


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 186
Mediated Settlement Agreement



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 C'Sandra K. and Ellis L. Hall ("Owner") for the settlement of Parcel 186 (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 186 is a whole taking totaling 10.168 acres and is improved with a 2,264 s.f. four bedroom/two bath manufactured home built in 1998, which is served by a 299 s.f. front screened porch as well as a 240 s.f. rear covered porch. Additional improvements on the subject property included a 378 s.f. carport, a 289 s.f. workshop, a 121 s.f. storage shed, metal shed and second carport. This property was the homestead of Mr. and Mrs. Hall.

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 \$24,400 to \$75,000 for allocated improvements and concluded \$71,000.00 for the improvements on the subject property. Accordingly, Mr. Durrance's total value conclusion is \$300,000.00 (\$229,000 land, \$71,000 improvements).

Mr. and Mrs. Hall'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. The Hall's 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 Hall 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 \$781,400.00 (\$762,800 land, \$18,600 improvements).

In addition to the appraised value, counsel for the Hall's 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 32,247 CY of material was being excavated from Pond 203-2B and Floodplain Compensation 2 on the subject property. Therefore, the Hall's were seeking an additional \$72,136.00 for fill and statutory interest. Accordingly, the Hall's were seeking a total of \$853,536.00 for the taking of Parcel 186.

Parcel 186 was scheduled for a 4 to 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. and Mrs. Hall the sum of \$450,000, plus attorney's fees and experts costs. This would result in the CFX depositing an additional \$150,000 into the court registry (CFX receives a credit of \$300,000 previously deposited). Furthermore, Wilson & Garber, P.A. agreed to a reduced statutory attorney fee in the amount of \$41,250. 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 the Hall's totals \$48,042.

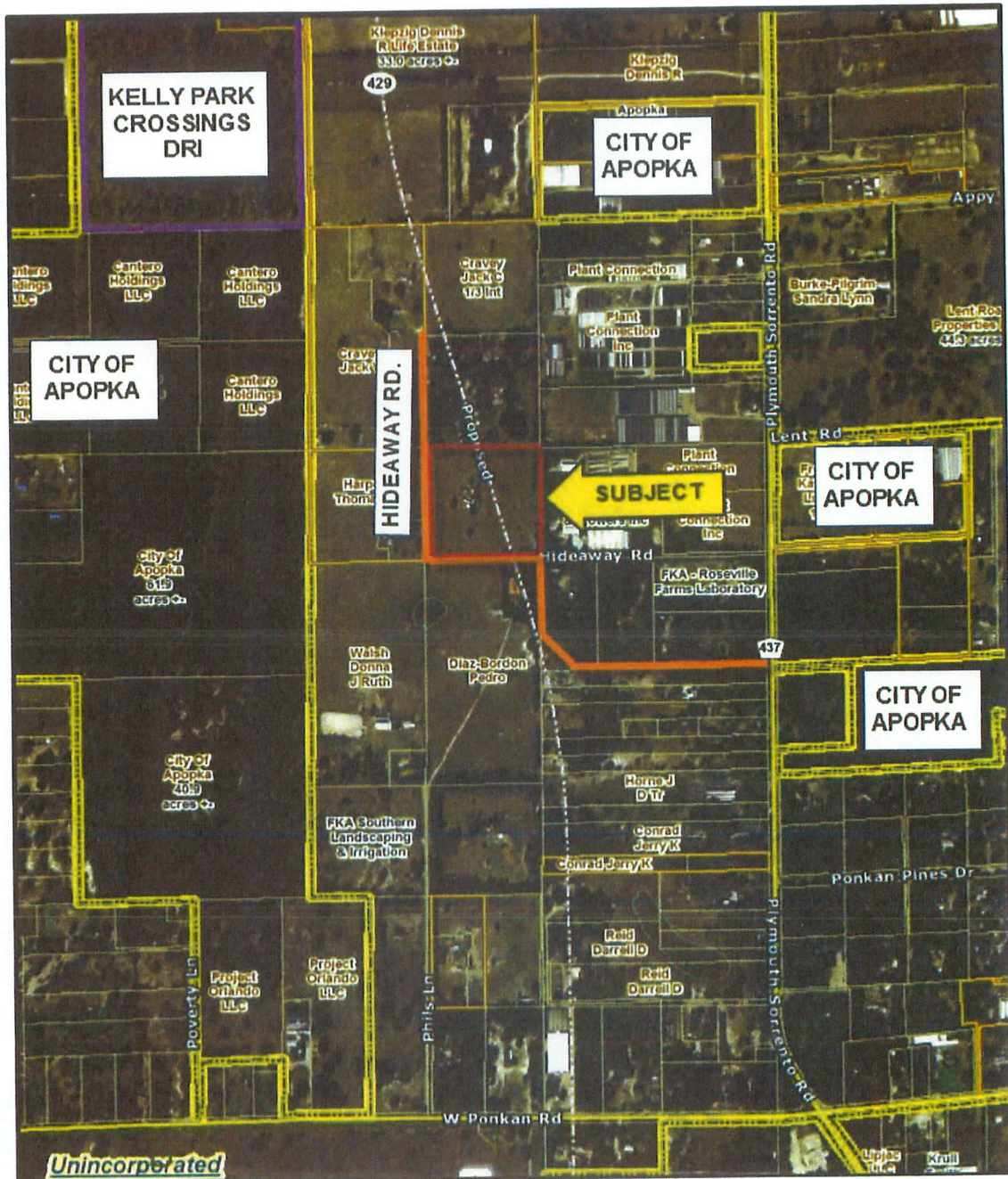
The Right-of-Way Committee recommends the approval of the Mediated Settlement Agreement and we are requesting Board approval of the Mediated Settlement Agreement and is in the CFX's best interest. This settlement considers the substantial differences of opinion regarding valuation issues to be presented to the jury by both parties (\$553,536.00 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

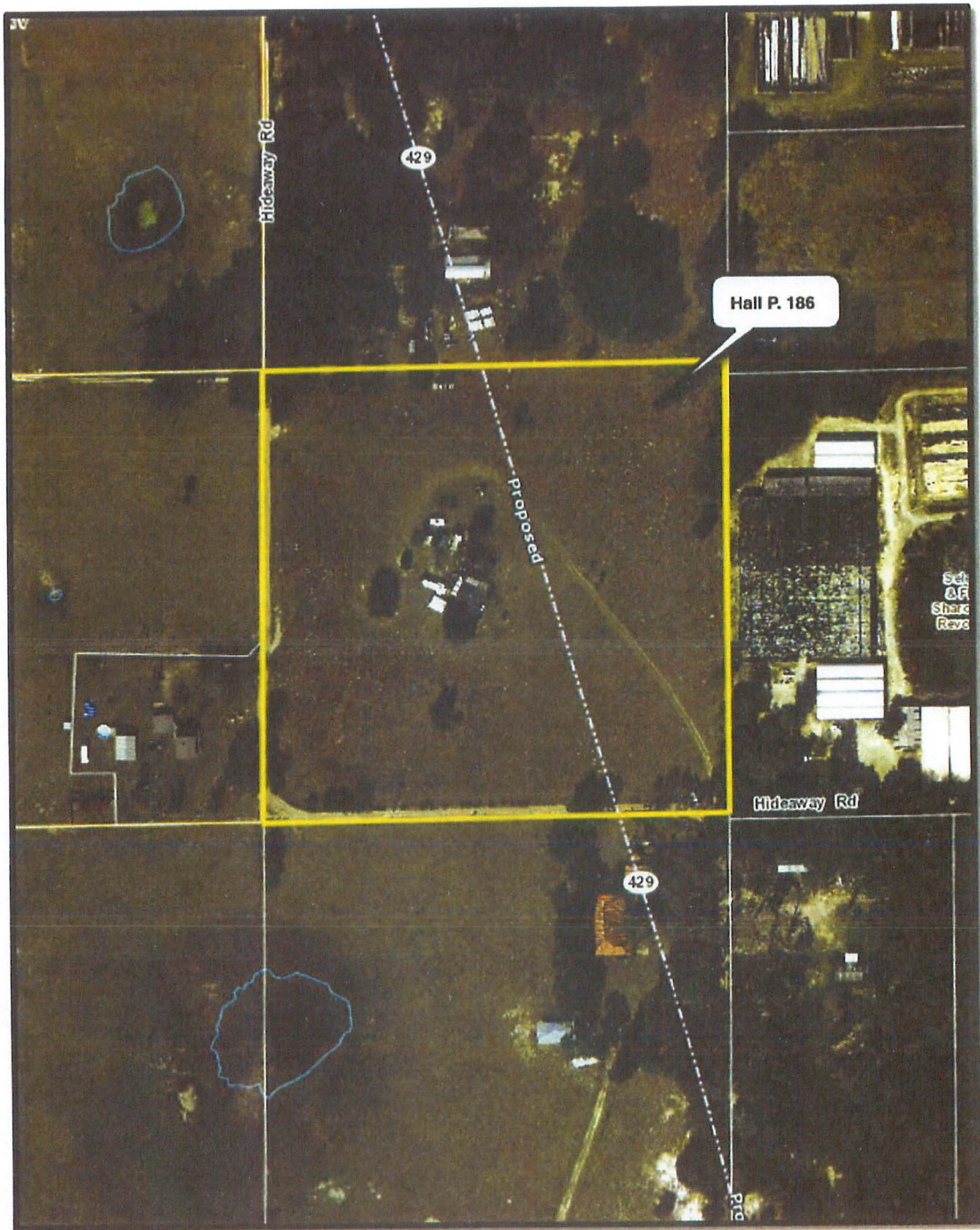
We respectfully request that the CFX Board approve the Mediated Settlement with a total settlement amount of \$450,000 in full settlement of all claims for compensation for the acquisition of Parcel 186.

ATTACHMENTS

Exhibit "A" – Sketch of Subject Property
ORLDOCS 13830125 1



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 NORTHEAST QUARTER OF THE SOUTHWEST 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 1333.18 FEET TO THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID NORTHEAST QUARTER FOR THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00°16'44" WEST ALONG SAID EAST LINE, A DISTANCE OF 666.12 FEET TO THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE DEPARTING SAID EAST LINE RUN SOUTH 89°15'16" WEST ALONG SAID SOUTH LINE AS MONUMENTED AND OCCUPIED, A DISTANCE OF 554.59 FEET TO A POINT ON A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 220.00 FEET, A CHORD DISTANCE OF 147.75 FEET AND A CHORD BEARING OF NORTH 19°35'19" WEST; THENCE DEPARTING SAID SOUTH LINE, RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 39°14'33", A DISTANCE OF 150.68 FEET TO THE POINT OF TANGENCY; THENCE NORTH 00°01'58" EAST, A DISTANCE OF 374.05 FEET; THENCE NORTH 56°47'32" EAST, A DISTANCE OF 59.58 FEET TO A POINT ON A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 11314.16 FEET, A CHORD DISTANCE OF 123.76 FEET AND A CHORD BEARING OF NORTH 18°11'08" WEST; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00°37'36", A DISTANCE OF 123.76 FEET TO ITS INTERSECTION WITH THE NORTH LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE DEPARTING SAID CURVE RUN NORTH 89°03'02" EAST ALONG SAID NORTH LINE, A DISTANCE OF 595.96 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 9.093 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. 2037-2777407 DATED 07/11/2012.

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	TRF	= TRUSTEES OF THE INTERNAL
COR.	= CORNER	L.A.	= LIMITED ACCESS	PROJ.	= PROJECT		IMPROVEMENT TRUST FUND
(C)	= CALCULATED DISTANCE	LB	= LICENSED SURVEY BUSINESS	P.T.	= POINT OF TANGENCY	W/	= WITH
D.B.	= DEED BOOK	LT	= LEFT	(P)	= PLAT	&	= PROPERTY LINE
ESMT	= EASEMENT	NO.	= NUMBER	R	= RADIUS	+	= SAME PROPERTY OWNER
EXIST.	= EXISTING	O.R.B.	= OFFICIAL RECORDS BOOK	R.B.M.	= ROAD BOND MAP	Δ	= DELTA (CENTRAL ANGLE)
FND.	= FOUND	P.C.	= POINT OF CURVATURE	RT	= RIGHT	+	= CHANGE IN DIRECTION
FPC	= FLORIDA POWER CORPORATION	PG/PGS.	= PAGE / PAGES	R/W	= RIGHT OF WAY	---	= LIMITED ACCESS R/W LINE
(F)	= FIELD DISTANCE						= R/W LINE

DATE	NOVEMBER 18, 2013	 520 SOUTH MAGNOLIA AVENUE ORLANDO, FLORIDA 32801 (407) 943-5120 FAX 407-649-3666	SKETCH OF DESCRIPTION. THIS IS NOT A BOUNDARY SURVEY.	PARCEL 186
DRAWN BY	M.ROLLINS			
CHECKED BY	S.WARE		S.R. 429 (WEKIVA PARKWAY) ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA	SCALE: N/A
BSA PROJECT NO.	EA11-11			SHEET 1 OF 4
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 NORTHEAST QUARTER OF THE SOUTHWEST 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 1333.18 FEET TO THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID NORTHEAST QUARTER; THENCE DEPARTING SAID EAST LINE RUN SOUTH 89°03'02" WEST ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, A DISTANCE OF 595.96 FEET TO THE POINT OF BEGINNING; SAID POINT ALSO BEING ON A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 11314.16 FEET, A CHORD DISTANCE OF 123.76 FEET AND A CHORD BEARING OF SOUTH 18°11'08" EAST; THENCE DEPARTING SAID NORTH LINE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00°37'36", A DISTANCE OF 123.76 FEET; THENCE DEPARTING SAID CURVE RUN SOUTH 56°47'32" WEST, A DISTANCE OF 59.58 FEET; THENCE SOUTH 00°01'58" WEST, A DISTANCE OF 374.05 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 220.00 FEET, A CHORD DISTANCE OF 147.75 FEET AND A CHORD BEARING OF SOUTH 19°35'19" EAST; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 39°14'33", A DISTANCE OF 150.68 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER AS MONUMENTED & OCCUPIED; THENCE DEPARTING SAID CURVE RUN SOUTH 89°15'16" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 112.21 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE DEPARTING SAID SOUTH LINE RUN NORTH 00°22'58" EAST ALONG SAID WEST LINE AS MONUMENTED AND OCCUPIED, A DISTANCE OF 663.78 FEET TO THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE DEPARTING SAID WEST LINE RUN NORTH 89°03'02" EAST ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, A DISTANCE OF 69.68 FEET TO THE POINT OF BEGINNING.

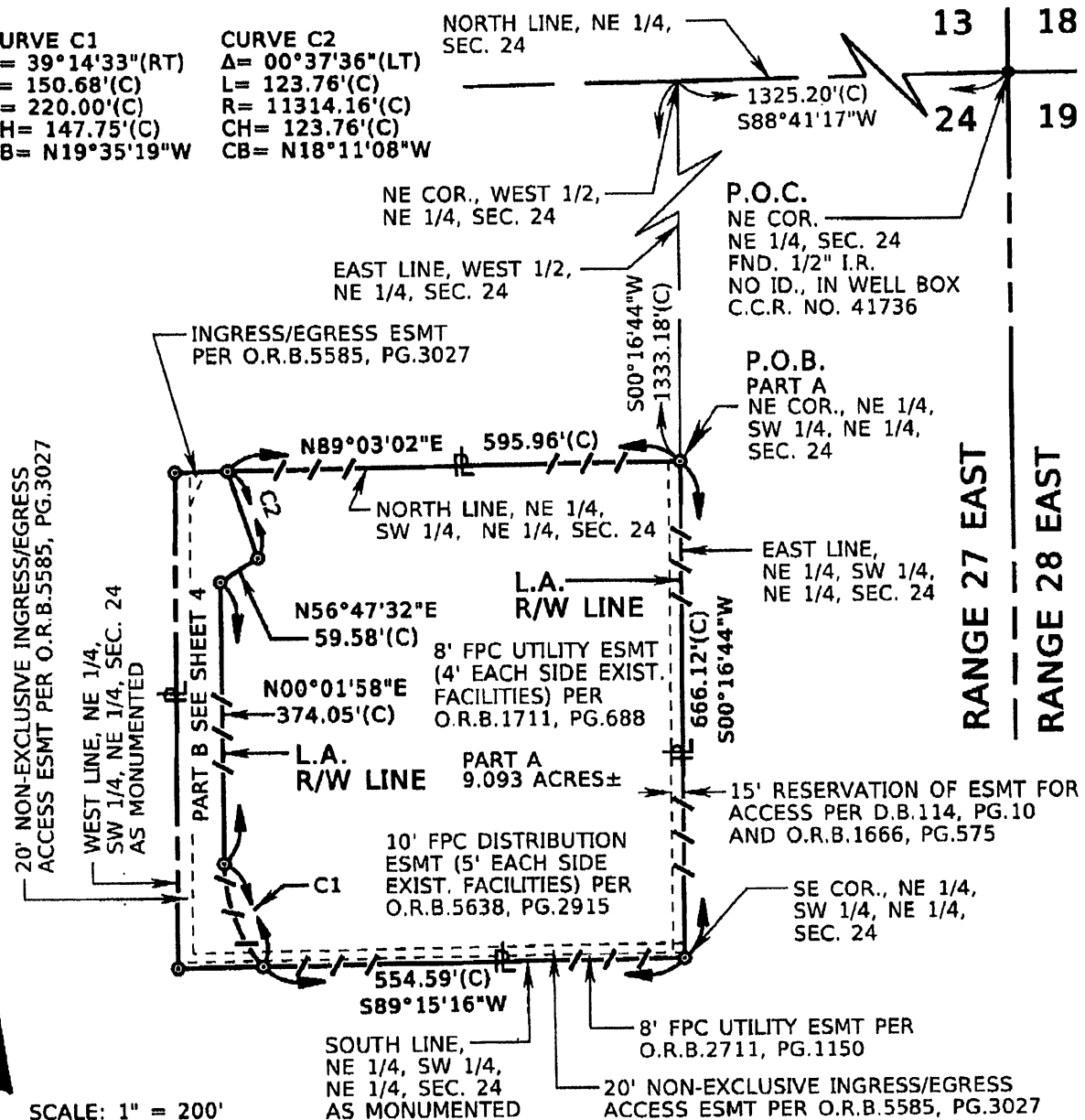
CONTAINING 1.075 ACRES, MORE OR LESS.

DATE	NOVEMBER 19, 2013	 BOWYER SINGLETON 520 SOUTH MAGNOLIA AVENUE ORLANDO, FLORIDA 32801 (407) 843-9120 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 186
DRAWN BY	M.ROLLINS			SCALE: N/A
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.

CURVE C1
 $\Delta = 39^\circ 14' 33" (\text{RT})$
 $L = 150.68' (\text{C})$
 $R = 220.00' (\text{C})$
 $CH = 147.75' (\text{C})$
 $CB = N19^\circ 35' 19" W$

CURVE C2
 $\Delta = 00^\circ 37' 36" (\text{LT})$
 $L = 123.76' (\text{C})$
 $R = 11314.16' (\text{C})$
 $CH = 123.76' (\text{C})$
 $CB = N18^\circ 11' 08" W$



SCALE: 1" = 200'



SECTION 24, TOWNSHIP 20 SOUTH

PROJECT NO. 429-203

DATE	NOVEMBER 18, 2013	
DRAWN BY	M.ROLLINS	
CHECKED BY	S.WARE	
BSA PROJECT NO.	EA11-J1	
REVISION	BY	DATE



SKETCH OF DESCRIPTION.
THIS IS NOT A BOUNDARY SURVEY.

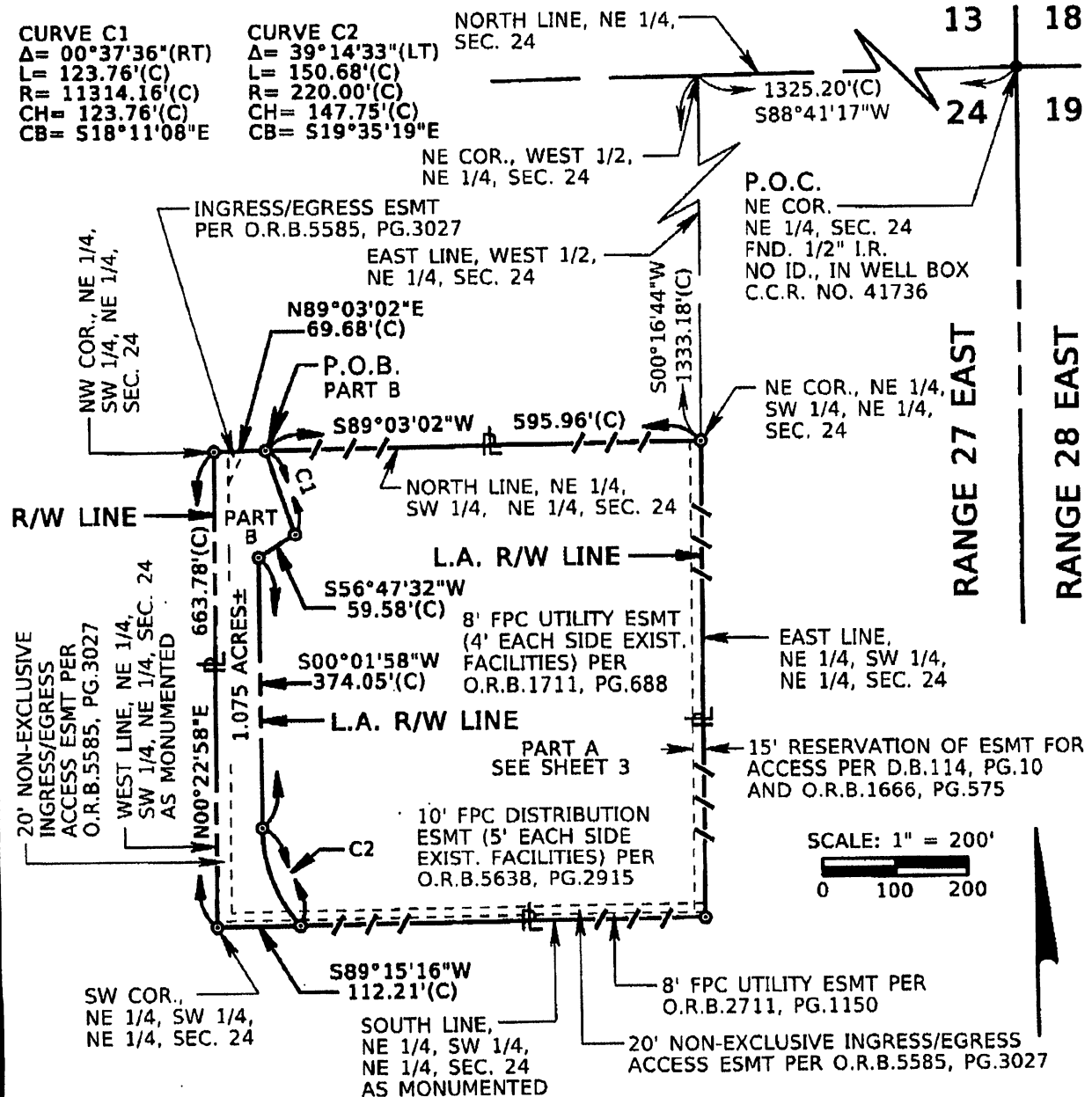
S.R. 429 (WEKIVA PARKWAY)
ORLANDO-ORANGE COUNTY
EXPRESSWAY AUTHORITY
ORANGE COUNTY, FLORIDA

PARCEL
186

SCALE: 1"=200'

SHEET 3 OF 4

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

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, A.S.M.
 LICENSE NUMBER 5442
 DATE 11/18/13

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

CERTIFICATION OF AUTHORIZATION No. LB 12271

BS BOWYER SINGLETON
 536 SOUTH MAGNOLIA AVENUE
 ORLANDO, FLORIDA 32801
 (407) 843-5120
 FAX 407-649-8864

SKETCH OF DESCRIPTION.
 THIS IS NOT A BOUNDARY SURVEY.

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

PARCEL
 186

SCALE: 1"=200'

SHEET 4 OF 4