

SEMINOLE COUNTY EXPRESSWAY AUTHORITY SPECIAL MEETING
Seminole County Services Building
1101 East First Street; Room 1028; Sanford, Florida

January 12, 2010
4:00 P.M.
MINUTES

MEMBERS PRESENT:

Commissioner Gary L. Brender, Chairman, Presiding
Commissioner Michael McLean, Vice Chairman
Commissioner Bob Dallari
Commissioner Brenda Carey
Commissioner Carlton Henley
Commissioner Art Woodruff

MEMBERS ABSENT:

Commissioner Dick Van Der Weide

STAFF PRESENT:

Gary Johnson, SCEA Executive Director
Matthew Minter, Assistant County Attorney, SCEA Counsel
Jerry McCollum, P.E., County Engineer
Antoine Khoury, P.E., Assistant County Engineer
Fred Coulter, Fiscal Services Department, for Lisa Spriggs, SCEA Secretary-Treasurer
Sheralyn Brinson, Administrative Assistant, SCEA Recording Secretary
Joseph A. Forte, Acting County Manager
Sabrina O'Bryan, Assistant County Manager
Bob McMillan, County Attorney
Alison Stetner, Acting Director, Growth Management Department
Tony Matthews, Growth Management Department/Planning & Development

GUESTS PRESENT:

Alice E. Gilmartin, AICP, Government Affairs Officer, Florida's Turnpike Enterprise

ITEM #1: CALL TO ORDER

Commissioner Brender called the meeting to order at 4:00 P.M.

ITEM #2: INVOCATION AND PLEDGE OF ALLEGIANCE

Commissioner Henley gave the invocation; the Pledge of Allegiance was led by **Commissioner Brender**.

ITEM #3: CHAIRMAN'S OPENING STATEMENT – Commissioner Gary L. Brender, Chairman

Commissioner Brender stated:

Commissioner Van Der Weide is not in attendance but will be joining the meeting shortly. The Chair would like to make a couple of statements and then we will get the meeting going. This Special Call Meeting is in relation to discussions between the Seminole County Expressway Authority and the Orlando-Orange County Expressway Authority (OOCEA) regarding the form of an agreement which will eventually be reached between the two as to how to manage and operate the Wekiva Parkway portion of the GreeneWay or the beltway around the Orlando area. The intent of this meeting is to simply begin formulating some of our opinions and also have a chance to begin

formal discussions with OOCEA. A lot is involved in that; the intent of this meeting is not to talk about road placement or anything like that; we are going to simply be publicly discussing some ideas regarding our plans for what we intend to do with this Agreement with OOCEA and we will proceed from there. I understand the Board of County Commissioners (BCC) addressed this issue separately during their meeting earlier. I'll ask Mr. Johnson to give us the overview of that discussion and we'll proceed.

ITEM #4: INFORMATIONAL / DISCUSSION ITEM:

Draft Interlocal Agreement Between the Orlando-Orange County Expressway Authority and Seminole County, Florida - W. Gary Johnson, SCEA Executive Director

Gary Johnson stated:

As we discussed this morning at the BCC meeting, the letter that was sent and delivered by you to the Legislative Delegation in November was an initial response to the Draft Interlocal Agreement we received prior to that date. In the absence of any language discussing the possibility or the reality of membership at either OOCEA or a future regional body of that type, the letter pointed that out to the OOCEA. We have received no formal or informal response to that letter subsequent to your delivery to the Legislative Delegation and our delivery to all the other parties. What we were directed to do this morning by the BCC was to complete a full staff and legal review of that Draft Interlocal and identify any and all issues that may need to be addressed to get the Agreement completed in the form that is satisfactory to this body and the BCC. We plan on making that review happen and bringing that back as instructed to the BCC at their next regular meeting.

Commissioner Brender stated:

I will ask, from a positional point, where do we want to go from here? There has been some confusion in the media as to where we are in the process. We are in essence at the beginning of a negotiation process. Everybody thinks it's the end of the process simply because they delivered a Draft Resolution; but that is not the case; we are formulating initial positions and I think professionally all of us can go ahead and start to negotiate from there. At some point it may be worthwhile to have a joint meeting with OOCEA; but we need to formulate some ideas as to where we would like to go; I will open the floor for discussion and begin with Commissioner Carey.

Commissioner Carey stated:

Just as we were finishing our BCC meeting, we were handed a package of information which, from our attorney, outlining how the Expressway Authority was established and what our rights, duties and responsibilities are. The other document we had asked for was the agreement with the Turnpike Authority; as most of you know, after the Expressway that exists in Seminole County was established, it was all given to the Turnpike Authority to maintain, operate, and forevermore be their responsibility and not ours. But the Expressway Authority stayed in place in an effort for us to make sure we could set where alignments are placed and someone could not just come through here and make a decision about where they wanted it to be; it's important to us to maintain that. I received a letter from Tom Feeney of the Fowler, O'Quinn, Feeney and Snead Law Firm; I don't know if all of you received a copy but we can make sure it gets into the public record. Mr. Feeney had some very valid points; many of which I agree on. As I stated this morning, I think the best thing for us to do is to mark up the terms you don't like, put down what you want and send it back; that starts the negotiation process. That was the action of the Board of County Commissioners this morning to do just that, to have our staff draft it up. I think it needs to come from the Expressway Authority, not the BCC, because clearly the authority will be with the Expressway Authority. I wanted to make sure we get the letter from Mr. Feeney on file and make sure we get a copy to the Clerk's Office.

Commissioner Henley stated:

Mr. Chairman, Commissioner Carey gave a good brief of what the discussion was this morning; I think it needs to be two-fold; one is to counter their proposal. There are some things in their proposal that I cannot agree with. They are deal breakers as far as I am concerned. I think we need to pursue trying to come to an agreement that we feel protects the citizens of Seminole County and at the same time allow them since they have raised the fees over there already and have the money to proceed, if we can come up with an agreement. The second thing we need to continue on in spite of the Delegation's comments back to you is to work towards a regional; it bothers me that we can leave hundreds of millions of dollars with a gubernatorial-appointed committee. There are five members on that committee; only one of them is responsible to the citizens; that's why I raised the issue at METROPLAN a couple of months ago and that's why I mentioned it to our Board who concurred that we need to attempt to get a seat on that Board because if this deal goes through, it will be for years and there may be circumstances that need input and a vote. I would suggest that we go two-fold: (1) that we go ahead with countering their proposal; and (2) the other is to work post haste to build a coalition which really has already been verbally committed. Osceola County agreed; the Mayor of the City of Orlando said he could support a regional approach; the only one who has expressed some reserve is Mayor Crotty, who is the only elected official on that Board. As you well know, it takes a while to get legislation changed; we need to get organized in a way and charge somebody with the responsibility of calling together a committee to begin to address the legislation needed to make it a regional approach. I talked to Dean Cannon prior to your meeting and he indicated to me he would favor a regional approach covering all transportation issues which would be bus, rail and highway. I think he somewhat indicated to you that he was not opposed to a regional; I think that is encouraging. We can sit back and allow this thing to drift and drift but we ought to be setting down some strategies to try to make it become a reality. That would be my suggestion.

Commissioner Brender stated:

I tend to agree with you. I think we need to control what we can control and that is this negotiation process. Regarding the regional authority, I think the best we can do is lobby; I am sure the State Legislature may have a few other things on their minds this session. Discounting those items, we are going to have to get up there and make sure we identify that we would like to see some kind of regional authority; it makes sense. You cannot have, particularly now with the advance of SunRail through the system, a SunRail and a bus that work independently of each other; and likewise with the roadways. I think we are heading in that direction; I'm not going to trust the Legislature to do it so, I agree with you.

Commissioner Henley stated: We need to take the action of putting the coalition together with members from the other counties who are interested and then start helping to get constituents also.

Commissioner Brender stated: We need to lobby hard to get that going and then from there we can determine what the makeup of that Board would be and what kind of representation there will be. In the meantime, we need to address the agreement we now have. In the end, the Legislature failing to do anything about it this session, we will have an agreement to go ahead with; I think that's where we need to go.

Commissioner McLean stated:

Commissioner Carey referenced the information that we have that talks about the creation of the Expressway Authority itself; one paragraph that gets the essence of what our powers were originally mandated for us to have. We need to be careful to insure that those powers aren't being eroded by this agreement or any subsequent agreement that we negotiate out of. It says, "said authority shall have exclusive right to exercise all powers herein set forth and no other entity, body or authority whether within or without Seminole County can either directly or indirectly exercise any

jurisdiction, control, authority or power in any manner related to any expressway system within Seminole County without the expressed consent of this authority as otherwise provided herein.” It seems pretty clear cut to me; as Commissioner Carey mentioned, the information from Mr. Feeney was very enlightening in talking about who ends up calling the shots. We need to take a real hard look at anything that ends up deteriorating our authority that is set in statute.

Commissioner Carey stated:

I think there are two different conversations going on here in the community. You’ve got the toll way Expressway which all came about as a toll road issue back when the 408 was first built, when the OOCEA was established solely to monitor toll roads. Our discussion could be that we have an agreement with the Expressway Authority for completion of the Wekiva Parkway because it is a toll facility. Then you have another discussion going on about a regional transportation authority; by the way, we have a regional transportation authority, it’s called the Central Florida Transportation Authority a/k/a Lynx. There already exists an organization that could be the impetus for this; however, it probably will end up being something else because other jurisdictions are now being impacted. A lot of times people get confused; a lot of times many of our legislators who really aren’t into the local minutia of our transportation boards like we are come and hear us talk about regional transportation authorities and they don’t know if we are talking about adding two seats to the Expressway Authority or if we’re talking about including Volusia County down to Polk County. We are all impacted now by transit and other things that are going on. It’s easy to confuse the two; we tried to separate that this morning when we were having the discussion about this agreement versus a regional transportation authority because you can get into all kinds of different things; it could be an elected body; you could have a regional transportation authority with no elected officials; you could have it with taxing authority, without taxing authority; there are a lot of different models out there that you can do; many of them have been debated before; that is why I made my comment this morning about going back and looking at what happened in the past, when Lou Treadway was an Orange County Commissioner and they had the great debate about MPO versus regional authority.

Commissioner Dallari stated:

I think it’s important that we move forward being proactive; that’s the reason why we brought it back to the BCC to get their input. We weren’t trying to usurp the Expressway Authority. In looking at the documents of not just our County but Orange County, there may have to be two agreements. There may have to be an agreement with the Expressway Authority as well as with the BCC. We need to break this down to a couple of different aspects: (1) get staff’s input on the agreement OOCEA sent to us; try to see what we can live with and what we can’t live with; and (2) at the same time what do we look at from a regional aspect and also look at it from working with our State Legislators. Legislation is changing and we need to be proactive with that and hopefully we could work well with others as we have in the past. I would like to see this Board move forward in trying to get more information back to this Board so we can have dialogue to exact what you are talking about and understand what the pros and cons are so that we can make some decisions.

Commissioner Brender stated:

I would suggest we go over the document; we’re going to have to, as Commissioner Carey said, work both of these at the same time. We will have to work this agreement with the OOCEA because in the end sometime this year public hearings, etc. will begin, the PD&E is virtually completed; they are almost ready to begin the design process. We will have to have some type of agreement in place fairly soon. Public input is a part of the process. In the end we have to get the agreement in place. At the same time we have to lobby and make sure the concept of a regional transportation authority is addressed by Tallahassee this session, not 2011 or 2012.

Commissioner Carey stated: I'm not even sure, from a functional standpoint, you could collapse the OOCEA even if you expanded it into a regional board because of the bond debt and things they have; it's totally different. There are two (2) separate issues. We should stop talking about a regional transportation authority when it comes to this. We should talk about expanding the OOCEA to include the other partners that are involved in the Parkway. Even if you had a regional authority, I don't know that you could take over what's going on with the toll facilities. It's probably always going to be two separate issues.

Commissioner Brender stated:

Somebody's going to be holding onto those bonds; I doubt you can transfer several hundred million dollars worth of bonds over to another authority. In the end we are going to be talking multiple things; I think we need to try to address this agreement so we can move forward with the Parkway.

Commissioner Dallari made a motion that the SCEA move forward to ask staff to review the aforementioned agreement and report back to SCEA; the motion was seconded by Commissioner Carey.

Chairman Brender called for discussion.

Commissioner Henley stated:

It's important that we individually share our concerns about the document with staff or otherwise we'll be back at the same place again, with another document to review. Commissioner Carey is correct with the fact you're not going to do away with the OOCEA; that was never the intent. When Mr. Snyder, from the OOCEA, came to my office a few months ago and asked if I would support allowing the Expressway Authority to build it, I told him yes I could support it provided Seminole County was given a seat on that board; I told him any new county that you move into ought to have a seat on that Board. You would be expanding that Board which is not difficult to do and you won't get into all the legal ramifications that Commissioner Carey expressed a moment ago. You are simply expanding the membership, which should be very simple to do. They are going into Lake and Osceola Counties eventually and each of those have been contacted and have the same concerns that we do, that they ought to have a seat on the Board if you are coming into our County and tolling our citizens. I think that's the approach and we need to concentrate on two things: (1) getting the document in a form that is acceptable to this group; (2) simultaneously get organized with the other counties to push the expansion; there are two separate things.

Commissioner Carey stated: The counties we need to focus on are the ones impacted by the beltway; you get a whole different group when you're talking about the regional transportation authority.

Commissioner Henley stated: Expanding the Board makes it a regional authority.

Commissioner Brender stated:

The key is what form does that take. All of us have had meetings with Mike Snyder and we have to get to some point as to how that representation takes place. The citizens of Seminole County are going to be tolled and they need to have representation as far as how those tolls are done, whether or not that's in the form of a position on a board which would need legislative authority to change or whether we have some type of sub-committee on that board. We will have to get to a point where we have to do that, as Commissioner Henley said, and simultaneously gather our forces to push a regional transportation authority.

Commissioner Carey stated:

The biggest issue is us giving up our authority. I don't think any of us sitting here is interested in giving up our authority; we answer to the public, the citizens; just even one voice could be outvoted which is a little dangerous. You're talking about a \$2 billion dollar project; the only way it's ever going to be done is with tolls and I think everybody accepts that fact; but we have a long way to go; if you were sitting on OOCEA you would have sent over an agreement like this. You have to start somewhere.

Commissioner Woodruff stated:

Everything I was going to say has been covered, particularly about the representation; although my feeling is that it needs to be voting representation.

Chairman Brender called for a vote on the motion. The motion carried unanimously.

Commissioner Brender stated:

Just to summarize, the motion was from Commissioner Dallari regarding investigation of the material presented to SCEA today; we will come back to the BCC and SCEA with the information from staff; there will probably be another Special Meeting of the Expressway Authority to address that information. To the audience, as we go through this process, you may see a lot of special call meetings of the Expressway Authority; but you should realize these will be predominantly addressing this particular issue and we are not in any way shape or form ready to start talking about route placement, etc.; you may see a few of these coming up in the not too distant future.

Commissioner Carey stated:

When the advertisements are placed for Special Call Meetings, have them state what we are going to discuss on the agenda; if we let the citizens know we are talking about a single item, this agreement, and we are not talking about alignments or those type things, it might save a little confusion.

Chairman Brender asked Mr. Johnson whether direction from the SCEA Board was clear and Mr. Johnson confirmed that it was.

Commissioner Henley stated:

I would like the staff as they begin to dissect this document, to look particularly at the generalities and how they can be tightened up. For instance, they state they can exercise eminent domain within the jurisdiction of Seminole County; that's wide open and it needs to be confined to the alignment as approved by the Board of County Commissioners. They have other wording in here, the fact that they can take action based on necessity or convenience of the authority; those types of things are unacceptable and I could go on and on with some of this language. I would like to pay particular attention to tighten this up as tight as we can; otherwise we will go through another meeting of rambling through and wordsmithing.

Commissioner Carey stated:

I think your suggestion was great for Gary Johnson to get with the SCEA members, hear their concerns, try to incorporate those concerns into a document and then bring that document back to us for review.

Commissioner Henley stated:

There is wording to the effect if they decide they can't complete it, they just walk away and then Seminole County has to pick it up; and also wording about holding them harmless, etc, when it doesn't say they will hold us harmless.

Commissioner Brender stated: When this original agreement was drafted in 1990, Seminole County was a little different place; there are probably 250,000 more people living here now and we have our own tax base and our own businesses. Whatever agreement may have been pleasing to them in the past, I am sure they will realize post haste future agreements will have to be changed.

Commissioner McLean stated: Let's keep in mind, according to this 1990 agreement, the only Authority that another entity could have is what we cede to them if we choose to; we need to look at this from the position of what exactly was this Authority created to do, what powers were created, and decide what if any of those we are willing to cede to another authority in the interest of the greater transportation network.

Commissioner Brender stated:

We have to keep in mind the end goal of this is to provide for the transportation needs of Central Florida; we need to address the east west expansion system through the central Florida area; we have north and south well covered between SunRail and I-4, but there are very few transportation links east and west.

Commissioner Henley stated:

Since they are asking for the right to change things, we have to make sure those parallel roads remain; otherwise citizens are going to be hit with tolls because they don't want to allow local traffic. I don't know whether you have seen the costs, \$1.79 billion with \$692 million, over 40%, is in Seminole County.

Commissioner Brender stated: \$131million of the \$300 million is planned for right-of-way acquisition; 40% of the right-of-way acquisition is in the last five miles of this roadway.

Commissioner Carey stated: If you go back to the 90's and look again, and I know Bob McMillan would remember this better than anybody; at the time SCEA turned over the section that already exists to the Turnpike Authority, there was some discussion I believe with the Expressway Authority about them being the ones who would end up with the road. Bob if you have any history on that, it would be great to hear.

Chairman Brender called for additional comments; there were none

ITEM #5: BOARD DISCUSSION / WRAP-UP

Chairman Brender called for other discussion points – there were none.

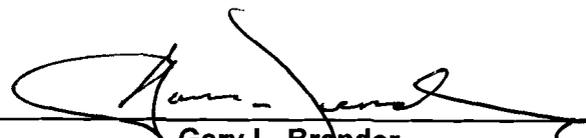
ITEM #6: ADJOURNMENT

There being no further business at this time, the meeting was adjourned at 4:30 P.M.

The next regularly scheduled meeting is May 11, 2010.



Jerry McCollum
Acting Executive Director



Gary L. Brender
Chairman

Attachments

- (1) November 12, 2009, Letter from Commissioner Gary L. Brender, SCEA Chairman, to Mr. Michael Snyder, P.E., Executive Director, OOCEA
Subject: Interlocal Agreement Between The Orlando-Orange County Expressway Authority and Seminole County – Wekiva Parkway
- (2) Orlando-Orange County Expressway Authority Draft Interlocal Agreement Regarding the Wekiva Parkway

Approved: 06-08-2010

/sb

S C E A**SEMINOLE COUNTY EXPRESSWAY AUTHORITY**

520 W. Lake Mary Boulevard, Suite 200 Sanford, Florida 32773 (407) 685-5601

November 12, 2009

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

Subject: Interlocal Agreement between The Orlando-Orange County
Expressway Authority and Seminole County – Wekiva Parkway

Dear Mr. Snyder:

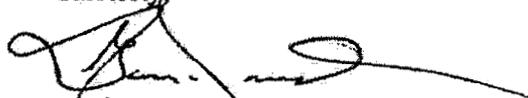
As discussed at our Seminole County Expressway Authority meeting on November 10, 2009, staff has reviewed the proposed draft Interlocal Agreement between The Orlando-Orange County Expressway Authority (OOCEA) and Seminole County to enable development and construction of the Wekiva Parkway by OOCEA in Seminole County. Based on that discussion, please accept this correspondence as our response to the draft.

Earlier this year, Seminole County, through its Expressway Authority, expressed its support of a Regional Expressway Authority for Central Florida. In informal briefings regarding implementation of the Wekiva Parkway in Seminole County, you were advised of this interest and also of the Board of County Commissioners' desire to have an elected official from Seminole County as a voting member of OOCEA.

The draft Interlocal Agreement does not address the membership issue or a Regional Expressway Authority for Central Florida. As a condition of considering this agreement and authorizing OOCEA to develop and construct the Wekiva Parkway in Seminole County, the SCEA respectfully requests the agreement be amended to include language regarding these items. Recognizing legislative action will be required to implement either concept, a commitment of intent by the parties and acknowledgement of the process in the agreement would be a constructive starting point.

If you have any questions or require additional information, please contact Gary Johnson, Executive Director of the Seminole County Expressway Authority, at 407-665-5601.

Sincerely,



Gary L. Brender
Chairman

GLB:GJ:sb

Distribution List Attached

AUTHORITY MEMBERS

Brenda Carey
Bob Dallari

Carlton D. Henley

Gary L. Brender, Chairman

Dick Van Der Weide

Michael J. McLean, Vice Chairman
Art Woodruff

W. Gary Johnson, P.E. Executive Director

November 12, 2009 Letter to Mr. Michael Snyder, P.E., Executive Director
Subject: Interlocal Agreement Between The Orlando-Orange County
Expressway Authority and Seminole County – Wekiva Parkway
Distribution List

Original To:

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

Copy To:

OOCEA Board Members

Orange County Mayor Richard Crotty, Chairman,
Ms. Tanya T. Juarez, Vice Chairman
Mr. Mark Filburn, Secretary/Treasurer
Ms. Noranne B. Downs, P.E.
Mr. Walter A. Ketcham, Jr.

METROPLAN ORLANDO

Mr. Harold W. Barley, Executive Director

Seminole County Board of County Commissioners

Commissioner Bob Dallari, Chairman
Commissioner Brenda Carey
Commissioner Carlton Henley
Commissioner Michael J. McLean
Commissioner Dick Van Der Weide

Seminole County Expressway Authority Members

Lake Mary City Commissioner Gary L. Brender, Chairman
Seminole County Commissioner Michael J. McLean, Vice Chairman
Seminole County Commissioner Bob Dallari
Seminole County Commissioner Brenda Carey
Seminole County Commissioner Carlton Henley
Seminole County Commissioner Dick Van Der Weide
Sanford City Commissioner Art Woodruff

Florida Department of Transportation

Ms. Noranne B. Downs, P.E., District V Secretary

Florida Turnpike Enterprise

Mr. James L. Ely, Executive Director

Lake County Board of County Commissioners

Commissioner Welton G. Cadwell, Chairman

Osceola County Board of County Commissioners

Commissioner John "Q" Quinones, Chairman

City of Orlando, Florida

Mayor Buddy Dyer

Mr. Joseph Forte, Acting County Manager, Seminole County

Ms. Sabrina O'Bryan, Assistant County Manager, Seminole County

Mr. W. Gary Johnson, P.E., Executive Director, Seminole County Expressway Authority

Mr. Jerry McCollum, P.E., County Engineer, Seminole County

Matthew Minter, Esq., Deputy County Attorney, Seminole County

DRAFT

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

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 "Authority"), and Seminole County, a political subdivision of the State of Florida, having an address at 1101 East First Street, Sanford, Florida 32771.

WITNESSETH

WHEREAS, this Agreement is entered into pursuant §163.01, *Florida Statutes*, also known as the "Florida Interlocal Cooperation Act of 1969;" and

WHEREAS, the Wekiva Parkway 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 Mount Dora, Florida, and connecting to the Wekiva Parkway at a systems interchange together with all necessary approaches, roads, bridges and avenues of access that constitute a part of such project, the "Wekiva Parkway;" and

WHEREAS, the Authority, with the assistance of the Florida Department of Transportation ("FDOT"), through the Wekiva Parkway S.R. 429/S.R. 46 Realignment Project Development and Environment Study (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 Parkway preferred alignment has been approved by the Authority, FDOT, Orange County, Lake County, Seminole County, the Cities of Mount Dora and Apopka, the Seminole County Expressway Authority 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. Highway 441, S.R. 46 and local roads, and complete the beltway on the West side of Metropolitan Orlando; 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 is in the best interest of the citizens of Seminole County; and

WHEREAS, the Authority 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, to insure the development of the entire Wekiva Parkway, Seminole County desires that the Authority 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 Authority 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 funding for the costs associated with the entire Wekiva Parkway as a limited access toll road; and

WHEREAS, Seminole County acknowledges that the exercise of eminent domain power by the Authority is necessary in the event that certain parcels can not be obtained through negotiations between the property owners and the Authority and has agreed and consented to the Authority exercising its power of eminent domain within the jurisdiction of Seminole County; and

WHEREAS, the Authority and Seminole County 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 INTERPRETATIONS**

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. Interpretations. 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. 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 Authority. The Authority makes the following representations as the basis for its undertakings contained herein:

A. The Authority is duly organized and validly existing as a body politic and corporate and an agency of the State of Florida.

B. The Authority has full power and authority to enter into this Agreement and to carry out its obligations hereunder.

C. The Authority is authorized by §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 §348.755(1)(b), *Florida Statutes*.

D. The Authority 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 Authority has duly authorized the execution and delivery of this Agreement.

F. To the Authority's knowledge, the authorization, execution and delivery of this Agreement and the compliance by the Authority 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 Authority or its affairs, or any ordinance, resolution, agreement, or other instrument to which the Authority is subject or by which it is bound.

G. To the Authority'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 Authority, threatened against or affecting the Authority, 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 political subdivision and charter county 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.

**ARTICLE III
WEKIVA PARKWAY**

Section 3.01. General.

A. The Wekiva Parkway is being designed as a limited access toll road beginning at the planned S.R. 429 interchange at U.S. 441 in Apopka, Florida, 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 Mount Dora, Florida, and connecting to the Wekiva Parkway at a systems interchange.

B. In accordance with §348.7546, *Florida Statutes*, the Authority is authorized to exercise its condemnation powers, construct, finance, operate, own and maintain the Wekiva Parkway as part of the Authority's long range capital improvement plan. The project may be financed with any funds available to the Authority for such purpose, or revenue bonds issued by the Authority under §11, Article VII of the State Constitution and §348.755(1)(b), *Florida Statutes*.

C. Seminole County covenants and agrees to permit the Authority to peacefully and quietly hold, enjoy and operate the Wekiva Parkway as a limited access toll road, without hindrance from Seminole County, or any party claiming by, through or under Seminole County, but not otherwise, subject to the terms and conditions of this Agreement.

D. Pursuant to the requirements of §348.754(2)(n), *Florida Statutes*, Seminole County consents to the Authority 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 Authority's business and the general welfare of the Authority, and in order to carry out the powers granted to the Authority in Part V, Chapter 348, *Florida Statutes*, or any other law.

Section 3.02. Ownership. The limited access portions of the Wekiva Parkway shall be owned and operated by the Authority as a limited access toll road in the manner that the Authority owns and operates the other facilities that comprise its Expressway System.

Section 3.03. Funding of Costs of Acquisition and Construction.

A. The Authority will be responsible for funding 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 Authority for such purpose, revenue bonds issued by the Authority, 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 Authority, in its sole determination, prohibiting the Authority's development of all or any part of the Wekiva Parkway, Seminole County agrees that the Authority shall have the right to terminate its efforts to develop the Wekiva Parkway or any portion thereof. In the event the Authority determines funding is unavailable, Seminole County may elect to provide funding to complete any portion of the Wekiva Parkway that the Authority elects not to develop.

C. Should Seminole County withdraw its consent to the Authority constructing, operating and maintaining the Wekiva Parkway within its jurisdiction, then Seminole County shall be responsible for reimbursing the Authority for all of its documented expenses related to the Authority's efforts to develop that portion of the Wekiva Parkway located in Seminole County and any damages the Authority may suffer resulting from lost revenue or revenue bonding obligations.

Section 3.04. Tolls, Collection and Enforcement.

A. The Authority 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 Authority.

B. The Authority 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 Authority or FDOT while engaged in official business, or except as required by existing law.

D. The parties hereto understand that at all times the Authority 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 Authority 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 IV
PLANNING, DESIGN AND CONSTRUCTION**

Section 4.01. Planning and Design.

A. The Wekiva PD&E Study, which began in January 2005, has been completed and an approved alternative was proposed to Seminole County. Upon formal public hearing in Seminole

County for the approval of the preferred alignment, Seminole County consented to the Authority constructing, operating and maintaining the Wekiva Parkway within Seminole County's jurisdiction.

B. The Authority shall be solely responsible for developing all plans and specifications for the Wekiva Parkway project and 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. Seminole County shall assist the Authority, upon request, in its efforts to obtain all permits and approvals required from other governmental agencies or authorities.

Section 4.02. Construction. In its sole discretion, the Authority 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. Seminole County agrees that it may be necessary to develop the Wekiva Parkway in segments and that it is in the sole discretion of the Authority as to which order the segments of the Wekiva Parkway shall be constructed. Seminole County understands and agrees that the Authority also has the sole discretion regarding the timing of the construction of the Wekiva Parkway project.

Section 4.03. Indemnification. To the extent permitted by law, the Authority shall indemnify, defend and save Seminole County, its agents, and employees, harmless against all damages, claims, expenses, injuries and demands of any kind arising from any act, negligence or omission by the Authority that may occur by reason of its obligations arising out of this Agreement. To the extent permitted by law, Seminole County shall indemnify, defend and save the Authority, its agents, and employees, harmless against all damages, claims, expenses, injuries and demands of any kind arising from any act, negligence or omission by Seminole County that may occur by reason of its obligations arising out of this Agreement.

ARTICLE V MISCELLANEOUS PROVISIONS

Section 5.01. 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 5.02. Cooperation with Representatives. The parties pledge mutual cooperation between all representatives of the Authority and Seminole County. The parties shall provide such data, reports, certifications and other documents or assistance reasonably requested by other. The provision of such information shall not in any manner diminish the parties' rights or obligations under any other provision hereof.

Section 5.03. 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 of provisions hereof.

Section 5.04. Governing Law. This Agreement shall be governed by and construed in accordance with the law of the State of Florida.

Section 5.05. 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:

Cynthia A. Coto, County Manager
Seminole County, Florida
1101 East First Street
Sanford FL 32771

Orlando-Orange County Expressway Authority:

Michael D. 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. Notices sent by overnight courier service shall be deemed effective on the first business day after deposited with such service, with the fee paid in advance. 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 5.06. Interpretation. References to statutes or regulations include all statutory or regulatory provisions consolidating, amended 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 5.07. 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 5.08. 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 5.09. 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 5.10. 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 5.11. Filing. In accordance with Florida Statute 163.01(11), this Agreement shall be filed with the Clerk of Court of the Circuit Court for Seminole County, Florida.

Section 5.12. 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.

DRAFT

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature:

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 _____, 2009.

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 _____, 2009.

ORLANDO-ORANGE COUNTY
EXPRESSWAY AUTHORITY

SEMINOLE COUNTY, FLORIDA

By: _____
Michael Snyder, Executive Director

By: _____
Bob Dallari, Seminole County Chairman

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, County Attorney

Date: _____, 2009

Date: _____, 2009

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