

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**Agenda**  
**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**RIGHT-OF-WAY COMMITTEE**  
**June 22, 2016**  
**2:00 p.m.**

**1. CALL TO ORDER**

**2. PUBLIC COMMENT**

Pursuant to Florida Statute 286.0114 (2013) the Right of Way Committee will allow public comment on any matter either identified on this meeting agenda as requiring action, or anticipated to come before the Committee for action in reasonable proximity to this meeting. Speakers shall be limited to three minutes per person and the assignment of one person's time to another or designation of group spokesperson shall be allowed at the discretion of the Committee Chairman.

**3. APPROVAL OF MINUTES – May 25, 2016 TAB A**  
Requesting approval of the 05/25/16 minutes. **Action Item.**

**4. S.R. 429 (CRABB) WEKIVA PARKWAY PROJECT (PROJECT 429-204) TAB B**  
**PARCEL 251** – *David Shontz, Shutts & Bowen*  
Requesting the Committee's recommendation for Board approval of the proposed settlement of Tenant-Respondent's Motion to Tax Attorney's Fees and Costs.  
**Action Item.**

**5. S.R. 429 (VIP PROPERTIES, LLC) WEKIVA PARKWAY PROJECT (PROJECT 429-203) PARCEL 170 – *Linda Brehmer Lanosa, CFX* TAB C**  
Requesting the Committee's recommendation for Board approval of the proposed mediated settlement agreement. **Action Item.**

**6. S.R. 429 (KLEPZIG) WEKIVA PARKWAY PROJECT (PROJECT 429-203) TAB D**  
**PARCELS 195** – *Linda Brehmer Lanosa, CFX*  
Requesting the Committee's recommendation for Board approval of the proposed mediated settlement agreement. **Action Item.**

**7. S.R. 429 (GROSSENBACHER) WEKIVA PARKWAY PROJECT (PROJECT 429-202) PARCEL 104/804 – *Trippe Cheek, Winderweedle, Haines, et. al.* TAB E**  
Requesting the Committee's recommendation for Board approval of the proposed settlement. **Action Item.**

**(CONTINUED ON PAGE 2)**

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8. **S.R. 429 (HAMPTON) WEKIVA PARKWAY PROJECT (PROJECT 429-202)**  
**PARCEL 143 (PARTS A, B & C)** – *Trippe Cheek, Winderweedle, Haines, et. al.* TAB F  
Requesting the Committee's recommendation for Board approval of the proposed stipulated settlement. **Action Item.**
9. **OTHER BUSINESS**
10. **ADJOURNMENT**

This meeting is open to the public.

Section 286.0105, Florida Statutes states that if a person decides to appeal any decision made by a board, agency, or commission with respect to any matter considered at a meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act (ADA), if any person with a disability as defined by the ADA needs special accommodation to participate in this proceeding, then not later than two (2) business days prior to the proceeding, he or she should contact the Central Florida Expressway Authority at 407-690-5000.

Persons who require translation services, which are provided at no cost, should contact CFX at (407) 690-5000 x5317 or by email at [Iranetta.dennis@CFXway.com](mailto:Iranetta.dennis@CFXway.com) at least three business days prior to the event.

# Tab A

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
Right of Way Committee Meeting  
May 25, 2016  
Location: CFX Boardroom

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Committee Members Present:

Sandy Minkoff, Lake County Representative, Chairman  
Frank Raymond, Osceola County Representative  
Ann Caswell, Orange County Representative  
Laurie Botts, City of Orlando Representative  
Christopher Murvin, Citizen Representative  
Brendon Dedekind, Citizen Representative

Committee Member Not Present:

Jean Jreij, Seminole County Representative

CFX Staff Present at Dais:

Joseph A. Berenis, Chief of Infrastructure  
Joseph L. Passiatore, General Counsel  
Linda S. Brehmer Lanosa, Deputy General Counsel  
Darleen Mazzillo, Executive Assistant/Recording Secretary

**Item 1: CALL TO ORDER**

The meeting was called to order at 2:00 p.m. by Chairman Minkoff.

**Item 2: PUBLIC COMMENT**

There was no public comment.

**Item 3: APPROVAL OF MINUTES**

**Action:** A motion was made by Mr. Murvin and seconded by Ms. Botts to approve the April 27, 2016 Right of Way Committee meeting minutes as presented.

**Vote:** The motion carried unanimously with six members present and voting AYE by voice vote, Mr. Jreij was not present.



### **Chairman's Comments**

Chairman Minkoff announced that Item 8 will be pulled from the Agenda. Item 14 will be heard before Item 6 as it may contain additional information when considering Item 6.

### **Item 4: S.R. 429 (ALI AND ROBERTS) WEKIVA PARKWAY PROJECT (PROJECT 429-204) PARCEL 262**

Mr. Shontz provided the Committee with the description and background of the parcel.

CFX retained the services of Chad Durrance of Durrance & Associates, who estimated value of the 4.786 acres-parcel being taken at \$131,500, he estimated the value of the improvements taken at \$43,500, for a total value of \$175,000.

The Owners retained the appraisal services of Bradley J. Pierson of Pierson Appraisal Group. Mr. Pierson estimated the total value of the land and improvements to be \$599,285.

During mediation, the parties were able to reach a settlement in the amount of \$249,000 as full settlement of all claims for compensation by the property owner, plus statutory attorney's fees totaling \$21,925.20, plus reduced expert fees and costs totaling \$30,000.

David A. Holloway, counsel for the Owners, advised Right of Way Counsel that the apportionment issues related to the easement on Parcel 262 had been resolved. Mr. Holloway agreed to a reduced fee of \$3,500 for supplemental attorney's fees and costs related to the resolution of the apportionment issue.

Mr. Shontz explained the apportionment claim regarding the cross access easement between this Parcel and Parcel 266, the next item on this agenda. The settlement at mediation was contingent upon resolving this apportionment claim.

The Committee asked several questions and extensive discussion ensued regarding attorney's fees for apportionment claims and whether this approval would be in full settlement of all claims on Parcels 262, 266 and 866. In response to the Committee's questions, Mr. Shontz explained the method for determining attorney's fees on apportionment claims.

Haylee O'Dowd of Winderweede, Haines, Ward and Woodman, P.A., explained she is requesting the Committee's recommendation for approval for the upcoming item (Item 5). The request is for payment of attorney's fees to Kurt Bauerle in the amount of \$9,750 for the representation of the tenant, Mr. Ackley, in Parcel 266/866. This would resolve any claims for apportionment fees in Parcels 262, 266/866.

Mr. Minkoff requested that in the future counsel advise the Committee whether or not the settlement includes all claims and completely settle the matter.

The Committee by consensus agreed to vote on Items 4 and 5 together under this item.

**Action for Items 4 & 5:** A motion was made by Ms. Botts and seconded by Mr. Raymond to recommend to the Board approval of:

Item 4: The proposed mediated settlement agreement in the amount of \$304,425.20 in full settlement of all claims for compensation and apportionment, including statutory and supplemental attorney's fees and costs, and all experts' fees and costs for Parcel 262; and

Item 5: The proposed attorney fee payment in the amount of \$9,750 to Kurt Bauerle to compensate him for his services in representing the tenant, Ryan Ackley, in Parcels 266 and 866, and for the Ackleys' easement interest in Parcel 262.

**Vote:** The motion carried unanimously with six members present and voting AYE by voice vote, Mr. Jreij was not present.

Item 5: S.R. 429 (ACKLEY) WEKIVA PARKWAY PROJECT (PROJECT 429-204) PARCELS 262, 266 AND 866

Please see Item 4 for the vote.

Item 14 was heard out of order.

Item 14: S.R. 429 (HATCHER) WEKIVA PARKWAY PROJECT (PROJECT 429-202) PARCELS 113 (PARTS A & B) / 713

Mr. Cheek provided the Committee with highlights from the trial on Parcel 113 Parts A & B. He described the Parcel and location. The Committee approved previously \$200,000 as an Offer of Judgment. CFX's appraised value for compensation was \$81,500. The Owner's appraised value was \$783,100. After a six day jury trial, the Jury returned a verdict of \$260,000. Prejudgment interest adds approximately \$20,000 to the judgment. The judgment will be subject to apportionment from other parties, including a potential mortgage holder. Attorneys' fees to the Callan Law Firm will be approximately \$60,961 based on the statutory betterment formula.

The Committee asked questions which were answered by Mr. Cheek regarding the amount offered at mediation, the appraisals and the comparables used by the appraisers.

**This item was for informational purposes. No action was taken by the Committee.**

**Item 6: S.R. 429 (GRESS) WEKIVA PARKWAY PROJECT (PROJECT 429-204) PARCEL 304 PART A & B**

Mr. Shontz seeks the recommendation of the Right of Way Committee for Board approval of the proposed negotiated settlement with Jacqueline Gress and Roy Gress (the "Owners"). He provided the Committee with a description and the background of the parcel.

CFX retained the appraisal services of Walter N. Carpenter, Jr., of Pinel & Carpenter, Inc. Mr. Carpenter opined the total value of the taking is \$92,540 (\$33,600 land, \$58,680 damages, and \$260 cost to cure).

The Owners are represented by Rachael Crews of Gray Robinson. Ms. Crews retained the appraisal services of Rick Dreggors. No appraisal report has been finalized. Based upon experts' opinions, counsel for the property owners argued the comparable sales indicated land values up to \$51,400 per acre, additional severance damages to the remainder, greater value to the improvements and a cost to cure due to the access road to the property in the after condition.

The parties were able to reach a negotiated settlement in the amount of \$230,000 in full settlement of all claims for compensation by the property owners, plus reduced expert fees of \$15,350, plus statutory attorney's fees of \$45,361.80.

The Committee asked questions which were answered by Mr. Shontz. The Committee also commented on the access to this parcel being changed dramatically and the subject property being the Owners' homestead.

**Action:** A motion was made by Ms. Caswell and seconded by Ms. Botts to recommend to the Board approval of the proposed settlement agreement in the amount of \$290,711.80 in full settlement of all claims for compensation in the acquisition of Parcel 304, Part A & B, including statutory attorney's fees and costs, and experts' fees and costs.

Ms. Botts expressed concern regarding property owners not providing an appraisal or substantiating documentation validating their claim of value.

**Vote:** The motion carried unanimously with six members present and voting AYE by voice vote, Mr. Jreij was not present.

**Item 7: S.R. 429 (LEWIS) WEKIVA PARKWAY PROJECT (PROJECT 429-204) PARCEL 305**

Mr. Shontz is seeking the Committee's recommendation for Board approval of the proposed negotiated settlement agreement with Thomas Lewis (the "Owner"). Mr. Shontz provided the Committee with the description and location of Parcel 305, Parts A & B.

CFX's appraisal of the property was prepared by Chad Durrance of Durrance & Associates. Mr. Durrance opined the total value of the parent tract at \$125,000 land value and \$134,500 improvements for a total of \$260,000. Mr. Durrance opined the value of the part taken at \$6,200, and the improvements at \$1,500, for a total of land and improvements taken of \$7,700.

The home in the remainder will be 310 feet from the Wekiva Parkway right-of-way, and adjacent to the Wekiva Parkway bridge. Due to the proximity of the expressway, Mr. Durrance opined the remainder will be damaged by 28.6%. Thus, Mr. Durrance opined the market value of the subject taking to be \$82,700, consisting of \$6,200 for land, \$1,500 for improvements, and \$75,000 for damages to the remainder.

The Owner is represented by Rachael Crews, of Gray Robinson. Mrs. Crews retained the appraisal services of Rick Dreggors. Although an appraisal report has not been completed, Mrs. Crews argued other comparable sales indicate land values of up to \$50,000 per acre, additional severance damages to the remainder, greater value to the improvements and a cost to cure due to the access road to the property in the after condition.

The parties were able to reach a negotiated settlement in the amount of \$135,000 in full settlement of all claims for compensation by the property owners, plus reduced expert fees of \$12,600, plus statutory attorney's fees of \$17,259.

**Action:** A motion was made by Mr. Raymond and seconded by Mr. Murvin to recommend to the Board approval of the proposed settlement agreement in the amount of \$164,859 in full settlement of all claims for compensation in the acquisition of Parcel 305, including all statutory attorney's fees and costs and all experts' fees and costs.

**Vote:** The motion carried unanimously with six members present and voting AYE by voice vote, Mr. Jreij was not present.

**Item 8: S.R. 453 (CSX TRANSPORTATION, INC.) WEKIVA PARKWAY PROJECT (PROJECT 429-206) PARCEL 827/727**

This item was pulled from the Agenda.

**Item 9: S.R. 408 / EAST-WEST EXPRESSWAY PROJECT (PROJECT 101) SURPLUS PARCEL 1-141**

Ms. Brehmer Lanosa is requesting the Committee's recommendation for Board approval for the request by Chickasaw Property, LLC (the "Owner") of the release of phosphate, minerals, metals and petroleum rights ("Mineral Rights"). Ms. Brehmer Lanosa provided the committee with the background of the Parcel and the request of the Owner. In essence, the Owner believes that the parties never intended the Mineral Rights to be excluded from the conveyance which causes a cloud over its title.

The Committee asked questions which were answered by Ms. Brehmer Lanosa.

**Action:** A motion was made by Ms. Caswell seconded by Mr. Raymond to recommend to the Board approval of the release of phosphate, minerals, metals and petroleum rights in, on and under the property located at the northeast corner of S.R.408 and Chickasaw Trail conveyed in or around June 1997 via Special Warranty Deed recorded at O.R. Book 5275, page264, contingent upon the execution of a Release from Chickasaw Property, LLC, of any claims connected with or arising from the sale of the surplus property.

**Vote:** The motion carried unanimously with six members present and voting AYE by voice vote, Mr. Jreij was not present.

**Item 10: S.R. 429 / WEKIVA PARKWAY PROJECT (PROJECT 429-202, 203, 204, 205 AND 206)**

Ms. O'Dowd is requesting the Committee's recommendation for Board approval of this item (Item 10) and the following two items (Items 11 and 12). Item 10 is for an Addendum to Amended Agreement for appraisal services for Bullard Hall & Adams, Inc. for an additional upset limit of \$100,000. Item 11 is for an Addendum to Amended Agreement for appraisal Services with Durrance & Associates, P.A. for an additional upset limit of \$150,000. Lastly, Item 12 is for an Addendum to Agreement for Engineering Expert Witness Services with Donald W. McIntosh Associates, Inc. to perform engineering expert witness services for an additional upset limit of \$150,000.

The Committee asked questions which were answered by Ms. O'Dowd. These agreements are not for new assignments; they are to continue and update their current services.

By consensus the Committee agreed to vote on Item 10, 11 and 12 together under this tab.

**Action:** A motion was made by Ms. Botts and seconded by Mr. Raymond to recommend to the Board approval of:

- Item 10: The proposed Addendum to Amended Agreement for Appraisal Services with Bullard Hall & Adams, Inc. for an additional upset limit of \$150,000;
- Item 11: Addendum to Amended Agreement for appraisal Services with Durrance & Associates, P.A. for an additional upset limit of \$150,000; and
- Item 12: The proposed Addendum to Agreement for Engineering Expert Witness Services with Donald W. McIntosh Associates, Inc. for an additional upset limit of \$200,000.

**Vote:** The motion carried unanimously with six members present and voting AYE by voice vote, Mr. Jreij was not present.



Item 11: S.R. 429 (DURRANCE & ASSOCIATES, P.A.) WEKIVA PARKWAY PROJECT (PROJECT 429-202, 203, 204, 205 AND 206)

See Item 10 for vote.

Item 12: S.R. 429 (DONALD W. MCINTOSH ASSOCIATES, INC.) WEKIVA PARKWAY PROJECT (PROJECT 429-202, 203, 204, 205 AND 206) & S.R. 408 WIDENING, 4078/417 INTERCHANGE PROJECT 408-253F

See Item 10 for vote

Item 13: REAL ESTATE AUDIT

Mr. Passiatore provided the Committee with Protiviti's Real Estate Internal Audit, attached as **Exhibit A**. The Audit findings were presented to the Audit Committee and the CFX Board. Mr. Passiatore explained the findings and described the parcels that were audited. He mentioned that the Board requested more information on the right of way acquisition process. Legal will provide the Board with a workshop in July.

The Committee provided their comments on the audit.

This item was presented for informational purposes. No action was taken by the Committee.

Item 15: OTHER BUSINESS

FORM 1 FINANCIAL DISCLOSURE BY CFX COMMITTEE MEMBERS

Mr. Passiatore informed the Committee that the Commission on Ethics mistakenly categorized CFX Committee members as Board members and sent them Form 6 instead of Form 1. Darleen Mazzillo sent out an email advising CFX Committee members not to fill out Form 6. Instead, Committee members will need to complete Form 1 and return it to the Supervisor of Elections in the county where the respective Committee member resides. Ms. Brehmer Lanosa informed the Committee that there is a new section in the Potential Conflict Disclosure form, for certification of training, which needs to be acknowledged by each Committee member.

Item 16: ADJOURNMENT

Mr. Minkoff adjourned the meeting at approximately 3:08 p.m.

Minutes approved on \_\_\_\_\_, 2016.

*Pursuant to the Florida Public Records Law and CFX Records Management Policy, audio tapes of all Board and applicable Committee meetings are maintained and available upon request to the Records Management Liaison Officer at [publicrecords@CFXWay.com](mailto:publicrecords@CFXWay.com) or 4974 ORL Tower Road, Orlando, FL 32807.*

DRAFT



# Central Florida Expressway Authority

## Right of Way Legal Counsel Procurement and Invoice Audit

**February 18, 2016**

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**protiviti**  
Risk & Business Consulting  
Internal Audit

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## Executive Summary

### **Background**

During fiscal year 2012, Internal Audit performed an audit of the Central Florida Expressway Authority's Right of Way policies and procedures surrounding the procurement of parcels and the use of eminent domain. The 2012 audit included testing of land acquisitions taken from a population of 123 acquisitions for the John Land Apopka Expressway project, dating back to 2004, the last major road construction project undertaken by the Authority through the time of the last audit.

For the current Right of Way audit as outlined in the 2016 Internal Audit plan, Internal Audit reviewed the Authority's procurement of and use of legal counsel in Right of Way land acquisitions dating back to 2014 for the Wekiva Parkway, All Aboard Florida project, and Kelly Park Interchange project. More specifically, during this audit, Internal Audit reviewed the processes in place to procure Right of Way legal counsel, including the use of in-house and out-sourced legal counsel, and the processes in place for the review and evaluation of legal invoices and right of way costs.

As of February 2016, the Authority is currently using a blend of in-house legal counsel and outsourced legal counsel to manage the procurement of parcels of land. Also at this time, the Authority's Board is considering the need to hire additional in-house counsel, with at least part of the assigned responsibilities being to work on additional Right of Way acquisition. Within the next 12 months, the Authority expects to acquire an additional 100 parcels of land to support projects on State Roads 429 and 528.

Below is a summary of the allocation of work assigned to each Right of Way counsel for the projects in-scope as of the time of this audit.

- Winderweede, Haines, Ward & Woodman, P.A. – 45 parcels for the Wekiva Parkway project (29 in litigation)
- Shutts & Bowen, LLP – 89 parcels for the Wekiva Parkway project (67 parcels in litigation)
- Lowndes, Drosdick, Doster, Kantor & Reed, P.A. – 4 parcels at the Kelly Park Interchange (all in litigation)
- Mateer Harbert, P.A. – 3 parcels on SR 528 (purchase agreements executed for all)
- In-house Deputy General Counsel – 10 parcels post Order of Taking (OT), which represents the formal filing of an eminent domain action by the Authority)

### **Objectives**

The specific objectives of this audit were to:

- (1) Perform a risk assessment of the Right of Way legal procurement and legal invoice review processes;
- (2) Review the Authority's policies and procedures surrounding the procurement and invoice review processes;
- (3) Identify the mixture of in-house versus outsourced legal counsel and obtain benchmark data around the use of outsourced legal counsel and the procurement process compared to local and industry practices;
- (4) Conduct a trend analysis of appraised cost values versus the settlement cost of recent land purchases; and
- (5) Conduct a trend analysis of land acquisition cost and the stage of settlement.

*Continued on the following page...*





## Executive Summary

### **Project Scope and Approach**

The audit was performed using a phased audit approach as outlined below:

#### **Phase I – Risk Assessment and Process and Controls Review**

Internal Audit performed a risk assessment to identify risks over the right of way legal counsel procurement and invoice review process. This included gathering information from the Authority's management and staff of the finance, procurement, and legal departments, as well as reviews of Board and Committee discussions.

Internal Audit subsequently reviewed the key processes and controls used to mitigate risks related to procuring external right of way legal counsel and approving invoices for payment. Key controls within each of these areas were identified and evaluated for design effectiveness. Details regarding the processes reviewed, controls walked through and observations are provided in the Summary of Audit Procedures.

#### **Phase II – Benchmarking the Authority's Right of Way Legal Counsel Procurement to Local Government and Industry Practices**

Internal Audit performed procedures to gather data to benchmark the following Right of Way (ROW) processes to local and industry practices:

- A. Mixture of in-house and outsourced legal counsel.
- B. Request for Proposal (RFP) process and evaluation criteria for legal counsel.

To gather the information necessary to perform the benchmarking, Internal Audit interviewed staff members of the following counties and municipalities: Orange County, City of Orlando, Seminole County, Osceola County, and Lake County. In addition, Internal Audit interviewed staff of the following other tolling and transportation authorities: North Texas Tolling Authority, Harris County Tolling Authority, Hillsborough Expressway Authority, Miami Dade Expressway Authority, Florida Turnpike Enterprise, and North Carolina Turnpike Authority.

#### **Phase III – Data Analytics**

Internal Audit performed limited data analytics to review right of way parcel acquisition settlement costs versus the appraised cost values (as obtained from Authority appraisals and owner appraisals), average legal and expert costs (based on fees paid) to acquire parcels, and the stage at which parcel acquisitions were settled. Data was obtained from Right of Way Committee minutes, Excel tracking files from outside legal counsel and Atkins (General Engineering Consultant), and the monthly TIFIA reports

*Continued on the following page...*

## Executive Summary

### Results: Phase I - Processes and Controls Review

Process	Procedures Performed / Key Areas Reviewed	Key Controls Identified*	Number of Observations	Observation Reference
Legal Invoice Review	Invoice Processing: review of billing rates, including expert fees and expenses, duplicate payments, and hours billed.	3	1	2
Monitoring of Parcel Acquisition	General Counsel, Deputy General Counsel, and ROW Committee activities to monitor direction, strategy, and performance.	6	1	1
Procurement	Project bidding (sealed bids and competitive sealed proposals) and bid awards: Authorization to bid, contracts reviewed by CFX's attorney's office, RFP documented and opened to the public, evaluation committee reviews bids, fee evaluation performed by Procurement Department and Evaluation Committee.	11	0	N/A
TOTAL:		20	2	

\*A listing of key controls identified in the CFX Right of Way process is included in Appendix D.

*Continued on the following page...*

## Executive Summary

### Results: Phase II – Benchmarking

Process	Benchmarking Sources	Results
Mix of In-House vs Outsourced Counsel	<ul style="list-style-type: none"><li>Counties and cities represented in the Authority's Board</li><li>Other tolling and transportation authorities</li></ul>	A
Request for Proposal (RFP) Process and Evaluation Criteria	<ul style="list-style-type: none"><li>Counties and cities represented in the Authority's Board</li><li>Other tolling and transportation authorities</li></ul>	B

**A** - Refer to Appendix A for additional information on size of legal department, counsel used for ROW, and other qualitative factors that make comparing CFX legal counsel to other entities a complex process.

For the projects in-scope as of the time of this audit, approximately 93% of parcels identified by the Authority for acquisition have been assigned to outside legal counsel. The following three factors drive the Authority's decision around using in-house versus out-sourced legal counsel for right of way land acquisition:

- (1) Size of agency's legal staff,
- (2) Size and scope of right of way acquisitions performed, and
- (3) Level of complexity involved in the acquisition process (negotiated sale vs. eminent domain action).

The Authority will continue to need outside counsel to assist with complex acquisitions and to provide a more variable cost model to manage current spikes in right of way acquisition. However, based on a cost analysis prepared by the Authority's staff and presented to the Authority's Board during October 2015, there is opportunity to reduce costs for legal services through the hiring of an additional in-house resource. However, consideration should be given to use of an additional in-house resource if volume of right of way acquisition declines.

**B** - Refer to Appendix B for additional information on how the Authority's right of way counsel RFP evaluation metrics compare with the metric ranges provided by Orange County, City of Orlando, Seminole County, Osceola County and Lake County and the other similar tolling and transportation authorities that provided input.



## Executive Summary

### Results: Phase III – Data Analytics

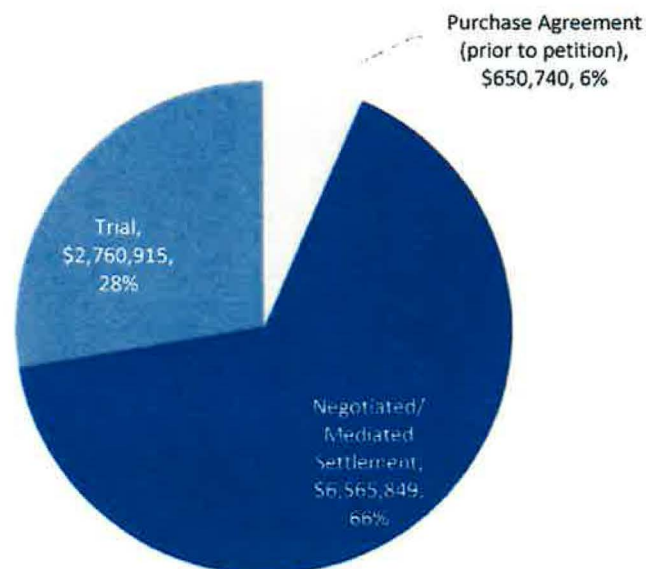
#### Land & Owner Settlement Costs by Settlement Stage

Dating from the start of the Wekiva Parkway Project, a total of 28 parcel acquisitions were sampled by Internal Audit and analyzed for a total “all-in” cost of \$9,977,504 (inclusive of purchase price of parcels and owner legal and expert costs paid by the Authority, exclusive of CFX legal and expert fees) per unaudited data in the monthly TIFIA reports. Data regarding the stage at which parcel acquisitions were settled was obtained from the Right of Way Committee minutes dated May 13, 2014 through October 28, 2015. This data is unaudited and was used to classify parcels and the related land and owner legal costs for analytical purposes only.

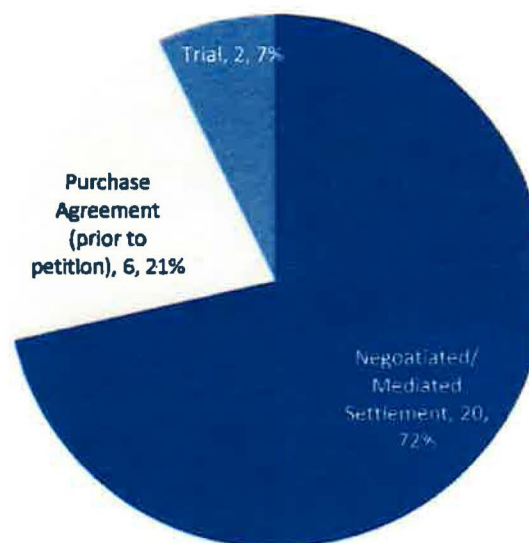
Based on data depicted below, the following key points were observed:

- The majority, or 66%, of parcels were acquired post OT through negotiated or mediated settlement, representing 72% of the dollars spent.
- Parcels settled through trial represented 7% of parcels acquired and 28% of dollars spent, demonstrating a higher cost of trials.
- As reflected by the data in the chart on page 8, on average, the highest legal and expert fees are incurred if a parcel goes to trial.

Settlement Stage by Value

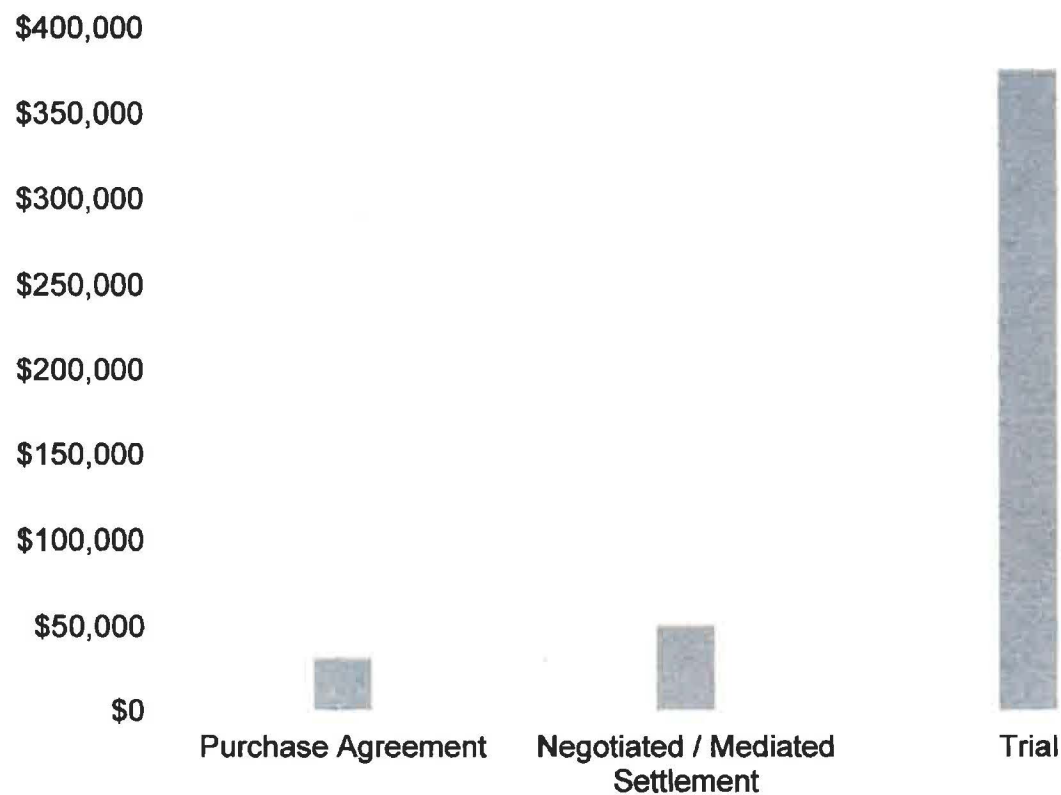


Settlement Stage by Number of Parcels



## Executive Summary

### Average CFX Legal and Expert Fees by Settlement Stage\*



\*Based on unaudited data taken from monthly TIFIA reports for the 28 parcels selected for the audit; does not include owner legal costs and expert fees.



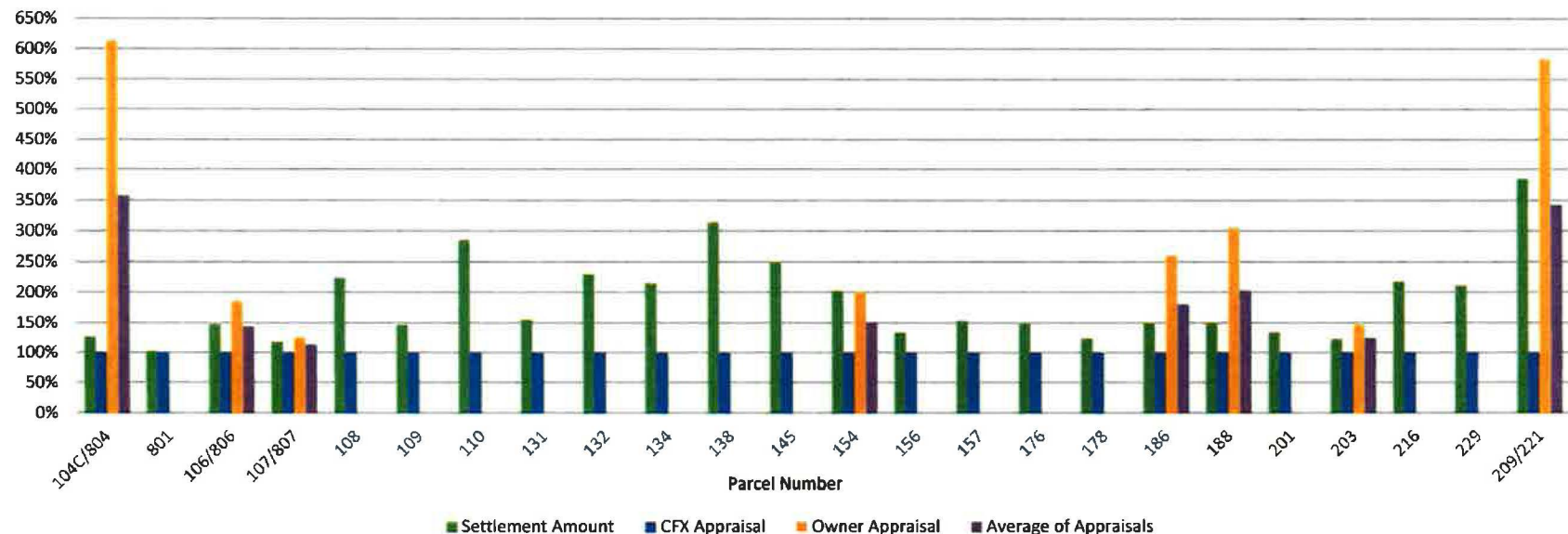
## Executive Summary

### Results – Data Analytics (continued)

#### Land Settlement Costs versus Appraisals

The following unaudited data was obtained from the monthly TIFIA reports. Comparing the final land settlement cost to the Authority's appraisal and the owner's appraisal, as available and reportable, the data for several parcels acquired revealed large differences between appraised values and settlements. This chart does not include confidential information obtained orally during mediations, such as owner demands that could not be shared or reported. In three of the four cases depicted below where owner's appraisals were in excess of 200% over the Authority's appraised value, the Authority's final settlement costs were closer to the Authority's appraisals than the owner's appraisal. The fourth case depicted below (209/221) was a trial verdict.

Land Settlement As Percentage of Land Appraisal

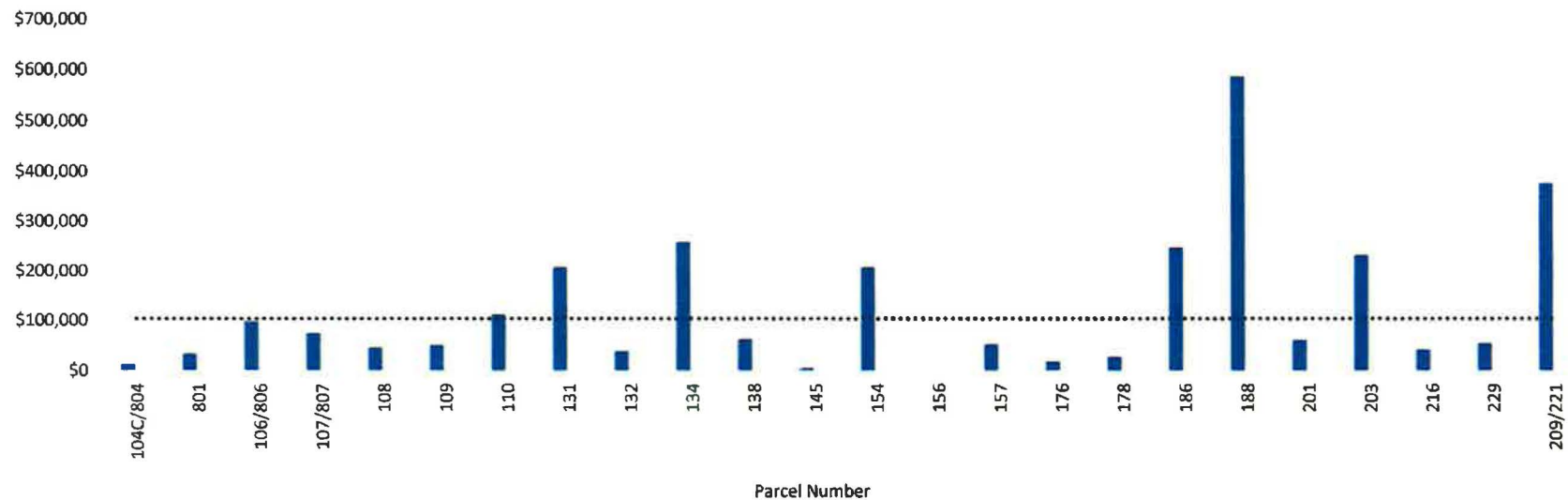


- Outliers (i.e., Settlement amount exceeded 250% of the CFX appraisal or average appraisal if applicable) in the analysis were as follows:
  - Parcel 110 was a purchase agreement prior to eminent domain action. Based on the Right of Way Committee minutes related to this parcel, severance damages were explained to the Committee to rationalize the settlement amount. Reported land settlement cost above may account for other compensation to the owner that was not specifically negotiated and could not be reported separately.
  - Parcel 138 had a spread of \$66,000 between the land appraisal of \$33,000 and the land settlement of \$99,000.
  - Parcels 209 and 221 were tried and purchase price was determined by jury verdict.

## Executive Summary

### Results – Data Analytics (continued)

Owner and CFX Legal, Expert, and Other Fees Per Parcel



- For the in-scope sample, the average legal and expert fees paid per parcel was \$104,168 as obtained from the monthly TIFIA reports.
- Outliers in the analysis were as follows:
  - Parcel 110 was a negotiated agreement prior to petition (eminent domain action).
  - Parcel 131 included two tenant claims.
  - Parcel 134 included relocation payments.
  - Parcel 154 included a business damage claim for two businesses on the property, relocation benefits, and the taking of three manufactured homes.
  - Parcel 186 involved a mediated settlement agreement.
  - Parcel 188 involved taking a residence with 10 acres. Multiple depositions were conducted and it was set for trial when settled. Additionally, there were multiple relocation issues related to this parcel which increased total fees.
  - Parcel 203 involved a business damage claim and involved the taking of a residence.
  - Parcels 209 and 221 were tried. Owner legal, expert, and other fees are not included in the amount above as they have not been paid by the Authority and are not yet included on the monthly TIFIA reports. Once paid, amount depicted above will increase.
- Parcel 156 attorney's fees/costs were billed to Project 202 General Matter. Because the attorney fee's/costs were blended into Project 202 General Matter for multiple parcels, the costs related to Parcel 156 were not included in the chart above.

## Detailed Observations – Processes and Controls

Legal Invoice Review

Monitoring of Parcel  
Acquisition

Procurement

### **Observation 1 – Right of Way Recordkeeping**

**Relative Priority:** *Medium*

Based on Transportation Infrastructure Finance and Innovation Act (TIFIA) loan requirements, the Authority submits a monthly report of project costs to the Federal government and will be required to report final costs for the project in order to obtain the TIFIA loan funding. During the audit, we reviewed various sources of Right of Way data, including the Right of Way Committee minutes, Excel tracking files from outside legal counsel, and the monthly TIFIA reports, and identified multiple instances of inaccurate or inconsistent data between sources. Specifically, the TIFIA reports contained formula errors, data that was incorrectly rolled forward from month-to-month, in addition to classification issues for closed parcels that were listed as open. Of most concern were inaccuracies identified in the TIFIA reports that are designed to track project costs for later funding from the Federal government. There are multiple parties involved in creating and reviewing the TIFIA reports, including Legal Counsel and Finance personnel, which all input or review parts of the report. It is critical that the data in the TIFIA reports be kept complete and accurate for monitoring and reporting purposes. There is an opportunity to improve the quality and reliability of the data gathered for presentation in the TIFIA reports.

### **Recommendation**

The Authority should formalize its quality assurance/quality control process by assigning a process owner(s) responsible for compiling TIFIA data, reconciling TIFIA data to source documents, and verifying the completeness and accuracy of the information included in the monthly TIFIA reports. Additionally, there is an opportunity to centralize Right of Way activity into one spreadsheet or database in order to minimize (or eliminate) the maintenance and monitoring of multiple sources of information.

### **Management Response**

Management concurs.

*Continued on the following page....*



## Detailed Observations – Processes and Controls

Legal Invoice Review

### **Observation 1 – Right of Way Recordkeeping**

**Relative Priority:** *Medium*

#### **Management Action Plan**

Initially, each Right of Way outside counsel or responsible party within the Authority will confirm the amount paid in the cumulative payments columns of the monthly TIFIA reports to ensure accuracy of the current spreadsheet. If there is a discrepancy identified, the responsible party will research and correct the discrepancy in the TIFIA reports. Going forward, each firm or responsible party will prepare a separate monthly TIFIA report summarizing the activity in the parcels assigned to that firm. The Accounting Department will audit the spreadsheets for accuracy using source documentation, which will be made available to the party responsible for performing the review of the spreadsheets.

Monitoring of Parcel  
Acquisition

#### **Action Plan Owner/Due Date**

Linda Lanosa, Deputy General Counsel / August 2016

Aneth Williams, Manager of Contract Compliance / August 2016

Procurement

## Detailed Observations – Processes and Controls

### Legal Invoice Review

#### **Observation 2 – Review of Legal Invoices**

**Relative Priority: Low**

The Authority's General Counsel reviews invoices for fees billed by external Right of Way legal counsel for accuracy and compliance with contractual terms. Per the terms of the contracts, external legal counsel will not be reimbursed for expenses such as telecopy, local telephone, data processing, courier or other services that would be deemed to be part of the firm's overhead expenses. However, the firm will notify General Counsel of any large copy and print jobs in order for a determination to be made as to how the copying will be handled and expensed.

### Monitoring of Parcel Acquisition

Internal Audit testing identified that one external Right of Way counsel billed the Authority for \$1,440 in copy and printing charges without prior authorization by General Counsel. General Counsel reviewed and approved the invoices for payment; however, there was no evidence that the charges were approved prior to being invoiced.

In addition, supporting documentation is required to be provided by external legal counsel for direct costs incurred, such as court reporters and deposition transcripts. Internal Audit testing identified that one external Right of Way counsel billed the Authority for \$1,135 in court reporters and courier costs. However, invoice support was not provided for these costs and the legal invoice was approved for payment.

### Procurement

#### **Recommendation**

The Legal Department should review the invoices for appropriateness and to (1) ensure that direct costs billed conform to authorized costs detailed in the contract, (2) supporting documentation is provided for direct costs, and (3) each expert invoice is reviewed and approved by external legal counsel. The Finance Department personnel should conduct a secondary review of invoices for supporting documentation and attorney approval while reviewing invoices for rates and personnel assigned.

*Continued on the following page....*



## Detailed Observations – Processes and Controls

### Legal Invoice Review

#### Observation 2 – Review of Legal Invoices (cont.)

##### Management Response

Management concurs.

##### Management Action Plan

Legal Department will perform a review of invoices to (1) ensure that direct costs billed conform to authorized costs detailed in the contract and (2) supporting documentation is provided for direct costs.

In addition, the Finance Department will perform a secondary review of the invoices to include the direct costs, supporting documentation, and approval of the expert invoices.

### Monitoring of Parcel Acquisition

##### Action Plan Owner/Due Date

Joe Passiatore, General Counsel / August 2016

Aneth Williams, Manager of Contract Compliance / August 2016

### Procurement



## Appendix A – Right of Way Legal Counsel Benchmarking

### **CFX as compared to the counties and cities represented on the Board:**

The following benchmarking charts are based on Internal Audit's discussion with members of various tolling authorities, cities and counties. The first chart is a comparison of CFX to other tolling and transportation authorities. The entities selected are a mixture of in-state and out-of-state authorities. The second chart is a comparison of CFX to local (i.e., in-state) cities and counties.

The information presented in the following charts is a broad comparison and is not intended to serve as a scorecard and should not be used to infer conclusions about an entity's legal department. There are numerous qualitative factors that make benchmarking CFX legal counsel to other entities complex. For instance, no two eminent domain cases are alike. Factors that may influence the amount of time and effort required for an eminent domain case, include but are not limited to: the type of taking (whole or partial), the type of property and its current/future use, and the number of owners and ownership interests (e.g., businesses, tenants, etc.). Additionally, another factor is the amount of time available before the acquisition deadline and whether it is possible to negotiate a voluntary purchase with the owner(s). Furthermore, the entity may be required to pay the owner(s) severance damages, relocation fees, and business damages.

Moreover, comparing the size of a legal department across different types of governmental entities is complex. Some entities primarily use in-house legal assistance, some entities use a mixture of in-house and outside counsel, and some primarily use outside counsel. Full-time equivalent (FTE) information, which would be a better representation of time spent by a legal department on eminent domain cases, was not available across entities. As such, the size of the legal department in the following benchmarking charts is presented in total and does not take into account the different types of legal matters that each entity's legal department may encounter (e.g., land use, general administrative issues, ordinances, building and zoning, corrections, etc.).

CFX has increased the use of eminent domain cases due to significant growth in Central Florida, the need for additional roadways, and specific deadlines mandated by the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan that was used to help finance the roadway expansion. In comparison, CFX has increased usage of eminent domain cases whereas other governmental entities may not have experienced the same need for land acquisition through eminent domain.

## Appendix A – Right of Way Legal Counsel Benchmarking (cont.)

### CFX as compared to other tolling and transportation authorities in the United States:

The North Texas Tolling Authority and Harris County (Texas) Tolling Authority were selected based on the size similarity to CFX. Additionally, the Florida Turnpike Enterprise, Tampa Hillsborough Expressway and Miami Dade Expressway were selected because they are local (i.e., in-state) entities. The North Carolina Turnpike was selected as an additional comparison point although structure differs from CFX. North Carolina Turnpike is part of the North Carolina Department of Transportation (NCDOT), which is responsible for building, repairing and operating all roadways in North Carolina.

	CFX	North Carolina Turnpike*	North Texas Tolling Authority	Harris County (Texas) Tolling Authority	Florida Turnpike Enterprise	Tampa Hillsborough Expressway	Miami Dade Expressway
<b>Size of Legal Department</b>	2	31	2	2	1	1	2
<b>Counsel Used</b>	Primarily Outsourced	In-House	Outsourced	In-House (unless litigation required)	In-House	In-House (unless litigation required)	Outsourced
<b>Qualitative Factors</b>	Extensive eminent domain litigation mainly through the use of outside counsel. TIFIA loan requirements require strict timelines for acquisition.	The North Carolina Turnpike is part of the NCDOT and conducts extensive ROW acquisition. Nineteen (19) attorneys assigned to ROW division.	No ROW acquisition currently.	Irregular ROW acquisition. Covered by County's legal department. Additionally, Harris County has a separate Right of Way department with 15 full-time staff members.	Extensive ROW acquisition. Agency is part of Florida Department of Transportation and utilizes their legal resources in addition to one resource on-staff.	Very few ROW parcels acquired and most acquired through negotiated settlement.	Beginning a large project, but irregular ROW acquisition in the past. Agency policy encouraging negotiated purchase.

**The above data is based on unaudited information provided to Internal Audit by the agencies. Comparable agencies were judgmentally selected by Internal Audit during the planning phase of the audit.**



## Appendix A – Right of Way Legal Counsel Benchmarking (cont.)

**CFX as compared to the counties and cities represented on the Board:**

In general, the Authority's decision to primarily outsource appears in line with the other county (Osceola) that is most similar to it in terms of size of legal department and spend. Lake County keeps ROW in house and has a legal department that is similar in size, but spend is significantly less than the Authority's and the complexity of acquisitions is less, as approximately 88% of parcels acquired through negotiated sale prior to eminent domain. The City and the counties with larger in-house staff tend to keep ROW acquisition in-house.

	CFX	Osceola County	City of Orlando	Seminole County	Lake County	Orange County
<b>Size of Legal Department</b>	2	4	30	13	3	16
<b>Counsel Used for ROW</b>	Primarily Outsourced	Outsourced	In-House (unless litigation required)	In-House (unless litigation required)	In-House	In-House
<b>Qualitative Factors</b>	Extensive eminent domain litigation mainly through the use of outside counsel. TIFIA loan requirements require strict timelines for acquisition.	Very irregular and infrequent eminent domain.	Regular ROW acquisition, but filing eminent domain action is irregular. One of the attorneys in the City Attorney's Office has substantial eminent domain experience. Additionally, the City's legal department handles a variety of legal matters including police cases.	Infrequent ROW acquisition.	Approximately 20 parcels purchased annually. Approximately 3 parcels involved eminent domain action with no trials.	Few parcels acquired.

**The above data is based on unaudited information provided to Internal Audit by the entities identified.**

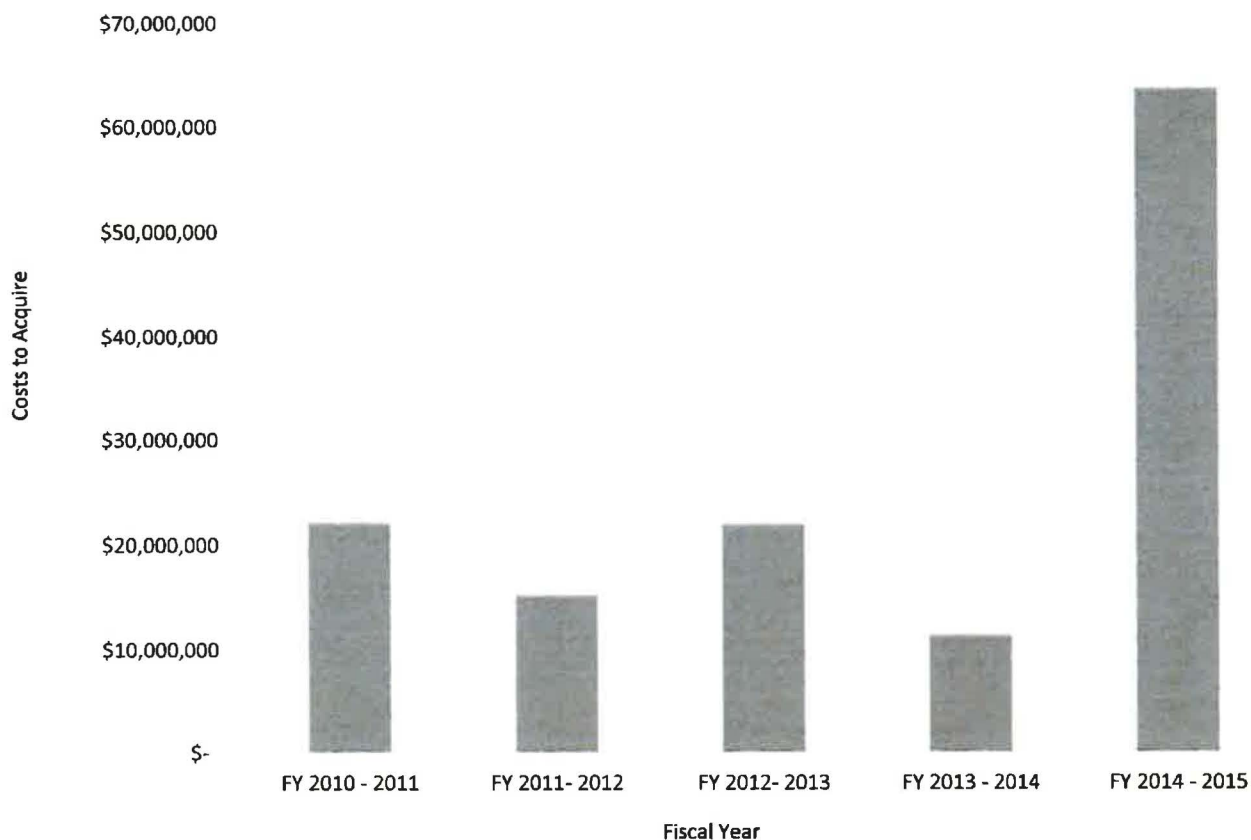
## Appendix B – Benchmarking of Evaluation Criteria – ROW Legal Counsel

RFP EVALUATION METRIC USED (Evaluated over a total of 100 points)	CFX*	ORANGE COUNTY, CITY OF ORLANDO, OSCEOLA COUNTY, SEMINOLE COUNTY AND LAKE COUNTY	OTHER TOLLING AND TRANSPORTATION AUTHORITIES
Eminent Domain/Trial Experience	25	20-45	30-90
Local Staff Qualifications	30	20 - 40	10 - 40
Mitigation Approach	25	20 - 25	20 - 30
Cost Proposal	15	20 - 25	-
Minority/Women Business Enterprise Participation	-	10 - 20	0 - 10

\* The Authority's Scoring Metric was last used during the 2015 Right of Way RFP process.

## Appendix C - ROW Acquisition Costs by Fiscal Year\*

ROW acquisition costs include cost of the parcel, legal and expert fees of both owner and the Authority. The below data includes all spend from 2010 through 2015, including parcels for which Final Judgment has not been entered, but deposits have been paid in the amount of the Authority's appraisal and legal and expert fees for all parcels regardless of completion.



\*As recorded by the Central Florida Expressway Authority in the Comprehensive Annual Financial Report (CAFR).

## Appendix D – Key Controls

The following key controls were identified by Internal Audit as part of the Right of Way audit:

### Legal Invoice Review

1. CFX reviews legal invoices and checks rates, description of services, and expenses billed before approving and processing for payment.
2. General Counsel reviews invoices for obvious duplication of tasks or high volume of hours.
3. General Counsel reviews invoices submitted by outsourced legal counsel for activities being billed and the appropriateness of billings related to the status and strategy of the case.

### Monitoring of Parcel Acquisition

4. Deputy General Counsel receives and reviews legal filings of outsourced counsel.
5. ROW Committee must approve all ROW acquisitions settlements before the Board approves payment, with the exception of those cases decided at trial.
6. The Board provides the authorization to initiate eminent domain proceedings.
7. ROW Committee oversees and directs CFX delegation of authority to make offers, negotiate settlements, approve mediation and condemnation settlements.
8. ROW Legal Counsel is responsible for all legal matters pertaining to the property acquisition process, including but not limited to preparing, filing, and prosecuting eminent domain proceedings (upon approval of CFX).
9. ROW Legal Counsel, with oversight from General Counsel's office, is responsible for negotiating settlement agreements achieved after the filing of eminent domain proceedings, and will be responsible for securing approvals of such settlements, through the Right of Way Committee and Board.



## Appendix D – Key Controls

The following key controls were identified by Internal Audit as part of the Right of Way audit:

### Procurement

10. Requests for proposal (RFPs) require specific levels of experience for any firms applying and specifically related to the practice of eminent domain.
11. CFX has developed a Procurement Policy which is available online, as well as a Procurement Procedure Manual. The policy is reviewed and updated at least every two years, and the Procurement Procedure Manual is updated annually.
12. CFX's Procurement Policy and Procurement Procedure Manual establishes a procurement authorization matrix which indicate the level of approval/authorization required at each threshold, as well as number of bids required for each process.
13. Shortlisted firms are interviewed and scored by the Committee members based on technical criteria.
14. Contracts for goods and services shall not exceed an initial term of five years. A renewal clause extending the term for up to five one-year periods may be provided.
15. Standard Authority forms for contracts, amendments, supplemental agreements, renewal and similar documents shall be developed and used whenever possible. It is recognized that, due to their specialized nature, agreements with other governmental agencies, certain services providers and financial institutions preclude the use of such standard documents by the General Counsel must be received prior to their execution.
16. The Authority uses a "Request for Proposal" process which details the work to be performed and qualifications required from responding firms.
17. It is typically the Authority's desire to obtain at least three competitive bids or proposals for each new project; however, it is not required. In the instances where less than three bids are received a document is completed by the Director of Procurement to document the award decision (if applicable).
18. Except for Emergency Purchases, all contracts, supplemental agreements, amendments, purchase orders and contract renewals obligating the Authority to an amount of \$50,000 or more shall have the prior approval of the Authority's Board of Directors.
19. Members of the Authority's Evaluation Committee will be required to complete a disclosure form, in compliance with the Authority's Ethics Policy, identifying any potential conflict of interest and certifying that no outside relationship exists that would adversely affect the member's judgment while serving on the Committee.
20. Price proposals are opened by the Committee following the completion of the technical proposal scoring. A predefined scoring criteria is used to evaluate the price proposals and included in the Scoring Summary Form. The price scores are added to the technical scores for the final ranking based on points.



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# Tab B





## MEMORANDUM

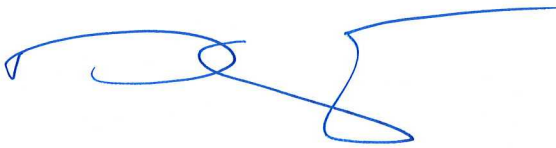
TO: Central Florida Expressway Authority  
Right-of-Way Committee Members

FROM: David A. Shontz, Esq., Right-of-Way Counsel

DATE: June 10, 2016

RE: State Road 429 Wekiva Parkway, Project 429-204; Parcel 251 Proposed Settlement  
Regarding Apportionment Attorney's Fees and Costs

CLIENT-MATTER NO.: 19125.0160



---

Shutts & Bowen LLP, Right-of-Way Counsel, seeks the recommendation of the Right-of-Way Committee of a negotiated settlement between Gregory W. Stoner, Esquire, (the "Crabb's Attorney") and the Central Florida Expressway Authority (the "CFX") for the attorney's fees and costs incurred in the defense of Richard Crabb's apportionment rights as tenant in Parcel 251 (the "Taking" or "Property") for the construction of State Road 429 Wekiva Parkway, Project 429-204.

### DESCRIPTION AND BACKGROUND

Parcel 251 is a fee simple acquisition of 0.760 acres comprising a whole taking of property located on the north side of Ondich Road and west of Plymouth Sorrento Road in Orange County, Florida. An Order of Taking was entered by Judge John Marshall Kest on April 6, 2015, and a Stipulated Order of Taking was entered by Judge Kest on April 15, 2015, to provide the property owner, American Finance, LLC, with extended possession to May 15, 2015. Thereafter, American Finance, LLC, and Richard Crabb engaged in negotiations regarding the vacation of the property by Mr. Crabb as a tenant.

A Stipulated Final Judgment for Apportionment and Order for Withdrawal of the Remainder of the Petitioner's Good Faith Estimate of Value for Parcel 251 was entered by Judge Kest on January 22, 2016, resolving the amount of apportionment due Mr. Crabb as a tenant.

On February 8, 2016, Gregory W. Stoner, Esquire, filed Crabb's Motion to Tax Attorney's Fees and Costs, providing schedules requesting taxation of attorney's fees totaling \$23,440.00 and costs totaling \$112.00. In its Response dated May 5, 2016, the CFX contended a

substantial portion of the 58.6 hours claimed by Mr. Stoner were likely related to landlord-tenant issues which are not compensable in the eminent domain matter. The CFX argued that Mr. Stoner should be compensated for a reduced number of hours and a reduced hourly rate. CFX contends novelty, difficulty and importance of the questions involved, the skill employed by the attorney, and the amount of money involved did not warrant the amounts claimed by Mr. Stoner.

Judge Kest entered an order requiring mediation, expert witness disclosure and report prior to an evidentiary hearing on the motion. Prior to incurring the expert witness costs, mediator costs, and related additional fees, the CFX and Mr. Stoner agreed to resolve the motion for a total of \$15,000.00.

For the above-cited reasons, Right-of-Way counsel requests a recommendation for approval of the negotiated settlement in the amount of \$15,000.00 to resolve all claims by Mr. Stoner for attorney's fees and costs in this matter, which is in the CFX's best interest. Settlement will eliminate further risk and unnecessary expenses that the CFX will ultimately incur with further litigation of the costs for apportionment in Parcel 251.

### **RECOMMENDATION**

We respectfully request that the Right-of-Way Committee recommend to the CFX Board the approval of the proposed settlement agreement totaling \$15,000.00 in full settlement of all claims for apportionment attorney's fees and costs.

ORLDOCS 14749572 2


# Tab C



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Right of Way Committee Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel 

DATE: June 8, 2016

RE: *Central Florida Expressway Authority v. VIP Properties, LLC, et al.*  
Case No. 2014-003698-O, Project: 429-203, Parcel 170  
Owner: VIP Properties, LLC  
Location: 3202 Phils Lane, North of Ponkan Road  
Present Use: Office Building  
Zoning: A-1, Citrus Rural District (Agricultural)  
Size of Land Before: 10.138 acres; Amount Taken: 0.454; Remainder: 9.684 acres

---

When a condemning authority takes property through the filing of a petition in eminent domain, it is required to pay the owner's experts and attorneys. Pursuant to Section 73.092, Florida Statutes, the owner's attorney is entitled to a fee based upon 33% of any benefit up to \$250,000. Benefit is defined as the difference between the final judgment and the last written offer made by the condemning authority before the owner hires an attorney. In this case, the monetary benefit is the difference between \$62,000 and \$15,600, or \$46,400. Applying the statutory formula, the statutory attorney's fee award is **\$15,312**.

Regarding the owner's expert fees, Section 73.091, Florida Statutes, requires the condemning authority to pay "all reasonable costs incurred in the defense of the proceedings." Counsel for the owner provided invoices from its experts, an appraiser, a market analyst, and a planner, consisting of the following:

Calhoun, Dreggors & Associates, Inc.	\$8,225.00
Lakemont Group	420.00
Williams Development Services, Inc.	<u>\$2,175.00</u>
TOTAL	\$10,820.00

Copies of the invoices are attached hereto as **Exhibit A**. To assess the reasonableness of the expert fees, the files of the appraiser and planner were inspected. The experts' files showed that both experts had undertaken research and review. Several photographs of Mr. Dreggors' file are attached as **Composite Exhibit B**. Several photographs of Mr. Williams' file are attached as **Composite Exhibit C**.

After reviewing invoices and the files, the parties were able to reach a proposed resolution as follows:

Project: 429-203, Parcel 170  
Owner: VIP Properties, LLC

Calhoun, Dreggors & Associates, Inc.	\$6,157.00
Lakemont Group	350.00
Williams Development Services, Inc.	<u>\$1,957.50</u>
TOTAL	\$8,464.50

### **REQUEST**

We respectfully request the Right of Way Committee recommendation for Board approval the payment of reasonable expert fees and costs as to Parcel 170 in the amount of \$8,464.50.

### **ATTACHMENTS**

- A - Invoices
- B - Photographs of Mr. Dreggors' file
- C- Photographs of Mr. Williams' file

# Calhoun, Dreggors & Associates, Inc.

• Real Estate Appraisers & Consultants •

April 7, 2016

Thomas P. Callan Esq.  
c/o Callan Law Firm, P.A.  
921 Bradshaw Terrace  
Orlando, FL 32806

RE: Owner: VIP Properties, LLC  
Project: Wekiva Parkway  
Parcel No.: 170  
County: Orange

## INVOICE

Conference with owner's representative, gather information on the subject parcel, review CFX reports, meeting with owner's representative, pro-rata share, vacant land sales research/analysis, prepare summary/exhibits of other CFX appraisals/values, review information with Rick.

Abrams Schmidt:	38.75 Hrs. x \$175/Hr. =	\$6,781
Dreggors:	5.25 Hrs. x \$275/Hr. =	<u>1,444</u>
<b>Total</b>		<b>\$8,225</b>

Thank you,

Richard C. Dreggors, GAA  
President

RCD/ddp

# EXHIBIT A

728 West Smith Street • Orlando, Florida 32804  
Tel (407) 835-3395 • Fax (407) 835-3393

<b>OWNER</b>	<b>VIP PROPERTIES LLC</b>	<b>COURTNEY ABRAMS</b>
<b>PROJECT</b>	<b>WEKIVA PARKWAY</b>	
<b>PARCEL(S)</b>	<b>170</b>	
<b>COUNTY</b>	<b>ORANGE</b>	

<b>DATE</b>	<b>TYPE OF SERVICE</b>	<b>HOURS</b>
06/11/15	REVIEW DOCUMENTS; MEETING WITH RICK TO REVIEW SCOPE OF WORK.	1.75
06/15/15	RESEARCH SUBJECT DOCUMENTS; REVIEW/ ANALYSIS OF CONDEMNOR'S APPRAISALS AND SALES.	4.25
06/16/15	DRIVE BY SUBJECT PROPERTY FOR INSPECTION; BEGAN SALES RESEARCH.	3.00
06/18/15	RESEARCH/ANALYSIS OF SALES.	4.75
06/22/15	UPDATE AERIAL EXHIBITS FOR WEKIVA PARKWAY PARCELS.	2.50
06/25/15	ANALYSIS OF SEVERANCE DAMAGES AND COMPENSATION; UPDATE WEKIVA EXHIBITS.	3.25
07/02/15	UPDATE SALES RESEARCH; ANALYSIS OF SALES.	4.50
07/06/15	SALES ANALYSIS.	3.25
07/07/15	RESEARCH/ANALYSIS OF CFX'S SALES; PREPARE DOCUMENTS WITH ANALYSIS OF SALES.	5.00
07/10/15	WORK ON CFX SALES ANALYSIS.	2.75
07/14/15	UPDATE WEKIVA EXHIBITS FOR SALES AND AFTER APPRAISAL BY CFX APPRAISALS.	<u>3.75</u>
	<b>TOTAL HOURS</b>	<b>38.75</b>

<b>OWNER</b>	<b>VIP PROPERTIES LLC</b>	<b>RICHARD C. DREGGORS, GAA</b>
<b>PROJECT</b>	<b>WEKIVA PARKWAY</b>	
<b>PARCEL(S)</b>	<b>170</b>	
<b>COUNTY</b>	<b>ORANGE</b>	

<b>DATE</b>	<b>TYPE OF SERVICE</b>	<b>HOURS</b>
06/11/15	REVIEW DOCUMENTS AND CONFERENCE WITH OWNER'S REPRESENTATIVE; MEET WITH ASSOCIATE TO REVIEW OUR SCOPE OF WORK.	2.00
06/16/15	REVIEW INFORMATION ON SUBJECT; REVIEW CFX REPORT; MEETING WITH OWNER'S REPRESENTATIVE TO REVIEW VALUATION ISSUES; ASSIST WITH RESEARCH AND ANALYSIS OF VACANT LAND SALES.	<u>3.25</u>
	<b>TOTAL HOURS</b>	<b>5.25</b>



**Lakemont Group**

2037 Shaw Ln, Orlando, FL 32814

**INVOICE**

Invoice Number 1

Period Covered –

1/1/15 to 2/1/16

February 4, 2016

To:

Thomas Callan  
Callan Law Firm, P.A.  
921 Bradshaw Terrace  
Orlando, Florida 32806  
Attn: Accounts Payable

DATES	DESCRIPTION	HOURS	RATE	AMOUNT
Various	<u>Client: VIP Properties LLC</u> <u>Matter: Parcel 170 – Section 429-203</u> <u>Case No: 2014-CA-003698-O</u> Meetings and calls with attorneys to advise on real estate and economic market conditions and forces related to valuation of real estate subject to taking.	1.2	\$350.00	\$ 420.00
	SUB TOTAL:			\$ 420.00
Expenses	None			\$ 0.00
	TOTAL DUE:			\$ 420.00

Thank you very much for the opportunity to serve.



Joshua A. Harris, Ph. D., CRE, CAIA  
Managing Partner  
Lakemont Group

**Payment Instruction via Check:**

LAKEMONT GROUP  
2037 SHAW LN  
ORLANDO, FL 32814

# WILLIAMS DEVELOPMENT SERVICES INC.

February 1, 2016

Attorney Thomas P Callan  
Callan Law Firm PA  
921 Bradshaw Terrace  
Orlando FL 32806


Subject: Central Florida Expressway Authority v. VIP Properties LLC  
Case 2014-CA-003698-0  
Parcel 170, Wekiva Parkway

Dear Mr. Callan

The following invoice is for professional land planning services in the above described case.  
Your assistance in processing this invoice would be greatly appreciated.

DATE	SERVICES	HOURS
12-2-15	Meeting with attorney, retained in case, received initial work assignments	1.0
12-4-15	Site and neighborhood inspection, review construction plans	1.2
1-10-12	Review and comment on CFX appraisal by Bullard from a land planning Planning and development permitting standpoint	2.5
12-9-15	Collect and analyze background data on comprehensive plan, land Development code, utilities, concurrency and permitting history of site.	1.5
1-4-16	Highest and best use analysis, damage analysis	2.0
1-19-16	Report findings to attorney Callan	0.5
Subtotal :	8.7 Hours at \$250.00 per Hour	
Total Due:	\$2,175.00	

Submitted By:

  
Edward J Williams

920 S DELANEY AVE ORLANDO FL 32806 407 376 4792 EDW5654@BELLSOUTH.NET

Back to Message 15-12-08 Engagement Letter T... 1 / 1



## Callan Law Firm, P.A.

### Callan Law Firm, PA Expert Witness Engagement Agreement

Date: December 8, 2015 ("Date")

Client: VIP Properties, LLC ("Client")

Matter: Wekiva Parkway ("Matter")

Expert Name: Ed Williams, Williams Development Services ("Expert")

The Expert has been retained by Callan Law Firm, PA ("Firm"), to provide engineer services in the Matter which is an eminent domain case under Florida Law where the condemning authority FDOT seeks to acquire all or a portion of the property owned by the Client located at 3202 Phils Lane, Apopka, in Orange County, Florida.

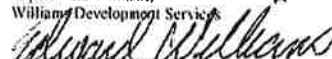
The non-trial hourly rate is \$250.00 for the Expert, and the standard hourly rates will apply to other employees or assistants to the Expert. The trial hourly rate for the Expert is \$250.00.

The payment of your fees shall be by the condemning authority in this Matter at the conclusion of this Matter. Neither the Client nor the Firm or the attorneys of the Firm shall be responsible for the payment of your fees. An addendum is not attached to this Agreement.

The Firm will represent you in the negotiation of your fees or at the fee hearing. The Expert agrees to keep accurate and contemporaneous time records and provide same to the Firm to seek the reimbursement. The Firm shall not settle the Expert's fees and costs without the consent of the Expert. The Expert shall make the required appearances and cooperate in any proceeding to pay their fees.

Callan Law Firm, PA

  
Thomas P. Callan

Expert: Ed Williams,  
Williams Development Services  
  
Ed Williams

921 Bradshaw Terrace • Orlando, Florida 32806  
407-426-9141 • Fax: 407-426-0567 • www.callanlaw.com



## Callan Law Firm, P.A.

*Simon*  
*VIP*  
*Brown*

Callan Law Firm, PA  
Expert Witness Engagement Agreement

Date: August 13, 2014 ("Date")

Clients:

**SECTION 1B**

PHILIP & PATRICIA SIMMONS - CLF# 969

VIP PROPERTIES, LLC/ARMAN RAHBARIAN - CLF# 965

**SECTION 2B**

ROBERT & LOIS BROWN - CLF# 961

("Clients")

Matter: WEKIVA PARKWAY ("Matter")

Expert Name: Joshua Harris, Lakemont Group, LLC ("Expert")

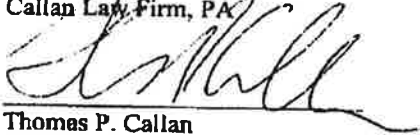
The Expert has been retained by Callan Law Firm, PA ("Firm"), to provide real estate analysis services in the Matter which is an eminent domain case under Florida Law where the condemning authority CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX") f/k/a ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY seeks to acquire all or a portion of the property owned by the Client located on the Wekiva Parkway Project.

The non-trial hourly rate is \$350.00 for the Expert, and the standard hourly rates will apply to other employees or assistants to the Expert. The trial hourly rate for the Expert is \$350.00.

The payment of your fees shall be by the condemning authority in this Matter at the conclusion of this Matter. Neither the Client nor the Firm or the attorneys of the Firm shall be responsible for the payment of your fees. An addendum is not attached to this Agreement.

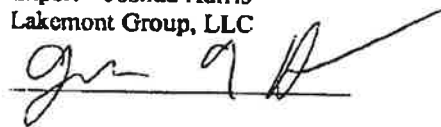
The Firm will represent you in the negotiation of your fees or at the fee hearing. The Expert agrees to keep accurate and contemporaneous time records and provide same to the Firm to seek the reimbursement. The Firm shall not settle the Expert's Fees and costs without the consent of the Expert. The Expert shall make the required appearances and cooperate in any proceeding to pay their fees.

Callan Law Firm, PA



Thomas P. Callan

Expert - Joshua Harris  
Lakemont Group, LLC



## VIP Properties

Sale No.	Location	Sale Date	Sale Price	Land Size (Net Ac.)	Price/ Net Acre
<b>Subject</b>	West side of Phils Lane, north of Ponkan Road; Orange Co.	06/14	n/a	10.14 Ac.	n/a
<b>VR-34</b>	NS of Old Hwy. 50, about 675'± NW of Lake Blvd., Lake Co.	05/16/13	\$3,108,000	46.53 Ac.	\$66,795
<b>VR-35</b>	NS of Steve's Rd., about 1,000'± E of US Hwy. 27, Lake Co.	03/31/14	\$2,600,000 (\$3,600,000 effective price)	32.36 Ac.	\$111,248
<b>VR-534</b>	N & SS of Marsh Rd., about ¼ of a mile W of Avalon Rd., Orange Co.	02/14/14	\$6,350,000	56.94 Ac.	\$111,521
<b>VR-537</b>	SS of Sunridge Blvd., about 1,500'± E of Avalon Rd., Orange Co.	03/13/14	\$6,188,000 (\$5,460,000 effective price)	34.62 Ac.	\$157,712
<b>VR-538</b>	ES of Tiny Rd., about 3,300'± S of Tilden Rd., Orange Co.	12/17/12	\$18,000,000	201.56 Ac.	\$89,303
<b>VR-539</b>	E & WS of Winter Garden Vineland Rd., about 650'± N of Roper Rd., Orange Co.	12/10/12	\$6,421,100	43.14 Ac.	\$148,843
<b>VR-540</b>	ES of Siplin Rd., ½ mile east of Avalon Rd., Winter Garden, Orange Co.	07/24/14	\$9,920,000	62.38 Ac.	\$159,025

EXHIBIT B

East side of  
ad; Orange  
South side  
mile west of  
Co.

East side of  
Clarcc

North s  
Daven

West  
380'±



Sale No.	
Subject	We Ro
VR-34	NS Bl
VR-35	NS H
VR-534	N of
VR-537	S A
VR-538	E R
VR-539	E a
VR-540	E V

Sale No.	Location	Sale Date	Land Size	Sale Price	Price/Ac.
Subject	West side of Phils Lane, north of Ponkan Road; Orange Co.	06/14	10.14 Ac.	n/a	n/a
VR-542	South side of Kilmer Lane about 0.30 of a mile west of Peidmont Wekiva Rd., Orange Co.	05/14	3.04 Ac.	\$150,000	\$49,342
VR-543	East side of Gilliam Rd. about 680'± north of Clarcona Ocoee Rd., Orange Co.	12/13	3.06 Ac.	\$140,000	\$45,752
VR-550	North side of Seidner Road, west of Davenport Road; Orange Co.	06/14	9.64 Ac.	\$399,900	\$41,483
VR-553	West side of Avalon Road (CR 545) about 380' south of Alps Street; Orange Co.	04/14	10.88 Ac.	\$425,000	\$39,063



# Callan Law Firm, P.A.

## Callan Law Firm, PA Expert Witness Engagement Agreement

Date: December 8, 2015 ("Date")

Client: VIP Properties, LLC ("Client")

Matter: Wekiva Parkway ("Matter")

Expert Name: Ed Williams, Williams Development Services ("Expert")

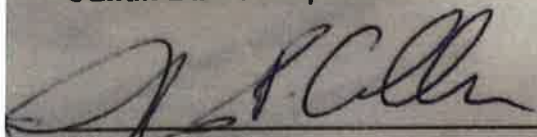
The Expert has been retained by Callan Law Firm, PA ("Firm"), to provide engineer services in the Matter which is an eminent domain case under Florida Law where the condemning authority FDOT seeks to acquire all or a portion of the property owned by the Client located at 3202 Phils Lane, Apopka, in Orange County, Florida.

The non-trial hourly rate is \$250.00 for the Expert, and the standard hourly rates will apply to other employees or assistants to the Expert. The trial hourly rate for the Expert is \$250.00.

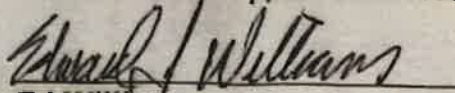
The payment of your fees shall be by the condemning authority in this Matter at the conclusion of this Matter. Neither the Client nor the Firm or the attorneys of the Firm shall be responsible for the payment of your fees. An addendum is not attached to this Agreement.

The Firm will represent you in the negotiation of your fees or at the fee hearing. The Expert agrees to keep accurate and contemporaneous time records and provide same to the Firm to seek the reimbursement. The Firm shall not settle the Expert's Fees and costs without the consent of the Expert. The Expert shall make the required appearances and cooperate in any proceeding to pay their fees.

Callan Law Firm, PA

  
Thomas P. Callan

Expert – Ed Williams,  
Williams Development Services

  
Ed Williams

# EXHIBIT C

ANNEXATION DOCUMENTS

2002 Association  
2002 Anniversary, Cycle 6 per  
Meeting on July 22, 2011

INDEX

[illegible]



Tom Callan  
Ed Wilbur

VIP Properties LLC P170

Per your request — hold off final report —  
I have completed my preliminary analysis  
and will incorporate the following issues  
in my report to the appraiser

- ① site was 10+ acre parcel that was formerly  
used as nursery and landscaping business  
with an office located on property
- ② purchased in 2012
- ③ taking (issue) is acquisition of 60 foot  
easement adjacent Snow Falls Lane
- ④ makes site non-conforming
- ⑤ I will address reasonable probability  
of changing comp plan/zoning
- ⑥ I will address annexation potential



1-19-16

320,789 PA

Geographic location	24	20-27
Physical location	W side Phils Lane North of Boston Rd	
Political jurisdiction	Orange County	
Current tract	10-138 acres	
Taking	454 acres	19,782 sq ft
Remainder	9-684 acres	
FLU	Rural 1 du/10 acres	
Zoning	A-1	
Utilities	Well + Septic	
Setback LU	1680 sq ft office from former barn	

\* \* Note: Property adjacent to appraiser Project Orlando LLC property to south  
 note: property likely candidate for annexation into appraiser which absent the project meant higher density residential development 3-5 du/acre

note: Potential damages - county designation (FRU) 1 du/10 acres - ~~potential~~ taking makes it more conforming to Comp plan.

1- note: Property in area impacted by threat of condemnation and condemnation might need to work with appraiser on sales area

My report will follow same format as others along this project. Will include



the history of project and all of its  
components including W/P + P/A - that  
directed parts of the design, funding and  
have use restrictions necessary to accomplish  
the project. Report will include before  
taking analysis w/o project, taking, after  
taking including damages.

Please notify my office when report needs  
to be prepared.

ANNEXATION DOCUMENTS



File 1  
2001-2007

3125 Onduch

Tamer Schufeldt

01-20-22-000

green house to warehouse  
no permits / log

6014 PSR

Special Annex Meeting Aug 10, 2004

Morgan Land

Robert Brown

6014 Plymouth

01-20-27-0000-00-026

3100 Onach

Lamy & Sweeney

12-20-27-0000-00-051

5410 PSR

Johnson

12-20-27-0000-00-026

NO

5902 PSR

Chung

12-20-27 0000 00 079

merged 5203 Onduch

5918 PSR

Robinson

12-20-27 0000 00 078

Center 5239 Onduch

3112 Onduch

Robinson

12-20-27 0000 00 065+087

River 3311 Onduch

3066 Onduch

Liebknecht

12-20-27-0000-00-044

Snake 3341 Onduch

3129 Onduch

Barclay

01-20-27-0000-00-025

Blackwood 5435 Onduch

Center 5245 Onduch

2007

10139 Apple Pardo

15-21-28-748-01-200  
2007

1697 Alated P. Yu

14-21-28-470-00-070

1304 Sheila R Espinal

15-21-28-0000-00-153

Wad Kelly Park E. Jeffin

11-20-27-0000-00-040

1368 PSR2

Han

06-24-28-7172-15-140

2295 Slade

Turner

11-21-28-0000-00-024

135 English Creek

Cravens

03-21-28-0000-00-062

1028 John P. O'Shea

15-21-28-3280-00-0140

1087 PSR

Welch Photo

06-21-28-7172-04-050

705 S. Kame Rd

Walker

22-21-28-0000-00-017 + 108

1113 Anty St

Daniel

18-21-28-0000-00-067

2627 Rhonda Popp

31-20-28-6602-00-190

state

County

HAS



2975

5081

MyRishi

06-21-28-7172-01-180

2133

Vicki Meyer

28-20-28

0000 00 010

1430 S. Heather Berland / Royal Palm

21-21-28-0000-00-027

417

W. Kester Rd

N. 200

28-20-28-0000-00-070

2079

Vicki Rd

McCaffrey

28-20-28 0000 00 067

405

W. Kester Rd

Holt

28-20-28-0000-00-071

363

W. Kester Rd

AMBS

28-20-28 0000 00 066

2105

Vicki Rd

Reich

28-20-28 0000 00 076

2177

W. Kester Rd

Mills

28-20-28 0000 00 038



5024	PSR	Yuaa	12 20 27	0000	00	028
5012	PSR	Huller	12 20 27	0000	00	054
4744	PSR	Lo	13 20 27	0000	00	030
4466	PSR	Horne	13 20 27	0000	00	008
3366	WKPR	De Plants	13 20 27	0000	00	007
3372	WKPR	Collins	13 20 27	0000	00	034
2560	WKPR	Brown	13 20 28	0000	00	067 + 007
2809	WKPR	Holden/Vincent	7 20 28	0000	00	009
3001	WKPR	Tysko	12-20-27	0000	00	027
4817	WKPR	Enburg	18 20 28	0000	00	074
2812	WKPR	Force	18 20 28	0000	00	005
2738	WKPR	Kalini	18-20-28	0000-00		079
2693	WKPR	Shiflett	07 20 28	0000	00	046 + 035
2669	WKPR	Badgley	07 20 28	0000	00	045
2719	WKPR	T+W Rauh	07 20 28	0000	00	038
2109	Bay Scout	Maple	18-21-28	0000	00	052 + 026 + 083
2043	Bay Scout	Scott	18 21 28	0000	00	046
2055	Bay Scout	Shiflett	18-21-28	0000	00	053 + 096 + 013 + 070
2455	BSR	Hunt	18 21 28	0000	00	036
2421	BSR	Frayer	18-21-28	-0000	00	085
1085	S. Brown	Broer	18 21 28	0000	00	039
1909	BSR	Cook Family	17 21 28	0000	00	005
1879	BSR	Kazaras	17 21 28	0000	00	006
2259	WBSR	McClintock	18-21-28	0000	00	055
2235	BSR	Kramer	18-21-28	0000	00	072
1137	Jackson	McHee	18-21-28	0000	00	028

Figure 9:

Prability of Rezoning

Development Trends

Type of Road

Influence of VCC

Influence of Power substation

infludence of the power line

ionfluence of the ditch

influence of the easement

Land Use Policies

Woodbury Road strip commercial in a village setting,

Dean Road

Valencia College Lane

Hall Road and University Road

Office site on University and Econtrail se corner by sustation prower transmission line





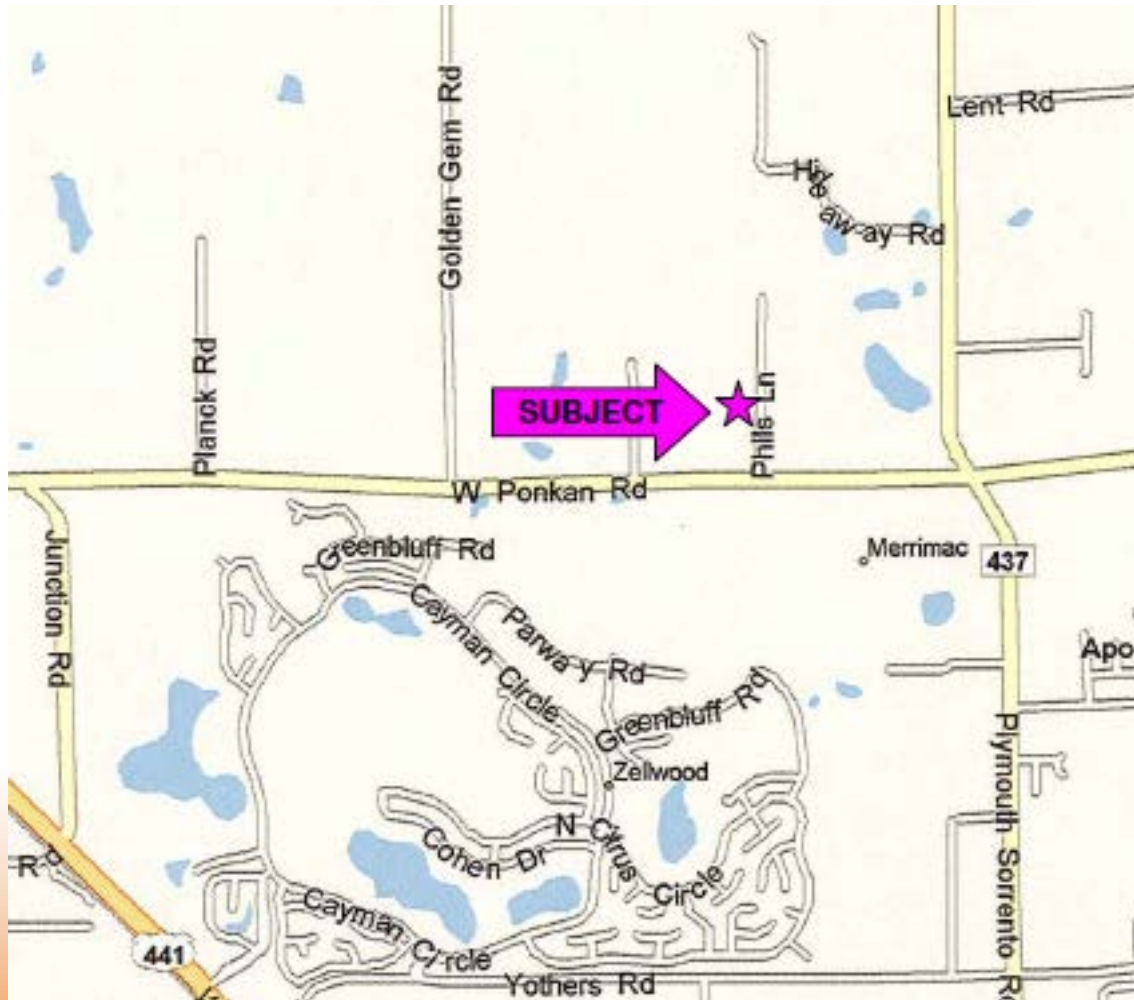
# **CENTRAL FLORIDA** ..... ..... **EXPRESSWAY AUTHORITY**

**RIGHT OF WAY COMMITTEE MEETING**  
**June 22, 2016**

**VIP Properties, Parcel 170**  
**Proposed Settlement as to Fees and Costs**



## Map of Area





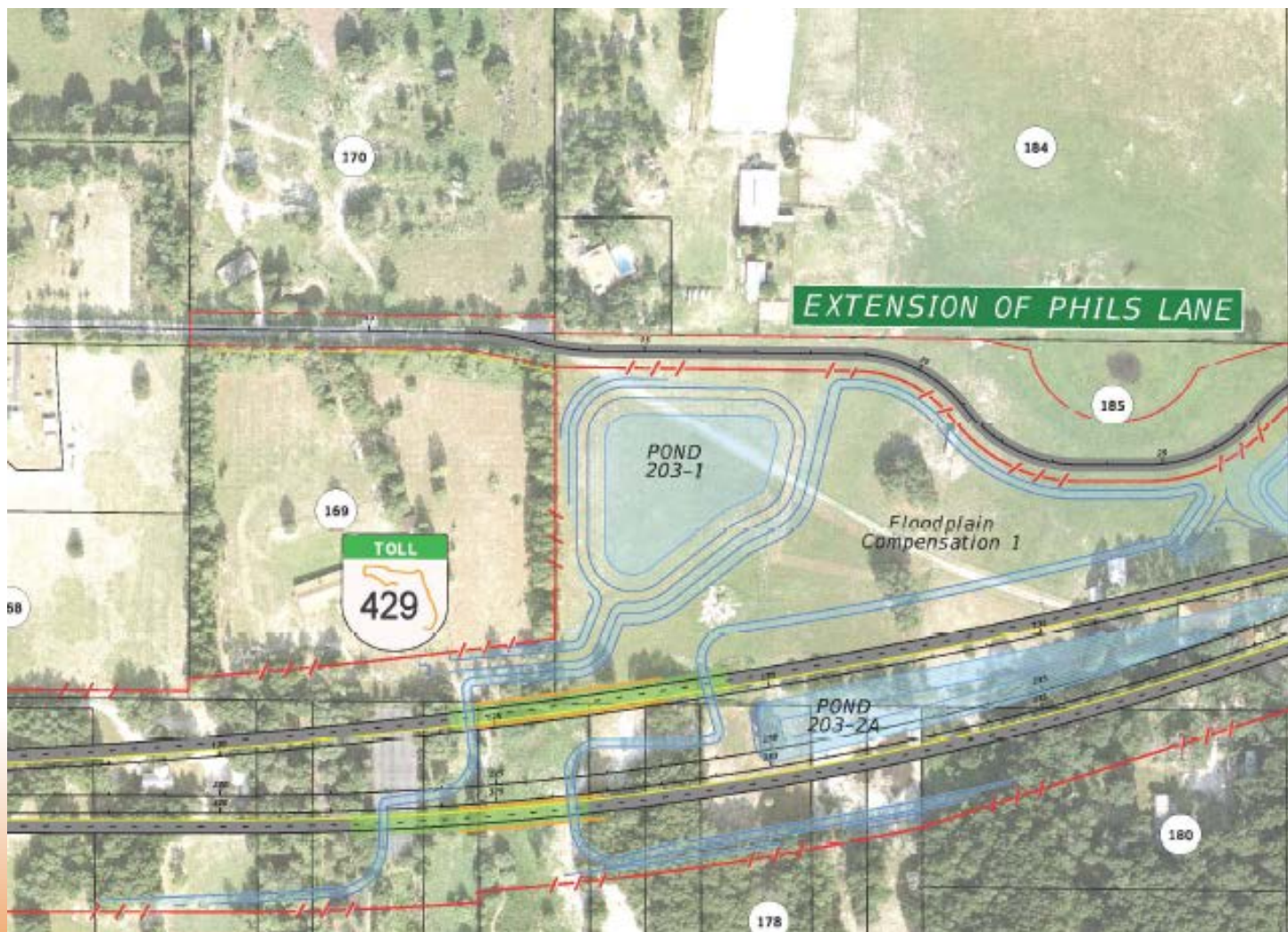
## Aerial of Subject Property





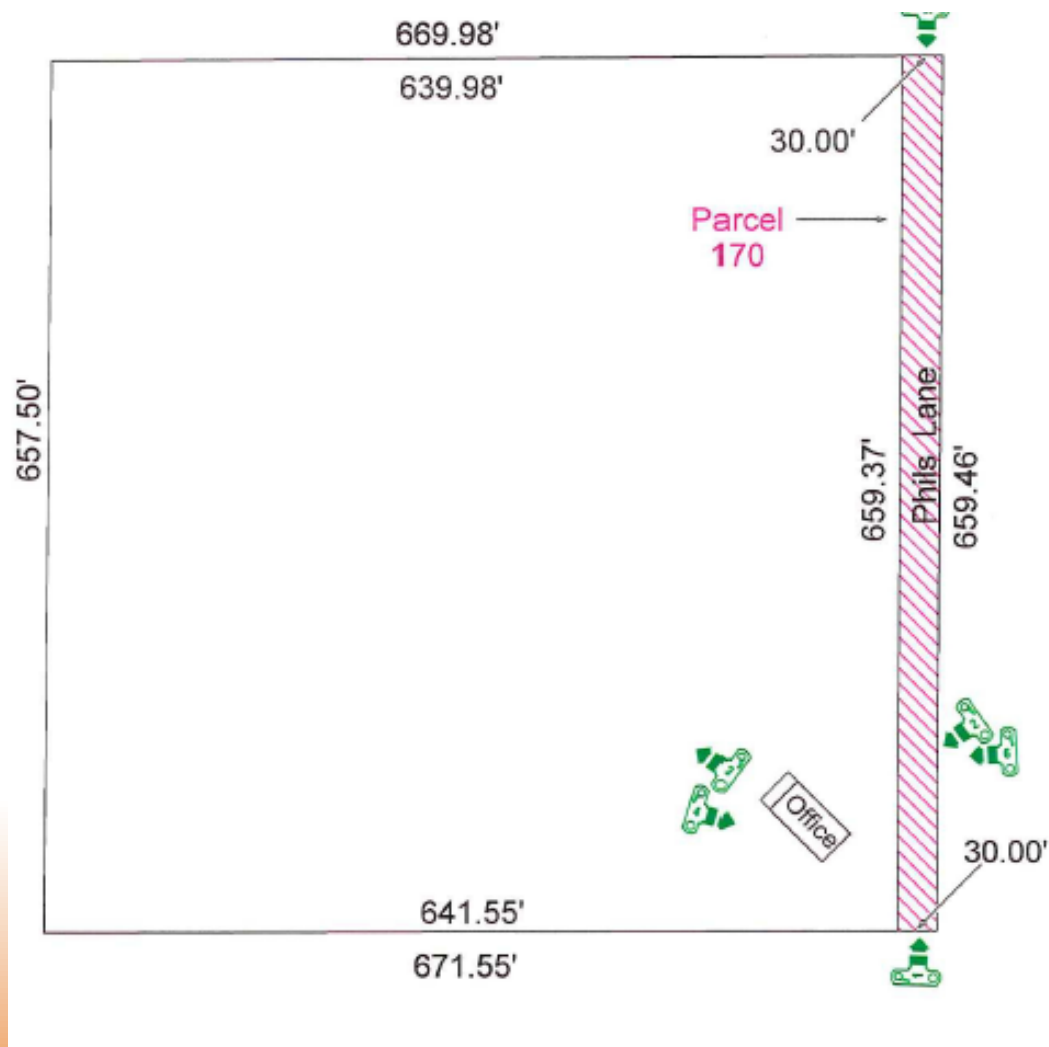


# Construction Plans





# Parcel Sketch





# »» Subject Photos



1. LOOKING NORTH AT THE FRONTAGE ALONG  
PHILS LANE (INGRESS/EGRESS EASEMENT)

# »» Subject Photos



2. LOOKING SOUTHWEST AT THE OFFICE BUILDING

# »»» Subject Photos



5. LOOKING SOUTH AT THE TAKING

# Summary of Fees and Costs

Parcel 170	Owner's Demand	Proposed Settlement
Calhoun, Dreggors & Assoc.	\$8,225.00	\$6,157.00
Lakemont Group	420.00	350.00
Williams Development Services	\$2,175.00	\$1,957.50
<b>Total Expert Fees and Costs</b>	<b>\$10,820.00</b>	<b>\$8,464.50</b>
Statutory Attorney's Fees	\$15,312	\$15,312



# Recommendation


Please recommend to the Board approval of a settlement in the amount of \$8,464.50 for the payment of reasonable expert fees and costs as to Parcel 170.



# Tab D

## MEMORANDUM

TO: Right of Way Committee Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel 

DATE: June 8, 2016

RE: *Central Florida Expressway Authority v. Dennis R. Klepzig, et al.*,  
Case No. 2014-003641-O, Project: 429-203, **Parcel 195**  
Owners: Dennis R. Klepzig, Joann Klepzig, Ellen Christine Potts,  
James R. Klepzig, and Jill L. Klepzig ("the Klepzig Family")  
Address: 4140 Plymouth Sorrento Road, Apopka, Florida

---

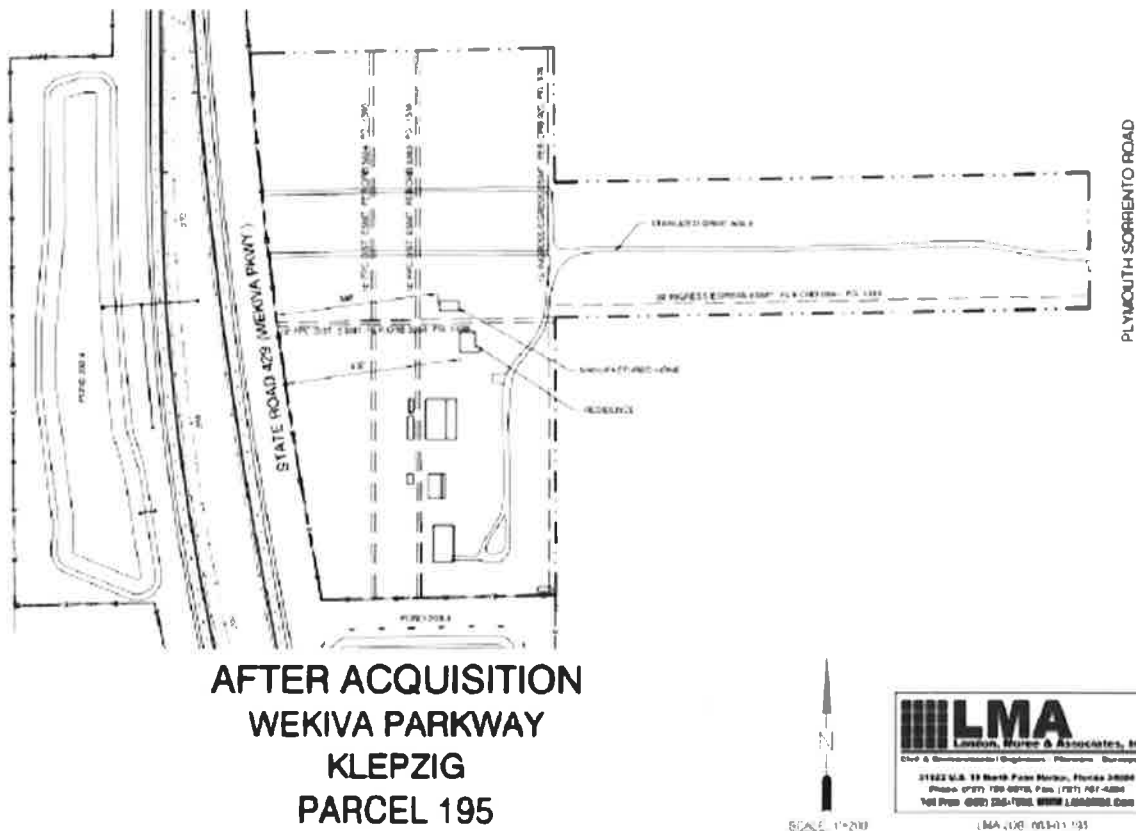
### DESCRIPTION OF PROPERTY

Prior to the taking, the Klepzig Family owned a 51.135-acre parent tract of property on the west of Plymouth Sorrento Road north of West Ponkan Road in Apopka. The property is zoned A-1 (Citrus Rural District) and A-2 (Farmland Rural District). The subject is improved with nine buildings within the south central portion of the parent tract. There is a residential homestead and a manufactured residence (used for extended family) with the remaining seven building structures consisting of four manufactured buildings and three larger structures. The property is utilized for an annual convention for a religious organization that has no official name. Up to 1,200 members attend once annually over four days with three meetings per day.



The property taken, Parcel 195, consists of 20.333 acres on the west side of the parent tract as shown below. In the after condition, the remaining property will be adjacent to State Road 429. Title vested in CFX on May 30, 2104, when CFX deposited the sum of \$851,300. This case was set for trial on the August 15, 2016 docket in front of Judge Kest.

Remainder Parcel Sketch



**APPRAISED VALUES OF PARCEL 195**

CFX retained Christopher D. Starkey, MAI, to estimate full compensation for the taking of Parcel 195 and the Klepzig retained Gary M. Pendergast, State-Certified General Real Estate Appraiser. The table below summarizes the estimates of value, the statutory attorney's fee, and the expert fees. Copies of the invoices from the owner's experts are attached.

	<b>CFX (Starkey)</b>	<b>Klepzig (Pendergast)</b>
<b>BEFORE</b>		
Land Value (Before)	\$28,000 per acre	\$68,000 per acre
Parent Tract (Before)	\$1,763,000*	\$3,477,200
<b>AFTER</b>		
Highest and Best Use (After)	Hold for future agricultural/residential development	Low-Density Residential
Land Value (After)	\$22,400 (20% reduction)	\$35,000 per acre
Part Taken	\$633,535	\$1,382,600
Damages	\$213,475	\$1,016,500
Cost to Cure (fencing/gates, irrigation lines, pathway)	\$4,300	0
<b>Total for the Land</b>	<b>\$851,300</b>	<b>\$2,399,100</b>
<b>ATTORNEY'S FEES</b>	Per Statute	<b>\$ 379,560</b>
<b>EXPERT FEES</b>		
Ovation Construction (Bert Karpenski)		\$ 2,887.50
Williams Development Services, Inc.		\$ 9,950.00
Power Acoustics, Inc.	Previously Stricken	\$14,227.50
Florida Real Estate Analysts, Inc. (Pendergast)		\$28,530.00
Vanasse Hangen Brustlin, Inc. (Planner)		\$23,446.12
Calhoun Dreggors & Assoc.	Duplicate	\$ 1237.00
MEI Civil		\$17,855.25
<b>Total Expert Fees</b>	-	<b>\$98,133.37</b>
<b>ALL-IN TOTAL</b>	-	<b>\$2,876,793.30</b>

\*Includes land and improvements.



### **ANALYSIS**

The biggest issue in this case involved the value of the land. Mr. Starkey valued the land at \$28,000 per acre and Mr. Pendergast valued the property at \$68,000 per acre. CFX questioned the credibility of Mr. Starkey's estimate because his comparable sales were outside the immediate vicinity of the subject property in areas such as Winter Garden. The believability of the experts' opinions and the comparability of the sales would likely be an issue of fact for the jury to decide.

The expert fees and costs totaled \$98,133.37, which sum is quite high for a mediated settlement agreement. Because this case was set for trial in August 2016, the parties needed to commence preparations for trial. The sound expert, however, was precluded from testifying in the recent trial of Parcel 113, wherein the trial court concluded that most of his testimony was speculative. Counsel for the owners understood this issue and its implication. CFX asserted that it should not have to pay for the fees of experts who are not qualified to render an opinion.

During mediation, the parties discussed the issues and reached a proposed all-inclusive settlement of \$1,533,000, contingent upon approval of the Right of Way Committee and the Board. Although we do not have a breakdown of the settlement, one possible allocation would be to assume that \$1,325,000 would be for the property owners, yielding in a statutory attorney fee of \$138,425, and expert fees and costs of \$69,575. This allocation is merely a hypothetical example to illustrate the various components of the all-inclusive settlement.

### **RECOMMENDATION**

We request the Committee's recommendation for Board approval of an all-inclusive settlement in the amount of **\$1,533,000**, including statutory interest and all claims related to the real estate and business damages, severance damages, attorney's fees and litigation costs, expert fees and costs.

Attachments: Settlement Agreement  
Invoices

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

CENTRAL FLORIDA EXPRESSWAY AUTHORITY,  
body politic and corporate, and an agency of the state  
under the laws of the State of Florida,

CASE NO: 2014-CA-003641-0

Subdivision \_\_\_\_\_

Petitioner,

Parcel 195

vs.

Robert Strienz and Adis Strienz  
\_\_\_\_\_, et. al.

Respondent(s).  
\_\_\_\_\_ /

**SETTLEMENT AGREEMENT**

Respondent(s), Dennis Klepiz and JoAnn Klepiz,  
and representatives of the Central Florida Expressway Authority reached the following  
Settlement Agreement:

1. Petitioner will pay to Respondent(s), Dennis Klepiz and JOANN Klepiz

(referred to as "Respondent") the sum of ONE million five Hundred Thirty-Three  
Thousand and NO/100 Dollars Dollars

exactly (\$ 1,533,000.00 ), in full settlement of all claims for compensation from Petitioner  
whatsoever for the taking of Parcel 195, including statutory interest and all  
claims related to real estate and business damages, severance damages, attorney's fees and  
litigation costs, expert witness fees, and costs. The settlement proceeds are subject to claims of  
apportionment by any party in this case having a property interest in or a lien on the subject  
property. Petitioner previously deposited in the Registry of the Court Petitioner's good faith  
estimate in the amount of \$851,300.00

Dollars (\$ \_\_\_\_\_). Within thirty days (30) days from the date of receipt by  
Petitioner's counsel of a conformed copy of the Stipulated Final Judgment, Petitioner will pay to  
Respondent, by deposit in the Registry of the Court the sum of SIX HUNDRED EIGHTY-ONE  
Thousand Seven Hundred and NO/100 Dollars  
exactly (\$ 681,700.00 ), representing the difference between the total settlement sum  
referenced above and the Petitioner's previous deposit in this case.

2. This Settlement Agreement will be placed on the agenda for the Right of Way  
("ROW") Committee and Central Florida Expressway Authority ("CFX") Board and is  
conditioned upon final approval by the ROW Committee and then the CFX Board.

3. Counsel for Petitioner will submit to the Court a standard Motion for Stipulated

Final Judgment containing the terms and conditions of this Settlement Agreement within fifteen (15) days from the date of approval of this Settlement Agreement by the CFX Board.

4. This Agreement resolves all claims whatsoever, including claims of compensation arising from the taking of Parcel 195, severance damages, business damages, tort damages, interest, attorney's fees, attorney's costs, expert fees, expert costs, and any other claim.

5. Respondents confirm and represent that they are the fee simple owners of the property and have full authority to participate in the mediation of this parcel as the lawful owners of the property and to execute this Settlement Agreement. This Settlement Agreement is contingent upon delivery to counsel for the Petitioner proof of ownership.

6. This Settlement Agreement, executed by the parties and their counsel on this 31<sup>st</sup> day of MAY, 2016, contains all the agreements of the parties.

7. The Parties Agree to waive confidentiality provisions applicable to this settlement Agreement and mediation session.

Print Name: Linda S. Lanasa  
Central Florida Expressway Authority LINDA  
S.B. LANASA

Print Name: DENNIS R. KLEPZIG

Owner

Dennis R. Klepzig

Print Name: SIDNEY CALLOWAY  
Counsel for CFX

Print Name: \_\_\_\_\_  
Owner

Harold A. Lessman

Print Name: \_\_\_\_\_  
Mediator

Print Name: Harold A. Lessman  
Attorney for Owner

Joann Klepzig  
OWNER  
JOANN KLEPZIG



POST OFFICE BOX 621287  
OVIEDO, FLORIDA 32762  
(407) 722-4161  
Fax: (866) 431-6032

## INVOICE #OV1652

May 12, 2016

Maguire Lassman, PA  
605 E. Robinson Street, #140  
Orlando, Florida 323801

Re: Klepzig Parcel  
SR429 (Wekiva Parkway)

---

DESCRIPTION: Perform Eminent Domain work for the Klepzig Parcel.

TOTAL COST: 19.25 Hrs x \$150.00/hr = \$2,887.50

Thank you.

Sincerely,  
Bert Karpinski  
Ovation Construction, Inc.



**TIME SHEET LOG**  
**BERT KARPINSKI/OVATION CONSTRUCTION**

PROJECT: Klepzig Parcel

**DATE      HOURS      DESCRIPTION**

11/14/2014	0.25	Engagement E-Mail
11/17/2014	0.5	Received drawing showing existing utilities & infrastructure/Reviewed
2/1/2015	0.5	Received & Reviewed drawings & appraisal (mail) from Attorney
4/20/2015	1	Conference call with Attorney, MEI Civil, Appraiser
5/12/2015	5	Site Visit to Verify Existing Conditions/Document Site
6/9/2015	3	Prepared Cost of Existing Conditions Report
6/10/2015	2.5	Prepared Cost of Existing Conditions Report/Items in the Take Report
6/11/2015	0.5	Sent out Cost of Existing Conditions Report for review.
10/27/2015	1	Conference call with Attorney, MEI Civil, Appraiser
2/5/2016	1	Conference Call with Attorney, MEI Civil, Appraiser
2/8/2016	0.5	Made minor corrections to report per Appraisers Comments
2/9/2016	1	Conference Call with Attorney, MEI Civil, Appraiser
3/28/2016	1	Conference Call with Attorney, MEI Civil, Appraiser
5/11/2016	1	Prepared for Deposition
5/12/2016	0.5	Further Preparation for Deposition/Received call that it was Cancelled

**19.25      TOTAL HOURS**

# WILLIAMS DEVELOPMENT SERVICES INC.

May 17, 2016

Mr. Harold Lassman  
Maguire and Lassman PA  
605 East Robinson Street Suite 140  
Orlando FL 32801

Subject: CFX v. Klepzig  
Parcel 195 , Wekiva Parkway, Orange County

Dear Mr. Lassman

The following invoice id for professional land planning services in the above described case.  
Your assistance in processing this invoice would be greatly appreciated

<u>DATE</u>	<u>SERVICES</u>	<u>HOURS</u>
10-13-15	Meeting with attorney, retained in case, received initial work assignments	1.0
10-27-15	Site and neighborhood inspections	2.5
2-4-16		2.0
12-15-15	Review right of way and construction plans for impacts to property	1.0
10-29-15	Review CFX appraisal by Integra from a land planning and development	3.5
11-3-15	Permitting standpoint	1.5
11-23-15	Collect and analyze background data on comprehensive plan, land	3.5
11-24-15	development code, utilities, concurrency and permitting history	3.0
10-26-15	Review and comment on MEI report	1.0
2-4-16	Conference with appraiser on condemnation blight and scope of project	1.5
2-18-16	Conference with appraiser on utilities issues	1.0
2-22-16	Highest and best use analysis, damage analysis, prepare report	4.0
2-23-16		2.5
10-27-15	Preparation for and attendance at team meeting of experts to report	1.0
5-6-15	findings, exchange information and coordinate work assignments.	0.5
2-9-16		1.0
4-25-16	Preparation for deposition	1.0
5-2-16		2.5
5-5-16	Attend deposition	2.5
5-9-16	Consultation with appraiser on timeline of government actions.	1.3

920 S DELANEY AVE ORLANDO FL 32806 407 376 4792 EDW5654@BELLSOUTH.NET

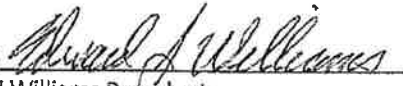
# WILLIAMS DEVELOPMENT SERVICES INC.

5-13-16      Review owners appraisal by Pendergast from a land planning and development 2.0  
Permitting standpoint

Subtotal:      39.8 Hours at \$250.00 per Hour

Total Due:      9,950.00

Approved By:



Edward J Williams President

Williams Development Services Inc.



Power Acoustics, Inc.

12472 Lake Underhill Rd #302  
Orlando, FL 32828

# Invoice

DATE	INVOICE #
5/22/2016	16-05260

BILL TO
Maguire Lassman, P.A. 605 E. Robinson Street, Suite 140 Orlando, FL 32801

CUSTOMER CONTACT / SHIPPED TO
Maguire Lassman, P.A. 605 E. Robinson Street, Suite 140 Orlando, FL 32801

P.O. NO.	TERMS	JOB
	Per Agreement	Klepzig case

DESCRIPTION	QTY	RATE	AMOUNT, US\$
Principal Consultant - Klepzig case See attached hourly breakdown	67.75	210.00	14,227.50
			<b>Total, US Dollars \$14,227.50</b>

Power Acoustics, Inc  
Federal Identification Number: 59-3500644

Remit to the address above.

Direct questions concerning this invoice to Dave Parzych at (407) 381-1439.



Principal Consultant: Dave Parzych, INCE.Bd.Cert  
 Job: Klepzig/Expressway Authority eminent domain  
 Client: Maguire Lassman

Date	Time	Rate	Work Accomplished
11/11/2014	2	210	420 Review aerial, Wekiva CFX/FDOT noise report, property info
11/12/2014	6	210	1260 Setup monitors/Meet with Lassman/Property Owner
11/13/2014	5	210	1050 Retrieve instrumentation, check out equipment.
11/14/2014	4	210	840 Download data, pictures, document data conditions
2/27/2015	6	210	1260 Review plot 24 hour sound data, location figure
3/5/2015	8	210	1680 modeling of traffic noise
3/11/2015	8	210	1680 prepare contour plot of noise on property
3/14/2015	8	210	1680 review data/standards and prepare report
3/16/2015	8	210	1680 report
3/17/2015	1	210	210 Review PAI report and send draft to Lassman
2/29/2016	2	210	420 Finalize report
3/28/2016	0.75	210	157.5 conference call
3/29/2016	4.25	210	892.5 review appraisals
4/18/2016	1.25	210	262.5 conference call
5/5/2016	3.5	210	735 Deposition Prep: CFX request on depos/trials, review files for scheduled May 17 deposition
<b>TOTAL</b>	<b>67.75</b>		Hours Worked
		<b>\$14,227.50</b>	



May 25, 2016

Mr. Harold Lassman  
Attorney at Law  
Maguire Lassman, P.A.  
605 E. Robinson Street, Suite 140  
Orlando, FL 32801

RE: Project : Wekiva Parkway  
County : Orange  
Parcel : 195  
Owner : Klepzig

**INVOICE**

Inspection of subject property and surrounding neighborhood. Research for and analysis of data. Research and analysis concerning project influence. Research for sales data and analysis of damages due to the acquisition. Consultation with owner's attorney, and other experts regarding the ROW acquisition. Preparation of appraisal reports, preparation for deposition, and attendance at deposition.

Pendergast: 158.50 Hrs @ \$180.00/Hr = \$28,530

Total Invoice Amount **\$28,530**

Thank you,

Gary M. Pendergast, MAI, President

SUMMARY OF SERVICES  
(GARY M. PENDERGAST)

Parcel : 195  
Project: Wekiva Parkway  
Owner: Klepzig

<u>Date</u>	<u>Procedure</u>	<u>Time</u>
08/13/12	Analysis of data provided by property owner's attorney.	.25
04/29/13	Review project information and acquisition data for the subject property.	.25
03/24/14	Research and analysis with experts Williams, Parzych, and other experts. Review expressway authority appraisal. Consultation with owner's attorney.	1.00
04/24/14	Analysis and consultation with owner's attorney regarding property data and inspection.	.50
05/02/14	Highest and best use research. Research and analysis of property aerals and County data. Consultation with owner's attorney.	.50
05/07/14	Consultation with property owner and owner's attorney. Analysis of data.	.50
05/09/14	Analysis and consultation with property owner and owner's attorney regarding Usage of the property and highest and best use.	.25
05/13/14	Property inspection. Research and analysis of surrounding area. Inspection of exterior and interior of all improvements. Analysis of area acquired. Consultation with property owner and owner's attorney.	4.00
05/14/14	Analysis of property usage. Consultation with owner and owner's attorney regarding use and potential uses, upcoming OT hearing, and data requirements.	.50
05/22/14	Research and analysis of roadway construction details. Analysis and consultation with owner and owner's attorney regarding construction details, and future roadway noise issues raised by the owner. Research and analysis with other experts.	.75
06/18/14	Research concerning property encumbrances.	.50
06/24/14	Review right of way maps and data provided by owner's attorney. Review easement data.	1.00
07/10/14	Review deed and title info provided by owner's attorney.	.50
08/05/14	Review and analysis of data provided by engineer Dan Morris. Consultation With Morris regarding his report/analysis and 90% construction plans.	.75
08/19/14	Review and analysis of data provided by owner and owner's attorney.	.50

SUMMARY OF SERVICES (Continued)  
(GARY M. PENDERGAST)

Parcel : 195

Project: Wekiva Parkway

Owner: Klepzig

08/29/14	Review updated expressway authority appraisal and data.	.50
09/15/14	Consultation with property owner.	.25
10/06/14	Neighborhood research and analysis. Research for comparable sales data, analysis of data, and inspection of sales data.	3.00
10/09/14	Consultation with expert planners and owner's attorney regarding land planning issues affecting the subject both before and after the taking.	.50
10/23/14	Research and consultation regarding assemblages for development occurring in the market.	1.00
10/24/14	Research and consultation regarding use, highest and best use, interim use, peanut grass value, etc. Analysis of data with other experts. Consultation with other experts and owner's attorney.	.75
10/31/14	Research concerning interim use. Consultation regarding interim use, peanut grass, and highest and best use.	.25
11/14/14	Property inspection and research with Jim Hall, Katie Shannon, and Dan Morris. Research into camp and retreat use. Consultation with property owner regarding retreat and use schedule. Consultation with Morris and Hall regarding data requirements and their reports.	2.50
11/15/14	Review data provided by David Parzych.	.25
11/17/14	Consultation with contractor Karpinsky.	.25
12/04/14	Research zoning, land use, future land use, aerial data, flood plan data, assessor data, etc. Highest and best use research and analysis.	4.00
01/05/15	Consultation with planner Hall's office regarding planning issues.	1.00
01/06/15	Highest and best use study and reserach.	3.75
01/07/15	Highest and best use study. Review data provided by planners Hall and Williams. Research and analysis concerning zoning and future land use.	4.00
01/08/15	Research and analysis concerning camp/retreat use. Analysis and consultation With other experts.	4.50
01/09/15	Research and analysis of appraisal data.	4.25



SUMMARY OF SERVICES (Continued)  
(GARY M. PENDERGAST)

Parcel : 195  
Project: Wekiva Parkway  
Owner: Klepzig

01/12/15	Research, analysis, and verification of sales data and appraisal data.	4.00
01/13/15	Research, analysis, and verification of GIS sales data.	3.25
04/16/15	Consultation with experts and owner's attorney regarding planning and engineering data and reports.	.25
04/20/15	Research and analysis with Dan Morris and Jim Hall. Review Morris Data and exhibits.	1.00
06/15/15	Review of data provided by owner's attorney (appraisal updates, etc.)	1.00
08/17/15	Research and analysis of Hall and Shannon data. Consultation with Katie Shannon regarding findings.	3.00
08/18/15	Consultation with Katie Shannon regarding Apopka plans.	.50
08/19/15	Research, review, and analysis of data. Study of Parzych data and analysis.	3.00
09/24/15	Review CFX appraisal file. Consultation with owner's attorney. Analysis of data.	1.25
10/09/15	Research and consultation with Dan Morris. Review Parzych data. Research and analysis of appraisal data. Consultation with owner's attorney.	4.25
10/19/15	Research and analysis of planning data provided by other experts.	.50
10/26/15	Review and analysis of engineering data provided by Dan Morris.	1.00
10/27/15	Research and consultation with Karpinsky and Morris.	.50
02/04/16	Consultation and research with planner Ed Williams. Review of project influence and blight issues and data.	1.50
02/05/16	Research and consultation with Morris, Hall and Williams regarding the before And after conditions of the subject. Study and analysis of damages.	3.00
02/09/16	Research, review, and analysis of highest and best use data. Study of Karpinsky Cost data and report. Analysis of planner Hall data. Consultation with planner Williams.	3.50
02/11/16	Research and analysis regarding project influence and condemnation blight.	3.00
02/16/16	Review and analysis of data provided by owner's attorney.	.50

SUMMARY OF SERVICES (Continued)  
(GARY M. PENDERGAST)

Parcel : 195

Project: Wekiva Parkway

Owner: Klepzig

02/18/16	Analysis of engineering report and data provided by Dan Morris. Consultation with Dan and Glena Morris. Consultation with planner Williams.	2.75
02/19/16	Research for vacant land sales data for both a before and an after appraisal analysis. Analysis of data.	6.00
02/22/16	Analysis and review of updated data provided by Hall's office. Appraisal data research and analysis.	8.50
02/23/16	Appraisal research and analysis. Consultation and research with planners and Morris regarding utility locations and costs.	8.50
02/24/16	Research, analysis, and consultation with Karpinsky and Morris regarding utility locations for sewer and water. Research and consultation with Williams regarding septic tank/sewer difference, approvals, etc. Appraisal research and analysis.	8.00
02/25/16	Verification of sales data. Consultation with engineers regarding water vs water and sewer. Inspection of sales data.	7.00
02/26/16	Analysis of utility costs with Morris, Karpinsky, and Williams. Review of Hall analysis. Appraisal valuation research and analysis.	7.75
02/28/16	Consultation with owner's attorney regarding draft report.	.50
02/29/16	Review other experts final reports. Verification of data. Appraisal analysis.	2.75
03/28/16	Research, consultation and analysis with Hall, Williams, and Morris regarding Project influence and blight issues.	1.00
04/18/16	Research and consultation with experts and owner's attorney in preparation for deposition, rebuttal, and trial.	1.50
04/26/16	Research and analysis in preparation of rebuttal analysis and report.	7.50
04/28/16	Review data provided by owner's attorney. Research and analysis.	1.00
05/09/16	Consultation with planner Williams regarding planning issues both before and after the taking. Review data in preparation for deposition.	4.75
05/10/16	Analysis of data in preparation for deposition and trial.	4.75
05/11/16	Review file and research data in preparation for deposition. Analysis of data.	4.75
05/12/16	Prepare for and attend deposition. Analysis of data. Provide testimony.	4.00
	<b>Total</b>	<b>158.50</b>



# Invoice

Please remit to:

**Vanasse Hangen Brustlin, Inc.**

101 Walnut Street, PO Box 9151 | Watertown, MA 02471

617.924.1770 F 617.924.2286

Raymer Maguire, Esq.  
Fixel Maguire & Willis  
1010 Executive Center Drive  
Suite 121  
Orlando, FL 32803

Invoice No: <Draft>  
May 26, 2016  
VHB Project No: 61794.00

**Invoice Total \$23,446.12**

Professional Planning Services for Dennis R. Klepzig property

## Professional Services Thru May 31, 2016

### Professional Personnel

	Hours	Rate	Amount
Principal 1	26.50	250.00	6,625.00
Technical/Professional 07	2.50	125.00	312.50
Technical/Professional 06	1.00	125.00	125.00
Technical/Professional 05	120.50	125.00	15,062.50
Technical/Support 2	7.00	85.00	595.00
Technical/Support 5	1.50	95.00	142.50
Totals	159.00		22,862.50
<b>Total Labor</b>			<b>22,862.50</b>

### Reimbursable Expenses

Printing	583.62
<b>Total Reimbursables</b>	<b>583.62</b>

**Total this Invoice \$23,446.12**

### Billings to Date

	Current	Prior	Total
Labor	22,862.50	0.00	22,862.50
Expense	583.62	0.00	583.62
<b>Totals</b>	<b>23,446.12</b>	<b>0.00</b>	<b>23,446.12</b>

## ServicePoint Reprographics - VHB Billing Backup Report

Project Number: 61794.00

Period: 201304

Date	Location	Job Type	User	Total
3/18/2013	Orlando FL	OSS LASER PRINTING	CJackows	\$0.13
			Total	\$0.13





**Archimedia Solutions Group - VHB Billing Backup Report**  
125 Liberty Street #301  
Danvers, MA 01923

**Project Number: 61794.00**

**Period: 201412**

<b>Date</b>	<b>Location</b>	<b>Job Type</b>	<b>User</b>	<b>Total</b>
11/14/2014	Orlando FL	B/W Laser Printing	katieshannon	\$4.48
11/14/2014	Orlando FL	Sm Fmt Color Printing	katieshannon	\$1.07
		<b>Total</b>		<b>\$5.55</b>



**Archimedia Solutions Group - VHB Billing Backup Report**  
**125 Liberty Street #301**  
**Danvers, MA 01923**

**Project Number: 61794.00**

**Period: 201413**

<b>Date</b>	<b>Location</b>	<b>Job Type</b>	<b>User</b>	<b>Total</b>
11/19/2014	Orlando FL	B/W Laser Printing	katieshannon	\$1.16
11/24/2014	Orlando FL	B/W Laser Printing	katieshannon	\$0.13
11/19/2014	Orlando FL	Sm Fmt Color Printing	katieshannon	\$7.46
11/24/2014	Orlando FL	Sm Fmt Color Printing	katieshannon	\$4.27
12/1/2014	Orlando FL	Sm Fmt Color Printing	katieshannon	\$30.89
12/4/2014	Orlando FL	Sm Fmt Color Printing	katieshannon	\$17.04
			<b>Total</b>	<b>\$60.95</b>



**Archimedia Solutions Group - VHB Billing Backup Report**  
125 Liberty Street #301  
Danvers, MA 01923

**Project Number: 61794.00**

**Period: 201507**

<b>Date</b>	<b>Location</b>	<b>Job Type</b>	<b>User</b>	<b>Total</b>
6/9/2015	Orlando FL	B/W Laser Printing	katieshannon	\$0.64
6/8/2015	Orlando FL	Sm Fmt Color Printing	katieshannon	\$33.02
6/9/2015	Orlando FL	Sm Fmt Color Printing	katieshannon	\$47.93
6/10/2015	Orlando FL	Sm Fmt Color Printing	katieshannon	\$3.20
6/25/2015	Orlando FL	Sm Fmt Color Printing	katieshannon	\$3.20
6/26/2015	Orlando FL	Sm Fmt Color Printing	katieshannon	\$70.30
			<b>Total</b>	<b>\$158.29</b>



**Archimedia Solutions Group - VHB Billing Backup Report**  
125 Liberty Street #301  
Danvers, MA 01923

**Project Number: 61794.00**

**Period: 201512**

<b>Date</b>	<b>Location</b>	<b>Job Type</b>	<b>User</b>	<b>Total</b>
10/27/2015	Orlando FL	Sm Fmt Color Printing	katieshannon	\$40.47
			<b>Total</b>	<b>\$40.47</b>





**Archimedia Solutions Group - VHB Billing Backup Report**  
125 Liberty Street #301  
Danvers, MA 01923

**Project Number: 61794.00**

**Period: 201602**

<b>Date</b>	<b>Location</b>	<b>Job Type</b>	<b>User</b>	<b>Total</b>
2/5/2016	Orlando FL	Sm Fmt Color Printing	katieshannon	\$57.51
			<b>Total</b>	<b>\$57.51</b>



**Archimedia Solutions Group - VHB Billing Backup Report**  
125 Liberty Street #301  
Danvers, MA 01923

**Project Number: 61794.00**

**Period: 201603**

<b>Date</b>	<b>Location</b>	<b>Job Type</b>	<b>User</b>	<b>Total</b>
2/16/2016	Orlando FL	Sm Fmt Color Printing	katieshannon	\$75.62
			<b>Total</b>	<b>\$75.62</b>



**Archimedia Solutions Group - VHB Billing Backup Report**  
125 Liberty Street #301  
Danvers, MA 01923

**Project Number: 61794.00**

**Period: 201604**

<b>Date</b>	<b>Location</b>	<b>Job Type</b>	<b>User</b>	<b>Total</b>
3/25/2016	Orlando FL	B/W Laser Printing	katieshannon	\$14.19
			<b>Total</b>	<b>\$14.19</b>



**Archimedia Solutions Group - VHB Billing Backup Report**  
125 Liberty Street #301  
Danvers, MA 01923

**Project Number: 61794.00**

**Period: 201605**

<b>Date</b>	<b>Location</b>	<b>Job Type</b>	<b>User</b>	<b>Total</b>
4/19/2016	Orlando FL	B/W Laser Printing	katieshannon	\$0.26
4/20/2016	Orlando FL	B/W Laser Printing	katieshannon	\$0.52
4/21/2016	Orlando FL	B/W Laser Printing	KDavis	\$0.91
4/22/2016	Orlando FL	B/W Laser Printing	KDavis	\$1.16
4/29/2016	Orlando FL	B/W Laser Printing	KDavis	\$0.77
4/15/2016	Orlando FL	Large Format Bond Plot (SQ FT)	KDavis	\$15.98
4/13/2016	Orlando FL	Sm Fmt Color Printing	katieshannon	\$6.39
4/19/2016	Orlando FL	Sm Fmt Color Printing	katieshannon	\$3.21
4/20/2016	Orlando FL	Sm Fmt Color Printing	katieshannon	\$64.98
4/15/2016	Orlando FL	Sm Fmt Color Printing	KDavis	\$5.33
4/18/2016	Orlando FL	Sm Fmt Color Printing	KDavis	\$3.20
4/19/2016	Orlando FL	Sm Fmt Color Printing	KDavis	\$24.51
4/20/2016	Orlando FL	Sm Fmt Color Printing	KDavis	\$11.72
4/21/2016	Orlando FL	Sm Fmt Color Printing	KDavis	\$7.46
4/27/2016	Orlando FL	Sm Fmt Color Printing	KDavis	\$24.51
			<b>Total</b>	<b>\$170.91</b>



101 Walnut Street  
P. O. Box 9151  
Watertown, MA 02471  
617-924-1770  
FAX 617-924-2286

*Vanasse Hangen Brustlin, Inc.*

## Invoice

Billing Period thru 05/21/2016  
Project No.: 61794.00  
Project Title: Planning Services for Klepzig

### CARRAGHER

11/19/13	0.5 Hr.	Review of contract
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### DAVIS

04/01/16	1.5 Hrs.	Merging historic aerial exhibits
04/07/16	1.5 Hrs.	Merging 1970's aerals
04/08/16	1.5 Hrs.	1980's aerial merge
04/11/16	0.5 Hr.	80s aerial merge
04/12/16	1.0 Hr.	merging historic aerals
04/13/16	2.0 Hrs.	1990s Aerial
04/14/16	2.5 Hrs.	Preparing acquisition and development exhibits
04/15/16	2.0 Hrs.	Preparing acquisition and development exhibits
04/18/16	2.0 Hrs.	Historic Aerial Exhibits
04/19/16	2.0 Hrs.	Historic Aerial Exhibits
04/20/16	1.0 Hrs.	Historic Aerial Exhibits
04/21/16	2.0 Hrs.	Historic Aerial Exhibits
04/22/16	1.0 Hr.	Historic Aerial Exhibits
04/25/16	1.0 Hr.	Team meeting to discuss historic aerals
04/26/16	1.5 Hrs.	Revisions to historic aerals
04/27/16	1.5 Hrs.	Horizon west aerals
05/02/16	0.5 Hr.	80s aerial tile numbering
05/03/16	0.5 Hr.	90s aerial tile numbering
05/19/16	1.5 Hrs.	Changes to map exhibits
05/20/16	1.5 Hrs.	Changes to map exhibits





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## Invoice

Billing Period thru 05/21/2016  
Project No.: 61794.00  
Project Title: Planning Services for Klepzig

### HALL

11/14/14	3.0 Hrs.	Site visit
11/24/14	1.0 Hr.	Review of property appraiser data
12/01/14	1.0 Hr.	Telephone conference with expert team
02/26/15	0.5 Hr.	Team telly
06/08/15	1.0 Hr.	Review of DPA with Shannon
06/09/15	1.0 Hr.	Review of DPA with Shannon
06/26/15	1.0 Hr.	Review of DPA with Shannon – pre-post condition
10/27/15	1.0 Hr.	Team telly
02/05/16	1.0 Hr.	Team telly
02/09/16	1.0 Hr.	Tele conference
03/03/16	0.5 Hr.	Tele conference
04/01/16	0.5 Hr.	Review of historic aerals with Shannon
04/18/16	1.0 Hr.	Revie of historic aerals with Davis/Shannon
04/25/16	1.0 Hr.	Review of Hall Comp sales
04/27/16	1.0 Hr.	Review of Comp Maps
04/29/16	1.0 Hr.	Review of Comp FLU Descriptions
05/03/16	2.0 Hrs.	Review of historic aerals with project team
05/04/16	5.0 Hrs.	Team tele; exhibits
05/06/16	1.0 Hr.	Review of Comp Plan
05/11/16	0.5 Hr.	Meeting w/staff about Wekiva Parkway
05/17/16	0.5 Hr.	Review revisions to exhibits
05/20/16	0.5 Hr.	Review aerals

### JACKOWSKI

12/08/12	1.0 Hr.	Open new proposal number for Fixel, Maguire & Willi for Eminent Domain Services for Klepzig and draft proposal; print finals; file and upload Client Authorization for ED services for Fixel Maguire/Klepzig and set up in BT; prepare new file folders for project
01/10/13	0.5 Hr.	Print, scan and file January 2013 Status Update from Fixel & Maguire re: O/OCEA/ SR429 (Wekiva Pkwy)/Pre-Suit for Kennis Klepzig et.al.; coord. and send invites for quarterly meetings.
05/16/16	1.0 Hr.	Type up Description of Services for Klepzig case from project opening on 12/8/2012.



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## Invoice

Billing Period thru 05/21/2016  
Project No.: 61794.00  
Project Title: Planning Services for Klepzig

### NEEDLER

05/09/16	1.0 Hr.	Research
05/10/16	1.0 Hr.	Research
05/11/16	1.0 Hr.	Read more about the Wikiva Parkway
05/12/16	1.0 Hr.	Started reading Tom Callan's deposition
05/16/16	1.0 Hr.	Research
05/17/16	1.0 Hr.	Research
05/18/16	1.0 Hr.	Research

### SHANNON

11/14/14	3.5 Hrs.	Site visit and due diligence report
11/17/14	2.5 Hrs.	Due Diligence report
11/19/14	4.5 Hrs.	Revisions to GIS Maps
11/24/14	2.5 Hrs.	Researched building data on property appraiser website
11/25/14	5.0 Hrs.	Created aerial of specific structures on Klepzig Retreat property and defined specific uses of each building
11/26/14	2.5 Hrs.	Reformatted document with new logo
12/01/14	2.5 Hrs.	Added table of contents, and input site images and aerials from OCPA website
12/03/14	2.5 Hrs.	Updated zoning and site analysis portion of the DPA
12/5/14	1.0 Hr.	Updated report with new report
12/26/14	2.0 Hrs.	Review of DPA for draft of pre-post condemnation conditions
12/29/14	1.0 Hrs.	Due Diligence report
01/28/15	0.5 Hr.	Updated Due Diligence report
04/20/15	1.0 Hr.	Review of DPA and conference call with Raymer/Dan/Hall
06/09/15	3.5 Hrs.	Prepped and edited DPA for draft submittal; meeting with Jim
06/25/15	4.0 Hrs.	Made updates to report, used Sketchup to create exhibits which show the entirety of the improvements on the property including the double wide trailer; general edits
06/26/15	2.5 Hrs.	Made revisions to the DPA - adding pre-condemnation condition with Plymouth Sorrento as the main arterial, appendix, etc. Sent updated draft report with review of Harold's concerns for review
08/18/15	0.5 Hr.	Updated vision plan graphic in before condition with Plymouth Sorrento as main arterial.



101 Walnut Street  
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Watertown, MA 02471  
617-924-1770  
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*Vanasse Hangen Brustlin, Inc.*

## Invoice

Billing Period thru 05/21/2016

Project No.: 61794.00

Project Title: Planning Services for Klepzig

10/27/15	1.5 Hrs.	Meeting with Jim, client, Gary, Harold – revisions to report
02/05/16	1.5 Hrs.	Tele conference and review of report/Pendergast notes
02/09/16	2.0 Hrs.	Meeting with Gary, Dan, Jim, Harold/general edits to report
02/12/16	4.5 Hrs.	Revisions to report and GIS maps
02/16/16	3.0 Hrs.	Revised two GIS exhibits for appendix; building siting and measurement exhibits; general edits in DPA
02/22/16	1.5 Hrs.	General edits, meeting with Jim, emailed draft to client
03/03/16	0.5 Hr.	Tele conference
03/04/16	0.5 Hr.	Read Ellen Hardgrove's rebuttal
03/25/16	1.0 Hr.	Collaborated with Jerry/Matt about historic aerals; set up extranet system; delegated responsibilities to Katie for series of exhibits
04/01/16	0.5 Hr.	Historic aerals work
04/12/16	1.0 Hr.	Scheduling meetings; review of historic aerals
04/18/16	3.0 Hrs.	Meeting with experts; revisions to report to include DOT, revisions to historic graphics
04/27/16	5.5 Hrs.	GIS maps of comparable sales; correspondence with Pendergast
04/28/16	3.0 Hrs.	Klepzig Comparable Sales exhibits (18 total GIS Maps)
05/02/16	3.5 Hrs.	Created 7 GIS Maps for comparable exhibits
05/03/16	5.5 Hrs.	Prepped materials to take to deposition; review of those materials with Jim Hall; created 2 maps in GIS for Comp Sales Analysis
05/04/16	5.0 Hrs.	Revisions to Comp map series; research on FLU for 3 of the properties, started rebuttal InDesign Doc
05/09/16	3.5 Hrs.	Finalized information on InDesign Rebuttal
05/10/16	0.5 Hr.	Meeting with Jim Hall about Comp exhibits
05/11/16	1.5 Hrs.	Meeting with Jim, Melody, and Ben about Wekiva Parkway study; research on depos, documentation sent
05/13/16	0.5 Hr.	researched state statutes on JPAs
05/16/16	0.5 Hr.	Review of DOS for proposed invoice
05/17/16	0.5 Hr.	Meeting with Katie Davis about revisions to exhibits
05/20/16	0.5 Hr.	Review of historic aerals with Katie Davis

### TANIGUCHI

05/13/16	2.5 hrs.	Work on the Wekiva Parkway history
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# Calhoun, Dreggors & Associates, Inc.

• Real Estate Appraisers & Consultants •

February 10, 2015

Raymer F. Maguire, III, Esq.  
c/o Maguire Lassman  
605 East Robinson Street  
Suite 140  
Orlando, FL 32801

RE: **Owner:** Klepzig  
**Project:** Wekiva Parkway  
**County:** Orange

## INVOICE

Review information from owner's representative; conference with owner's representative, conference with owner and experts, assist with sales research; review/analysis of sales.

Dreggors:	5.50 Hrs. x \$225/Hr. =	<u>\$1,237</u>
<b>Total</b>		<b>\$1,237</b>

Thank you,

Richard C. Dreggors, GAA  
President

RCD/ddp

728 West Smith Street • Orlando, Florida 32804  
Tel (407) 835-3395 • Fax (407) 835-3393  
*affiliated with Calhoun, Collister & Parham, Inc. of Tampa*

<b>OWNER</b>	<b>KLEPZIG</b>	<b>RICHARD C. DREGGORS, GAA</b>
<b>PROJECT</b>	<b>WEKIVA PARKWAY</b>	
<b>PARCEL(S)</b>		
<b>COUNTY</b>	<b>ORANGE</b>	

<b>DATE</b>	<b>TYPE OF SERVICE</b>	<b>HOURS</b>
02/06/12	REVIEW INFORMATION FROM OWNER'S REPRESENTATIVE.	0.75
02/07/12	PREPARE FOR CONFERENCE WITH RAYMER MAGUIRE REGARDING SUBJECT PARCEL; REVIEW OWNERSHIOS AND HISTORY/USE OF THE PARCEL(S)	1.25
02/14/12	GATHER INFORMATION AND REVIEW SUBJECT DATA AND CONFERENCE WITH OWNER'S REPRESENTATIVE.	1.75
08/03/12	REVIEW CONSTRUCTION PLANS FROM OWNER'S REPRESENTATIVE; CONSIDER IMPACTS TO REMAINDER(S).	0.75
09/04/12	PREPARE FOR AND CONFERENCE WITH EXPERTS AND OWNER.	<u>1.00</u>
	<b>TOTAL HOURS</b>	<b>5.50</b>



please make checks payable to:

**m e i civil**

964 Lake Baldwin Lane,, Suite 200  
Orlando, FL 32814  
407-893-6894  
fax 407-893-6851

bill to:

Harold A. Lassman, Esquire  
Maguire Lassman, P.A.  
605 E. Robinson Street, Suite 140  
Orlando, Florida 32801

**Invoice Date:** 5/27/2016

**Invoice Number:** 191012H-1

**Invoice Amount Due:** **\$17,855.25**

**JOB: SR 429, Parcel 195**

**Klepzig**

**Engineering Analysis**

Description	Hours	Rate	Fee	Total
Principal (DLM, GSM)	50.5	\$250.00	\$12,625.00	\$12,625.00
Senior Designer (JRR)	36.5	\$120.00	\$4,380.00	\$4,380.00
			<b>Subtotal</b>	\$17,005.00
			<b>Expense (5%)</b>	\$850.25
			<b>Total Fee Due</b>	\$17,855.25

See attachment for detail.

Payment is due upon settlement of compensation for subject parcel.

# ***Work Descriptions for Daniel L. Morris, P.E.***

**191012h**

**Job Name** *Sr 429, P195 Klepzig*

<b><i>Date</i></b>	<b><i>Hours</i></b>	<b><i>Task</i></b>	<b><i>Work Description</i></b>
9/9/2014	2.5		review existing easements and right of way maps
11/14/2014	4.5		prepare for and attend site meeting with owners, experts and attorney. Tour existing facilities.
4/20/2015	1.5		prepare for and attend conf call with experts and attorney
5/12/2015	6.5		prepared for and made site visit with contractor to assist in meeting the owner and quantifying existing improvements on the property.
6/22/2015	1.5		review cost estimates
10/26/2015	4.0		analysis of after taking conditions.
2/21/2016	3.0		review cost estimates for existing facilities
2/23/2016	1.5		review cost estimates for utilities
2/26/2016	3.5		review completed preliminary engineering report and send to experts and attorney
<b><i>Total Hours:</i></b>	<b><i>28.5</i></b>		

## ***Work Descriptions for Glenna S. Morris, P.E.***

**191020H**

***Job Name***                      *SR 429, Wekiva Pkwy, P195, Klepzig*

<b><i>Date</i></b>	<b><i>Hours</i></b>	<b><i>Work Description</i></b>
2/16/2016	3.0	review plans, appraisal, research
2/17/2016	8.0	preliminary engineering report
2/23/2016	3.0	preliminary engineering report revisions
2/24/2016	7.0	response to appraiser, preliminary engineering report revisions
2/26/2016	1.0	response to appraiser, preliminary engineering report revisions
<b><i>Total Hours:</i></b>	<b><i>22.0</i></b>	

## *Work Descriptions for John R. Russell*

**191012H**

*Job Name*                      *SR 429 Klipzig*

<i>Date</i>	<i>Hours</i>	<i>Task</i>	<i>Work Description</i>
2/3/2015	2.0		DownLoad & Review Appraisal and FDOT RoadWay Plans
2/5/2015	1.5		DownLoad Aerial Files
2/6/2015	4.5		Before Conditions
2/6/2015	6.5		SR 429 BaseLine Alignment Geometry
2/9/2015	3.5		Area of Take
2/9/2015	1.5		USGS, FEMA, Aerial & Location Map Exhibits
2/11/2015	4.5		Draft RoadWay Plans
2/16/2015	1.0		Draft Roadway Drainage
2/21/2015	2.5		UnCured Remainder Exhibit
2/26/2015	1.0		Draft Roadway Drainage
3/2/2015	3.0		Draft Roadway Ponds
3/3/2015	1.5		UnCured Remainder Shade & Hatching
4/21/2015	1.5		Finalize Preliminary Exhibits & Check Plot
4/21/2015	1.5		Calculate Areas
2/24/2016	0.5		Revise UnCured Remainder Shading Colors
<i>Total Hours:</i>		36.5	



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**RIGHT OF WAY COMMITTEE MEETING**  
**June 22, 2016**

**Parcel 195**  
**Proposed Mediated Settlement**



# ➤➤➤ Aerial of Property







# Construction Plans





# Residence



The view looking west toward the subject residence.



View showing the rear of the residence.

## »»» Building II



The view showing Building II



# »»» Building III



The side view of Building III

# »» Interior of Building III



The interior of Building III

# »» Building IV



The westerly view of Building IV.

# »»» Building V



The westerly view of Building V

# ➤➤➤ Modular Annex Building



The view of one of the modular annex buildings.



# Estimates of Value

Parcel 195	CFX's Appraisal (Starkey)	Owner's Appraisal (Pendergast)
Per Acre Land Value, Before	\$28,000	\$68,000
Parent Tract, Before	\$1,763,000*	\$3,477,200
Per Acre Land Value, After	\$22,400	\$35,000
Value of Part Taken	\$633,535	\$1,382,600
Damages	\$213,475	\$1,016,500
Cost to Cure (fencing/gates, irrigation lines, pathway)	\$4,300	0
Total for the Land	\$851,300	\$2,399,100

\*with land & improvements

# Itemization of Expert Fees

Parcel 195	Owner's Demand	Comments
Ovation Construction (Karpenski)	\$ 2,887.50	
Williams Development Services	\$ 9,950.00	Duplicate
Power Acoustics, Inc.	\$14,227.50	Previously Stricken
Florida Real Estate Analysts, Inc. (Pendergast)	\$28,530.00	
Vanasse Hangen Brustlin, Inc.	\$23,446.12	
Calhoun Dreggors & Assoc.	\$ 1237.00	Duplicate
MEI Civil (Engineer)	\$17,855.25	
<b>Total Expert Fees</b>	<b>\$98,133.37</b>	

# »» All Inclusive Total

Parcel 195	CFX	Owner	Proposed Settlement
Full Compensation for Property Taken	\$851,300	\$2,399,100	\$ 1,325,000
Attorney's Fees	Per Statute	\$ 379,560	\$ 138,425
Experts	\$27,321*	\$ 98,133	\$ 69,575
All-In total		\$2,876,793	\$1,533,000

\*as of April 2016



## Recommendation

Please recommend to the Board approval of an all-inclusive settlement in the amount of \$1,533,000, including statutory interest and all claims related to the real estate and business damages, severance damages, attorney's fees, litigation costs, expert fees and costs.


# Tab E



**WINDERWEEDLE, HAINES, WARD & WOODMAN, P.A.**  
**329 Park Avenue North**  
**Second Floor**  
**Post Office Box 880**  
**Winter Park, Florida 32790-0880**  
**Telephone (407) 423-4246**  
**Facsimile (407) 645-3728**

**MEMORANDUM**

**TO: Central Florida Expressway Authority Right of Way Committee**

**FROM: James Edward Cheek, III, Right of Way Counsel**   
**Winderweedle, Haines, Ward & Woodman, P.A.**

**DATE: June 6, 2016**

**RE: S.R. 429 Wekiva Parkway, Project 429-202; Parcel 104/804**  
**Recommendation for Board Approval of Settlement Proposal**

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Winderweedle, Haines, Ward & Woodman, P.A., right of way counsel, seeks the Right of Way Committee's recommendation for Board approval of a settlement for Parcel 104/804 (the "Taking" or "Property"), which was acquired by condemnation for the construction of the S.R. 429 Wekiva Parkway, Project 429-202. The Court entered a Stipulated Order of Taking for this parcel on September 18, 2014.

**DESCRIPTION and BACKGROUND:**

The instant action involves the partial taking of property designated as Parcel 104 and 804, which was owned by Robert M. Grossenbacher, Scott Grossenbacher and Todd Grossenbacher, individually and as co-personal representatives of the Estate of John C. Grossenbacher, Carolyn Ditch, Mary K. Frisbie, and Elizabeth G. Townsend (hereinafter referred to as "Landowners"). Parcel 104 is located at 1132 Plymouth Sorrento Road and 3037 Southfork Drive in unincorporated Orange County. The parent tract consists of just over 14 acres. CFX is acquiring about 5.809 acres in fee for construction of the Wekiva Parkway (Parcel 104), and 0.813 acres which will ultimately be conveyed to Duke Energy for a permanent transmission line easement (Parcel 804). The remainder property will contain 8.4 acres.

The property once operated as an orange grove and contains various agricultural-related improvements, including a 1,450 square foot warehouse/barn, irrigation, wells, water tanks, fencing, gates, and maintenance equipment. Most of these improvements are located within the area of taking. The property is zoned A-1 (citrus Rural District) by Orange County, and has a future land use of "Rural/Agricultural." This designation allows development of up to one unit per ten acres. However, this parcel is located within the Joint Planning Agreement (JPA) of Orange County and the City of Apopka. If the property is annexed into the City of Apopka, it would likely have a future land use designation of Residential Low Suburban (RLS), which permits development of up to 3.5 units per acre.

CFX retained the services of Richard MacMillan from the Appraisal Group of Central Florida, Inc., to appraise the property. While he considered the possibility of the property being rezoned for a residential subdivision, he ultimately determined that extraordinary development costs would prevent such a development from being economically feasible. This is because the property is located a considerable distance from city sewer and water lines. In addition, approximately half of the property lies within a 40-foot depression area with steep slopes and a 0.7 acre wetland lying at the bottom of the depression. Mr. MacMillan determined that approximately 7.3 acres of the subject was developable.

After considering the value of subdivision property in the area (which he estimated to be between \$22,000-\$45,000 per acre) and the extraordinary development costs (estimated to be between \$26,000-\$48,000 per unit), Mr. MacMillan determined that the property had a highest and best use for rural residential development. Mr. MacMillan considered three rural residential sales that had a similar percentage of developable uplands. These sales indicated a value of between \$12,000-16,000 per acre (upland and wetland values were blended). Two of the three sales were purchased as a single-family homesite, and the third was purchased for recreational use. Mr. MacMillan reconciled on a value of **\$15,000.00 per acre** in the “before” condition, for a total parent tract value of \$347,300, and a value of **\$98,800.00** for the part taken. He determined that the improvements were consistent with the highest and best use, and that the value of improvements within the area of taking were **\$104,200.00**.

After the taking, the property will contain 8.4 acres, most of which is located within the depression area. The expressway within the area of take will contain four lanes with an elevated northbound on-ramp adjacent to the subject. The average elevation will be 25.5 feet above the remainder, and will include lighting and signage. Mr. MacMillan considered three new comparable sales in analyze the value of the property in the after condition. These sales contained a smaller percentage of uplands than his “before value” sales to more closely resemble the condition of the subject property after the taking. These sales indicated a value between \$5,000-8,000 per acre. Mr. MacMillan then determined that the subject would experience a reduction in value of about 35% due to proximity to the expressway. He therefore reconciled on an after value of \$4,875.00 per acre, which results in a severance damage claim of **\$67,000.00**. He also added a **\$27,900.00** cost-to-cure estimate to reestablish the fencing and gate that would be acquired in the taking. Mr. MacMillan’s valuation conclusions are summarized as follows:

Value of the Part Taken – 6.622 acres	\$243,100
Severance Damages	67,000
<u>Cost to Cure</u>	<u>27,900</u>
<b>Total Compensation Estimate</b>	<b>\$338,000</b>

The Landowners retained the appraisal services of Gary Pendergast, who determined that the subject property had a highest and best use as a residential subdivision. Relying on supporting analysis by Ed Williams and MEI Civil, Mr. Pendergast concluded that 10.1 acres of the parent tract was developable. Furthermore, he did not believe that there would be significant extraordinary development costs for this property. He therefore considered six comparable sales that had a mixture of uplands and wetlands similar to the subject property. Rather than using the “blended” approach of Mr. MacMillan, Mr. Pendergast came up with a value “per developable acre.” He reconciled on a value of **\$78,000.00 per developable acre**, with the subject property

having 10.1 developable acres. This results in a total parent tract value of \$803,800, and a value of the part taken of \$492,400. Mr. Pendergast considered the improvements to have only a minimal value of \$8,000, since most of the improvements were not consistent with his highest and best use conclusion.

Mr. Pendergast considered four new comparable sales to determine the value of the remainder after the taking. These sales had a mixture of uplands and wetlands that were considered similar to the subject remainder. All of these “after” comparables abutted a limited access roadway. The sale prices ranged from \$14,000-\$38,000 per acre, and the appraiser reconciled on an “after” value of **\$25,000.00 per acre**, for a remainder with 3.761 useable acres. This results in a remainder value of \$71,700, and a total severance damage claim of **\$232,300**. Mr. Pendergast’s cost-to-cure estimate to reestablish the fencing was **\$31,600** (fairly similar to CFX’s cure estimate). The Landowners’ valuation estimate is summarized as follows:

Value of the Part Taken – 6.622 acres	\$500,400
Severance Damages	200,700
Cost to Cure	31,600
<b>Total Compensation Estimate</b>	<b>\$732,700</b>

#### **EXPERT AND ATTORNEY FEES / SETTLEMENT PROPOSAL:**

The Landowners have also submitted expert invoices in the amount of \$46,523 as summarized below:

Gary Pendergast (Appraiser)	\$18,495
MEI Civil (Engineer)	18,165
Williams Development (Land Planner)	7,125
Ovation Construction, Inc. (Contractor)	2,738
<b>Total</b>	<b>\$46,523</b>

CFX’s expert fees in this case totaled \$78,095, as summarized below:

Richard MacMillan (Appraiser)	\$20,250
McIntosh and Assoc. (Engineer/Land Planning)	58,000
John Speer (Cost to Cure)	1,750
BDA (Environmental Consultants)	3,122
Fred LaDue (FF&E)	3,761
<b>Total</b>	<b>\$78,095</b>

Mediation was conducted on June 3, 2016, which resulted in the mediation settlement agreement whereby the Landowners agreed to accept \$616,500 “all-in” to resolve this case. The parties executed a Settlement Agreement (attached to this memo) which does not apportion the proposed settlement amount among the experts, attorney and landowner. However, an estimated break-down of this amount is provided for informational purposes:

Compensation to Landowners	\$517,323
Attorney's fees (Joseph Hanratty)	59,177
<u>Expert fees</u>	<u>40,000</u>
<b>Total Settlement</b>	<b>\$616,500</b>

CFX previously deposited \$338,000 into the court registry as its good faith estimate of value. A settlement in the amount of \$616,500 would require CFX to deposit an additional sum of \$278,500. Acceptance of the proposed settlement is recommended and is in CFX's best interest. Prolonged litigation will subject CFX to additional attorneys fees and costs as well as additional expert fees and costs, which CFX would ultimately be responsible for as part of the Landowner's compensation as provided by §73.091 and §73.092, Florida Statutes. Acceptance of the proposal will eliminate further risk and unnecessary expenses for CFX in this case.

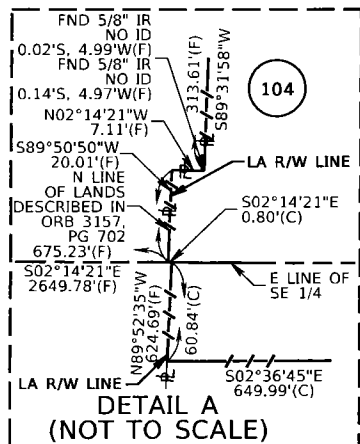
#### **RECOMMENDATION:**

The undersigned counsel respectfully requests that the Right of Way Committee recommend CFX Board approval for settlement in the amount of \$616,500 to fully resolve the Landowners' interests in Parcel 104 and 804, inclusive of attorney's fees and costs.

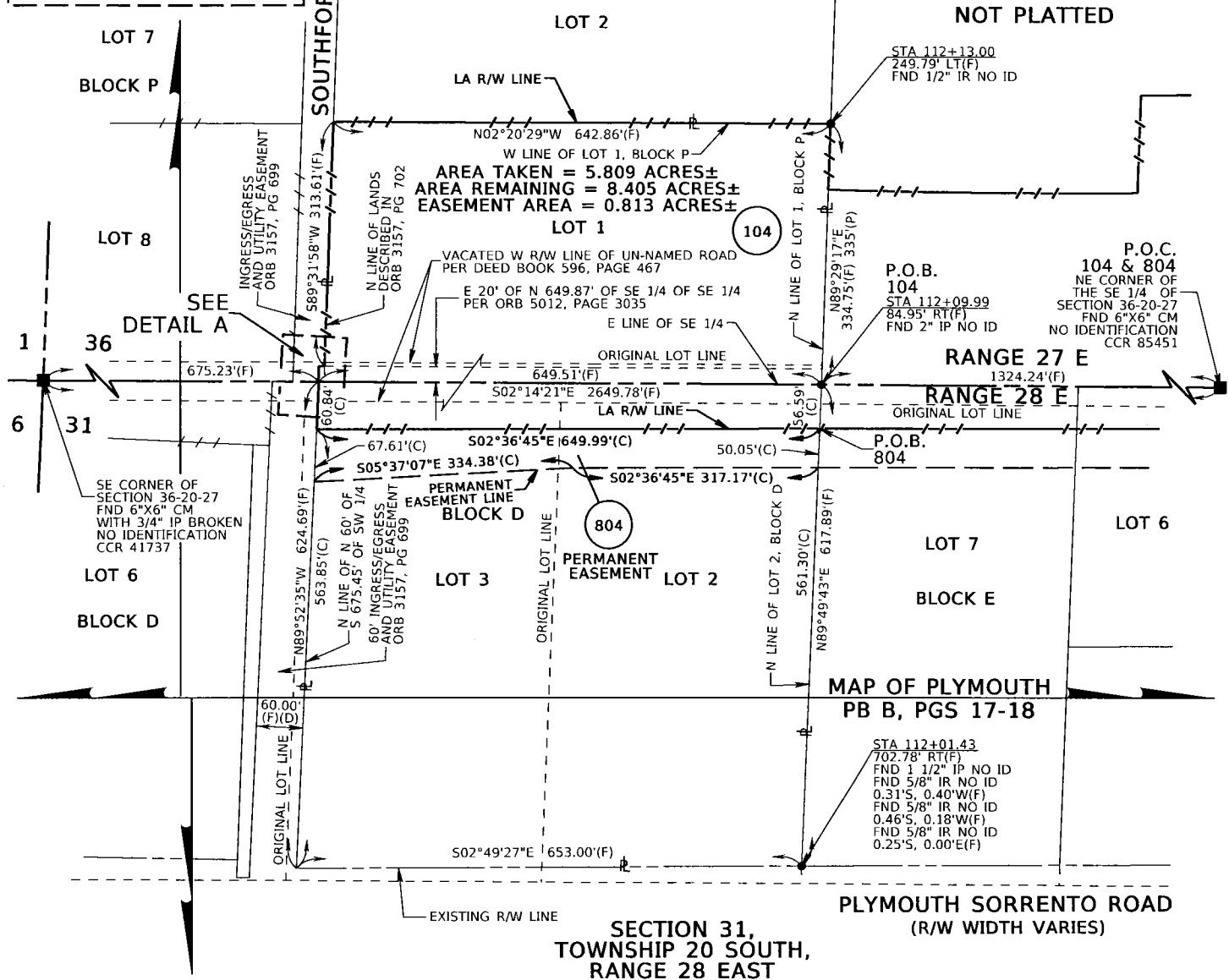
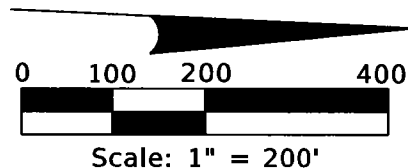
#### **ATTACHMENTS:**

Sketch of Property  
Mediated Settlement Agreement

# SKETCH OF DESCRIPTION



## SECTION 36, TOWNSHIP 20 SOUTH, RANGE 27 EAST



SEE SHEETS 1 & 2 FOR LEGAL DESCRIPTIONS  
SEE SHEET 4 FOR GENERAL NOTES AND LEGEND

SHEET 3 OF 4

FOR: ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY

DATE: FEBRUARY 28, 2013

PROJECT NO.: H20-01

DRAWN: PMM CHECKED: JMS

STATE ROAD 429  
OOCEA PROJECT NO. 429-202  
PARCEL NO. 104 & 804



GEODATA CONSULTANTS, INC.

SURVEYING & MAPPING

1349 SOUTH INTERNATIONAL PARKWAY

SUITE 2401

LAKE MARY, FLORIDA 32746

VOICE: (407) 732-6965

LAND SURVEYOR BUSINESS LICENSE NO. 6556



IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

CENTRAL FLORIDA EXPRESSWAY AUTHORITY, CASE NO: 2014-CA 008446-O  
body politic and corporate, and an agency of the state  
under the laws of the State of Florida, Subdivision 39

Petitioner,

Parcel 104/804

vs.

ROBERT M. GROSSENBACHER; et. al.

Respondents.

---

**SETTLEMENT AGREEMENT**

Respondents, ROBERT M. GROSSENBACHER; SCOTT GROSSENBACHER and TODD GORSSNBACHER, individually and as Co-Personal Representatives of the Estate of John C. Grossenbacher; CAROLYN DITCH; MARY K. FRISBIE; ELIZABETH G. TOWNSEND; and representatives of the Central Florida Expressway Authority reached the following Settlement Agreement:

1. Petitioner will pay to Respondents, ROBERT M. GROSSENBACHER; SCOTT GROSSENBACHER and TODD GROSSENBACHER, individual and as Co-Personal Representatives of the Estate of John C. Grossenbacher; CAROLYN DITCH; MARY K. FRISBIE; ELIZABETH G. TOWNSEND; (referred to as "Respondents") the sum of Six **Hundred Sixteen Thousand Five Hundred Dollars exactly (\$616,500)**, in full settlement of all claims for compensation from Petitioner whatsoever for the taking of Parcel 104/804, including statutory interest and all claims related to real estate and business damages, attorney's fees and litigation costs, expert witness fees, and costs. The settlement sum may be subject to claims of apportionment by any party in this case having a property interest in or a lien on the subject property. Petitioner previously deposited in the Registry of the Court Petitioner's good faith estimate in the amount of Three Hundred Thirty-Eight Thousand Dollars (\$338,000). Within thirty days (30) days from the date of receipt by Petitioner's counsel of a conformed copy of the Stipulated Final Judgment, Petitioner will pay to Respondents, by deposit in the Registry of the Court the sum of Two Hundred Seventy-Eight Thousand Five Hundred Dollars exactly (\$278,500), representing the difference between the total settlement sum referenced above and the Petitioner's previous deposit in this case.

2. This Settlement Agreement will be placed on the agenda for the Right of Way ("ROW") Committee and Central Florida Expressway Authority ("CFX") Board and is conditioned upon final approval by the ROW Committee and then the CFX Board.

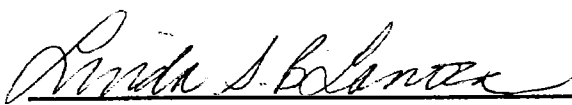
3. Counsel for Petitioner will submit to the Court a standard Motion for Stipulated Final Judgment containing the terms and conditions of this Settlement Agreement within fifteen (15) days from the date of approval of this Settlement Agreement by the CFX Board.

4. The parties agree to waive any confidentiality provisions set forth in Chapter 44 of Florida Statutes, the Florida Rules of Civil Procedure, and the Florida Rules of Evidence, if applicable, for the limited purpose of consideration of this proposed Settlement Agreement by the ROW Committee and the CFX Board.

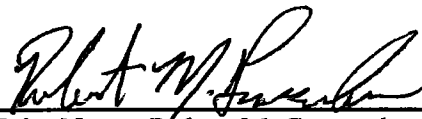
5. This Agreement resolves all claims whatsoever, including, but not limited to, claims of compensation arising from the taking of Parcel 104/804, severance damages, business damages, tort damages, interest, attorney's fees, attorney's costs, expert fees, expert costs, and any other claim.

6. Respondents signing below confirm and represent that they are fee simple owners of the property and have full authority to participate in the mediation of this parcel as lawful owners of the property and to execute this Settlement Agreement, and Robert M. Grossenbacher represents and warrants that he has full authority to settle on behalf of the remaining fee simple owners and to execute this agreement on their behalf.

7. This Settlement Agreement, executed by the parties and their counsel on this 3<sup>rd</sup> day of June 2016, contains all the agreements of the parties.



Print Name: Linda S. Brehmer Lanosa  
Central Florida Expressway Authority



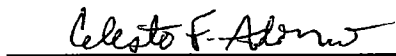
Print Name: Robert M. Grossenbacher  
Owner and Authorized Representative for  
SCOTT GROSSENbacher and  
TODD GROSSENbacher,  
individually and as Co-Personal  
Representatives of the Estate of John C.  
Grossenbacher;  
CAROLYN DITCH; and  
MARY K. FRISBIE



Print Name: Richard B. Weinman, Esq.  
Counsel for CFX



Print Name: ELIZABETH G. TOWNSEND  
Owner



Print Name: Celeste Adorno, Esq.  
Mediator



Print Name: Joseph M. Hanratty, Esq.  
Attorney for Owner



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**Right of Way Committee Meeting June 22, 2016**  
**Recommendation for Approval of Settlement**  
**S.R. 429 Wekiva Parkway**  
**Project 429-202**  
**Parcels 104/804**



Central Florida Expressway Authority  
Right of Way Committee  
June 22, 2016

**Recommendation for Approval of  
Settlement in the Amount of \$616,500.00**

**S.R. 429 Wekiva Parkway  
Project 429-202  
Parcels 104/804**





# Aerial Photograph







# The Property





# The Property





# Appraisal Comparison

PARCEL 104 & 804	CFX	LANDOWNERS
Value of Parent Tract (14.214 acres)	\$347,300	\$803,800
Value of Part Taken (6.622 acres)	\$243,100	\$500,400
Price per acre	\$15,000.00 (blended developable & non-developable acreage)	\$78,000 (per developable acre)
Severance Damages	\$67,000	\$200,700
<u>Cost to Cure</u>	<u>\$27,900</u>	<u>\$31,600</u>
TOTAL COMPENSATION	\$338,000	\$732,700



# Settlement Proposal

PARCEL 104	REQUESTED BY OWNER	SETTLEMENT PROPOSAL (ESTIMATED BREAKDOWN)
Compensation to Owner	\$732,700	\$517,323
Expert Fees	\$46,523	\$40,000
<u>Attorney's fees (statutory betterment)</u>	<u>\$118,675 (based on owner's appraised value)</u>	<u>\$59,177</u>
Total Settlement	\$897,898	\$616,500



# RECOMMENDATION

We respectfully request that the Right of Way Committee recommend CFX Board approval of the settlement in the amount of **\$616,500.00** for Parcels 104/804.




# Tab F

**WINDERWEEDLE, HAINES, WARD & WOODMAN, P.A.**  
**329 Park Avenue North**  
**Second Floor**  
**Post Office Box 880**  
**Winter Park, Florida 32790-0880**  
**Telephone (407) 423-4246**  
**Facsimile (407) 645-3728**

**MEMORANDUM**

**TO: Central Florida Expressway Authority Right of Way Committee**

**FROM: James Edward Cheek, III, Right of Way Counsel**   
**Winderweedle, Haines, Ward & Woodman, P.A.**

**DATE: June 9, 2016**

**RE: S.R. 429 Wekiva Parkway, Project 429-202: Parcel 143 (Parts A, B & C)**  
**Recommendation for Board Approval of Settlement**

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Winderweedle, Haines, Ward & Woodman, P.A., right of way counsel, seeks the Right of Way Committee's recommendation for Board approval of a settlement for Parcel 143 from the Wekiva Parkway Project 429-202. CFX filed its petition in eminent domain on April 14, 2014, and the Court entered an Order of Take for the parcel on June 17, 2014.

**DESCRIPTION and BACKGROUND:**

Parcel 143 is considered a "hiatus parcel" and contains an area of 0.322 acres or 14,016 square feet of property. The subject is located within the southern half of Yothers Road, west of Plymouth Sorrento Road within an unincorporated area of Orange County, Florida. The owner of record is Paul Hampton, though as a hiatus parcel it was likely intended to be purchased as part of a larger parcel through a Quit Claim transaction from Hang Ju & Yuon Sup Chon on November 21, 1997 for a price of \$200,000.

CFX retained the services of Steve Matonis of Integra Realty to appraise this property. Parcel 143 is contiguous to property zoned R-1AA, which provides for residential uses. The future land use designation is Residential Low Suburban. Since the adjoining property is improved with a single-family residence, the reasonable use of the subject property would be similar. Mr. Matonis therefore concluded that the appropriate methodology for estimating the value of the subject hiatus parcel would be by using the "Across the Fence" valuation technique. The "Across the Fence" methodology assumes that the subject property is typical, in all respects, to the adjoining property use. Based on this assumption, the appraiser develops a unit of value for the adjoining property, and then applies this unit of value in developing an estimate of value for the subject property. The only improvements within the area of the Parcel 143 taking were the roadway improvements of Yothers Road, which were not valued.

After applying adjustments, the comparable land sales reflect a range of value of \$28,800 to \$37,505 per acre of land area. Mr. Matonis concluded to a fee simple market value estimate of

\$30,000 per acre, or \$9,660. Mr. Matonis opined that the existing use of the subject as a public right of way for Yothers Road encumbers approximately 95% of the fee owners "bundle of rights".

Based on Mr. Matonis' valuation and analysis, CFX filed a Notice of Deposit on June 27, 2014, in the amount of \$1,000.00. Negotiations with the landowner have resulted in a proposed settlement of \$1,000.00. This Committee's acceptance of the proposed settlement amount will resolve this case at CFX's deposit amount. The landowner is not submitting a claim for attorney fees or expert fees in this case.

**RECOMMENDATION:**

The undersigned counsel respectfully requests that the Right of Way Committee recommend CFX Board approval of the proposed settlement in the amount of \$1,000.00 to resolve the fee taking of Parcel 143.

**ATTACHMENTS:**

Parcel Sketch

# SKETCH OF DESCRIPTION

SECTION 36,  
TOWNSHIP 20 SOUTH,  
RANGE 27 EAST

SECTION 25,  
TOWNSHIP 20 SOUTH,  
RANGE 27 EAST

PART A AREA TAKEN = 7,832 SQ FEET±  
PART B AREA TAKEN = 1,481 SQ FEET±  
PART C AREA TAKEN = 4,703 SQ FEET±

0 50 100 200

Scale: 1" = 100'

NOT PLATTED

CITY OF  
APOPKA

SECTION 31,  
TOWNSHIP 20 SOUTH,  
RANGE 28 EAST

SECTION 30,  
TOWNSHIP 20 SOUTH,  
RANGE 28 EAST

RANGE 27 E  
RANGE 28 E

SEE SHEET 1 FOR LEGAL DESCRIPTION  
SEE SHEET 3 FOR GENERAL NOTES AND LEGEND

SHEET 2 OF 3

FOR: ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY

DATE: MAY 16, 2013

PROJECT NO.: H20-01

DRAWN: PMM CHECKED: JMS

STATE ROAD 429  
OOCEA PROJECT NO. 429-202  
PARCEL NO. 143



GEODATA CONSULTANTS, INC.

SURVEYING & MAPPING

2700 WESTHALL LANE

SUITE 137

MAITLAND, FLORIDA 32751

VOICE: (407) 660-2322 FAX: 660-8223

LAND SURVEYOR BUSINESS LICENSE NO. 6556





# CENTRAL FLORIDA EXPRESSWAY AUTHORITY







Central Florida Expressway Authority  
Right of Way Committee  
October 28, 2015

**Recommendation for Approval of  
Settlement in the Amount of \$1,000.00**

**S.R. 429 Wekiva Parkway  
Project 429-202  
Parcel 143**



# Aerial View





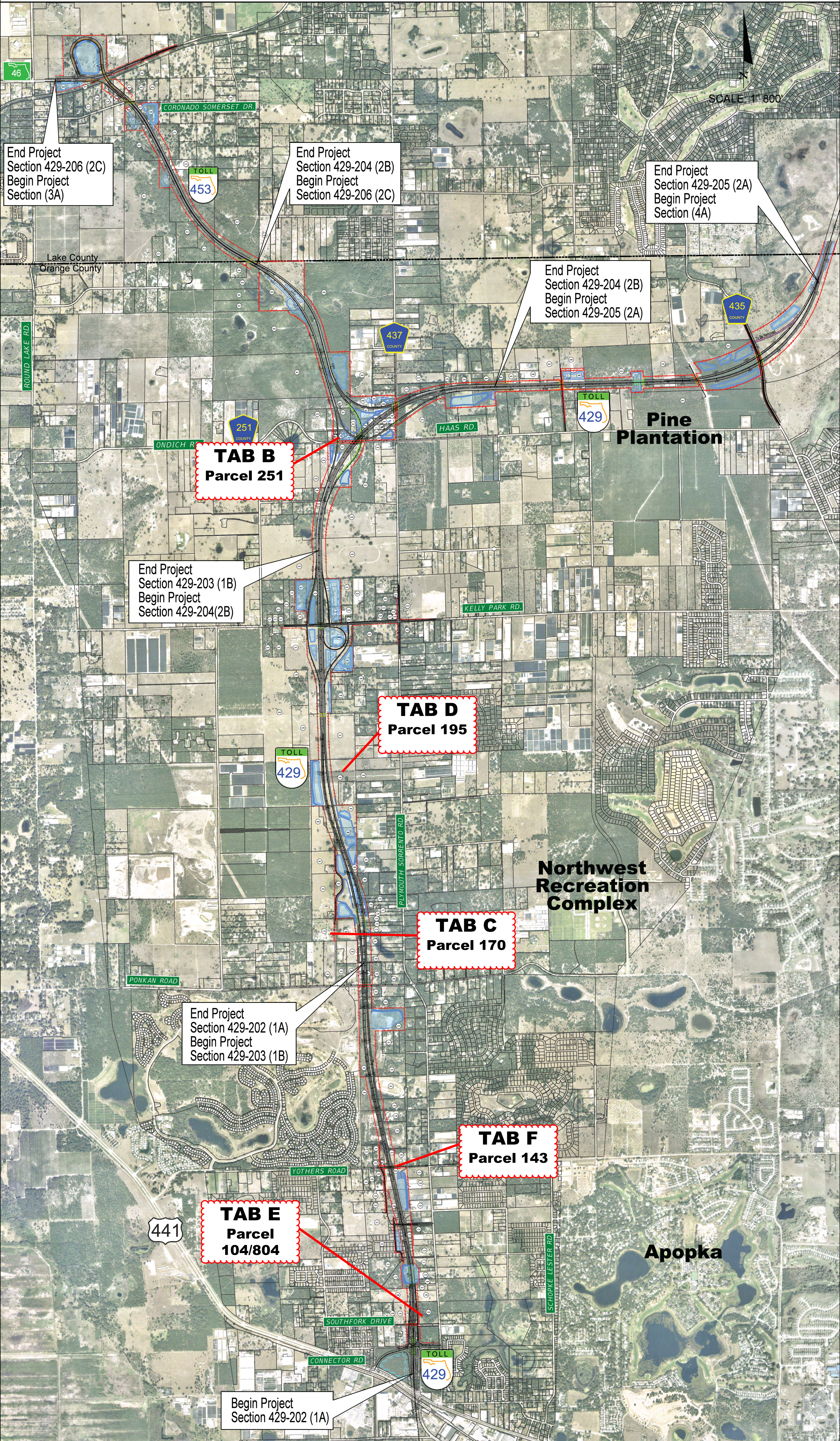
# RECOMMENDATION

We respectfully request that the Right of Way Committee recommend CFX Board approval of settlement in the amount of \$1,000.00 for Parcel 143.

# Maps of Agenda Item locations

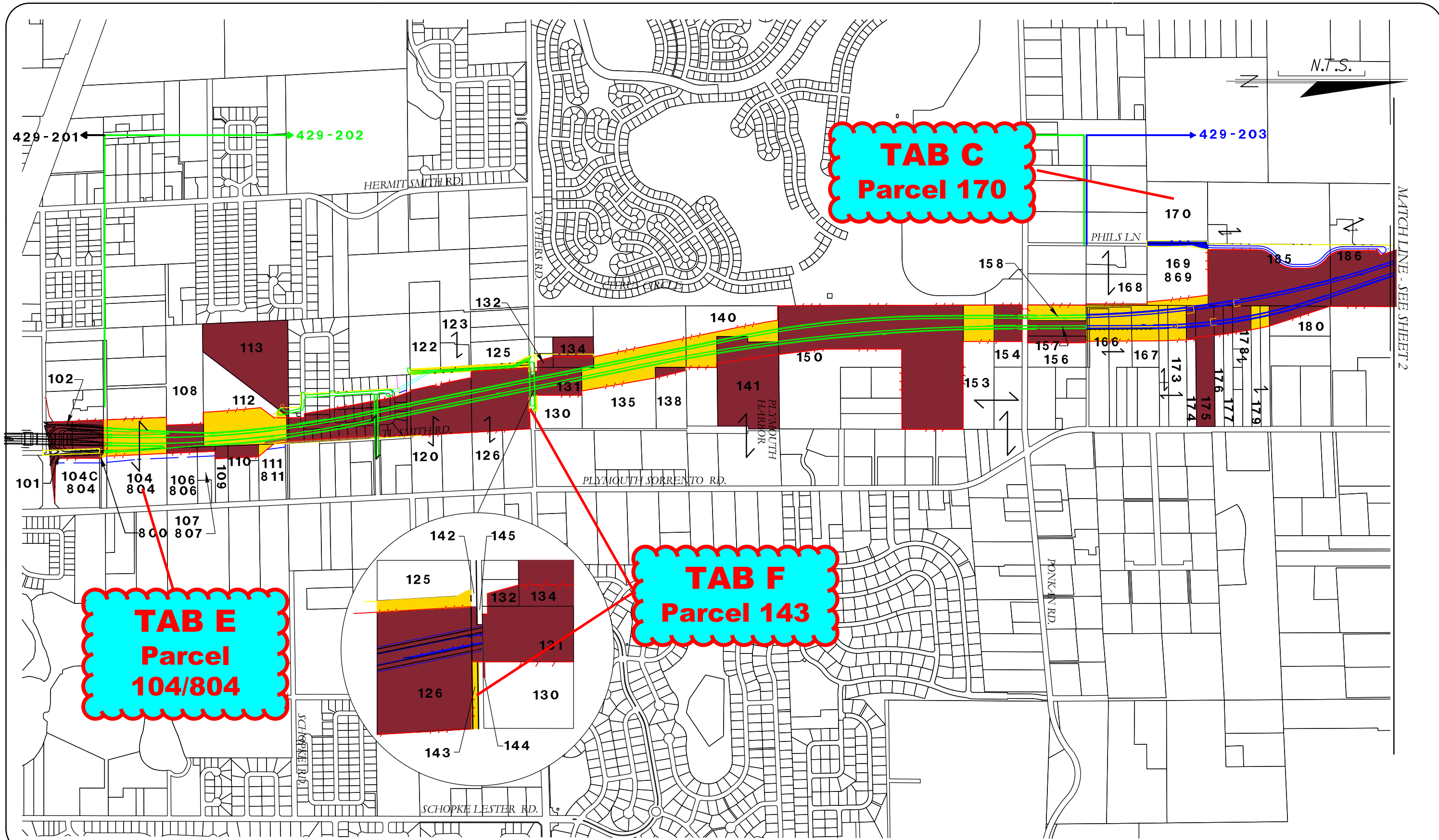


# CFX Project Section Map





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CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY

WEKIVA PARKWAY

Legend

- ACQUIRED/COMPLETE
- ACQUIRED/PENDING LITIGATION
- ACQUIRED/PENDING FEES & COSTS

RIGHT-OF-WAY EXHIBIT  
June 22, 2016  
SUBJECT TO CHANGE

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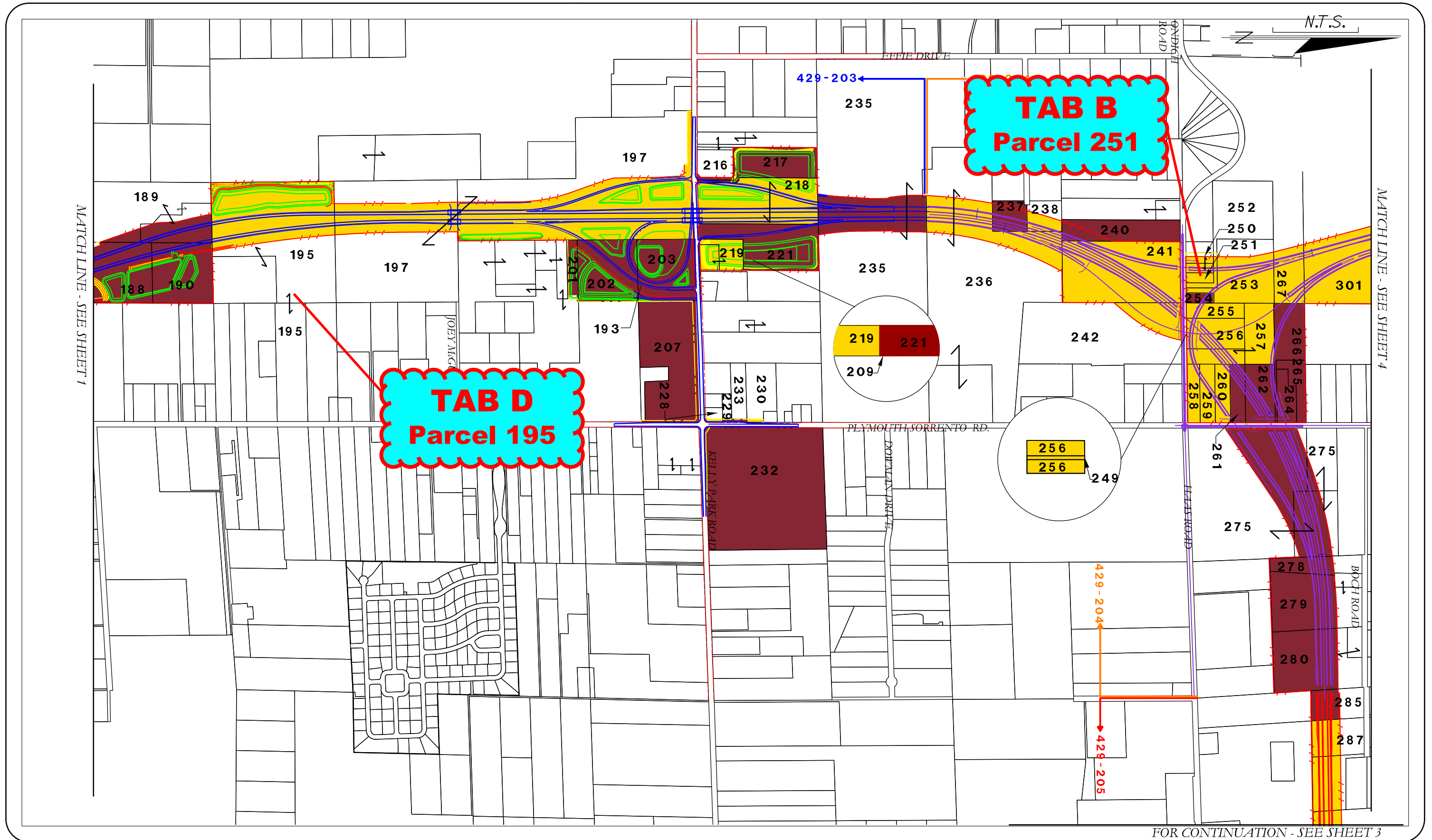
CENTRAL  
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EXPRESSWAY  
AUTHORITY

WEKIVA PARKWAY

Legend  
■ ACQUIRED/COMPLETE  
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LITIGATION  
■ ACQUIRED/PENDING  
FEES & COSTS

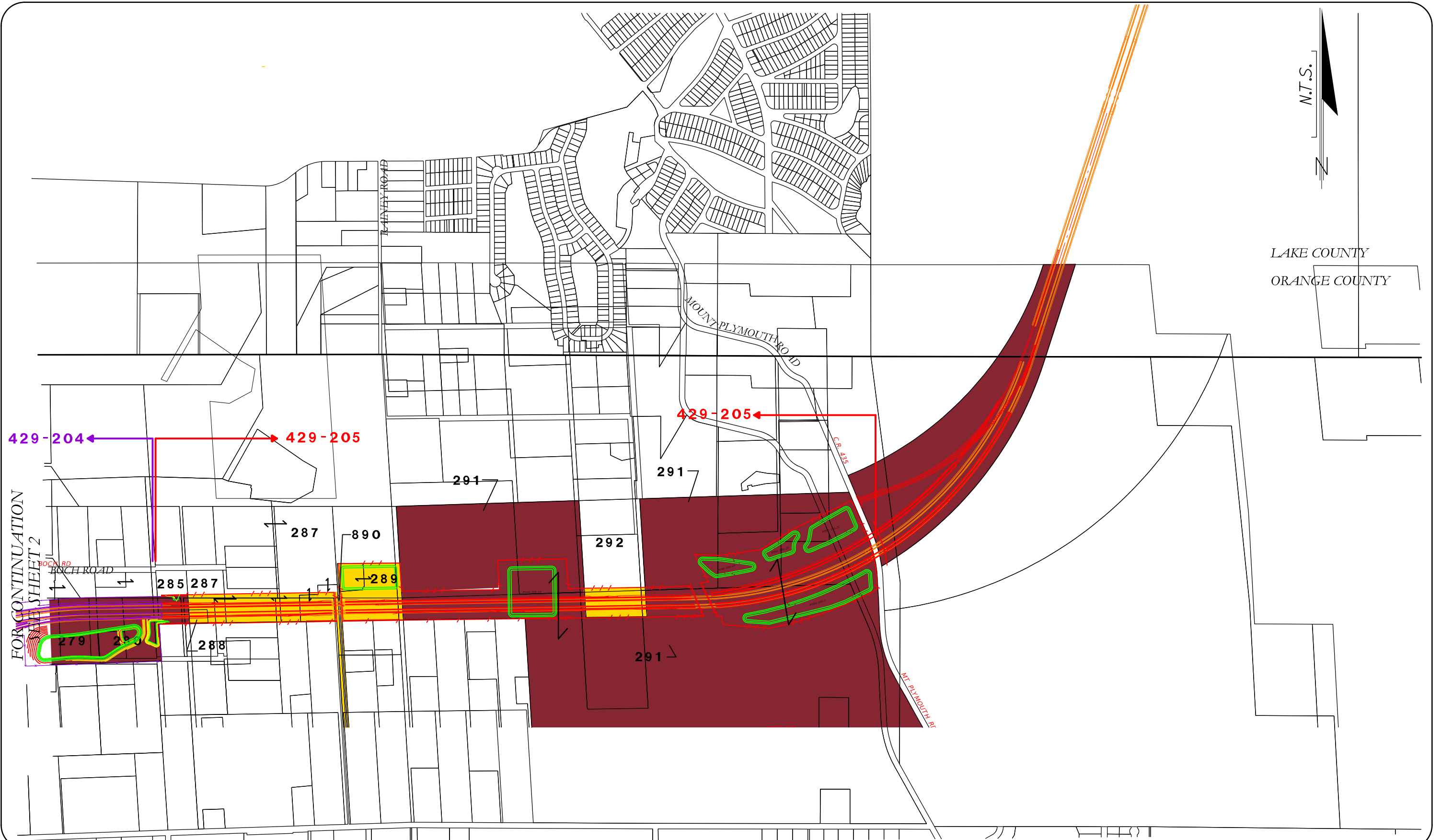
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June 22, 2016  
SUBJECT TO CHANGE

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FOR CONTINUATION - SEE SHEET 3

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CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY

WEKIVA PARKWAY

Legend	
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RIGHT-OF-WAY EXHIBIT  
June 22, 2016  
SUBJECT TO CHANGE

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WEKIVA PARKWAY

 ACQUIRED/COMPLETE  
 ACQUIRED/PENDING LITIGATION  
 ACQUIRED/PENDING FEES & COSTS

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