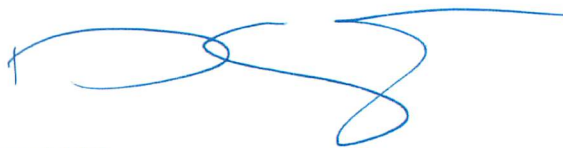


*Founded 1910*

## MEMORANDUM

TO: Central Florida Expressway Authority Board  
FROM: David A. Shontz, Esq., Right-of-Way Counsel  
DATE: January 26, 2015  
RE: State Road 429 Wekiva Parkway, Project 429-203; Parcel 188  
Mediated Settlement Agreement

A handwritten signature in blue ink is located to the right of the "FROM" and "DATE" lines.

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Shutts & Bowen LLP, Right-of-Way Counsel, seeks the approval of the Mediated Settlement Agreement by and between the Central Florida Expressway Authority ("CFX") and Michael Shulman ("Owner") for the settlement of Parcel 188 (the "Taking" or "Property") for the construction of State Road 429 Wekiva Parkway, Project 429-203. The Right-of-Way Committee has recommended approval of the mediated settlement agreement.

### DESCRIPTION AND BACKGROUND

Parcel 188 is a whole taking totaling 10.163 acres and is improved with a 2,363 s.f. three bedroom/two bath house built in 1975. Additional improvements on the subject property include a barn, greenhouse, workshop building, and wood cattle pens. This property was the homestead of Mr. Shulman.

The CFX's appraisal of the property was prepared by Chad Durrance of Durrance & Associates. The subject property is currently zoned A-2 (Farmland Rural District) with a Rural/Agricultural (R) future land use category. Mr. Durrance concludes the highest and best use of the subject property is for continued use of the existing improvements. Mr. Durrance used the Sales comparison approach and had 9 land sales ranging from \$17,100 to \$29,300 per ac. and concluded a value of \$22,500 per ac. Additionally, Mr. Durrance had 6 improved sales ranging from \$26,000 to \$97,500 for allocated improvements and concluded \$21,500.00 for the improvements on the subject property. Accordingly, Mr. Durrance's total value conclusion is \$250,200.00 (\$228,700 land, \$21,500 improvements).

Mr. Shulman's appraisal of the subject property was prepared by Rick Dreggors of Calhoun, Dreggors & Associates, Inc. Mr. Dreggors argues that the area is transitioning from historical single family homes on larger acreage/agricultural uses to higher density residential

neighborhoods and other uses. Mr. Shulman additionally retained a land planner, Eric Rahenkamp who concluded that it is reasonably probable that the subject property's land use designation could be amended and that the City of Apopka's Northwest Area Conceptual Master plan would allow two dwelling units per acres. Therefore, Mr. Rahenkamp opined that this would permit 20 dwelling units on the Shulman property, if the property were annexed into the City of Apopka. Mr. Dreggors argues the highest and best use of the subject property is for assemblage for a single family residential subdivision. Mr. Dreggors utilized the Sales comparison approach and had 7 land sales ranging from \$66,795.00 to \$159,025.00 per ac. and concluded a value of \$75,000.00 per ac. Accordingly, Mr. Dreggors total value conclusion is \$762,000.00.

In addition to the appraised value, counsel for Shulman argued that they were also entitled to the value of the fill being used by the CFX for the project. Specifically, Paul Sherma, P.E. of PEER estimated that 133,604 CY of material was being excavated from Pond 203-3A, Pond 203-3B and Floodplain Compensation 2 on the subject property. Therefore, Mr. Shulman was seeking an additional \$296,500.00 for fill and statutory interest. Accordingly, Mr. Shulman was seeking a total of \$1,058,500.00 for the taking of Parcel 188.

Parcel 188 was scheduled for a 5 day trial in February 2015. Per Court order, the parties held mediation on January 9, 2015. Notwithstanding numerous disagreements with the property owner's position, the parties were able to reach a resolution and entered into a Mediated Settlement Agreement, subject to Board approval. Under the Mediated Settlement Agreement, the CFX would pay Mr. Shulman the sum of \$375,000, plus attorney's fees and experts costs. An additional consideration of the settlement is for Mr. Shulman to be able to retain the \$20,450 previously paid to Mr. Shulman as a replacement housing payment to obtain a replacement dwelling after the taking of his home. This would result in the CFX depositing an additional \$124,800 into the court registry (CFX receives a credit of \$250,200 previously deposited). Statutory attorney's fees for Wilson & Garber, P.A. totals \$41,184. Additionally, although the expert's fees and attorney's costs are subject to review and potential reduction, the total experts fees and attorneys costs incurred by Mr. Shulman totals \$58,736.14.

The Right-of-Way Committee recommends the approval of the Mediated Settlement Agreement and we are requesting Board approval of the Mediated Settlement Agreement and is in the CFX's best interest. This settlement considers the substantial differences of opinion regarding valuation issues to be presented to the jury by both parties (\$808,300.00 spread), credibility of expert witnesses and it will eliminate further risk and expenses that the CFX will ultimately incur for both sides if this matter were to proceed to a jury trial, as the CFX is responsible for the property owners attorney's fees and experts fees as set forth in Florida Statutes Chapter 73 and 74.

### **RECOMMENDATION**

We respectfully request that the CFX Board approve the Mediated Settlement with a total settlement amount of \$375,000 in full settlement of all claims for compensation for the acquisition of Parcel 188.

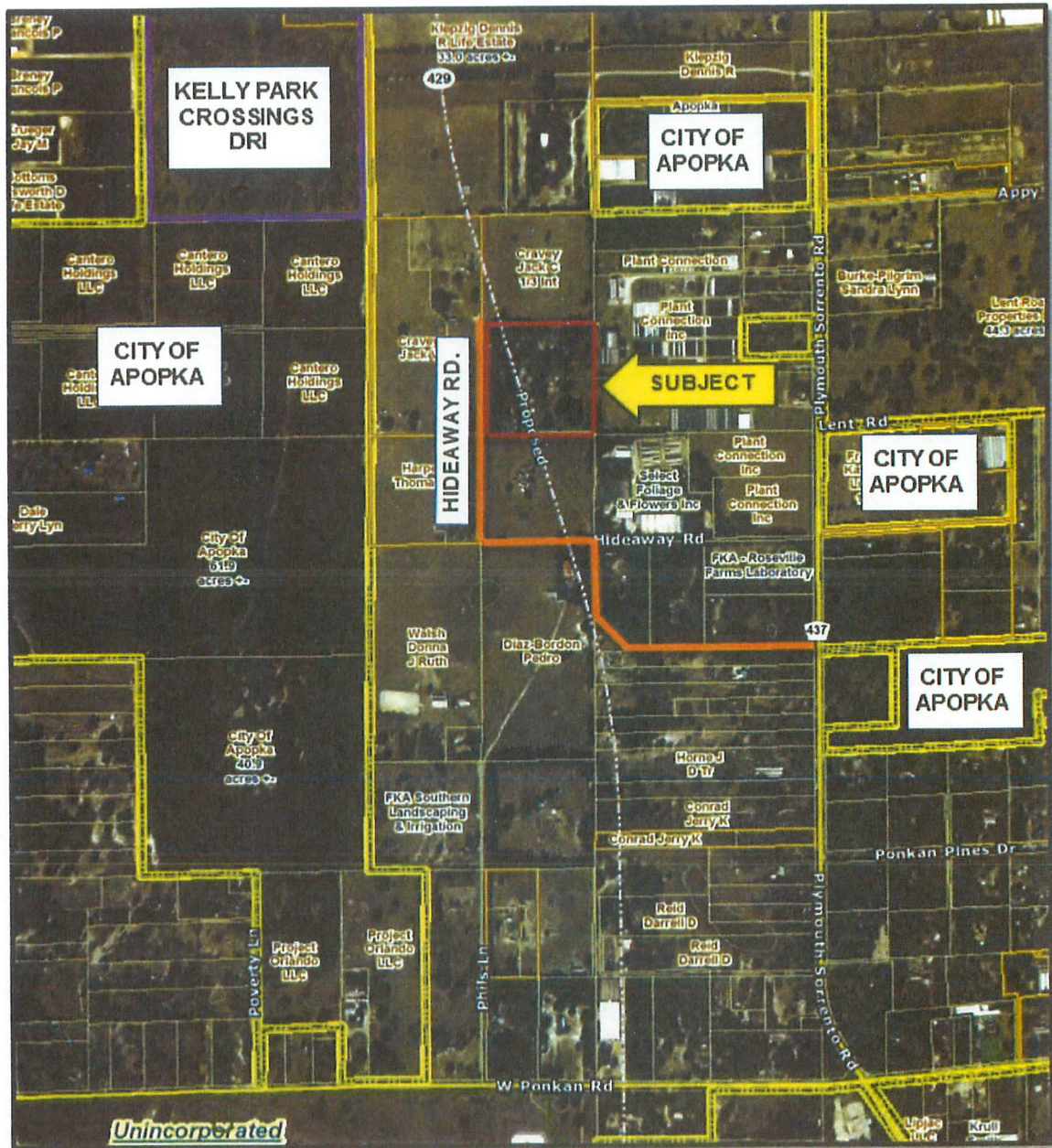
## **ATTACHMENTS**

Exhibit "A" – Sketch of Subject Property  
ORLDOCS 13830119 1





## LOCATION MAP



## AERIAL MAP OF SUBJECT AREA





 **AERIAL/SKETCH**  
(Source: OCPAFL.org – 2014 Image Date)

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
WEKIVA PARKWAY - PROJECT NO. 429-203  
LIMITED ACCESS RIGHT OF WAY  
ESTATE: FEE SIMPLE

LEGAL DESCRIPTION:

PART A

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 1/2" IRON ROD WITH NO IDENTIFICATION IN A WELL BOX MARKING THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA; THENCE SOUTH 88° 41' 17" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 24, A DISTANCE OF 1325.20 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF SAID NORTHEAST QUARTER; THENCE DEPARTING SAID NORTH LINE RUN SOUTH 00° 16' 44" WEST ALONG THE EAST LINE OF SAID WEST HALF, A DISTANCE OF 666.29 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID NORTHEAST QUARTER FOR THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00° 16' 44" WEST ALONG SAID EAST LINE, A DISTANCE OF 666.89 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE DEPARTING SAID EAST LINE RUN SOUTH 89° 03' 02" WEST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, A DISTANCE OF 595.96 FEET TO A POINT ON A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 11314.16 FEET, A CHORD DISTANCE OF 111.72 FEET AND A CHORD BEARING OF NORTH 18° 46' 54" WEST; THENCE DEPARTING SAID SOUTH LINE RUN NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00° 33' 57", A DISTANCE OF 111.72 FEET; THENCE DEPARTING SAID CURVE RUN ALONG A RADIAL BEARING OF SOUTH 70° 56' 07" WEST, A DISTANCE OF 34.97 FEET TO ITS INTERSECTION WITH THE WEST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, AS MONUMENTED AND OCCUPIED; THENCE DEPARTING SAID RADIAL LINE RUN NORTH 00° 23' 29" EAST ALONG SAID WEST LINE, A DISTANCE OF 569.47 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE DEPARTING SAID WEST LINE RUN NORTH 88° 53' 00" EAST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, AS MONUMENTED AND OCCUPIED, A DISTANCE OF 664.38 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.


CONTAINING 10.042 ACRES, MORE OR LESS

NOTE:

THIS SKETCH OF DESCRIPTION WAS PREPARED WITH THE BENEFIT OF CERTIFICATE OF TITLE INFORMATION PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY AS TO FILE NO. 2037-2777481 DATED 07/12/2012.

LEGEND & ABBREVIATIONS

|        |                             |          |                            |        |                         |      |   |
|--------|-----------------------------|----------|----------------------------|--------|-------------------------|------|---|
| CB     | = CHORD BEARING             | ID.      | = IDENTIFICATION           | P.I.   | = POINT OF INTERSECTION | (R)  | = RADIAL  |
| C.C.R. | = CERTIFIED CORNER RECORD   | I.R.     | = IRON ROD                 | P.O.B. | = POINT OF BEGINNING    | SEC. | = SECTION   |
| CH     | = CHORD LENGTH              | L.       | = ARC LENGTH               | P.O.C. | = POINT OF COMMENCEMENT | TITF | = TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND |
| COR.   | = CORNER                    | L.A.     | = LIMITED ACCESS           | PROJ.  | = PROJECT               | W/   | = WITH  |
| (C)    | = CALCULATED DISTANCE       | LB       | = LICENSED SURVEY BUSINESS | P.T.   | = POINT OF TANGENCY     | PL   | = PROPERTY LINE                                   |
| O.B.   | = DEED BOOK                 | LT       | = LEFT                     | (PI)   | = PLAT                  | R    | = SAME PROPERTY OWNER                             |
| ESMT   | = EASEMENT                  | NO.      | = NUMBER                   | R      | = RADIUS                | Δ    | = DELTA (CENTRAL ANGLE)                           |
| EXIST. | = EXISTING                  | D.R.B.   | = OFFICIAL RECORDS BOOK    | R.B.M. | = ROAD BOND MAP         | +    | = CHANGE IN DIRECTION                             |
| FND.   | = FOUND                     | P.C.     | = POINT OF CURVATURE       | RT     | = RIGHT                 | ---  | = LIMITED ACCESS R/W LINE                         |
| FPC    | = FLORIDA POWER CORPORATION | PG./PGS. | = PAGE / PAGES             | R/W    | = RIGHT OF WAY          | ---  | = R/W LINE  |
| (F)    | = FIELD DISTANCE            |          |                            |        |                         |      |   |

|                 |                    |  |  |               |
|-----------------|--------------------|--|--|---------------|
| DATE            | SEPTEMBER 23, 2013 | CERTIFICATION OF AUTHORIZATION No. LB 1221   | SKETCH OF DESCRIPTION.<br>THIS IS NOT A BOUNDARY SURVEY.   | PARCEL<br>188 |
| DRAWN BY        | M.ROLLINS          | <br>520 SOUTH MAGNOLIA AVENUE<br>ORLANDO, FLORIDA 32801<br>(407) 843-5120<br>FAX 407-649-8664 | S.R. 429 (WEKIVA PARKWAY)<br>ORLANDO-ORANGE COUNTY<br>EXPRESSWAY AUTHORITY<br>ORANGE COUNTY, FLORIDA | SCALE: N/A    |
| CHECKED BY      | S.WARE             |  |  | SHEET 1 OF 4  |
| DSA PROJECT NO. | EA11-J1            |  |  |               |
| REVISION        | BY                 | DATE   |  |               |

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
WEKIVA PARKWAY - PROJECT NO. 429-203  
RIGHT OF WAY  
ESTATE: FEE SIMPLE


LEGAL DESCRIPTION:

PART B

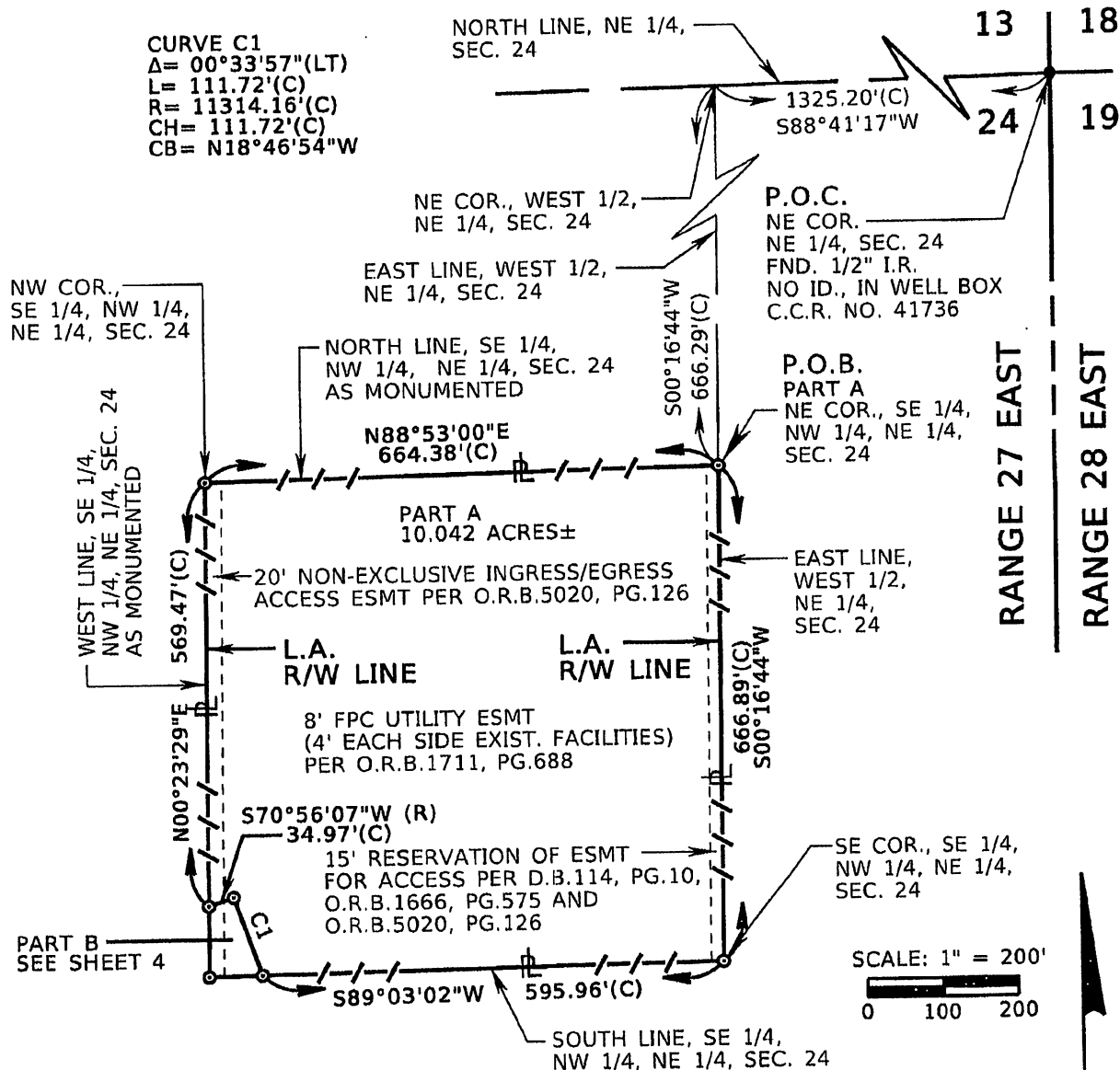
A PARCEL OF LAND LOCATED IN THE SOUTHEAST OF THE NORTHWEST OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 1/2" IRON ROD WITH NO IDENTIFICATION IN A WELL BOX MARKING THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA; THENCE RUN SOUTH 88° 41' 17" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 24, A DISTANCE OF 1325.20 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF SAID NORTHEAST QUARTER; THENCE DEPARTING SAID NORTH LINE RUN SOUTH 00° 16' 44" WEST ALONG THE EAST LINE OF SAID WEST HALF, A DISTANCE OF 1333.18 FEET TO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID NORTHEAST QUARTER; THENCE DEPARTING SAID EAST LINE RUN SOUTH 89° 03' 02" WEST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER, A DISTANCE OF 595.96 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89° 03' 02" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 69.68 FEET TO THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE DEPARTING SAID SOUTH LINE RUN NORTH 00° 23' 29" EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER AS MONUMENTED AND OCCUPIED, A DISTANCE OF 95.51 FEET; THENCE DEPARTING SAID WEST LINE RUN ALONG A RADIAL BEARING OF NORTH 70° 56' 07" EAST, A DISTANCE OF 34.97 FEET TO A POINT ON A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 11314.16 FEET, A CHORD DISTANCE OF 111.72 FEET AND A CHORD BEARING OF SOUTH 18° 46' 54" EAST; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00° 33' 57", A DISTANCE OF 111.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 5290 SQUARE FEET, MORE OR LESS


|                 |                    |  |  |  |
|-----------------|--------------------|--|--|--|
| DATE            | SEPTEMBER 23, 2013 | <br>CERTIFICATION OF AUTHORIZATION No. LB 1221<br>BOWYER SINGLETON<br>520 SOUTH MAGNOLIA AVENUE<br>ORLANDO, FLORIDA 32801<br>(407) 843-5120<br>FAX 407-649-8664 | SKETCH OF DESCRIPTION.<br>THIS IS NOT A BOUNDARY SURVEY. | PARCEL<br>188  |
| DRAWN BY        | M.ROLLINS          |  |  | S.R. 429 (WEKIVA PARKWAY)<br>ORLANDO-ORANGE COUNTY<br>EXPRESSWAY AUTHORITY<br>ORANGE COUNTY, FLORIDA |
| CHECKED BY      | S.WARE             |  | SHEET 2 OF 4   |  |
| BSA PROJECT NO. | EA11-J1            |  |  |  |
| REVISION        | BY                 | DATE   |  |  |

BEARING STRUCTURE BASED ON THE NORTH LINE  
OF THE NORTHEAST 1/4 OF SEC. 24-20-27, BEING  
S88°41'17"W, FLORIDA STATE PLANE COORDINATE  
SYSTEM, EAST ZONE, 1983/2007 ADJUSTMENT.



# SECTION 24, TOWNSHIP 20 SOUTH

PROJECT NO. 429-203

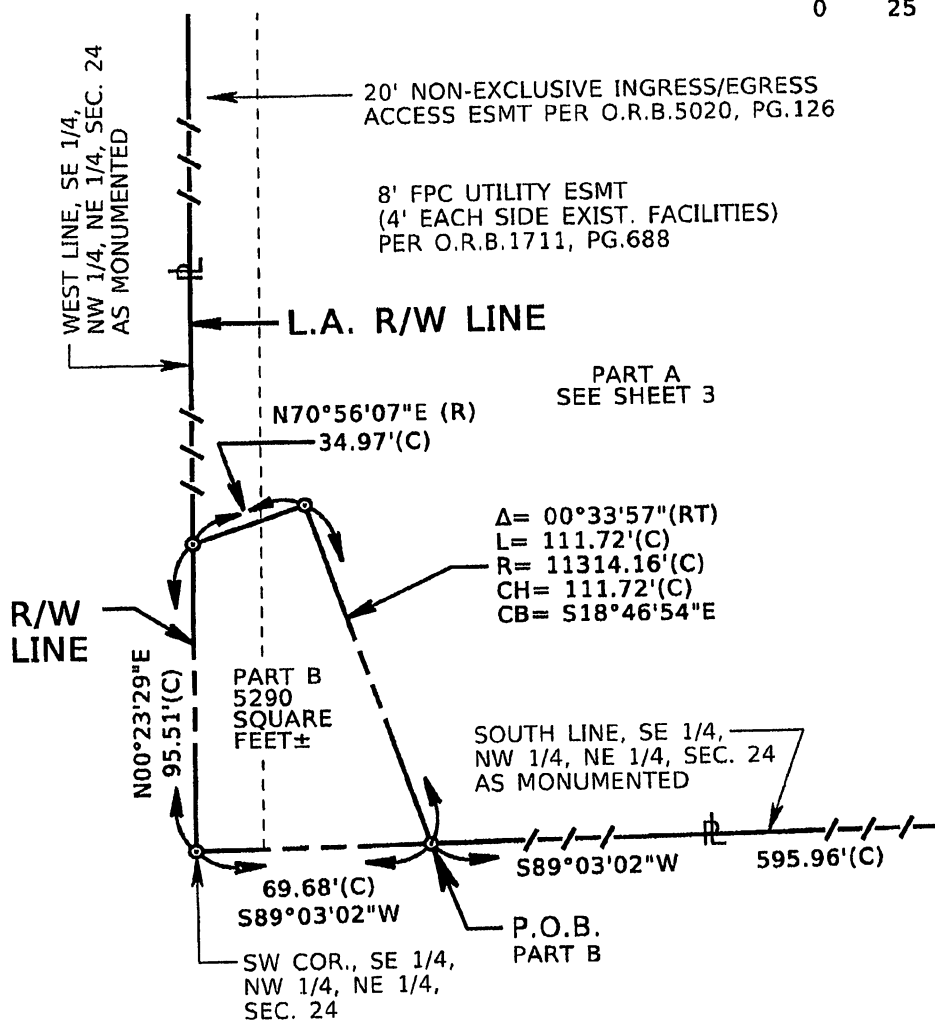
|                 |                    |  |  |                |
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| DATE            | SEPTEMBER 23, 2013 |  <p>CERTIFICATION OF AUTHORIZATION No. LB 1221</p> <p><b>BOWLER &amp; SINGLETON</b></p> <p>520 SOUTH MAGNOLIA AVENUE<br/>ORLANDO, FLORIDA 32801<br/>(407) 843-5120<br/>FAX 407-649-8684</p> | SKETCH OF DESCRIPTION.<br>THIS IS NOT A BOUNDARY SURVEY.   | PARCEL<br>188  |
| DRAWN BY        | M.AOGLINS          |  |  | SCALE: 1"=200' |
| CHECKED BY      | S.WARE             |  | S.R. 429 (WEKIVA PARKWAY)<br>ORLANDO-ORANGE COUNTY<br>EXPRESSWAY AUTHORITY<br>ORANGE COUNTY, FLORIDA | SHEET 3 OF 4   |
| BSA PROJECT NO. | EA11-J1            |  |  |                |
| REVISION        | BY                 | DATE   |  |                |



BEARING STRUCTURE BASED ON THE NORTH LINE  
OF THE NORTHEAST 1/4 OF SEC. 24-20-27, BEING  
S88°41'17"W, FLORIDA STATE PLANE COORDINATE  
SYSTEM, EAST ZONE, 1983/2007 ADJUSTMENT.

SCALE: 1" = 50'

0 25 50



SECTION 24, TOWNSHIP 20 SOUTH, RANGE 27 EAST

PROJECT NO. 429-203

I HEREBY CERTIFY THAT THIS SKETCH OF DESCRIPTION  
IS IN ACCORDANCE WITH THE "MINIMUM TECHNICAL  
STANDARDS" AS REQUIRED BY CHAPTER 51-17 FLORIDA  
ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027,  
FLORIDA STATUTES.

*William E. Byrd* 9/23/2013  
WILLIAM E. BYRD, S.M.  
LICENSE NUMBER 5442 DATE

NOT VALID WITHOUT THE SIGNATURE AND  
THE ORIGINAL RAISED SEAL OF A FLORIDA  
LICENSED SURVEYOR AND MAPPER

CERTIFICATION OF AUTHORIZATION No. LB 1221



520 SOUTH MAGNOLIA AVENUE  
ORLANDO, FLORIDA 32801  
(407) 843-5120  
FAX 407-649-8664

SKETCH OF DESCRIPTION.  
THIS IS NOT A BOUNDARY SURVEY.

S.R. 429 (WEKIVA PARKWAY)  
ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY  
ORANGE COUNTY, FLORIDA

PARCEL  
188

SCALE: 1"=50'

SHEET 4 OF 4