT** - *Commissioner Gary L. Brender, Chairman*

PUBLIC PARTICIPATION on agenda items, excluding public hearings, may be presented to the Seminole County Expressway Authority Board prior to agenda items requiring action. Public comment on issues on the agenda shall be limited to three (3) minutes.

4. **ACTION ITEM** - *Jerry McCollum, P.E., Acting Executive Director*

Approval of Interlocal Agreement Between the Orlando-Orange County Expressway Authority, Seminole County, Florida and the Seminole County Expressway Authority Regarding the Wekiva Parkway.

Attachments: Copy of the Agreement and Redline Copy of the Agreement

5. **BOARD DISCUSSION / WRAP-UP**

6. **ADJOURNMENT**

The Next Regularly Scheduled Meeting Date: November 9, 2010.

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE SEMINOLE COUNTY EXPRESSWAY AUTHORITY OFFICE 48 HOURS IN ADVANCE OF THE MEETING AT 407-665-5601.

PERSONS ARE ADVISED THAT IF THEY DECIDE TO APPEAL ANY DECISIONS MADE AT THESE MEETINGS/HEARINGS, THEY WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE THEY MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED, PER SECTION 286.0105, FLORIDA STATUTES.

AUTHORITY MEMBERS

Brenda Carey
Bob Dallari

Gary L. Brender, Chairman
Carlton D. Henley

Michael J. McLean, Vice Chairman
Dick Van Der Weide
Art Woodruff

Jerry McCollum, P.E., Acting Executive Director

**INTERLOCAL AGREEMENT
BETWEEN
THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY,
SEMINOLE COUNTY, FLORIDA, AND
THE SEMINOLE COUNTY EXPRESSWAY AUTHORITY**

This Interlocal Agreement (the "Agreement") made and executed as of _____, by and between the Orlando-Orange County Expressway Authority, a body, politic and corporate, an agency of the State created pursuant to Part V, Chapter 348, Florida Statutes, having an address at 4974 ORL Tower Road, Orlando, Florida 32807 (the "OOCEA"), Seminole County, a political subdivision of the State of Florida, having an address at 1101 East First Street, Sanford, Florida 32771 ("Seminole County"), and the Seminole County Expressway Authority, a body politic and corporate, an agency of the State created pursuant to Part VIII, Chapter 348, Florida Statutes, having an address at 520 West Lake Mary Boulevard, Suite 200, Sanford, Florida 32773 (the "SCEA").

WITNESSETH

WHEREAS, this Agreement is entered into pursuant to Section 163.01, Florida Statutes, also known as the "Florida Interlocal Cooperation Act of 1969," and under authority of Sections 125.01(1)(p), 348.7546, 348.754, 348.760, 348.953(2)(h) and (i), and 348.958, Florida Statutes; and



WHEREAS, the Wekiva Parkway, as described in Section 369.317, Florida Statutes, is being designed as a limited access toll road beginning at the planned S.R. 429 interchange at U.S. 441 in Apopka, continuing North and then East along the current S.R. 46 alignment and connecting to Interstate 4 at the S.R. 417 interchange in Sanford, Florida, including a proposed S.R. 46 Bypass beginning at U.S. 441 and S.R. 46 near Mt. Dora, Florida, and connecting to the Wekiva Parkway at a systems interchange, together with all necessary frontage roads, approaches, bridges and avenues of access that all constitute a part of the project (hereafter, the "Wekiva Parkway;" or "project"); and

WHEREAS, the OOCEA, with the assistance of the Florida Department of Transportation ("FDOT"), through the Wekiva Parkway S.R. 429/S.R. 46 Realignment Project Development and Environmental Study (the "Wekiva PD&E Study"), has found a balance between the interest of the public, the environment and engineering, minimizing impacts to homes, businesses and the environment while developing the Wekiva Parkway as a transportation facility that meets the region's growing transportation needs; and

WHEREAS, the Wekiva PD&E Study recommended preferred alternative must be approved by the OOCEA, FDOT, Orange County, Lake County, Seminole County, the Cities of Mount Dora and Apopka, the SCEA and other local, state and federal entities; and

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

WHEREAS, in furtherance of the statutory directive related to coordination of potable water supply and development of alternative water supply sources within the Wekiva Study Area on a multi-county basis, expressed in Section 369.322(1) and (2), Florida Statutes, the development of the Wekiva Parkway affords a unique opportunity to provide for an easement along or adjacent to the limited access portions of the Wekiva Parkway service and/or frontage road rights-of-way, for regional water and wastewater utility mains capable of connecting facilities of Seminole County with those of Lake County or West Orange County, and the possibility of construction of such utility mains as part of the Wekiva Parkway construction project; and

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

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

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

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

WHEREAS, the OOCEA is currently only responsible for the development, design, financing, right-of-way acquisition, permitting, construction, operation and maintenance of the limited access portion of the Wekiva Parkway in Orange County; and

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

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

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

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

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

WHEREAS, Seminole County has informed the OOCEA that Seminole County's citizens have expressed concerns that include, but are not limited to, the selection of the final alignment for the Wekiva Parkway, the location of toll collection facilities, the setting of tolls, phasing of construction within Seminole County, buffers and the aesthetics of the Parkway project; and

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

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

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

**ARTICLE I
INCORPORATION OF RECITALS AND DEFINITIONS**

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

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

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

**ARTICLE II
REPRESENTATIONS**

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

- A. The OOCEA is duly organized and validly existing as a body politic and corporate agency of the State of Florida.
- B. The OOCEA has full power and authority to enter into this Agreement and to carry out its obligations hereunder.
- C. The OOCEA is authorized by Sections 348.7543 and 348.7546, Florida Statutes, to finance the Wekiva Parkway with any funds available to the Authority for such purpose including revenue

- bonds issued by the Authority under §11, Art. VII of the State Constitution and Section 348.755(1)(b), Florida Statutes.
- D. The OOCEA is not in default under any provisions of the laws of the State material to the performance of its obligations under this Agreement.
 - E. The OOCEA has duly authorized the execution and delivery of this Agreement.
 - F. To the OOCEA's knowledge, the authorization, execution and delivery of this Agreement and the compliance by the OOCEA with the provisions herein will not conflict with or constitute a material breach of, or default under, any existing law, court or administrative regulation, decree, order or any provision of the Constitution or laws of the State of Florida relating to the OOCEA or its affairs, or any ordinance, resolution, agreement, or other instrument to which the OOCEA is subject or by which it is bound.
 - G. To the OOCEA's knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of the OOCEA, threatened against or affecting the OOCEA, where an unfavorable decision, ruling or finding would materially adversely affect the validity of this Agreement.

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



- A. Seminole County is duly organized and validly existing as a body politic and corporate agency of the State of Florida.
- B. Seminole County has full power and authority to enter into this Agreement and to carry out its obligations hereunder.
- C. Seminole County is not in default under any provisions of the laws of the State material to the performance of its obligations under this Agreement.
- D. Seminole County has duly authorized the execution and delivery of this Agreement.
- E. To Seminole County's knowledge, the authorization, execution and delivery of this Agreement and the compliance by Seminole County with the provisions herein will not conflict with or constitute a material breach of, or default under, any existing law, court or administrative regulation, decree, order or any provision of the Constitution or laws of the State of Florida relating to Seminole County or its affairs, or any ordinance, resolution, agreement, or other instrument to which Seminole County is subject or by which it is bound.
- F. To Seminole County's knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of Seminole County, threatened against or affecting Seminole County, where an unfavorable decision, ruling or finding would materially adversely affect the validity of this Agreement.

Section 2.3. Representations of the SCEA. The SCEA makes the following representations as the basis for its undertakings contained herein:

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

**ARTICLE III
CONSIDERATION AND MUTUAL BENEFITS OF AGREEMENT**

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

**ARTICLE IV
REPRESENTATION ON OOCEA RIGHT OF WAY COMMITTEE**

The OOCEA shall permit Seminole County to nominate a qualified representative from Seminole County to be one of three members of the OOCEA Right-of-Way Committee. Upon approval of the nomination by the OOCEA Board, the nominee shall serve in accordance with the Property Acquisition & Disposition Procedures Manual of the OOCEA, the OOCEA's governing documents, and such other rules, regulations, and guidelines as may be applicable.

ARTICLE V
WEKIVA PARKWAY

Section 5.01. General.

- A. The Wekiva Parkway, as described in Section 369.317, Florida Statutes, is being designed as a limited access toll road beginning at the planned S.R. 429 interchange at U.S. 441 in Apopka, continuing North and then East along the current S.R. 46 alignment and connecting to Interstate 4 at the S.R. 417 interchange in Sanford, Florida, including a proposed S.R. 46 Bypass beginning at U.S. 441 and S.R. 46 near Mt. Dora, Florida, and connecting to the Wekiva Parkway at a systems interchange, together with all necessary frontage roads, approaches, bridges and avenues of access that all constitute a part of the project.
- B. In accordance with Section 348.7546, Florida Statutes, the OOCEA is authorized to exercise its condemnation powers, construct, finance, operate, own and maintain the Wekiva Parkway as part of the OOCEA's long range capital improvement plan. The project may be financed with any funds available to the OOCEA for such purpose, or revenue bonds issued by the OOCEA under Section 11, Article VII of the State Constitution and Section 348.755(1)(b), Florida Statutes.
- C. Seminole County and the SCEA, respectively, consent to the OOCEA exercising its power of eminent domain within the jurisdiction of Seminole County, in accordance with the requirements of general law, but such consent is strictly limited in scope to the acquisition of those parcels and property interests necessary for the development and continued operation and maintenance of the Wekiva Parkway and facilities appurtenant thereto including stormwater ponds and environmental mitigation and such other purposes related to the Parkway listed in Section 348.759, Florida Statutes. Such consent shall expire only if this Agreement ceases to have effect under Section 5.01F, below. Seminole County and the SCEA, respectively, further covenant and agree to permit the OOCEA to peacefully and quietly hold, enjoy and operate the Wekiva Parkway as a limited access toll road, without hindrance from Seminole County and the SCEA, subject to the terms and conditions of this Agreement.
- D. Pursuant to the requirements of Sections 348.754(2)(n), and 348.952(2), Florida Statutes, Seminole County and the SCEA, respectively, consent to the OOCEA developing, constructing, operating and maintaining the Wekiva Parkway within the jurisdiction of Seminole County, together with the right to construct, repair, replace, operate, install and maintain electronic toll payment systems thereon, with all necessary and incidental powers to accomplish the foregoing, and to do all acts and things necessary or convenient for the conduct of the OOCEA's business and the general welfare of the OOCEA, and

in order to carry out the powers granted to the OOCEA in Part V, Chapter 348, Florida Statutes, or any other law.

- E. Subject to the limitations imposed by the terms and conditions of the OOCEA's applicable bond covenants, and so long as the grant is consistent with those covenants, the OOCEA agrees to grant Seminole County an easement or easements within the service and/or frontage road portion of the Wekiva Parkway right-of-way for construction, installation and maintenance of regional water and wastewater mains; the OOCEA further agrees that it will consider a joint project agreement with Seminole County for construction of such regional utility mains as part of the OOCEA's construction of the Wekiva Parkway project, upon a satisfactory demonstration by Seminole County that Seminole County has the ability to timely obtain all funding, design, permitting and other necessary project requirements for such utility facilities' construction, such that Seminole County's utility work may be incorporated into the Wekiva Parkway project without causing any material delays thereto. Any such joint project agreement will contain specific provisions authorizing the OOCEA to protect its project from any material delays that may be caused by Seminole's utility work. Seminole County will further be responsible for the design and all costs associated with construction, maintenance, and repair of said mains, including, without limitation, repairs to improvements made by OOCEA or others necessitated by the construction, maintenance, or repair of said mains.
- F. This Agreement is irrevocable beginning upon its Effective Date and shall continue to be in full force and effect until one of the following events occurs: (1) the OOCEA provides the notice specified in Section 5.03B below; (2) the OOCEA transfers ownership and control of the Wekiva Parkway to the FDOT; or (3) the OOCEA ceases to exist as a body politic and corporate and an agency of the state. The intent of the parties to this Agreement is that the Agreement shall continue indefinitely so long as OOCEA is engaged in the activities contemplated herein, including, without limitation, the construction, operation, and maintenance of the Wekiva Parkway.

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

Section 5.03. Funding of Costs of Acquisition and Construction.

- A. The OOCEA will be responsible for arranging funding of the costs associated with the development of the Wekiva Parkway, including the costs associated with any land acquisitions necessary for the project. Funding sources may include, and

are not limited to any funds available to the OOCEA for such purpose, revenue bonds issued by the OOCEA, agreements with governmental agencies which jurisdictions are being served by the Wekiva Parkway, the FDOT, Florida's Turnpike Enterprise and the Federal Highway Administration.

- B. Should funding be unavailable to the OOCEA, in its sole determination, prohibiting the OOCEA's development of all or any part of the Wekiva Parkway, Seminole County and the SCEA, respectively, agrees that the OOCEA shall have the right to terminate its efforts to develop the Wekiva Parkway or any portion thereof. The OOCEA shall notify both Seminole County and the SCEA in writing within ten (10) days of making such determination. In the event that the OOCEA determines funding is unavailable, Seminole County or the SCEA, individually, or jointly, may elect to complete any portion of the Wekiva Parkway that the OOCEA elects not to develop. The OOCEA consents to any such development by Seminole County or the SCEA under such circumstances. In such event, Seminole County or the SCEA, respectively, shall succeed to all powers and responsibilities granted herein to the OOCEA as to the Wekiva Parkway within Seminole County.

Section 5.04. Tolls, Collection and Enforcement.

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

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

- B. The OOCEA shall be solely responsible for the collection of tolls and the enforcement of toll violations on the Wekiva Parkway.
- C. There shall be no free service on the limited access portions of the Wekiva Parkway except for law enforcement and emergency service vehicles while in the discharge of their official duties, officials or employees of the OOCEA or FDOT while engaged in official business, or except as required by existing law.
- D. The parties hereto understand that at all times the OOCEA is required to and shall maintain rates at a level which in its discretion provide for appropriate coverage of debt service, meet debt service ratios, and otherwise are in accordance with governing Florida law and applicable bond covenants.
- E. The OOCEA shall make all necessary arrangements for traffic enforcement on the limited access portions of the Wekiva Parkway and may enter into any agreements necessary for appropriate patrolling and traffic enforcement.

**ARTICLE VI
PLANNING, DESIGN AND CONSTRUCTION**

Section 6.01. Planning and Design.

- A. The Wekiva PD&E Study is underway, which began in January 2005, and a recommended preferred alternative has been presented to Seminole County. A formal public hearing shall be scheduled and noticed in Seminole County for approval of the recommended preferred alternative. Seminole County and the SCEA, respectively, consent to the OOCEA constructing, operating and maintaining the Wekiva Parkway in the to-be-approved alignment within Seminole County's and the SCEA's jurisdiction.
- B. The OOCEA shall be solely responsible for developing all plans and specifications for the Wekiva Parkway project. Seminole County's County Engineer shall be provided meaningful opportunities to review OOCEA's plans and specifications at the various stages of development, and Seminole County may request reasonable revisions related to aesthetic issues for the portion of the Wekiva Parkway in Seminole County; and (3) during the PD&E Study, the OOCEA shall give consideration to requests from Seminole County and the SCEA with respect to the location of toll collection facilities within Seminole County. The OOCEA shall be responsible for obtaining any necessary permits and approvals from any and all governmental agencies that may be required for the construction, installation and equipping of the Wekiva Parkway.

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

Section 6.03. Indemnification. To the extent permitted by law, the OOCEA shall indemnify, defend and save Seminole County, its agents, and employees, and, the SCEA, its agents, and employees, harmless against all damages, claims, expenses, injuries and demands of any kind arising from any decision, act, negligence or omission by the OOCEA that may occur by reason of its obligations, arising out of this Agreement. To the extent permitted by law, Seminole County and the SCEA, respectively, shall indemnify, defend and save the OOCEA, its agents, and employees, harmless against all damages, claims, expenses, injuries and demands of any kind arising from any decision, act, negligence or omission by Seminole County or the SCEA that may

occur by reason of its respective obligations arising out of this Agreement.

**ARTICLE VII
MISCELLANEOUS PROVISIONS**

Section 7.01. Waiver. This Agreement may not be amended, modified, altered, or changed in any respect whatsoever, except by a further agreement in writing duly executed by the parties hereto. No failure by either party to insist upon the strict performance of any covenant, duty, agreement or condition set forth in this Agreement or to exercise any right or remedy upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Any party hereto, by notice, may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof.

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

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

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

Section 7.05. Notices and Communications.

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

Seminole County:

Joseph Forte, Acting County Manager
Seminole County, Florida
1101 East First Street
Sanford, FL 32771

With a copy to:

Robert A. McMillan
County Attorney
1101 East First Street
Sanford, FL 32771-1468

Seminole County Expressway Authority

Executive Director
520 W. Lake Mary Boulevard, Suite 200
Sanford, Florida 32773

Orlando-Orange County Expressway Authority:

Michael Snyder, Executive Director
Orlando-Orange County Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

With a copy to:

Joseph Passiatore, General Counsel
Orlando-Orange County Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

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

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

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

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

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

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

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

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

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

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

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

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

Seminole County Expressway Authority through its Board of Directors, signed by and through its Executive Director,

authorized to execute this Agreement by Board action on the
____ day of _____, 2010.

ORLANDO-ORANGE COUNTY
EXPRESSWAY AUTHORITY

SEMINOLE COUNTY, FLORIDA

By: _____
Michael Snyder,
Executive Director

By: _____
Bob Dallari, Chairman
Board of County
Commissioners

Approved as to form for
execution by a signatory
of the Orlando-Orange
County Expressway Authority
By Joseph Passiatore,
General Counsel

Approved as to form
by Office of County
Attorney Seminole County
Florida
By Robert A. McMillan
County Attorney

By: _____
Joseph Passiatore

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

MGM/dre
08/06/10

P:\Users\mminter\OOCEA draft of 7 7 10_MGM_Corrected 7 29 10.docx