




## MEMORANDUM

TO: Central Florida Expressway Authority Board Members CLIENT-MATTER NO.: 19125.0089

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

DATE: April 25, 2016

RE: State Road 429 Wekiva Parkway, Project 429-203; Parcel 175  
Proposed Settlement Including Fees and Costs

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Shutts & Bowen LLP, Right-of-Way Counsel, seeks the approval of the Board of a negotiated settlement between Ernest L. Horne and Karen H. Morris, as Successor Co-Trustees of the J.D. and Kathleen L. Horne Trust, dated June 11, 2002, (the "Owners") and the Central Florida Expressway Authority (the "CFX") for the acquisition of Parcel 175 (the "Taking" or "Property") for the construction of State Road 429 Wekiva Parkway, Project 429-203.

### DESCRIPTION AND BACKGROUND

Parcel 175 is a fee simple acquisition of 1.524 acres, more or less, located on Plymouth Sorrento Road north of West Ponkan Road in Orange County, Florida. The parent tract contains a total of 6.013 acres. The property is improved with a 1,088 s.f. single family home, an 11,600 s.f. greenhouse, an open wood horse stable, and an open wood accessory. In the after condition, the roadway will be 26' to 30' above the existing grade of the remainder.

The Property is zoned A-1, Citrus Rural Agricultural District by Orange County which provides for primarily residential/agricultural uses. The future land use designation is Rural/Agricultural, by Orange County. The highest and best use of the property as vacant was determined to be for agricultural or rural single-family residential use. The highest and best use as improved is as a low-density rural single-family residential development as dictated by future demand.

The CFX's appraisal of the property was prepared by Walter N. Carpenter, Jr., MAI/CRE, of Pinel & Carpenter, Inc. Mr. Carpenter used four (4) comparable land sales with prices ranging from \$12,016 to \$24,000 per acre, and two (2) listings of vacant property with prices of \$26,946 and \$28,393 per acre to estimate the land value of the Subject Property. Due to the zoning and future land use of the Subject Property and its location within a flood zone, Mr.

Carpenter opined the value of the parent tract to be \$15,000 per acre. Thus, the value of the 1.524 acres being taken is estimated at \$22,860. Mr. Carpenter's analysis found no damages to the remainder property.

Although the Respondents have not finalized their appraisal report, Kent Hipp counsel for the property owners argued the land value should be \$40,000 per acre, and the remainder has suffered damages of 50%. Additionally, Mr. Hipp argued that the CFX's own appraisers for the immediate parcel to the south and two parcels to the north were similarly valued. Specifically, Mr. Hall on behalf of the CFX appraised parcels 174 and 177 for \$30,000 per acre and 30% damages. Additionally, Mr. Hall also appraised parcel 178 for \$30,000 per acre and 50% damages.

The Respondents have expert's fees and costs to date totaling \$6,158.95. Accordingly, the parties were able to reach an agreement in full settlement of all claims for compensation by the property owners in the amount of \$100,000, plus reduced experts' fees of \$5,000, plus statutory attorney's fees totaling \$25,456.20.

The CFX Right-of-Way Committee recommended the settlement at its April 27, 2016, meeting.

For the above-cited reasons, Right-of-Way counsel requests the approval by the Board of the negotiated settlement in the amount of \$100,000 plus attorney's fees and costs and experts fees and costs totaling \$30,456.20, which is in the CFX's best interest. Settlement of the underlying claim, apportionment issues, and all fees and costs will eliminate further risk and unnecessary expenses that the CFX will ultimately incur with further litigation of the condemnation action to acquire Parcel 175.

### **RECOMMENDATION**

We respectfully request that the CFX Board approve the proposed settlement agreement with a total settlement of \$130,456.20 in full settlement of all claims for compensation and apportionment in the acquisition of Parcel 175, including all statutory attorney's fees and costs and all experts' fees and costs.

### **ATTACHMENTS**

Exhibit "A" – Sketch of the Subject Property  
Exhibit "B" – Photographs of the Subject Property and Area  
Exhibit "C" – Experts Invoices

Reviewed by: \_\_\_\_\_



ORLDOCS 14647925 1

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

**LEGAL DESCRIPTION:**

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

COMMENCE AT A FOUND RAILROAD SPIKE WITH NO IDENTIFICATION MARKING THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA; THENCE SOUTH 89°27'56" WEST ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 24, A DISTANCE OF 1336.19 FEET TO ITS INTERSECTION WITH THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SOUTHEAST QUARTER; THENCE DEPARTING SAID NORTH LINE RUN SOUTH 00°14'39" WEST ALONG SAID WEST LINE, A DISTANCE OF 600.06 FEET TO ITS INTERSECTION WITH THE SOUTH LINE OF THE NORTH 600 FEET OF THE NORTHEAST QUARTER OF SAID SOUTHEAST QUARTER FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID WEST LINE RUN NORTH 89°27'56" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 320.94 FEET TO A POINT ON A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 5919.58 FEET, A CHORD DISTANCE OF 200.80 FEET AND A CHORD BEARING OF SOUTH 05°39'26" EAST; THENCE DEPARTING SAID SOUTH LINE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°56'37", A DISTANCE OF 200.81 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 800 FEET OF THE NORTHEAST QUARTER OF SAID SOUTHEAST QUARTER; THENCE DEPARTING SAID CURVE RUN SOUTH 89°27'56" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 341.59 FEET TO ITS INTERSECTION WITH THE AFORESAID WEST LINE OF THE NORTHEAST QUARTER OF SAID SOUTHEAST QUARTER; THENCE DEPARTING SAID SOUTH LINE RUN NORTH 00°14'39" EAST ALONG SAID WEST LINE, A DISTANCE OF 200.02 FEET TO THE POINT OF BEGINNING.

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

CONTAINING 1.524 ACRES, MORE OR LESS

**NOTE:**

THIS SKETCH OF DESCRIPTION WAS PREPARED WITH THE BENEFIT OF CERTIFICATE OF TITLE INFORMATION PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY AS TO FILE NO. 2037-2846856 DATED 11/05/2012.


**LEGEND & ABBREVIATIONS**

CB = CHORD BEARING  
C.C.R. = CERTIFIED CORNER RECORD  
CH = CHORD LENGTH  
COR. = CORNER  
[C] = CALCULATED DISTANCE  
D.B. = DEED BOOK  
ESMT = EASEMENT  
EXIST. = EXISTING  
FND. = FOUND  
FPC = FLORIDA POWER CORPORATION  
[F] = FIELD DISTANCE

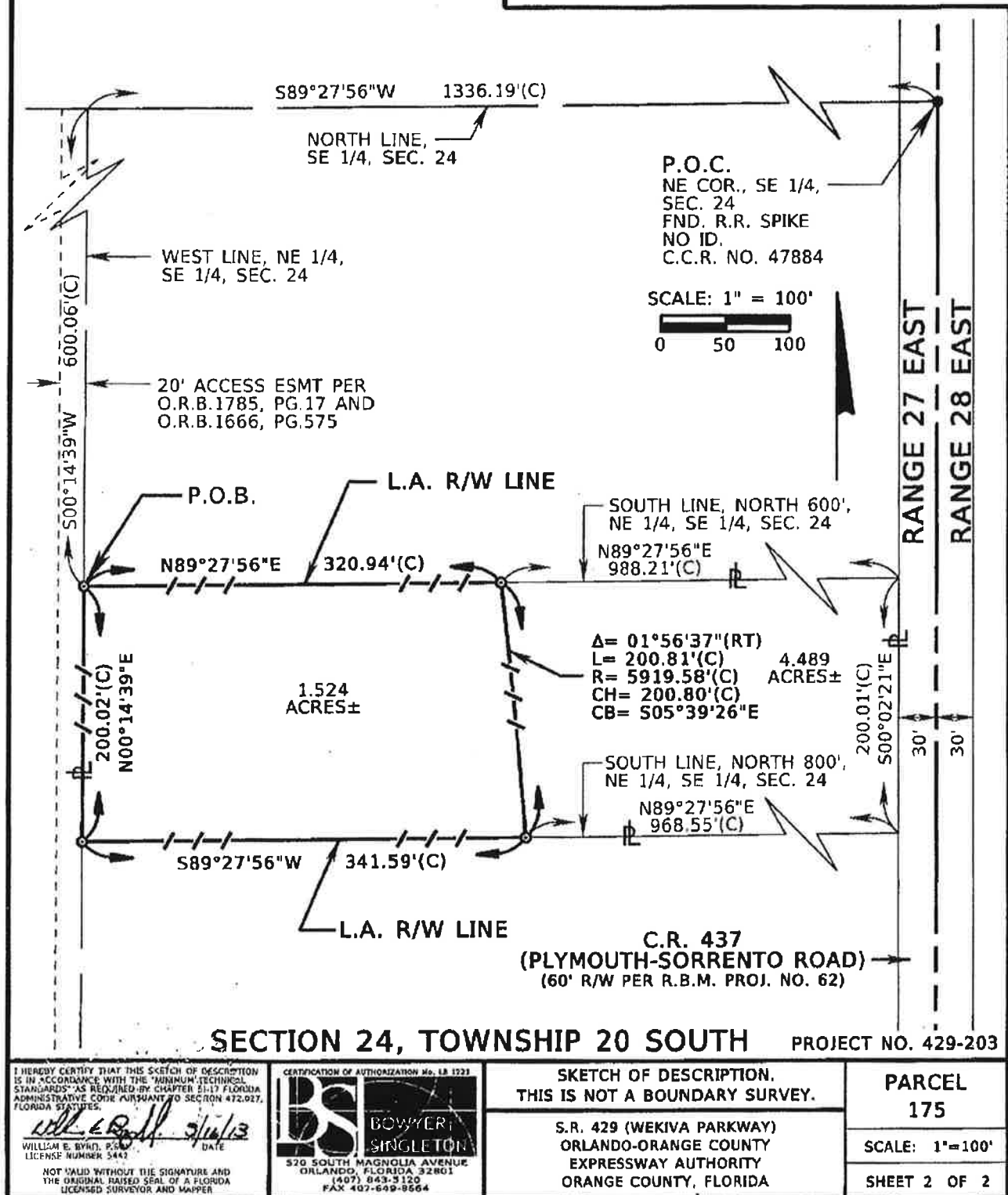
ID. = IDENTIFICATION  
I.R. = IRON ROD  
L. = ARC LENGTH  
L.A. = LIMITED ACCESS  
LS = LICENSED SURVEY BUSINESS  
LT = LEFT  
NO. = NUMBER  
O.R.B. = OFFICIAL RECORDS BOOK  
P.C. = POINT OF CURVATURE  
PG/PGS. = PAGE / PAGES

P.I. = POINT OF INTERSECTION  
P.O.B. = POINT OF BEGINNING  
P.O.C. = POINT OF COMMENCEMENT  
PROJ. = PROJECT  
P.T. = POINT OF TANGENCY  
[P] = PLAT  
R = RADIUS  
R.B.M. = ROAD BOND MAP  
RT = RIGHT  
R/W = RIGHT OF WAY

(R) = RADIAL  
SEC. = SECTION  
TITF = TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
W/ = WITH  
W/ = PROPERTY LINE  
W/ = SAME PROPERTY OWNER  
W/ = DELTA (CENTRAL ANGLE)  
W/ = CHANGE IN DIRECTION  
W/ = LIMITED ACCESS R/W LINE  
W/ = R/W LINE

|                 |                    |  |  |                             |
|-----------------|--------------------|--|--|-----------------------------|
| DATE            | SEPTEMBER 16, 2013 |  <p>CERTIFICATION OF AUTHORIZATION No. LB 1221</p> <p><b>BOWYER<br/>SPIGLETON</b></p> <p>520 SOUTH MAGNOLIA AVENUE<br/>ORLANDO, FLORIDA 32801<br/>(407) 843-5120<br/>FAX 407-649-8664</p> | <b>SKETCH OF DESCRIPTION.</b><br><b>THIS IS NOT A BOUNDARY SURVEY.</b>   | <b>PARCEL</b><br><b>175</b> |
| DRAWN BY        | M.ROLLINS          |  | <b>S.R. 429 (WEKIVA PARKWAY)</b><br><b>ORLANDO-ORANGE COUNTY</b><br><b>EXPRESSWAY AUTHORITY</b><br><b>ORANGE COUNTY, FLORIDA</b> | <b>SCALE: N/A</b>           |
| CHECKED BY      | S.WARE             |  |  |                             |
| BSA PROJECT NO. | EA13-J1            |  |  |                             |
| REVISION        | BY                 | DATE   | SHEET 1 OF 2   |                             |

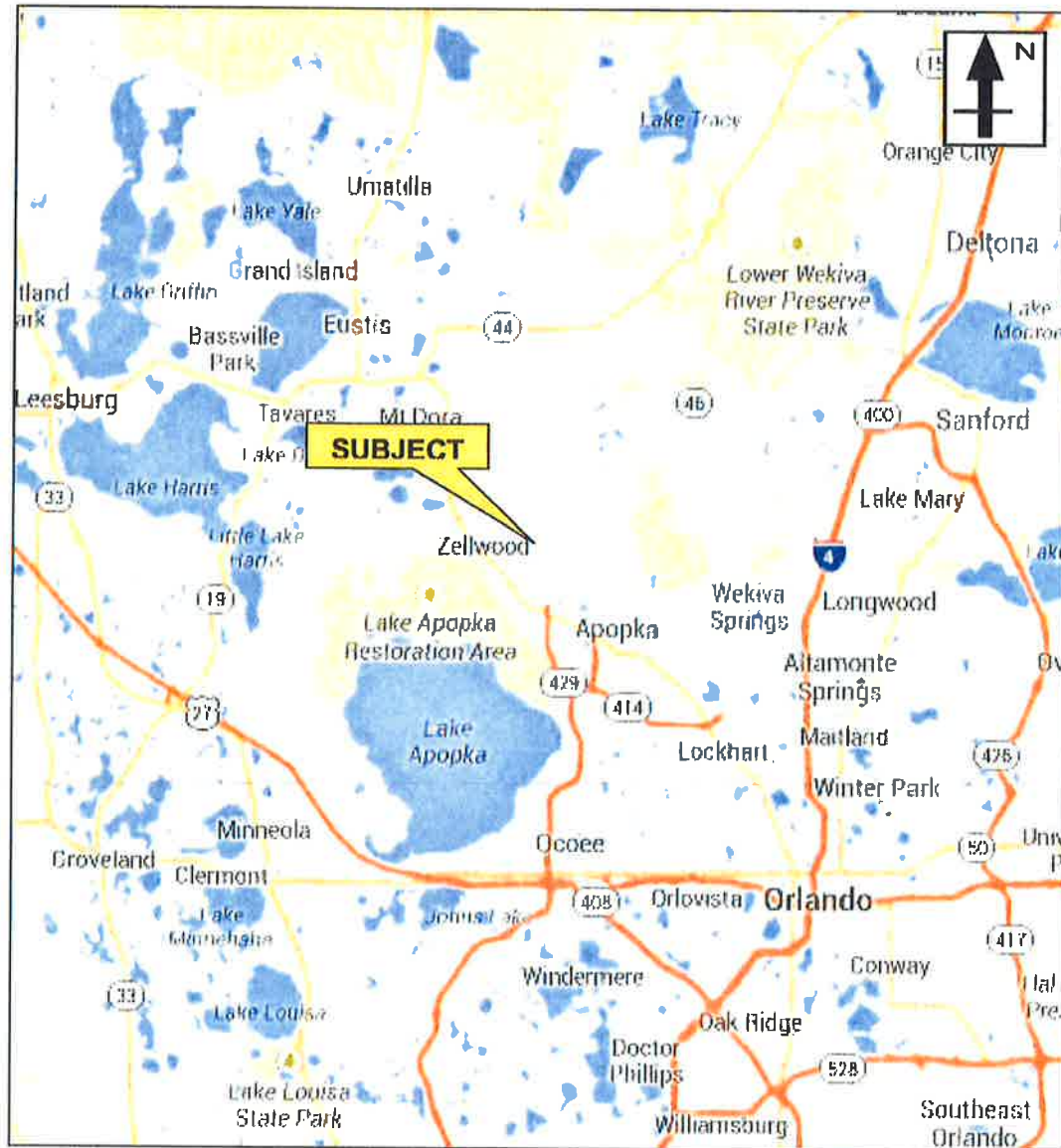
BEARING STRUCTURE BASED ON THE NORTH LINE  
OF THE SOUTHEAST 1/4 OF SEC. 24-20-27, BEING  
S89°27'56"W, FLORIDA STATE PLANE COORDINATE  
SYSTEM, EAST ZONE, 1983/2007 ADJUSTMENT.



PARCEL NO.: 175  
OWNER: ERNEST L. AND SHERMAN L. HORNE, SUCCESSOR CO-TRUSTEES  
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203  
CITY/COUNTY: APOPKA/ORANGE

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## AREA MAP

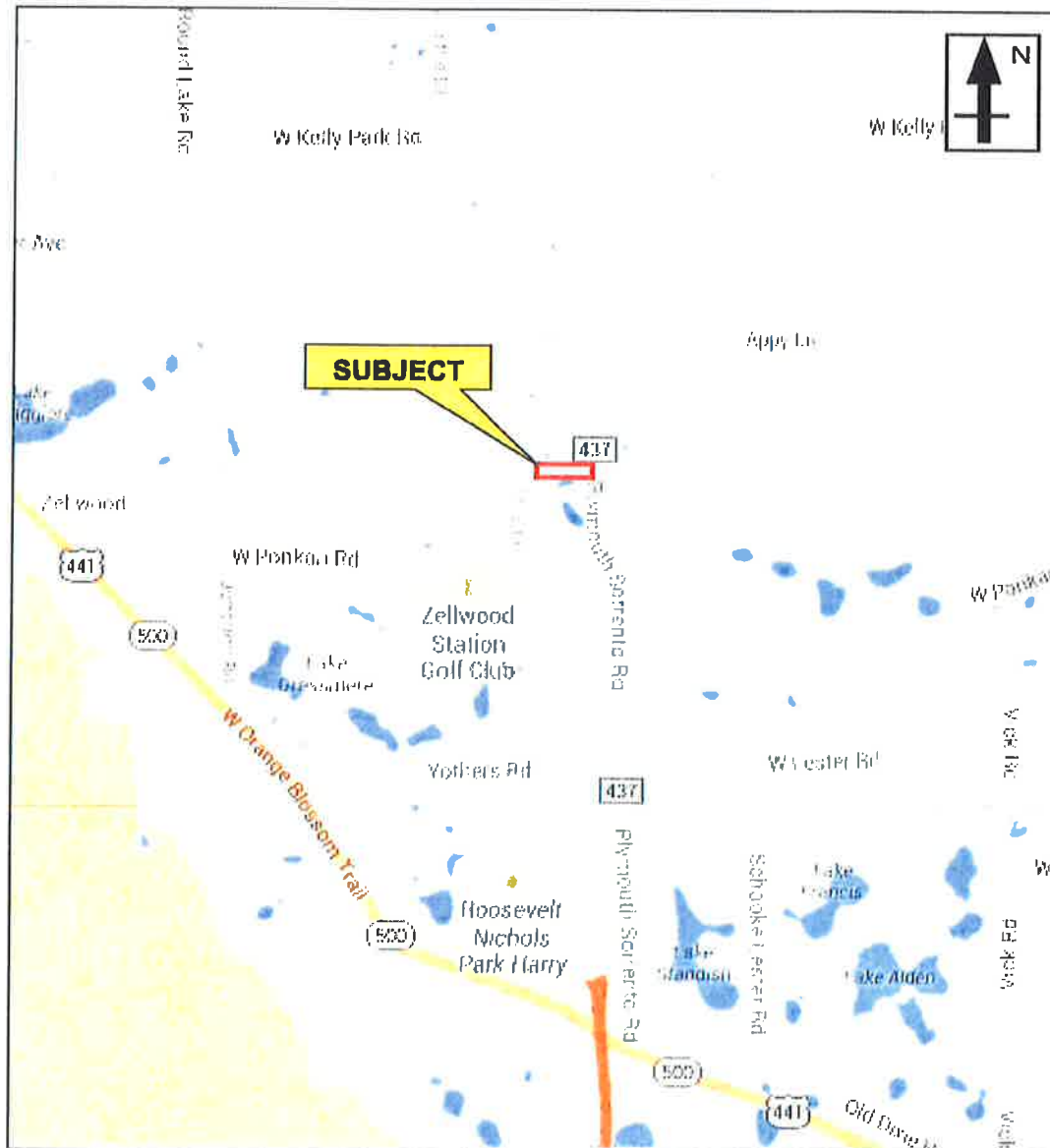


*Approximate Representation  
Source: Google Maps*

PARCEL NO.: 175  
OWNER: ERNEST L. AND SHERMAN L. HORNE, SUCCESSOR CO-TRUSTEES  
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203  
CITY/COUNTY: APOKA/ORANGE

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## LOCATION MAP



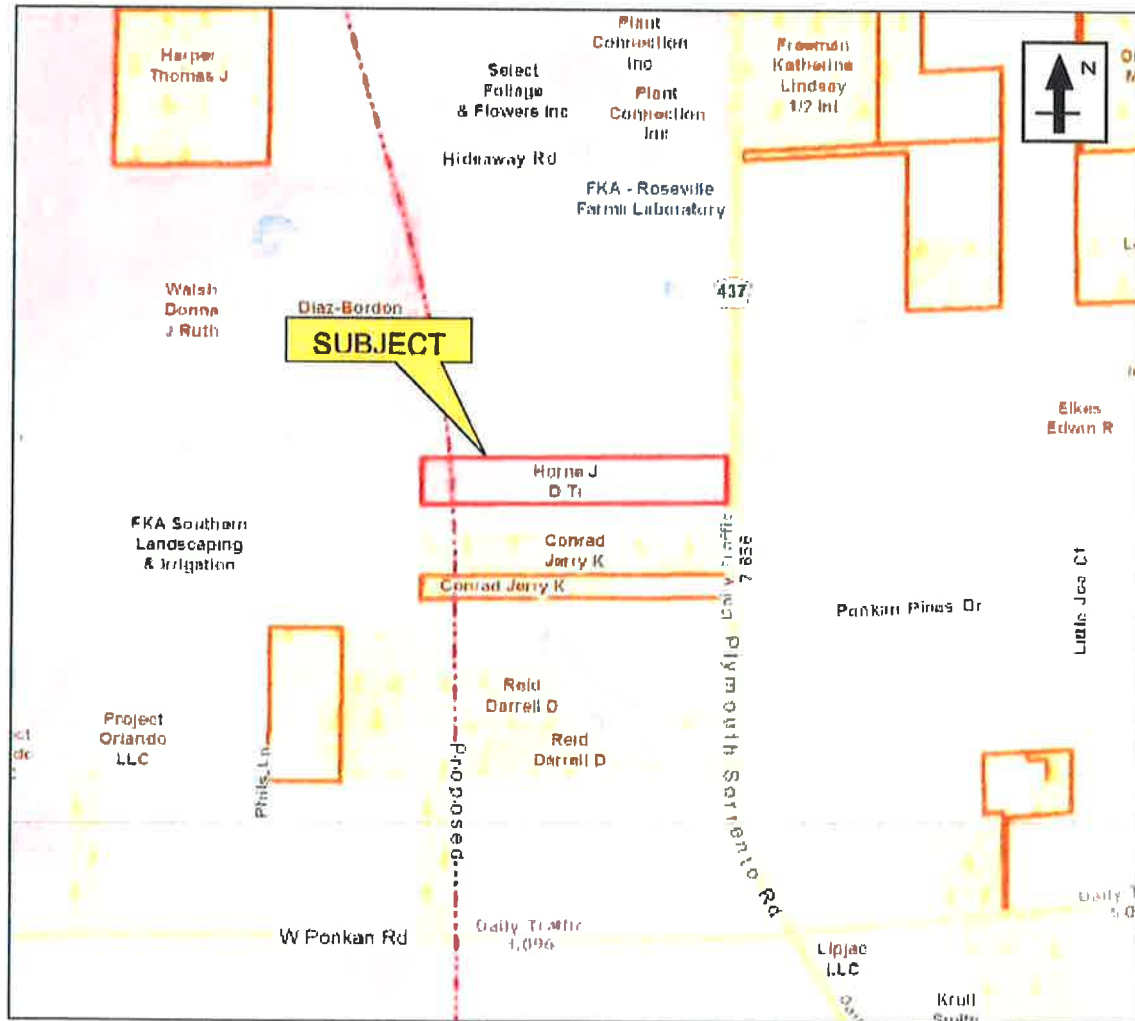
*Approximate Representation*  
*Source: Google Maps*



PARCEL NO.: 176  
OWNER: ERNEST L. AND SHERMAN L. HORNE, SUCCESSOR CO-TRUSTEES  
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203  
CITY/COUNTY: APOKA/ORANGE

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## TAX MAP

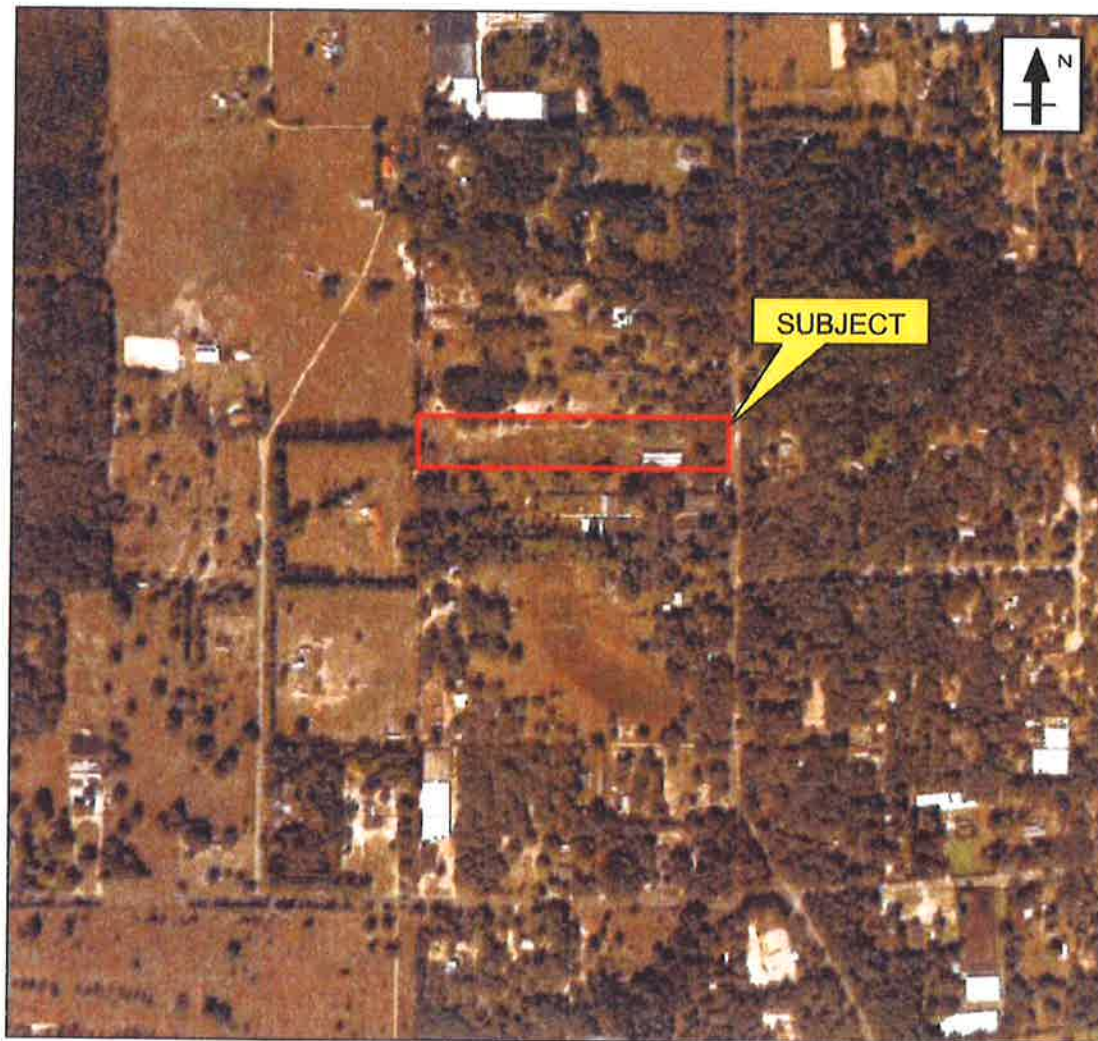


*Approximate Representation*  
*Source: Orange County Property*  
*Appraiser*

PARCEL NO.: 175  
OWNER: ERNEST L. AND SHERMAN L. HORNE, SUCCESSOR CO-TRUSTEES  
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203  
CITY/COUNTY: APOPKA/ORANGE

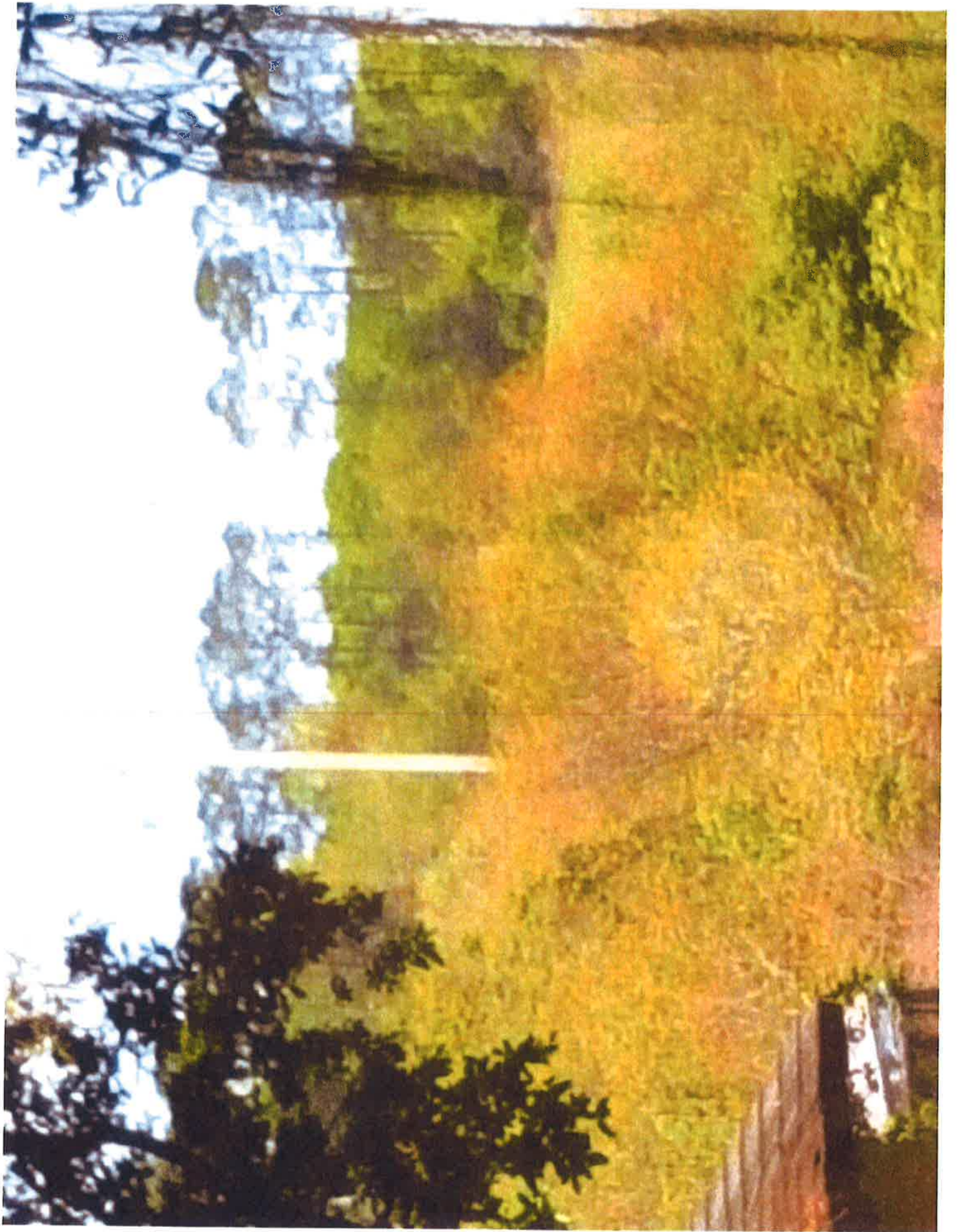
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## AERIAL PHOTOGRAPH



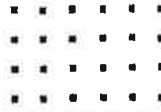
*Approximate Representation  
Source: Orange County Property  
Appraiser*





**J D Horne Trust  
Experts' Fees and Costs  
Parcel 175 – Little Horne**

|   |                           |
|---|---------------------------|
| <b>Rahenkamp Design Group, Inc.</b>             | <b>\$ 291.45</b>          |
| <b>Tipton and Associates, Inc.</b>              | <b>\$ 562.50</b>          |
| <b>Calhoun, Dreggors &amp; Associates, Inc.</b> | <b><u>\$ 5,305.00</u></b> |
| <b>Totals</b>                                   | <b>\$ 6,158.95</b>        |



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## Rahenkamp Design Group, Inc.

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Invoice submitted to:

Mr. Kent Hipp  
Gray, Robinson, P.A.  
301 East Pine Street  
Suite 1400  
Orlando, FL 32801

December 18, 2015

In Reference To: Job # 12.024, OOCEA v. J.D. and Kathleen L. Horne Trust  
Project: State Road 429 (Wekiva Parkway)  
Parcel No. 175

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### For Professional Services Rendered:

|   | Hours | Fees     |
|---|-------|----------|
| 04/30/13 Review scheduling & update letter from Craig Willis  | 0.20  | 45.00    |
| 02/27/14 Review OOCEA Statement of Offer, Sketch of Description & title information   | 0.20  | 45.00    |
| 02/28/14 Review OOCEA Statement of Offer; review Commitment for Title Insurance; review OOCEA appraisal (Pinel & Carpenter) | 0.40  | 90.00    |
| 06/24/14 Review OOCEA review appraisal (Consortium Appraisal, Inc.)   | 0.20  | 45.00    |
| Total Professional Services:  | 1.00  | \$225.00 |

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### For Expenses Incurred:

|                     |          |
|---------------------|----------|
| B&W Xerox:          | 62.20    |
| Color Xerox:        | 4.25     |
| Total Expenses:     | \$66.45  |
| Total This Invoice: | \$291.45 |

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Development Services • Golf Course Architecture • Eminent Domain  
Landscape Architecture • Land Use Planning  
(LC#000313)

2816 S. MacDill Avenue  
Tampa, FL 33629

Ph: (813) 835-4022 • Fx: (813) 835-9226  
Eric@RDGroup.org • www.RDGroup.org

Mr. Kent Hipp

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Fees

**Balance Now Due:**

**\$291.45**



# Tipton Associates Incorporated

760 Maguire Blvd  
Orlando, FL 32803-  
Tel: 407-894-2055 Fax: 407-896-9949

**Invoice Number:** 15564

May 06, 2014

Page number 1

Project 4436: J D Horne Trust ROW

Kent L Hipp, Esq.  
Gray Robinson  
P.O. Box 3068  
Orlando, FL 32802-3068

Professional Services for the period ended April 30, 2014

Project 4436:1 Parcel

## Professional Services

Chief Engineer/Planner

| Hours            | Rate     | Amount   |
|------------------|----------|----------|
| 2.50             | \$225.00 | \$562.50 |
| Services Total   |          | \$562.50 |
| Charges Subtotal |          | \$562.50 |
| Invoice Total    |          | \$562.50 |



# Calhoun, Dreggors & Associates, Inc.

• Real Estate Appraisers & Consultants •

January 07, 2016

Kent L. Hipp Esq.  
c/o GrayRobinson, P.A.  
301 E. Pine Street  
Suite 1400  
Orlando, FL 32803

RE: Owner: Horne  
Project: Wekiva Parkway  
Parcel No.: 175  
County: Orange

## INVOICE

Inspect subject, analysis of highest and best use, sales research of vacant land, prepare for and attend conference calls/meetings with owner's representative, review impacts of taking, meeting with owner's representative to review valuation issues, analysis of taking and value of the taking.

|              |                          |                |
|--------------|--------------------------|----------------|
| Researcher:  | 11.75 Hrs. x \$ 75/Hr. = | \$ 881         |
| Abrams:      | 13.50 Hrs. x \$175/Hr. = | 2,362          |
| Dreggors:    | 7.50 Hrs. x \$275/Hr. =  | <u>2,062</u>   |
| <b>Total</b> |                          | <b>\$5,305</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

|                  |                       |                   |
|------------------|-----------------------|-------------------|
| <b>OWNER</b>     | <b>HORNE</b>          | <b>RESEARCHER</b> |
| <b>PROJECT</b>   | <b>WEKIVA PARKWAY</b> |                   |
| <b>PARCEL(S)</b> | <b>175</b>            |                   |
| <b>COUNTY</b>    | <b>ORANGE</b>         |                   |

| <b>DATE</b> | <b>TYPE OF SERVICE</b>  | <b>HOURS</b> |
|-------------|---|--------------|
| 03/26/14    | ASSISTED WITH SALES RESEARCH; PRINT DEED, PROPERTY CARDS FOR SALES. | 6.00         |
| 03/27/14    | ASSISTED WITH SALES RESEARCH; PRINT DEED, PROPERTY CARDS FOR SALES. | <u>5.75</u>  |
|             | <b>TOTAL HOURS</b>  | <b>11.75</b> |

|                  |                       |                        |
|------------------|-----------------------|------------------------|
| <b>OWNER</b>     | <b>HORNE</b>          | <b>COURTNEY ABRAMS</b> |
| <b>PROJECT</b>   | <b>WEKIVA PARKWAY</b> |                        |
| <b>PARCEL(S)</b> | <b>175</b>            |                        |
| <b>COUNTY</b>    | <b>ORANGE</b>         |                        |

| <b>DATE</b> | <b>TYPE OF SERVICE</b>  | <b>HOURS</b> |
|-------------|---|--------------|
| 02/15/12    | REVIEW SUBJECT MATERIAL; REVIEW SCOPE OF WORK.  | 1.50         |
| 05/01/12    | ANALYSIS OF HIGHEST AND BEST USE; RESEARCH AND ANALYSIS OF SALES.   | 3.00         |
| 10/03/13    | UPDATE SALES RESEARCH.  | 2.00         |
| 03/04/14    | REVIEW/ANALYSIS OF O/OCEA APPRAISAL.  | 0.75         |
| 03/25/14    | ANALYSIS OF SALES.  | 1.75         |
| 08/15/14    | PREPARE FOR MEETING.  | 0.75         |
| 11/03/14    | CONFERENCE CALL WITH OWNER'S REPRESENTATIVE; WORKED ON PREPARING EXHIBITS OF SUBJECT PROPERTY AND SURROUNDING CFX VALUES. | 2.00         |
| 12/04/15    | CONFERENCE CALL WITH OWNER'S REPRESENTATIVE; UPDATED EXHIBITS FOR OWNER'S REPRESENTATIVE.                                 | <u>1.75</u>  |
|             | <b>TOTAL HOURS</b>  | <b>13.50</b> |

|                  |                       |                                 |
|------------------|-----------------------|---------------------------------|
| <b>OWNER</b>     | <b>HORNE</b>          | <b>RICHARD C. DREGGORS, GAA</b> |
| <b>PROJECT</b>   | <b>WEKIVA PARKWAY</b> |                                 |
| <b>PARCEL(S)</b> | <b>175</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.  | 1.00         |
| 02/10/12    | PREPARE FOR AND MEET WITH OWNER; REVIEW TAKING AND POTENTIAL IMPACTS TO REMAINDER.                               | 0.75         |
| 02/15/12    | MEETING WITH OWNER'S REPRESENTATIVE; REVIEW PARKWAY PLANS.   | 0.25         |
| 05/01/12    | CONFERENCE WITH OWNER'S REPRESENTATIVE; MEETING WITH ASSOCIATE; REVIEW SALES.                                    | 0.50         |
| 04/30/13    | REVIEW CORRESPONDENCE.   | 0.25         |
| 07/18/13    | REVIEW DOCUMENTS FROM OWNER'S REPRESENTATIVE.  | 0.25         |
| 03/04/14    | MEETING WITH OWNER'S REPRESENTATIVE; REVIEW VALUATION ISSUES.  | 0.75         |
| 04/22/14    | REVIEW DOCUMENTS TO PREPARE FOR MEETING WITH ENGINEER AND OWNER'S REPRESENTATIVE.                                | 0.50         |
| 04/23/14    | ANALYSIS OF SCOPE OF WORK; MEETING WITH EXPERTS/OWNER'S REPRESENTATIVE; REVIEW IMPACTS OF THE TAKING.            | 0.50         |
| 05/13/14    | CONFERENCE WITH OWNER'S REPRESENTATIVE.  | 0.25         |
| 10/21/14    | REVIEW FILE; CONFERENCE WITH OWNER'S REPRESENTATIVE; PREPARE FOR MEETING.  | 0.50         |
| 10/22/14    | MEETING WITH OWNER'S REPRESENTATIVE TO REVIEW VALUATION ISSUES.  | 1.00         |
| 08/15/14    | PREPARE FOR MEETING; MEETING WITH OWNER'S REPRESENTATIVE TO REVIEW VALUATION ISSUES; UPDATE LAND SALES RESEARCH. | <u>1.00</u>  |
|             | <b>TOTAL HOURS</b>   | <b>7.50</b>  |