

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Agenda
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
RIGHT-OF-WAY COMMITTEE
April 27, 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 – March 23, 2016 TAB A
Requesting approval of the 03/23/16 minutes. **Action Item.**

4. S.R. 429 (HORNE, J. D. - TRUST) WEKIVA PARKWAY PROJECT (PROJECT 429-203) PARCEL 175 – David Shontz, Shutts & Bowen TAB B
Requesting the Committee's recommendation for Board approval of the proposed negotiated settlement agreement. **Action Item.**

5. S.R. 429 (HORNE, J. D. - TRUST) WEKIVA PARKWAY PROJECT (PROJECT 429-203) PARCEL 207 – David Shontz, Shutts & Bowen TAB C
Requesting the Committee's recommendation for Board approval of the proposed negotiated settlement agreement. **Action Item.**

6. S.R. 429 (RIGSBY) WEKIVA PARKWAY PROJECT (PROJECT 429-204) PARCEL 240 – David Shontz, Shutts & Bowen TAB D
Requesting the Committee's recommendation for Board approval of the proposed mediated settlement agreement. **Action Item.**

7. S.R. 429 (GGH 10) WEKIVA PARKWAY PROJECT (PROJECT 429-202) PARCEL 140 - Trippe Cheek, Windersweedle, Haines, et. al. TAB E
Requesting the Committee's recommendation for Board approval for service of an Offer of Judgment. **Action Item.**

8. S.R. 429 (PLYMOUTH HARBOR, LLC) WEKIVA PARKWAY PROJECT (PROJECT 429-202) PARCEL 141 – Trippe Cheek, Windersweedle, Haines, et. al. TAB F
Requesting the Committee's recommendation for Board approval of the proposed settlement agreement. **Action Item.**

9. S.R. 429 (DUKE ENERGY) WEKIVA PARKWAY PROJECT (PROJECT 429-205) PARCEL 291 – Trippe Cheek, Windersweedle, Haines, et. al. TAB G
Requesting the Committee's recommendation for Board approval of the proposed Utility Relocation Agreement between CFX and Duke Energy. **Action Item.**

(CONTINUED ON PAGE 2)

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Agenda RIGHT-OF-WAY COMMITTEE April 27, 2016 Page 2

10. **S.R. 429 (MEGA GNG, LLP) WEKIVA PARKWAY PROJECT (PROJECT 429-203) PARCEL 232** – *Linda S. Brehmer Lanosa, CFX* **TAB H**
Requesting the Committee's recommendation for Board approval of the proposed mediated settlement agreement. **Action Item.**
11. **S.R. 414 – (DOERR TRUST) MAITLAND AVENUE EXTENSION PROJECT (PROJECT 414-211) CASE NO. 2006-CA-006250-O / PARCEL 406** **TAB I**
Richard N. Milian, Broad & Cassel & Joseph L. Passiatore, CFX
Requesting the Committee's recommendation for Board approval of the proposed mediated settlement agreement of Attorney's Fees and Experts' Costs. **Action Item.**
12. **OTHER BUSINESS**
13. **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 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
March 23, 2016
Location: CFX Boardroom

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
Jean Jreij, Seminole County Representative

CFX Staff Present at Dais:

Laura Kelley, Executive Director
Joseph L. Passiatore, General Counsel
Linda Brehmer Lanosa, Deputy General Counsel
Mimi Lamaute, Paralegal/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 Ms. Caswell and seconded by Ms. Botts to approve the February 24, 2016 ~~January 27, 2016~~ Right of Way Committee minutes as presented.

Vote: The motion carried unanimously with five members present and voting AYE by voice vote.

Item 4: S.R. 429 (KORUS) WEKIVA PARKWAY PROJECT (PROJECT 429-202) PARCEL 120 (PARTS A & B)

Mr. Cheek is requesting the Committee's recommendation for Board approval of a proposed settlement of attorney's fees for the business damage claim and expert fees and costs for both the business damage

and real estate claims with Korus Orchid Corporation. He provided the Committee with a description and background of the property.

Korus qualified for business damages for this case. Korus submitted a business damage claim for \$5,850,000, and CFX filed a statutory counter-offer in the amount of \$3,611,000. Korus accepted CFX's counter-offer. A Stipulated Partial Final Judgment as to business damages in the amount of \$3,611,000 was entered on March 19, 2015. This judgment did not resolve the issue of expert's or attorney's fees and costs, as expert fees and costs are not a required component of a statutory business damage counter-offer. The Partial Final Judgment therefore reserved jurisdiction to determine attorney's fees and expert fees and costs for the business damage claim.

Korus submitted a claim of \$360,427 for expert fees and costs (for both the real estate claim and business damage claim), plus a claim of \$243,026 for attorneys' fees (for the business damage claim, as the real estate attorneys' fees were based on betterment and already resolved), for a total fee request of \$603,453. After negotiations, opposing counsel is willing to accept \$450,000 in total expert fees and costs, and attorney's fees and costs.

Korus was represented by Tom Callan, Esquire. Mr. Callan initially submitted a fee request in the amount of \$243,026.00. After negotiations, Mr. Callan reduced this request to \$229,000. This reduced fee was then subjected to further negotiations and was further reduced.

Korus also submitted expert fees from 14 different experts in the amount of \$360,427. After an initial review these fees were reduced to approximately \$310,000, and after negotiations were further reduced.

The Committee asked several questions, which were answered by Mr. Cheek. The Committee expressed their concern with the invoiced amounts for fees and costs submitted by the Owners. General Counsel's Office indicated that it was in support of the proposed settlement of fees and costs.

Settlement Breakdown:

| | |
|---|------------------|
| Expert fees – real estate claim | \$116,000 |
| Expert fees – business damage claim | \$152,000 |
| Attorneys' fees – business damage claim | <u>\$182,000</u> |
| Total: | \$450,000 |

Action: A motion was made by Ms. Caswell and seconded by Mr. Raymond to recommend to the Board approval of the proposed settlement in the amount of \$450,000 in full settlement of all compensation claims, attorneys' fees, and expert fees.

Vote: The motion carried unanimously with five members present and voting AYE by voice vote.

This item was taken out of order

Item 6: S.R. 429 (SMITH) WEKIVA PARKWAY PROJECT (PROJECT 429-204) PARCEL 280

Ms. Brehmer Lanosa presented the next two items in Mr. Shontz's absence. She provided the Committee with a description and background of the parcel. Parcel 280 is a fee simple acquisition of 10.975 acres, more or less. The remainder is approximately 4.067 acres.

The CFX's appraisal of the property was prepared by Christopher D. Starkey, MAI, of Integra Realty Resources – Orlando. Mr. Starkey estimated the value of the land acquired at \$322,700.

Ms. Brehmer Lanosa explained Mr. Starkey's opinion regarding estimation of the damages.

This case involves the partial taking of property owned by Vernice L. Smith, Trustee of The Smith Family Revocable Living Trust ~~Adelpha Howell~~. CFX is acquiring 10.311 acres from a 14.14-acre parent tract, leaving a 3.829-acre remainder with frontage along Boch Road.

The landowner retained the appraisal services of Gary Pendergast, MAI, of Florida Real Estate Analysts, Inc. Mr. Pendergast values the taking at \$1,009,100.

During mediation, the parties were able to reach a settlement in the amount of \$657,000, as full settlement of all claims for compensation by the property owner, plus statutory attorney's fees totaling \$76,197, plus reduced expert fees and costs totaling \$38,696.79.

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

Motion: A motion was made by Ms. Botts and seconded by Mr. Jreij to recommend to the Board approval of the proposed settlement agreement in the amount of \$771,893.70 in full settlement of all compensation claims, attorneys' fees, and expert fees and costs for Parcel 280.

Vote: The motion carried unanimously with five members present and voting AYE by voice vote.

Item 5: S.R. 429 (BALLINGS) WEKIVA PARKWAY PROJECT (PROJECT 429-205) PARCEL 285

Ms. Brehmer Lanosa provided the Committee with a description and background on this matter. Parcel 285 is a fee simple acquisition of 2.288 acres, more or less. The remainder property consists of approximately 2.341 acres.

CFX's appraisal of the property was prepared by Christopher D. Starkey, MAI, of Integra Realty Resources - Orlando. Mr. Starkey estimated the value of the taking at \$99,641, rounded to \$99,650, consisting of \$71,650 for the part taken, \$27,450 for damages to the remainder, and \$541 for the cost to cure.

Gary Pendergast, MAI, of Florida Real Estate Analysts, Inc., prepared the appraisal report for the Owner. Mr. Pendergast estimates the compensation due at \$216,000, consisting of \$137,500 for land taken and \$80,300 damages to the remainder.

During mediation, the parties were able to reach a settlement in the amount of \$147,500 as full settlement of all claims for compensation by the property owner, plus statutory attorney's fees totaling \$17,160, plus reduced expert fees and costs totaling \$31,105.86, for a total settlement of \$195,765.86.

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

Action: A motion was made by Ms. Botts and seconded by Ms. Caswell to recommend to the Board approval of the proposed settlement agreement in the amount of \$195,765.86 in full settlement of all compensation claims, attorneys' fees, and expert fees and costs for Parcel 285.

Vote: The motion carried unanimously with five members present and voting AYE by voice vote.

Item 7: OTHER BUSINESS

Mr. Passiatore provided a brief preview of an upcoming agenda item on the matter of CFX v. Tuscan Ridge. In an attempt to resolve attorney fees, there was a mediation held on February 12, 2016 in Tallahassee. Mr. Passiatore and Mr. Richard Milian of Broad and Cassel attended the mediation. The settlement will be before the Committee for approval at the April meeting.

Item 8: ADJOURNMENT

Mr. Minkoff adjourned the meeting at approximately 2:39 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 or 4974 ORL Tower Road, Orlando, FL 32807.

Tab B



MEMORANDUM


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

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

DATE: April 13, 2016

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

CLIENT-MATTER NO.: 19125.0089



Shutts & Bowen LLP, Right-of-Way Counsel, seeks the recommendation of the Right-of-Way Committee 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.

For the above-cited reasons, Right-of-Way counsel requests a recommendation for approval 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 Right-of-Way Committee recommend to the CFX Board the approval of 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

ORLDOCS 14614020 2

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

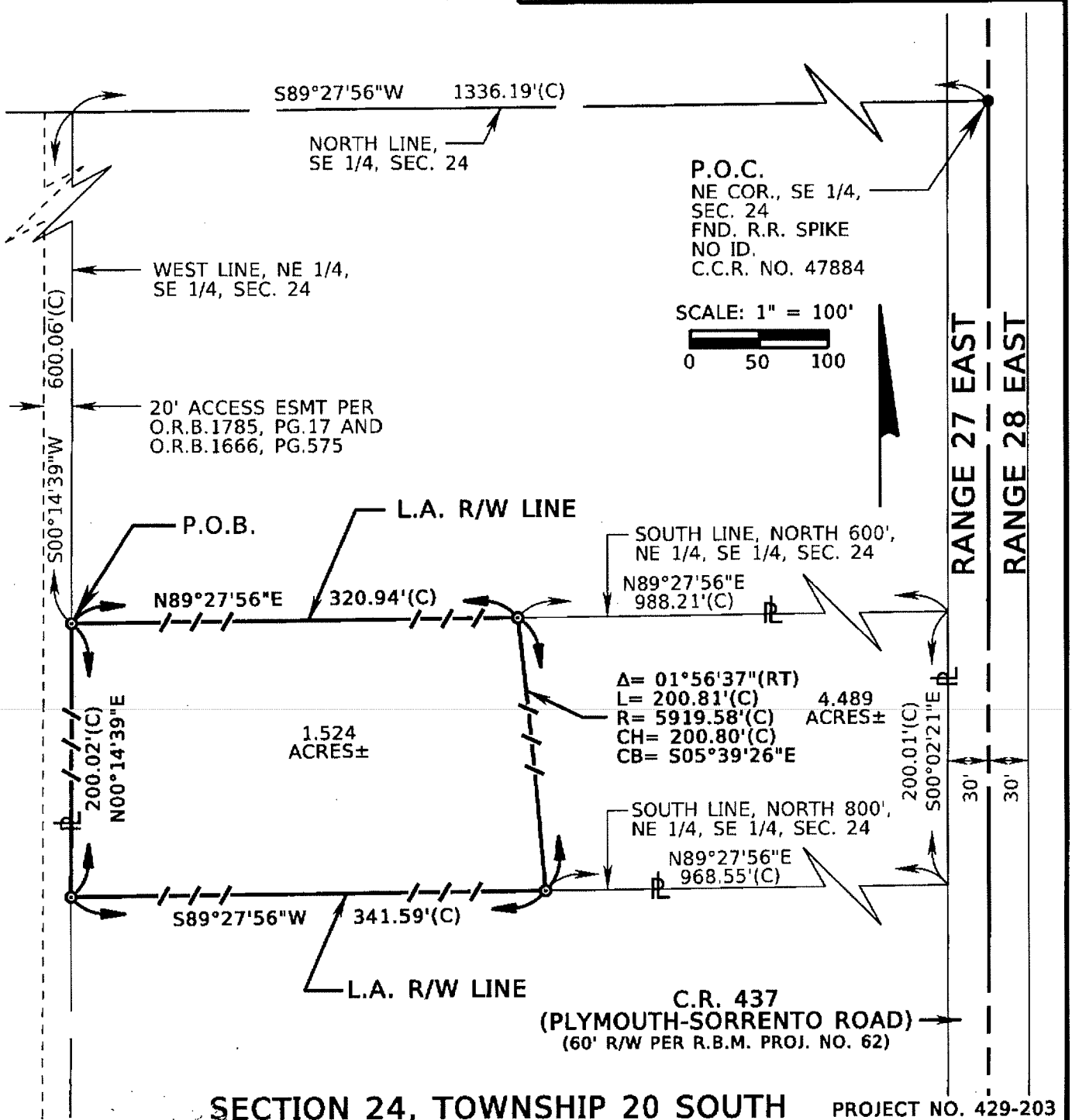
ID. = IDENTIFICATION
I.R. = IRON ROD
L = ARC LENGTH
L.A. = LIMITED ACCESS
LB = LICENSED SURVEY BUSINESS
LT = LEFT
NO. = NUMBER
O.R.B. = OFFICIAL RECORDS BOOK
P.C. = POINT OF CURVATURE
PG./PGS. = PAGE / PAGES

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
PL = PROPERTY LINE
X = SAME PROPERTY OWNER
Δ = DELTA (CENTRAL ANGLE)
Δ = CHANGE IN DIRECTION
--- = LIMITED ACCESS R/W LINE
--- = R/W LINE

| | | | | |
|-----------------|--------------------|--|---|-----------------------------|
| DATE | SEPTEMBER 16, 2013 |  520 SOUTH MAGNOLIA AVENUE ORLANDO, FLORIDA 32801 (407) 843-5120 FAX 407-649-8664 | SKETCH OF DESCRIPTION. THIS IS NOT A BOUNDARY SURVEY. S.R. 429 (WEKIVA PARKWAY) ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA | PARCEL 175 |
| DRAWN BY | M.ROLLINS | | | SCALE: N/A |
| CHECKED BY | S.WARE | | | SHEET 1 OF 2 |
| BSA PROJECT NO. | EA11-J1 | | | |
| REVISION | BY | DATE | | |

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.



SECTION 24, TOWNSHIP 20 SOUTH

PROJECT NO. 429-203

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

WILLIAM E. BYRD, P.S. 3/16/13
LICENSE NUMBER 5442

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

CERTIFICATION OF AUTHORIZATION No. LB 1221

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

SKETCH OF DESCRIPTION.
THIS IS NOT A BOUNDARY SURVEY.

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

PARCEL
175

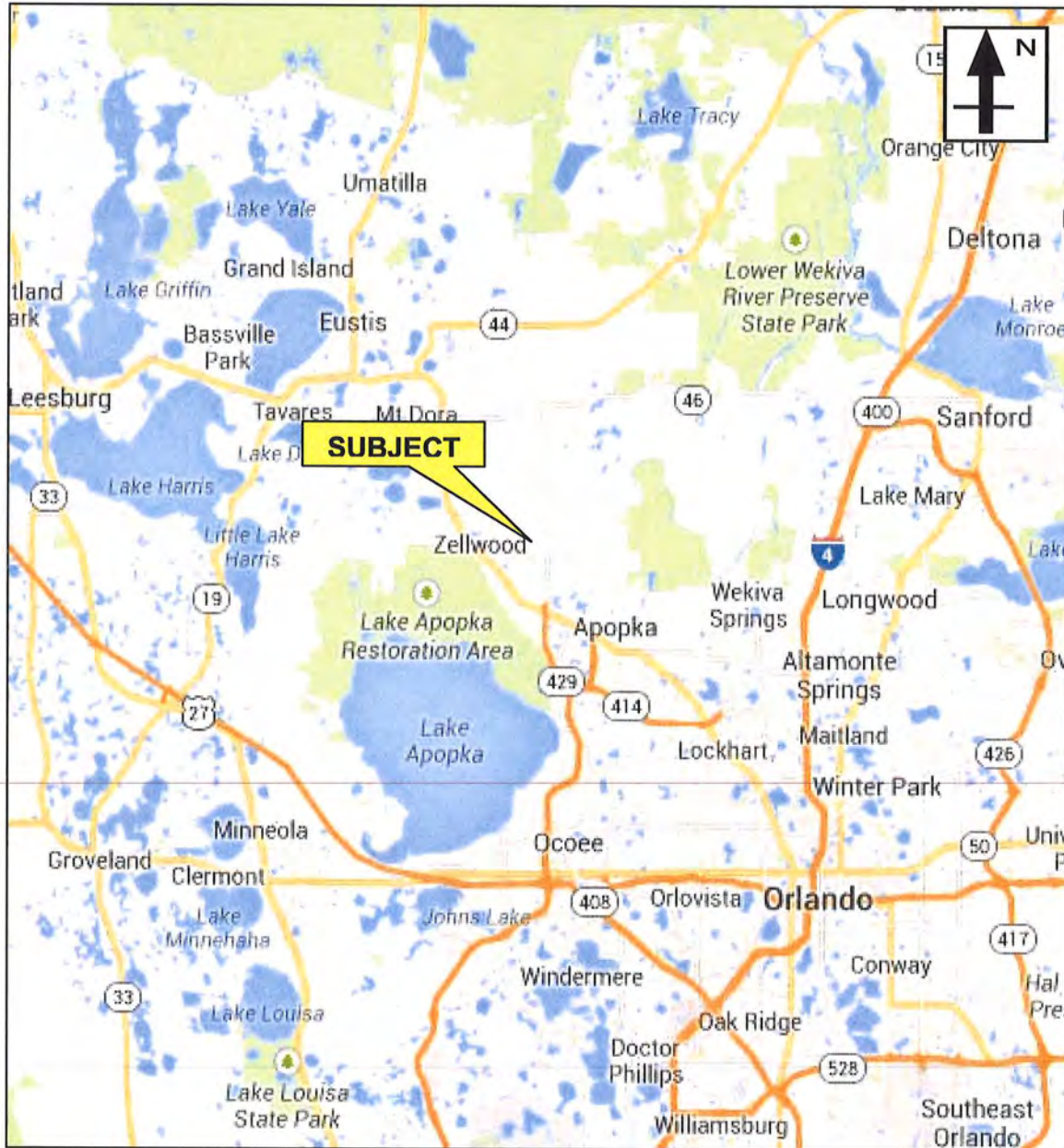
SCALE: 1"=100'

SHEET 2 OF 2

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

11

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: APOPKA/ORANGE

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LOCATION MAP

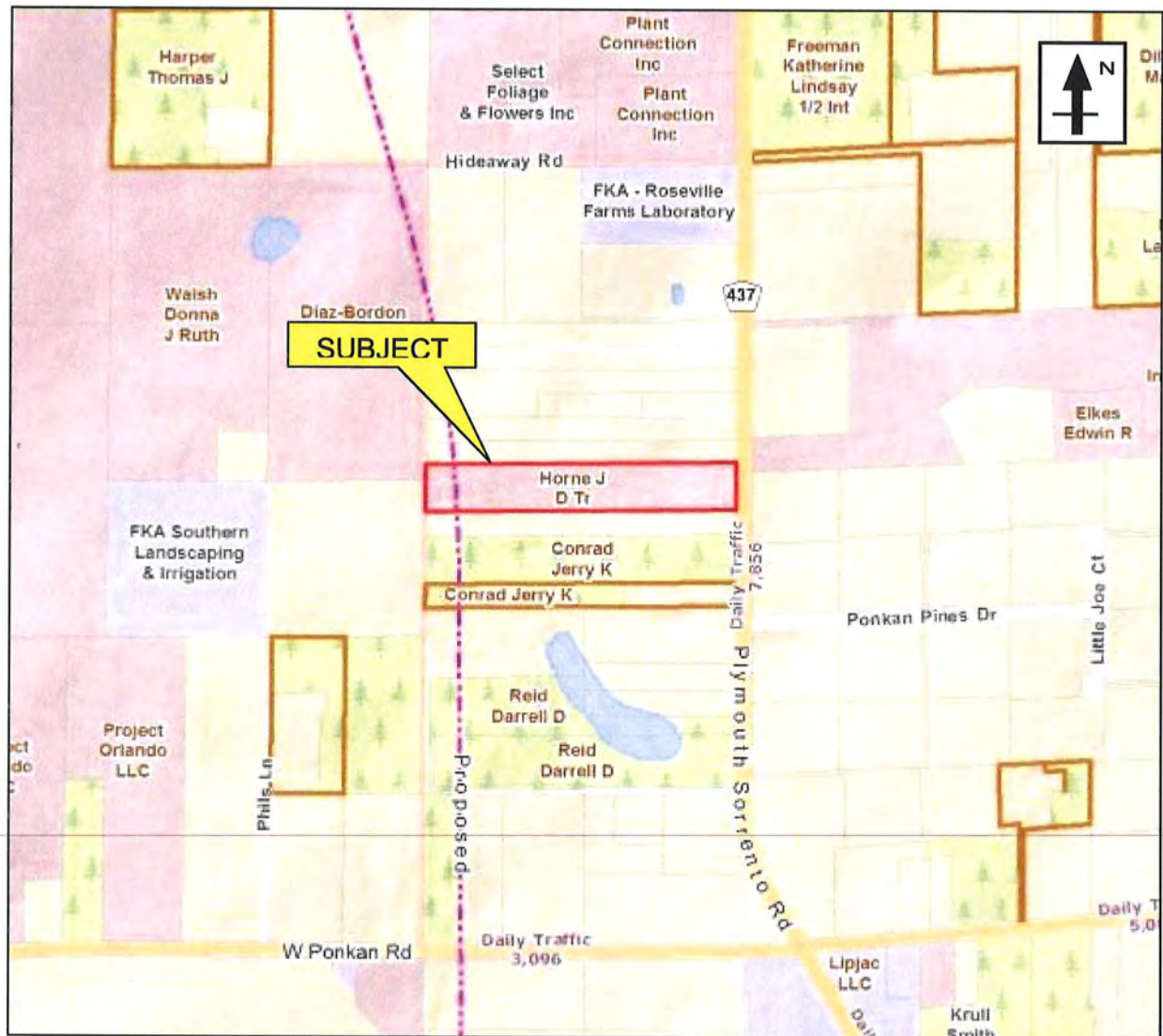


Approximate Representation
Source: Google Maps

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: APOPKA/ORANGE

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TAX MAP



*Approximate Representation
Source: Orange County Property
Annraiser*

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

14

AERIAL PHOTOGRAPH



*Approximate Representation
Source: Orange County Property
Appraiser*



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

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



Rahenkamp Design Group, Inc.

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

For Professional Services Rendered:

| | <u>Hours</u> | <u>Fees</u> |
|---|--------------|-------------|
| 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 |

For Expenses Incurred:

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

Mr. Kent Hipp

Page 2

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 | | <u>\$562.50</u> |
| Charges Subtotal | | <u>\$562.50</u> |
| Invoice Total | | <u>\$562.50</u> |

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> |
| Total | | \$5,305 |

Thank you,

Richard C. Dreggors, GAA
President

RCD/ddp

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

| | | |
|-----------|----------------|------------|
| OWNER | HORNE | RESEARCHER |
| PROJECT | WEKIVA PARKWAY | |
| PARCEL(S) | 175 | |
| COUNTY | ORANGE | |

| DATE | TYPE OF SERVICE | HOURS |
|----------|---|--------------|
| 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> |
| | TOTAL HOURS | 11.75 |

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

| DATE | TYPE OF SERVICE | HOURS |
|-------------|---|--------------|
| 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> |
| | TOTAL HOURS | 13.50 |

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|------------------|-----------------------|---------------------------------|
| OWNER | HORNE | RICHARD C. DREGGORS, GAA |
| PROJECT | WEKIVA PARKWAY | |
| PARCEL(S) | 175 | |
| COUNTY | ORANGE | |

| DATE | TYPE OF SERVICE | HOURS |
|-------------|--|--------------|
| 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> |
| | TOTAL HOURS | 7.50 |

Tab C



MEMORANDUM

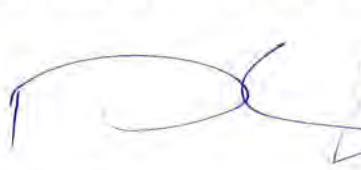
TO: Central Florida Expressway Authority
Right-of-Way Committee Members

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

DATE: April 13, 2016

RE: State Road 429 Wekiva Parkway, Project 429-203; Parcel 207
Proposed Settlement Including Fees and Costs

CLIENT-MATTER NO.: 19125.0127

A handwritten signature in blue ink, appearing to be "David A. Shontz", is written over the "FROM:" line and extends slightly into the "DATE:" line.

Shutts & Bowen LLP, Right-of-Way Counsel, seeks the recommendation of the Right-of-Way Committee 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 207 (the "Taking" or "Property") for the construction of State Road 429 Wekiva Parkway, Project 429-203.

DESCRIPTION AND BACKGROUND

Parcel 207 is a fee simple acquisition of 1.001 acres, more or less, from a parent tract of 19.131 acres, more or less, located on the southwest corner of Plymouth Sorrento Road and West Kelly Park Road, within the city of Apopka, Orange County, Florida. The property is improved with a 2,216 square feet, concrete-block single family residence built in 1979, a mobile home, two barns, numerous sheds and accessory buildings, perimeter fencing and gates, and a masonry wall and iron entrance gate.

The Property is zoned ZIP, Zoning in Progress by the City of Apopka, with the future land use not yet established by the City of Apopka. The highest and best use of the property as vacant was determined to be commercial or mixed use development as dictated by future demand and approval by the City of Apopka.

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 ranging in size from 1.665 acres to 26.00 acres, and with prices ranging from \$72,464 to \$282,282 per acre (and \$1.66 to \$6.48 per square foot), to estimate the land value of the Subject

Property. Due to the location of the property at the intersection of Plymouth Sorrento and West Kelly Park Roads, the overall topography of the property, but lacking zoning/future land use designations, utilities, and entitlements included in most of the comparable sales, Mr. Carpenter opined the value of the parent tract to be \$3.75 per square foot. Thus, the value of the 43,604 square feet, more or less, being taken is estimated at \$163,515, rounded to \$163,500.

Mr. Carpenter used Marshall Valuation Services to estimate the contributory value of the subject's improvements located within the area of taking, including 1,875 lf of chain link fencing, 2 chain link gates, a metal gate, 350 square feet of masonry wall, and an iron gate. Those improvements totaled \$30,731, which was depreciated by 50% for a valuation of \$15,370. A cost to cure the property to maintain continued use and security by replacement of these items totals \$35,247, less the \$15,370 for items paid for in the taking, results in a cost to cure amount of \$19,880. Thus Mr. Carpenter opined the total compensation due for the taking of Parcel 207 is \$198,750.

Although the Respondents have not completed their appraisal report, Kent Hipp counsel for the property owner argued that based upon an executed sales contract for the remainder property with Publix in the amount of \$6.50 s.f. and other comparable sales the total value of the taking should be \$329,926 (\$283,426 land, improvements \$21,500, and cost to cure \$25,000). Mr. Hipp further argued that the sales contract was previously admitted into evidence in a trial of another parcel and therefore is dispositive of the value.

To date, the property owners expert fees total \$10,820.75. Accordingly, the parties were able to reach a negotiated settlement in the amount of \$270,189 in full settlement of all claims for compensation by the property owners, plus reduced expert fees of \$8,000, plus statutory attorney's fees of \$23,574.87.

For the above-cited reasons, Right-of-Way counsel requests a recommendation for approval of the negotiated settlement in the amount of \$270,189, plus attorney's fees and costs and experts fees and costs totaling \$31,574.87, which is in the CFX's best interest. Settlement of the underlying claim, 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 207.

RECOMMENDATION

We respectfully request that the Right-of-Way Committee recommend to the CFX Board the approval of the proposed settlement agreement with a total settlement of \$301,763.87 in full settlement of all claims for compensation in the acquisition of Parcel 207, 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

ORLDOCS 14614513 2

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

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 5/8" IRON ROD WITH NO IDENTIFICATION LOCATED IN A WELL BOX MARKING THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA; THENCE NORTH 88°20'47" EAST ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1357.89 FEET TO ITS INTERSECTION WITH THE WEST LINE OF THE NORTHEAST QUARTER OF SAID NORTHEAST QUARTER AS MONUMENTED AND OCCUPIED; THENCE DEPARTING SAID NORTH LINE RUN SOUTH 00°14'36" EAST ALONG SAID WEST LINE, A DISTANCE OF 30.01 FEET TO ITS INTERSECTION WITH THE EXISTING SOUTH RIGHT OF WAY LINE OF KELLY PARK ROAD AS DESCRIBED IN DEED BOOK 398, PAGE 188 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID WEST LINE RUN NORTH 88°20'47" EAST ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 1302.18 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 25.00 FEET, A CHORD DISTANCE OF 35.91 FEET AND A CHORD BEARING OF SOUTH 45°45'01" EAST; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 91°48'24", A DISTANCE OF 40.06 FEET TO THE POINT OF TANGENCY; SAID POINT ALSO BEING ON THE EXISTING WEST RIGHT OF WAY LINE OF COUNTY ROAD 437 (PLYMOUTH-SORRENTO ROAD) AS DEPICTED ON ORANGE COUNTY ROAD BOND MAP PROJECT NO. 62; THENCE SOUTH 00°09'11" WEST ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 605.84 FEET TO ITS INTERSECTION WITH THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SAID NORTHEAST QUARTER AS MONUMENTED AND OCCUPIED; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE RUN SOUTH 88°34'31" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 16.51 FEET TO A POINT ON A LINE PARALLEL WITH AND 46.50 FEET WEST OF, WHEN MEASURED AT RIGHT ANGLES, THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE DEPARTING SAID SOUTH LINE RUN NORTH 00°09'11" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 581.62 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 25.00 FEET, A CHORD DISTANCE OF 35.91 FEET AND A CHORD BEARING OF NORTH 45°44'45" WEST; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 91°47'53", A DISTANCE OF 40.05 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 88°21'18" WEST, A DISTANCE OF 724.60 FEET; THENCE SOUTH 87°44'58" WEST, A DISTANCE OF 561.08 FEET TO ITS INTERSECTION WITH AFORESAID WEST LINE OF THE NORTHEAST QUARTER OF SAID NORTHEAST QUARTER; THENCE NORTH 00°14'36" WEST ALONG SAID WEST LINE, A DISTANCE OF 29.88 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.001 ACRES, MORE OR LESS

NOTE:

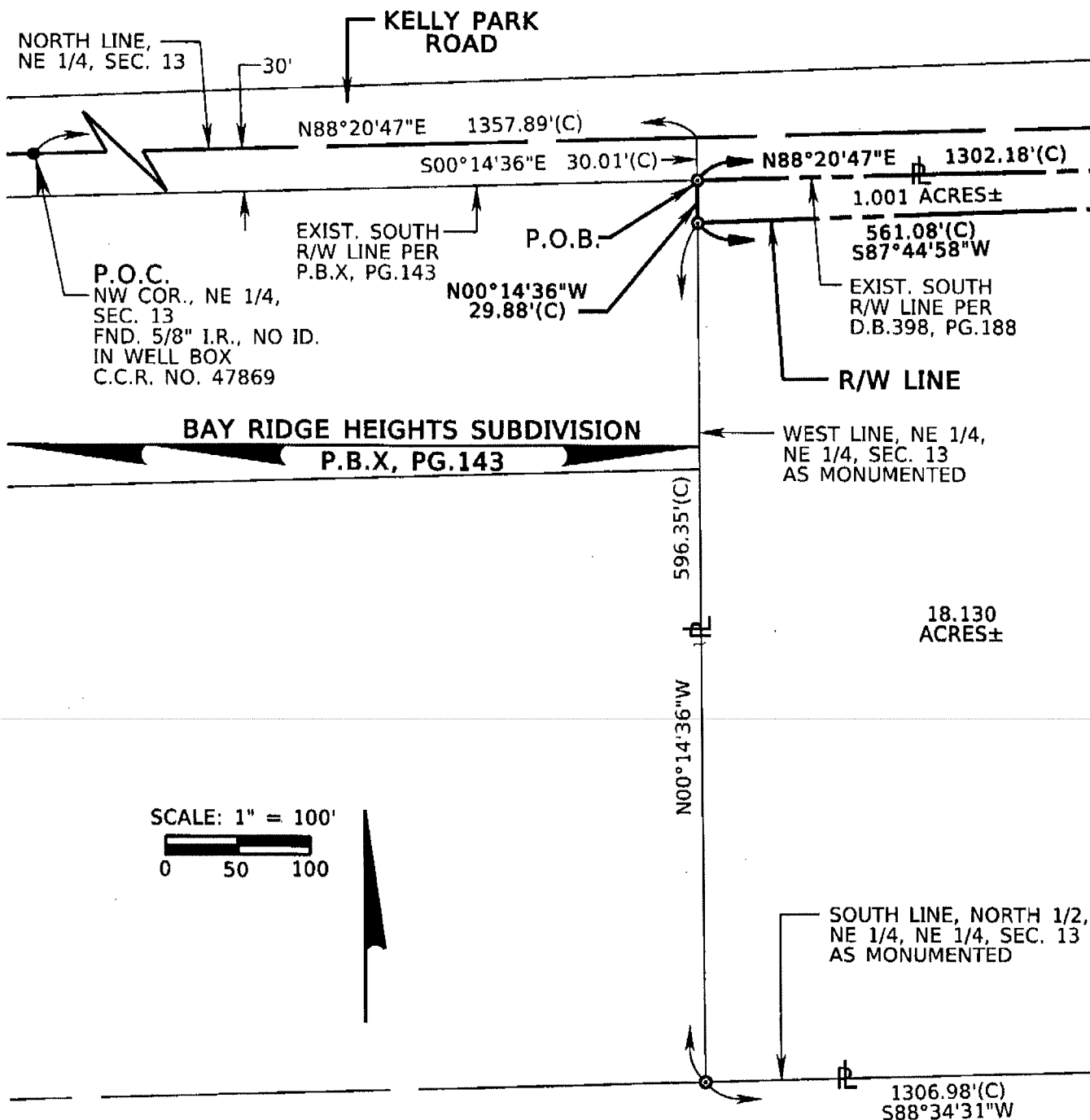
THIS SKETCH OF DESCRIPTION WAS PREPARED WITH THE BENEFIT OF CERTIFICATE OF TITLE INFORMATION PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY AS TO FILE NO. 2037-2891327 DATED 01/18/2013

LEGEND & ABBREVIATIONS

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


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|-----------------|-------------------|--|---|---|-----------------------------|
| DATE | NOVEMBER 18, 2013 | CERTIFICATION OF AUTHORIZATION No. LB 1221 | 520 SOUTH MAGNOLIA AVENUE ORLANDO, FLORIDA 32801 (407) 843-5120 FAX 407-649-8664 | SKETCH OF DESCRIPTION. THIS IS NOT A BOUNDARY SURVEY. S.R. 429 (WEKIVA PARKWAY) ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA | PARCEL 207 |
| DRAWN BY | M.ROLLINS | | | | SCALE: N/A |
| CHECKED BY | S.WARE | | | | SHEET 1 OF 4 |
| BSA PROJECT NO. | EA11-J1 | | | | |
| REVISION | BY | DATE | | | |

BEARING STRUCTURE BASED ON THE NORTH LINE OF THE NORTHEAST 1/4 OF SEC. 13-20-27, BEING N88°20'47"E, FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, 1983/2007 ADJUSTMENT.

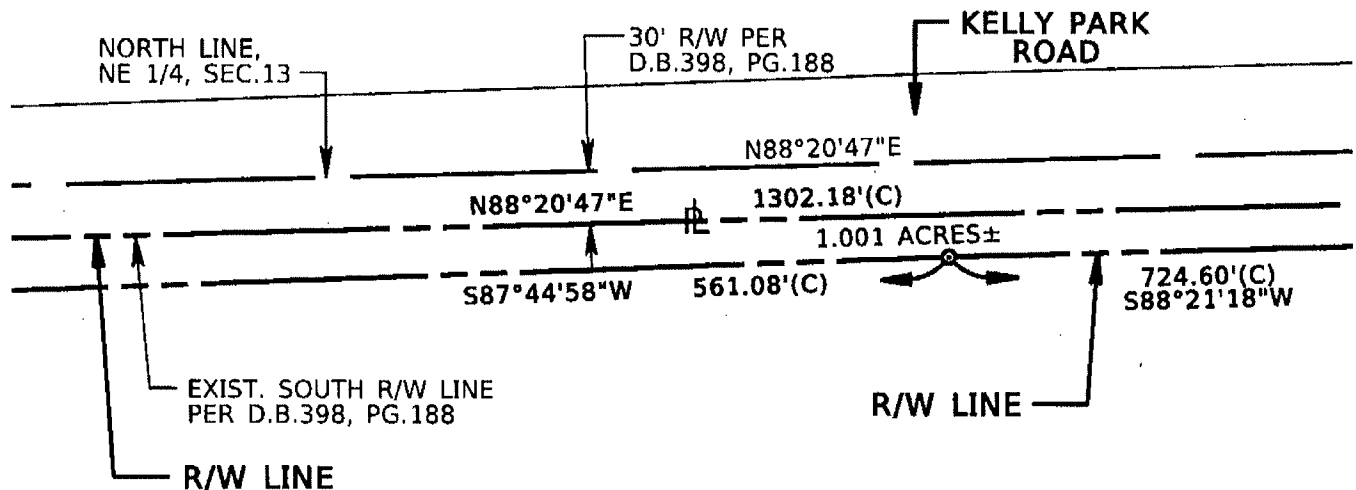


SECTION 13, TOWNSHIP 20 SOUTH, RANGE 27 EAST

PROJECT NO. 429-203

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| DATE | NOVEMBER 18, 2013 |  <p>CERTIFICATION OF AUTHORIZATION No. LB 1221</p> <p>520 SOUTH MAGNOLIA AVENUE ORLANDO, FLORIDA 32801 (407) 843-5120 FAX 407-649-8664</p> | SKETCH OF DESCRIPTION. THIS IS NOT A BOUNDARY SURVEY. | PARCEL 207 |
| DRAWN BY | M.ROLLINS | | | |
| CHECKED BY | S.WARE | | S.R. 429 (WEKIVA PARKWAY) ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA | SCALE: 1"=100' |
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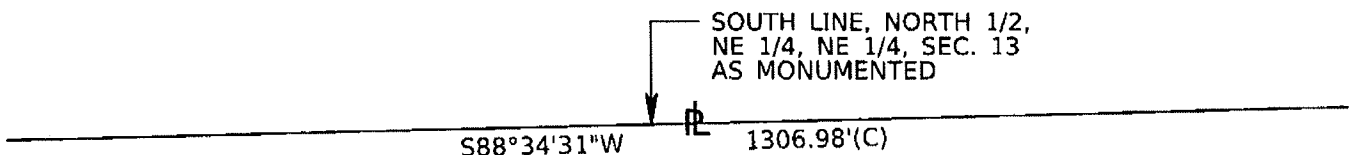
BEARING STRUCTURE BASED ON THE NORTH LINE
OF THE NORTHEAST 1/4 OF SEC. 13-20-27, BEING
N88°20'47"E, FLORIDA STATE PLANE COORDINATE
SYSTEM, EAST ZONE, 1983/2007 ADJUSTMENT.




SCALE: 1" = 100'



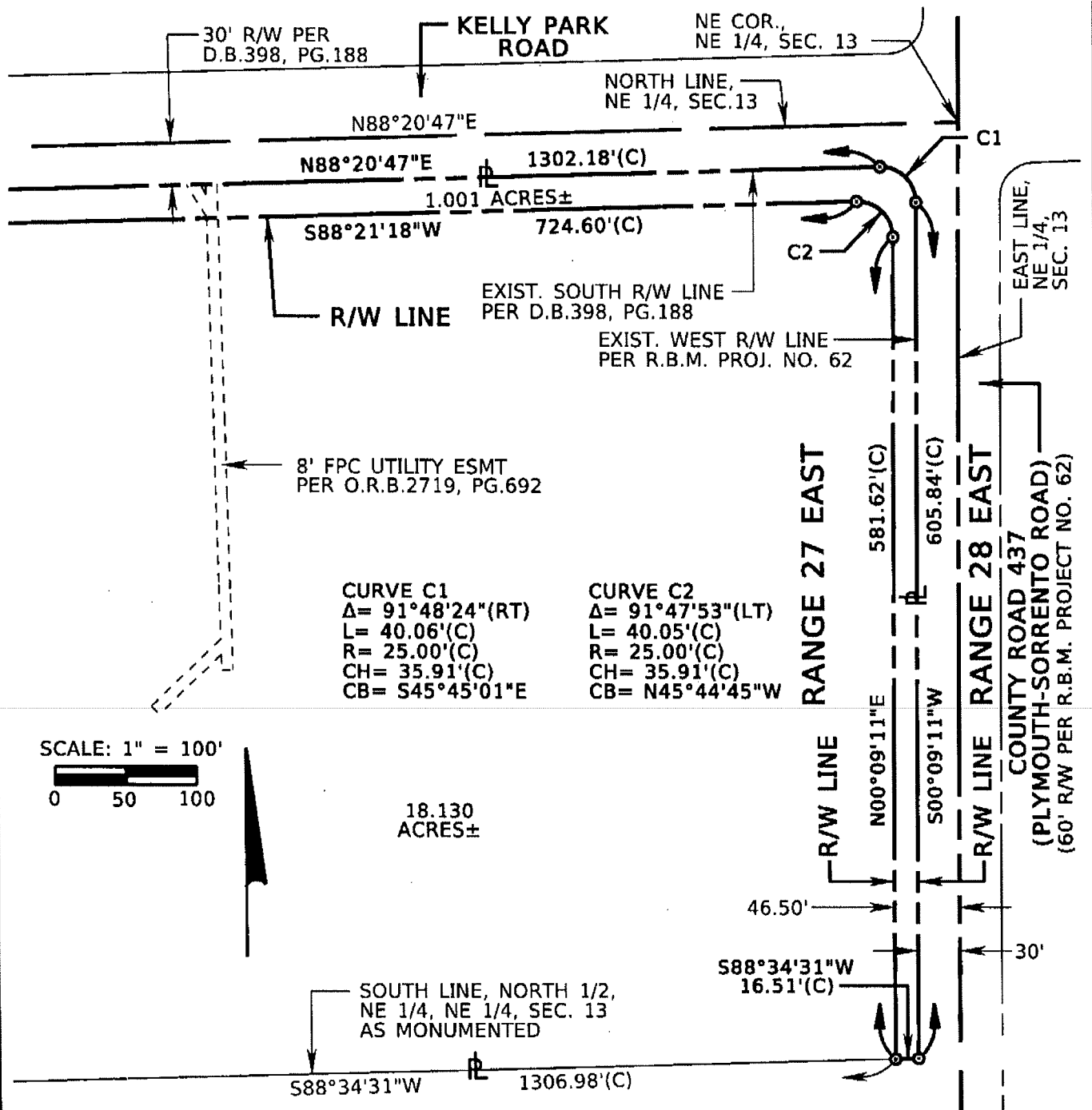
SECTION 13,
TOWNSHIP 20 SOUTH,
RANGE 27 EAST



PROJECT NO. 429-203

| | | | | |
|-----------------|-------------------|---|--|----------------|
| DATE | NOVEMBER 18, 2013 | <div>CERTIFICATION OF AUTHORIZATION No. LB 1221</div> <div><div>520 SOUTH MAGNOLIA AVENUE ORLANDO, FLORIDA 32801 (407) 843-5120 FAX 407-649-8664</div></div> | SKETCH OF DESCRIPTION. THIS IS NOT A BOUNDARY SURVEY. | PARCEL 207 |
| DRAWN BY | M.ROLLINS | | | SCALE: 1"=100' |
| CHECKED BY | S.WARE | | S.R. 429 (WEKIVA PARKWAY) ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA | SHEET 3 OF 4 |
| BSA PROJECT NO. | EA11-11 | | | |
| REVISION | BY | | | |

BEARING STRUCTURE BASED ON THE NORTH LINE OF THE NORTHEAST 1/4 OF SEC. 13-20-27, BEING N88°20'47"E, FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, 1983/2007 ADJUSTMENT.



SECTION 13, TOWNSHIP 20 SOUTH, RANGE 27 EAST PROJECT NO. 429-203

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

William E. Byrd 11/10/13 DATE
 WILLIAM E. BYRD, P.S.M.
 LICENSE NUMBER 5442

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

CERTIFICATION OF AUTHORIZATION No. LB 1221

POWYLER SINGLETON

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

SKETCH OF DESCRIPTION.
 THIS IS NOT A BOUNDARY SURVEY.

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

PARCEL
 207

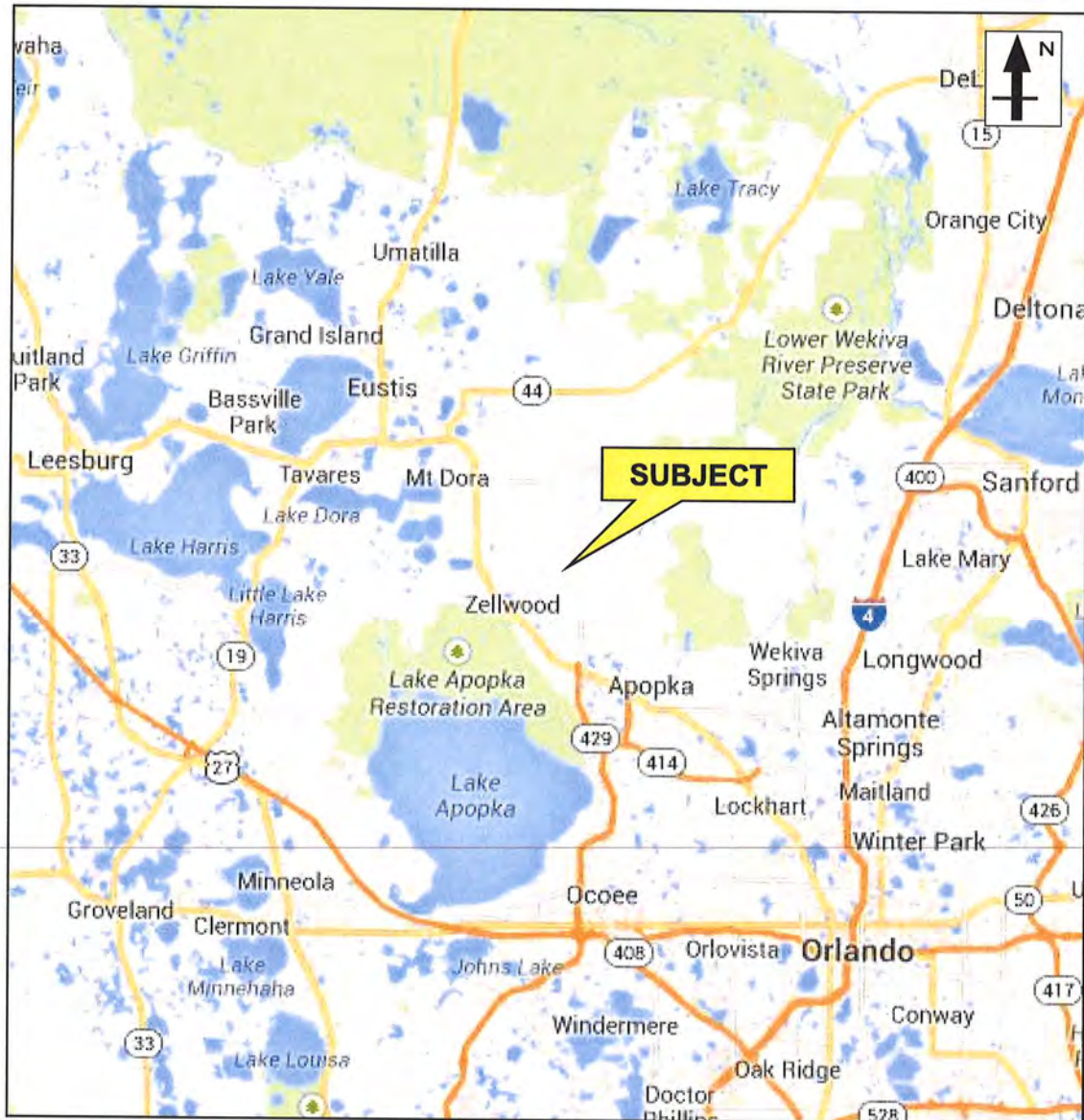
SCALE: 1"=100'

SHEET 4 OF 4

PARCEL NO.: 207
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

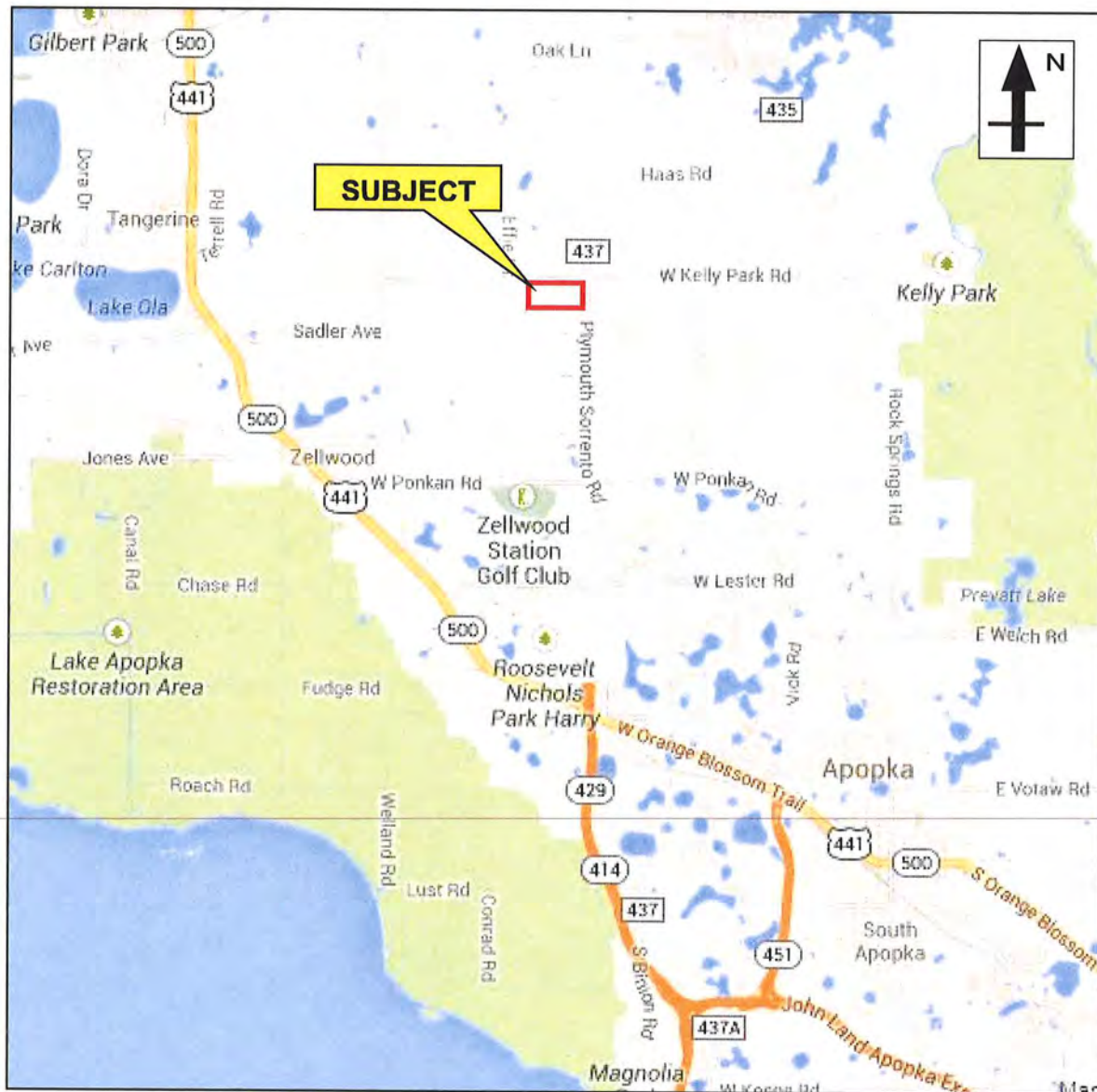


*Approximate Representation
Source: Google Maps*

PARCEL NO.: 207
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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LOCATION MAP

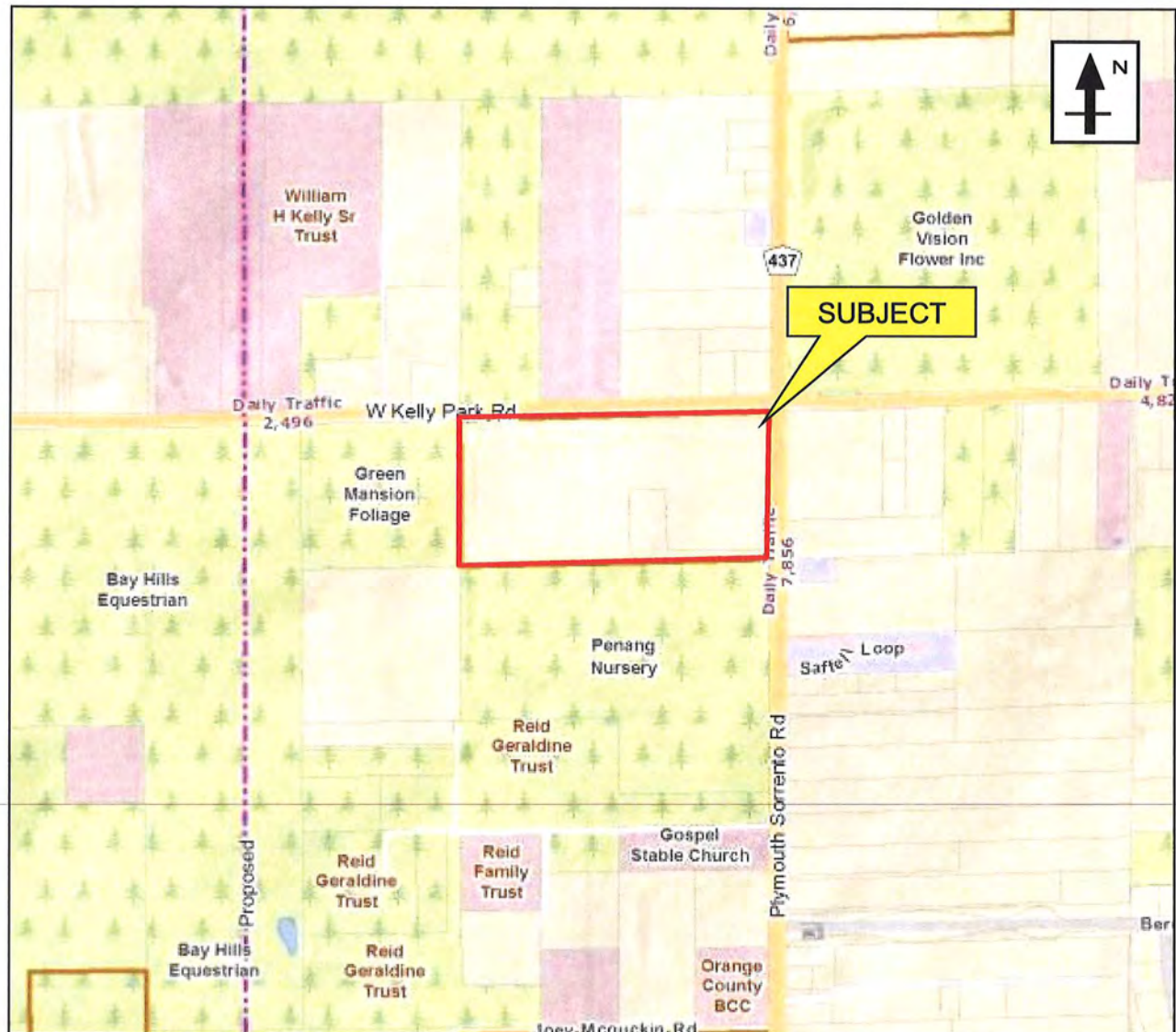


Approximate Representation
Source: Google Maps

PARCEL NO.: 207
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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TAX MAP



*Approximate Representation
Source: Orange County Property
Appraiser*

PARCEL NO.: 207
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

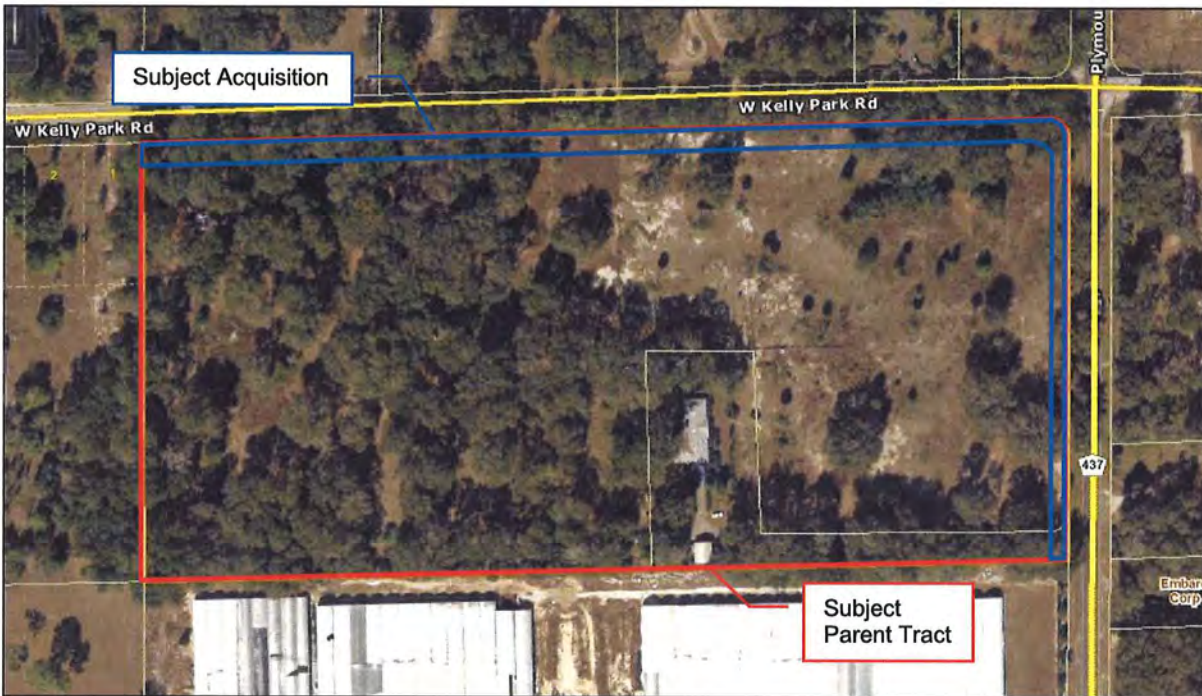


*Approximate Representation
Source: Orange County Property
Appraiser*

PARCEL NO.: 207
OWNER: ERNEST L. AND SHERMAN L. HORNE, SUCCESSOR CO-TRUSTEES
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203
CITY/COUNTY: AOPKA/ORANGE

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AERIAL PHOTO (ACQUISITION)



PARCEL NO.: 207
OWNER: ERNEST L. AND SHERMAN L. HORNE, SUCCESSOR CO-TRUSTEES
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203
CITY/COUNTY: APOPKA/ORANGE

14

SUBJECT PHOTOGRAPHS



View of the north area of the parent tract facing south from West Kelly Park Rd



View of the north area of the parent tract, facing south

PARCEL NO.:
OWNER:
PROJECT:
CITY/COUNTY:

207
ERNEST L. AND SHERMAN L. HORNE, SUCCESSOR CO-TRUSTEES
SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203
APOPKA/ORANGE

15

SUBJECT PHOTOGRAPHS (CONT.)



View of the north area of the parent tract facing southwest



View of the mobile home in the north area of the parent tract

**J D Horne Trust
Experts' Fees and Costs
Parcel 207 – Big Horne**

| | |
|--------------------------------------|--------------------|
| Rahenkamp Design Group, Inc. | \$ 495.75 |
| Ed Williams | \$ 1,000.00 |
| Calhoun, Dreggors & Associates, Inc. | <u>\$ 9,325.00</u> |
| Totals | \$10,820.75 |

Rahenkamp Design Group, Inc.

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 # 14.050, OOCEA v. J.D. and Kathleen L. Horne Trust
Project: State Road 429 (Wekiva Parkway)
Parcel No. 207

For Professional Services Rendered:

| | Hours | Fees |
|---|-------|----------|
| 02/28/14 Review OOCEA appraisal (Walter Carpenter) & land planning report (Ellen Hardgrove) | 0.60 | 135.00 |
| 04/02/14 Research Orange County Property Appraiser website for property information and Deed | 0.40 | 16.80 |
| 06/24/14 Review OOCEA review appraisal (Consortium Appraisal, Inc.) | 0.20 | 45.00 |
| Review OOCEA Site Evaluation report (Donald W. McIntosh Associates) | 0.20 | 45.00 |
| Review OOCEA land planning report | 0.20 | 45.00 |
| 07/16/14 Review Construction Plans and print applicable sheets for subject property | 0.60 | 25.20 |
| 10/22/14 Conference call with Rick Dreggors, Kent Hipp, Nick Dancaescu and Harold Lassman re: impacts to subject property; discuss necessity of acquisition per current roadway project | 0.80 | 120.00 |
| Total Professional Services: | 3.00 | \$432.00 |

For Expenses Incurred:

| | |
|-----------------|----------------|
| B&W Xerox: | 40.80 |
| Color Xerox: | 22.95 |
| Total Expenses: | <u>\$63.75</u> |

Development Services • Golf Course Architecture • Eminent Domain
Landscape Architecture • Land Use Planning
(LC0000343)

2816 S. MacDill Avenue
Tampa, FL 33629

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

Mr. Kent Hipp

Page 2

Fees

Total This Invoice:

\$495.75

Balance Now Due:

\$495.75

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.: 207
County: Orange

INVOICE

Inspect subject property, review original and updated O/OCEA appraisal reports, research/analysis of land sales, analysis of highest and best use, review and discuss pending contract for the subject property, conference with other experts, conference and meetings with owner's representative, review impacts of the taking, analysis of the value of the taking.

| | | |
|--------------|-------------------------|----------------|
| Abrams: | 16.75 Hrs. x \$175/Hr.= | \$2,931 |
| Dreggors: | 23.25 Hrs. x \$275/Hr.= | <u>6,394</u> |
| Total | | \$9,325 |

Thank you,

Richard C. Dreggors, GAA
President

RCD/smo

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

| | | |
|------------------|-----------------------|------------------------|
| OWNER | HORNE | COURTNEY ABRAMS |
| PROJECT | WEKIVA PARKWAY | |
| PARCEL(S) | 207 | |
| COUNTY | ORANGE | |

| DATE | TYPE OF SERVICE | HOURS |
|-------------|---|--------------|
| 03/14/14 | REVIEW OF SUBJECT MATERIAL; REVIEW/ANALYSIS OF O/OCEA APPRAISAL. | 2.75 |
| 04/21/14 | PREPARE FOR MEETING; ANALYSIS OF SUBJECT DOCUMENTS. | 1.25 |
| 04/22/14 | ANALYSIS OF O/OCEA SALES; PRELIMINARY RESEARCH/ANALYSIS OF SALES. | 3.00 |
| 08/14/14 | RESEARCH OF IMPACTS TO THE REMAINDER AS A RESULT OF THE TAKING; REVIEW SCOPE OF WORK. | 4.00 |
| 08/15/14 | ANALYSIS OF VALUATION ISSUES; SALES ANALYSIS. | 2.00 |
| 08/16/14 | UPDATE RESEARCH/ANALYSIS OF LAND SALES. | 1.75 |
| 11/03/14 | CONFERENCE CALL WITH OWNER'S REPRESENTATIVE; WORKED ON PREPARING EXHIBITS OF SUBJECT PROPERTY AND SURROUNDING CFX VALUES. | <u>2.00</u> |
| | TOTAL HOURS | 16.75 |

| | | |
|------------------|-----------------------|---------------------------------|
| OWNER | HORNE | RICHARD C. DREGGORS, GAA |
| PROJECT | WEKIVA PARKWAY | |
| PARCEL(S) | 207 | |
| COUNTY | ORANGE | |

| DATE | TYPE OF SERVICE | HOURS |
|-------------|---|--------------|
| 02/06/12 | REVIEW INFORMATION FROM OWNER'S REPRESENTATIVE. | 1.50 |
| 02/10/12 | PREPARE FOR AND MEET WITH OWNER; REVIEW TAKING AND POTENTIAL IMPACTS TO REMAINDER. | 1.75 |
| 02/15/12 | MEETING WITH OWNER'S REPRESENTATIVE; REVIEW PARKWAY PLANS. | 0.50 |
| 05/02/12 | CONFERENCE WITH OWNER'S REPRESENTATIVE; REVIEW SALS. | 0.25 |
| 02/26/14 | REVIEW DOCUMENTS AND REPORTS FROM O/OCEA ON THE SUBJECT PARCEL; CONFERENCE WITH OWNER'S REPRESENTATIVE AND DISCUSS. | 4.25 |
| 03/03/14 | REVIEW O/OCEA REPORTS. | 0.75 |
| 03/04/14 | MEETING WITH OWNER'S REPRESENTATIVE; REVIEW VALUATION ISSUES. | 0.50 |
| 03/24/14 | REVIEW UPDATED APPRAISAL OF THE SUBJECT AND NEARBY PARCELS. | 2.50 |
| 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. | 0.75 |
| 05/13/14 | CONFERENCE WITH OWNER'S REPRESENTATIVE. | 0.25 |
| 06/13/14 | REVIEW UPDATED CFX APPRAISAL. | 2.00 |
| 08/15/14 | PREPARE FOR MEETING; MEETING WITH OWNER'S REPRESENTATIVE TO REVIEW VALUATION ISSUES; UPDATE LAND SALES RESEARCH. | 2.75 |
| 10/21/14 | REVIEW FILE; CONFERENCE WITH OWNER'S REPRESENTATIVE; PREPARE FOR MEETING. | 1.50 |
| 10/22/14 | MEETING WITH OWNER'S REPRESENTATIVE TO REVIEW VALUATION ISSUES. | 1.75 |

| | | |
|-----------|----------------|--------------------------|
| OWNER | HORNE | RICHARD C. DREGGORS, GAA |
| PROJECT | WEKIVA PARKWAY | |
| PARCEL(S) | 207 | |
| COUNTY | ORANGE | |

| DATE | TYPE OF SERVICE | HOURS |
|----------|--|--------------|
| 06/04/15 | REVIEW CONTRACT ON THE SUBJECT PARCEL; CONFERENCE WITH OWNER'S REPRESENTATIVE REGARDING THIS CONTRACT. | <u>1.75</u> |
| | TOTAL HOURS | 23.25 |

Tab D



MEMORANDUM


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

CLIENT-MATTER NO.: 19125.0143

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

DATE: April 13, 2016

RE: State Road 429 Wekiva Parkway, Project 429-204; Parcel 240
Proposed Mediated Settlement Including Fees and Costs



Shutts & Bowen LLP, Right-of-Way Counsel, seeks the recommendation of the Right-of-Way Committee of a proposed mediated settlement between Stephen Lee Rigsby and Mark Lane Rigsby, (the "Owners") and the Central Florida Expressway Authority (the "CFX") for the acquisition of Parcel 240 (the "Taking" or "Property") for the construction of State Road 429 Wekiva Parkway, Project 429-204.

DESCRIPTION AND BACKGROUND

Parcel 240 ("Subject Property") is a fee simple acquisition of 1.479 acres, more or less, from property consisting of approximately 6.976 acres, located on the south side of Ondich Road and west of Plymouth Sorrento Road in Orange County, Florida. The property is improved with a 1,412 s.f., 3 bed/2 bath single family residence; a 348 s.f. garage and a rear porch with a wooden deck. Additional improvements include a 40' by 45' open-end Quonset hut with a 60' x 45' concrete slab, a concrete parking slab north of the garage, a small open shed along the south property line, a shell/dirt driveway, wood/field wire fencing along the north and south property lines, and landscaping of native trees, shrubs, pasture, and grass. A manufactured home is located along the south property line.

The Property is zoned A-1, Citrus Rural District by Orange County which provides for primarily residential/agricultural uses, and for which future development is uncertain, and for which a more restricted zoning is considered premature. The future land use designation is R, Rural/Agricultural, by Orange County, and the property adjoins the city limits of Apopka. The highest and best use of the property as vacant was determined to be for rural residential development. The highest and best use as improved is the continued single family residential use.

The CFX's appraisal of the property was prepared by David K. Hall, ASA, of Bullard, Hall & Adams, Inc. Mr. Hall used a sales comparison approach to estimate the land of the Subject Property. In estimating the land value of the Subject Property, Mr. Hall used five (5) comparable sales with an adjusted range of \$22,874 to \$30,021 per acre, with a concluded value of \$30,000 per acre. Mr. Hall also used the sales comparison approach to estimate the value of the improvements on the subject property. Mr. Hall located three (3) comparable improved properties with adjusted sales prices ranging from \$81.62 to \$98.77 per square foot of living area, arriving at the value of \$98.00 per square foot of living area for the subject.

There are no building improvements in the area of taking, so Mr. Hall opines the land value of the taking is 1.479 acres @ \$30,000 per acre or \$44,400. Additionally, John Speer provided a cost estimate for the improvements in the taking including fencing, posts, the 12' by 14' open wood shed, a 126 square feet concrete slab, septic system, water line, wood utility pole with electrical box, and pasture grasses totaling \$15,400. Thus, the value of the land and improvements taken total \$59,800.

After the taking, the residence will be approximately 480 feet from the taking at the east line, with the new east property line being the limited access right of way line. The residence will also be approximately 140 feet from the new limited access right of way line which is improved with a water retention area adjacent to the elevated roadway and overpass and interchange at Ondich Road, and adjacent to a water retention pond on the northern portion of the remainder property. Due to the proximity of these elements of the Wekiva Parkway, Mr. Hall opined a reduction in value to the remainder land and improvements at 50%. John Speer also provided a cost to cure of \$4,200 to reestablish fencing along the new right of way line to maintain security and containment, and to cap the water line to the dilapidated manufacturer home. Thus, Mr. Hall opined the total compensation due for the taking of Parcel 240 is \$208,000 (\$59,800 land and improvements, damages \$144,000, and cost to cure of \$4,200).

Richard C. Dreggors, GAA, of Calhoun, Dreggors & Associates prepared the appraisal report for the Respondents. Mr. Dreggors utilized information from VHB as to land planning, MEI as to engineering, and Power Acoustics, Inc. as to a sound report, to prepare his appraisal report. Mr. Dreggors opined the highest and best use as vacant would be for a single family use, and the highest and best use as improved for the continued use of the existing single family home.

Mr. Dreggors utilized four (4) comparable land sales ranging in value from \$39,063 to \$49,342 per acre, arriving at a valuation of \$47,500 per acre for the Subject Property. Mr. Dreggors used the Direct Comparison Approach to estimate the value of the subject property by comparison with similarly improved properties. Mr. Dreggors utilized five (5) comparable sales ranging from \$107.65 per square foot to \$118.80 per square foot, arriving at a value of \$110.00 per square foot for the subject property improvements. Additionally, Mr. Dreggors opines the remainder property and the value of the remainder improvements will be damaged 50% by the close proximity of the Wekiva Parkway, and Mr. Morris of MEI estimated a cost to cure of \$4,200. Thus, Mr. Dreggors opined the total value of the taking is \$290,500 (\$70,300 land, \$15,400 improvements, damages \$200,600, and cost to cure \$4,200).

Trial of this matter was scheduled to begin on June 20, 2016, and the parties agreed to mediation prior to completion of extensive pre-trial discovery. During mediation, the parties were able to reach a settlement in the amount of \$239,500 as full settlement of all claims for compensation by the property owner, plus statutory attorney's fees totaling \$10,395, plus reduced expert fees and costs totaling \$41,227.

For the above-cited reasons, Right-of-Way counsel requests a recommendation for approval of the mediated settlement in the amount of \$239,500, plus attorney's fees and costs and experts fees and costs totaling \$51,622, which is in the CFX's best interest. Settlement of the underlying claim, 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 240.

RECOMMENDATION

We respectfully request that the Right-of-Way Committee recommend to the CFX Board the approval of the proposed settlement agreement with a total settlement of \$291,122 in full settlement of all claims for compensation in the acquisition of Parcel 240, 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" – Mediated Settlement Agreement – Parcel 240
- Exhibit "D" – Experts Invoices

ORLDOCS 14615656 2

LEGAL DESCRIPTION

PARCEL 240

PURPOSE: LIMITED ACCESS RIGHT OF WAY

ESTATE: FEE SIMPLE

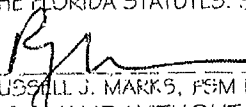
THAT PART OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, BEING THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3147, PAGE 1623 AND BOOK 9482, PAGE 2623, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 20 SOUTH, RANGE 27 EAST, (A 1/2" IRON ROD IN WELLBOX AS NOW EXISTS); THENCE SOUTH 89°21'11" WEST ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 12, A DISTANCE OF 2016.03 FEET; THENCE SOUTH 00°21'28" WEST AND DEPARTING SAID SOUTH LINE, A DISTANCE OF 30.00 FEET TO A POINT ON THE EXISTING SOUTH RIGHT OF WAY LINE OF ONDICH ROAD AND A POINT ON THE WEST LINE OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 AND BEING THE WEST LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 5576, PAGE 4295 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE CONTINUE SOUTH 00°21'28" WEST AND DEPARTING SAID SOUTH RIGHT OF WAY LINE AND ALONG SAID WEST LINE, A DISTANCE OF 734.03 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00°21'28" WEST ALONG SAID WEST LINE, A DISTANCE OF 565.31 FEET TO A POINT ON THE NORTHERN BOUNDARY OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 7706, PAGE 188 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE SOUTH 89°17'05" WEST ALONG SAID NORTHERN BOUNDARY, A DISTANCE OF 106.56 FEET TO THE NORTHEAST CORNER OF EMERY SMITH SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 7, PAGE 22 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE SOUTH 89°18'22" WEST ALONG THE NORTH LINE OF SAID EMERY SMITH SUBDIVISION, A DISTANCE OF 113.23 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE FROM A TANGENT BEARING OF NORTH 18°35'31" EAST, NORTHEASTERLY 350.37 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 4987.67 FEET, A CENTRAL ANGLE OF 04°01'30" AND A CHORD BEARING OF NORTH 20°36'16" EAST TO A POINT OF TANGENCY; THENCE NORTH 22°37'00" EAST, A DISTANCE OF 260.12 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 1.479 ACRES, MORE OR LESS.

I HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION AND SKETCH IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS LEGAL DESCRIPTION AND SKETCH MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES. SUBJECT TO NOTES AND NOTATIONS SHOWN HEREON.


RUSSELL J. MARKS, FPM NO. 5623

NOT VALID WITHOUT SIGNATURE AND ORIGINAL RAISED SEAL

DATE

3/25/14

FOR: ORLANDO ORANGE COUNTY EXPRESSWAY AUTHORITY

STATE ROAD 429

DESIGNED BY: RJM

DATE: 3/18/14

DRAWN BY: SMP

JOB NO:

APPROVED BY: RJM

OOCEA PROJECT NO: 429-204

URS

URS CORPORATION
315 E. ROBINSON STREET
SUITE 245
ORLANDO, FL 32801-1949
PH (407) 422-0353
LICENSED BUSINESS NO. 6839

REVISIONS:

SHEET: 1 OF 2

EXHIBIT "A"

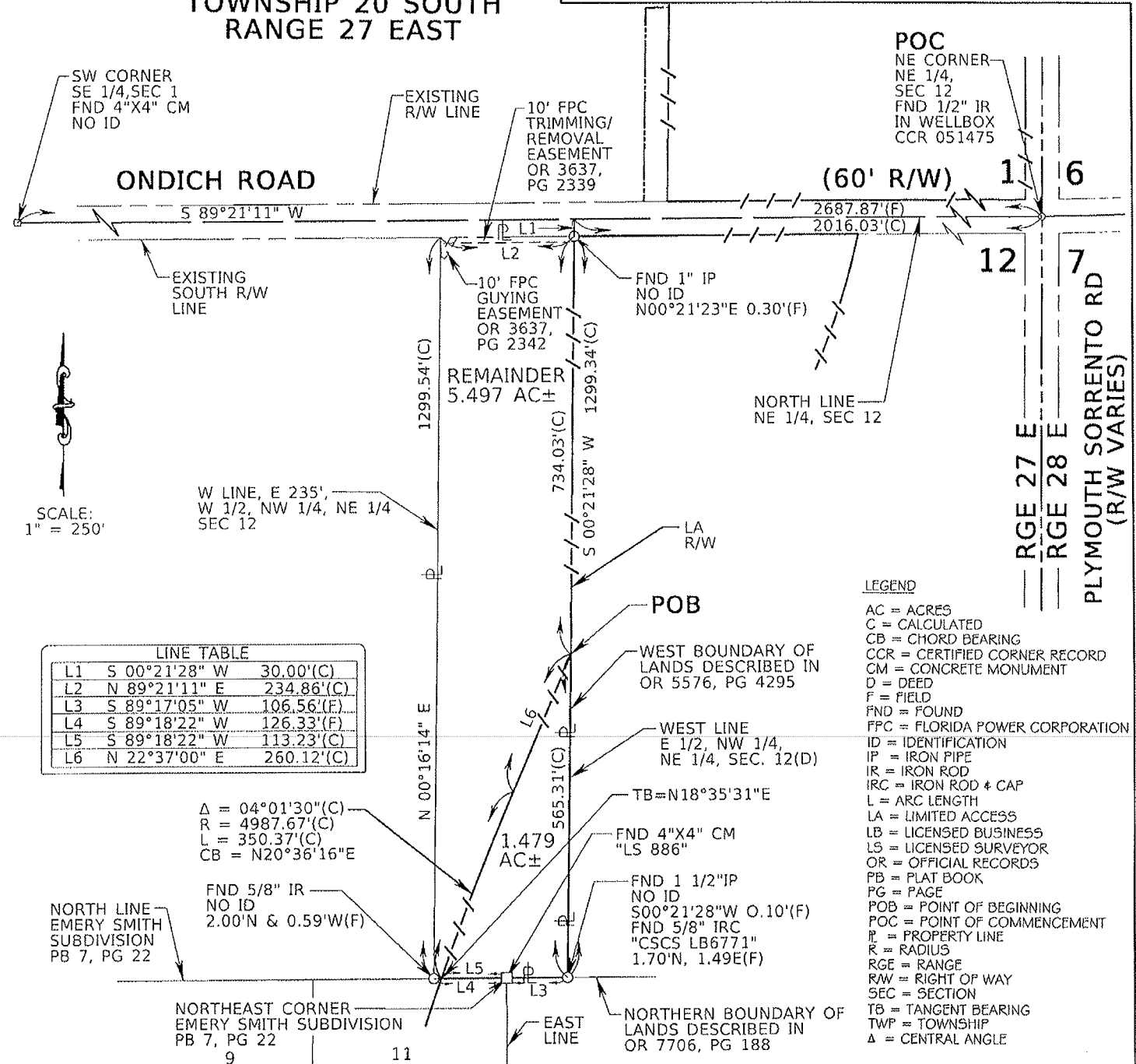
SKETCH OF DESCRIPTION

PARCEL 240

PURPOSE: LIMITED ACCESS RIGHT OF WAY

ESTATE: FEE SIMPLE

TOWNSHIP 20 SOUTH RANGE 27 EAST



GENERAL NOTES:

1. THE BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, 1983 NORTH AMERICAN DATUM, 2007 ADJUSTMENT, WITH THE NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, HAVING A BEARING OF SOUTH 89°21'11" WEST.
2. THERE MAY BE OTHER RECORDED DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY THAT ARE NOT SHOWN ON THIS SKETCH OF DESCRIPTION.
3. ATTENTION IS DIRECTED TO THE FACT THESE MAPS MAY HAVE BEEN ALTERED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALE DATA.
4. A CERTIFICATE OF TITLE INFORMATION PREPARED BY "FIRST AMERICAN TITLE INSURANCE COMPANY" DATED NOVEMBER 19, 2012, FILE NO. 2037-2856936 WAS REVIEWED BY THE SURVEYOR AND EXCEPTIONS (IF ANY) NOTED ON SAID CERTIFICATE ARE SHOWN HEREON.

FOR: ORLANDO ORANGE COUNTY EXPRESSWAY AUTHORITY

STATE ROAD 429

DESIGNED BY: RJM

DATE: 3/18/14

DRAWN BY: SMP

JOB NO:

APPROVED BY: RJM

OOCEA PROJECT NO: 429-204

URS

URS CORPORATION
315 E. ROBINSON STREET
SUITE 245
ORLANDO, FL 32801-1949
PH (407) 422-0353
LICENSED BUSINESS NO. 6839

REVISIONS:

SHEET: 2 OF 2

**PHOTOGRAPHS OF SUBJECT
PARCEL 240**



1. LOOKING WEST AT THE FRONTAGE ALONG ONDICH ROAD



2. LOOKING SOUTH AT THE SUBJECT DRIVEWAY

Photographs Taken By:
Craig S. Adams
July 9, 2014

**PHOTOGRAPHS OF SUBJECT
PARCEL 240**



3. LOOKING SOUTHWEST AT THE RESIDENCE



4. LOOKING NORTHWEST AT THE REAR OF THE HOUSE

**PHOTOGRAPHS OF SUBJECT
PARCEL 240**



5. LOOKING SOUTH AT THE QUONSET HUT SHED



6. LOOKING SOUTH AT THE BACK FIELD

**PHOTOGRAPHS OF SUBJECT
PARCEL 240**



7. LOOKING SOUTH AT THE TAKING



**8. LOOKING SOUTHWEST AT THE ABANDONED
MANUFACTURED HOME IN THE TAKING**

**PHOTOGRAPHS OF SUBJECT
PARCEL 240**



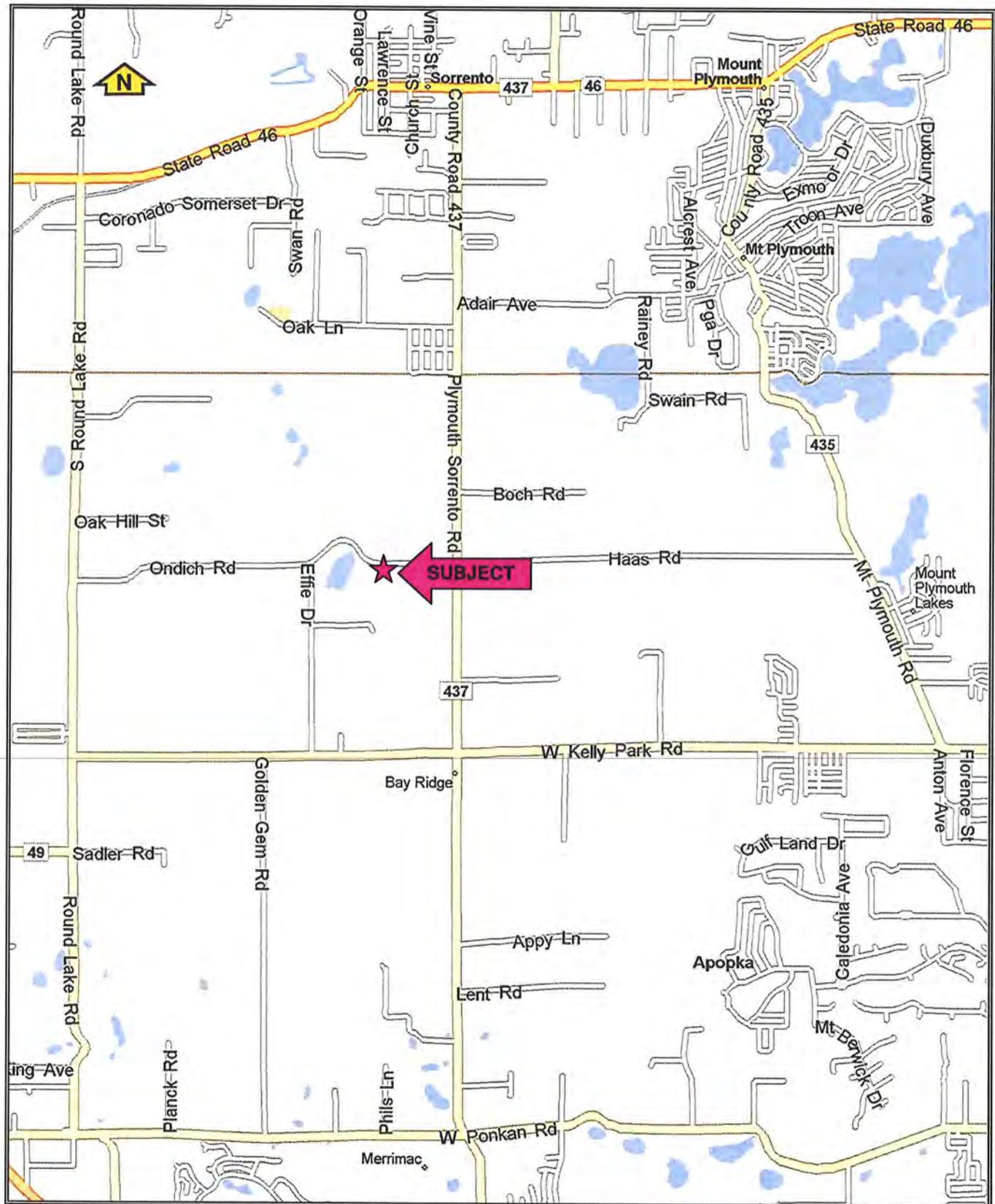
9. REAR VIEW OF THE OLD MANUFACTURED HOME



10. LOOKING EAST AT AN OLD SHED IN THE TAKING



AERIAL PHOTO
PARCEL 240



**SUBJECT LOCATION MAP
PARCEL 240**

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

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

CASE NO: 2015-CA-001148-O

Subdivision 39

Petitioner,

vs.

HENRY J. DUBEL, et al,

Parcel 240 (Rigsby)

Respondents.

MEDIATED SETTLEMENT AGREEMENT

At the Mediation Conference held on March 11, 2016, the parties reached the following Settlement Agreement:

1. Petitioner will pay to Respondents, STEPHEN LEE RIGSBY and MARK WANE RIGSBY the sum of two hundred thirty nine thousand five hundred Dollars exactly (\$ 239,500.00) in full settlement of all claims for compensation from Petitioner whatsoever for the taking of Parcel 240 , including statutory interest and all claims related to real estate and business damages, if any, but excluding attorney's fees and expert witness 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 two hundred eight thousand Dollars (\$ 208,000.00). Within thirty (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 or, in the event of no apportionment claim, by payment to the trust account of Respondents' attorney, the sum of thirty one thousand five hundred Dollars exactly (\$ 31,500.00), representing the difference between the total settlement sum referenced above and Petitioner's previous deposit in this case.

2. In addition to the settlement amount referenced in Paragraph 1 of this Settlement Agreement, Petitioner will pay to the trust account of Respondents' attorney the sum of ten thousand three hundred and ninety five Dollars (\$ 10,395.00) in full settlement and satisfaction of all attorney's fees, including all fees related to monetary benefits, non-monetary benefits, and all law firm litigation costs in this case, but excluding supplemental proceedings related to apportionment, if any.

3. In addition to the above-referenced settlement sum and the above-referenced attorney's fees and law firm litigation costs, Petitioner will pay to the trust account of Respondents'

attorney the sum of forty one thousand two hundred twenty seven Dollars (\$ 41,227.00) in full settlement and satisfaction of all expert witness fees and costs incurred by Respondents in this case, subject to review and confirmation that each invoice submitted by Respondent's experts was necessary and reasonable. The expert fees are as follows:

| | |
|-----------------|------------------|
| Dreagers | \$ 19,424 |
| MEI | 12,500 |
| VH3 | 1,673 |
| Power Acoustics | 7,630 |
| | <u>\$ 41,227</u> |

4. 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.

5. Counsel for Petitioner and Respondents will jointly submit to the Court a mutually approved Stipulated Final Judgment containing the terms and conditions of this Settlement Agreement within fifteen days from the date of approval of this Settlement Agreement by the CFX Board.

6. 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. Counsel and the CFX representative agree to recommend this Settlement Agreement to the ROW Committee and the CFX Board.

7. The parties agree to continue the trial of this matter pending review by the CFX ROW Committee and CFX Board.

8. This Agreement resolves all claims whatsoever, including claims of compensation arising from the taking of Parcel 240, such as severance damages, business damages, tort damages, interest, attorney's fees, expert fees, costs, and any other claim.

9. This Settlement Agreement, ^{and Addendum hereto,} executed by the parties and their counsel on this 11th day of March, 2016, contains all the agreements of the parties.

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

David Shontz
Print Name: David Shontz
Counsel for CFX

Lawrence M. Watson
Print Name: LAWRENCE M. WATSON
Mediator


Mark L. Riggsby
Print Name: Mark L. Riggsby
Owner Stephen L. Riggsby

By - Mark L. Riggsby
Print Name: STEPHEN L. RIGGSBY
Owner

Harold K. Cassman
Print Name: Harold K. Cassman
Attorney for Owner

ADDENDUM TO PROPOSED MEDIATED SETTLEMENT AGREEMENT
PARCEL 240

The parties will walk the construction line on Parcel 240 and work with the owner, Mark Rigsby, to determine whether there is a silt fence encroachment and to work together to restore the property, if necessary, as to any gopher tortoise removal activities.


JWW LBC
Mark Rigsby

Calhoun, Dreggors & Associates, Inc.

• Real Estate Appraisers & Consultants •

March 10, 2016

Harold A. Lassman, Esq.
c/o Maguire Lassman, P.A.
605 East Robinson Street, Suite 140
Orlando, FL 32801

RE: Owner: Rigsby
 Project: Wekiva Parkway
 Parcel No.: 240
 County: Orange

INVOICE

Review CFX reports, review information from owner's representative, subject property inspection, conferences with owner's representative and experts, land and improved sales research/analysis, review sales, review highest and best use, review/write appraisal, review land planning information, conference with engineer.

| | | |
|-----------------|--------------------------|-----------------|
| Abrams Schmidt: | 67.75 Hrs. x \$175/Hr. = | \$11,856 |
| Dreggors: | 24.00 Hrs. x \$275/Hr. = | <u>6,600</u> |
| Subtotal | | \$18,456 |

Preparation of rebuttal reports, review CFX rebuttal reports, conference with owner's representative and experts to review.

| | | |
|-----------------|--------------------------|------------------------|
| Abrams Schmidt: | 21.50 Hrs. x \$175/Hr. = | \$3,762 |
| Dreggors: | 7.50 Hrs. x \$275/Hr. = | <u>2,062</u> |
| Subtotal | | <u>\$ 5,824</u> |
| Total | | \$24,280 |

Thank you,

Richard C. Dreggors, GAA
President

RCD/smo

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

EXHIBIT "D"

| | | |
|------------------|-----------------------|--------------------------------|
| OWNER | RIGSBY | COURTNEY ABRAMS SCHMIDT |
| PROJECT | WEKIVA PARKWAY | |
| PARCEL(S) | 240 | |
| COUNTY | ORANGE | |

| DATE | TYPE OF SERVICE | HOURS |
|-------------|---|--------------|
| 04/14/15 | CONFERENCE CALL WITH OWNER'S REPRESENTATIVE. | 0.50 |
| 11/12/15 | REVIEW OF CONDEMNOR'S APPRAISAL; ANALYSIS OF HALL'S SALES; RESEARCH SUBJECT MATERIAL; REVIEW OF CORRESPONDENCE WITH OWNER'S REPRESENTATIVE; RESEARCH LAND AND IMPROVED SALES. | 6.50 |
| 11/13/15 | RESEARCH SALES. | 3.00 |
| 11/17/15 | RESEARCH/ANALYSIS OF SALES. | 2.00 |
| 11/19/15 | RESEARCH SALES; CONFERENCE CALL WITH EXPERTS; ANALYSIS OF DAMAGES; ANALYSIS OF HIGHEST AND BEST USE; RUN PRELIMINARY NUMBERS. | 3.50 |
| 11/20/15 | RESEARCH/ANALYSIS OF LAND AND IMPROVED SALES. | 5.00 |
| 11/23/15 | RESEARCH/ANALYSIS OF SALES; WORK ON SALE WRITE-UPS. | 3.00 |
| 11/24/15 | VERIFY SALES; ASSIST WITH APPRAISAL. | 3.25 |
| 11/25/15 | ASSIST WITH APPRAISAL; WORK ON EXHIBITS FOR REPORT. | 2.50 |
| 11/30/15 | WORK ON SALE WRITE-UPS/EXHIBITS; ASSIST WITH APPRAISAL. | 3.75 |
| 12/01/15 | WORKED ON SALE WRITE-UPS; VERIFIED SALES; ASSIST WITH APPRAISAL; PREPARE FOR INSPECTIONS. | 5.75 |
| 12/02/15 | ASSISTED WITH APPRAISAL. | 2.00 |
| 12/03/15 | WORKED ON SALE WRITE-UPS; REVIEW OF THE NOISE STUDY; ASSISTED WITH APPRAISAL. | 6.00 |
| 12/04/15 | ASSIST WITH APPRAISAL; CONFERENCE CALL WITH OWNERS; PREPARE FOR INSPECTIONS; VERIFY SALES. | 4.75 |
| 12/07/15 | ASSIST WITH APPRAISAL; WORK ON EXHIBITS. | 3.50 |
| 12/18/15 | PREPARE FOR SITE INSPECTION OF SUBJECT PROPERTY AND SALES; CONTINUE TO ASSIST WITH APPRAISAL. | 2.00 |

| | | |
|------------------|-----------------------|--------------------------------|
| OWNER | RIGSBY | COURTNEY ABRAMS SCHMIDT |
| PROJECT | WEKIVA PARKWAY | |
| PARCEL(S) | 240 | |
| COUNTY | ORANGE | |

| DATE | TYPE OF SERVICE | HOURS |
|-------------|--|--------------|
| 12/09/15 | MET WITH OWNER; INSPECT SUBJECT PROPERTY AND SALES. | 3.75 |
| 12/10/15 | REVIEW OF ENGINEERING REPORT; ASSIST WITH APPRAISAL. | 2.00 |
| 12/11/15 | WORK ON APPRAISAL; ANALYSIS OF SALES. | 2.25 |
| 12/14/15 | MEETING WITH RICK TO REVIEW APPRAISAL. | 0.50 |
| 01/04/16 | CONFERENCE CALL WITH OWNER'S REPRESENTATIVE; ASSISTED WITH APPRAISAL; FINALIZE ADDENDA; REVIEW LAND PLANNING REPORT. | <u>2.25</u> |
| | | 67.75 |
| 02/12/16 | ANALYSIS OF DOCUMENTS PERTAINING TO CONDEMNATION BLIGHT; MEETING WITH RICK TO DISCUSS SCOPE OF WORK FROM REBUTTAL ANALYSIS. | 4.75 |
| 02/15/16 | RESEARCH/ANALYSIS OF HALL'S SALES; WORKED ON REBUTTAL ANALYSIS. | 2.25 |
| 02/16/16 | ANALYSIS OF HALL'S SALES. | 3.50 |
| 02/17/16 | ANALYSIS OF HALL'S SALES; REVIEW OF BLIGHT DOCUMENTS; ASSIST WITH REVIEW APPRAISAL; CONFERENCE CALL WITH OWNER'S REPRESENTATIVE. | 5.75 |
| 02/19/16 | ASSIST WITH REBUTTAL ANALYSIS; PREPARE ADDENDA. | 3.00 |
| 03/02/16 | REVIEW OF REBUTTAL REPORTS; CONFERENCE WITH OWNER'S REPRESENTATIVE; MEETING WITH RICK. | 1.50 |
| 03/04/16 | CONFERENCE WITH EXPERTS. | <u>0.75</u> |
| | TOTAL HOURS | 21.50 |

| | | |
|------------------|-----------------------|---------------------------------|
| OWNER | RIGSBY | RICHARD C. DREGGORS, GAA |
| PROJECT | WEKIVA PARKWAY | |
| PARCEL(S) | 240 | |
| COUNTY | ORANGE | |

| DATE | TYPE OF SERVICE | HOURS |
|-------------|---|--------------|
| 03/23/15 | BEGIN REVIEW OF CFX REPORTS. | 0.75 |
| 03/27/15 | REVIEW INFORMATION FROM OWNER'S REPRESENTATIVE; CONFERENCE WITH OWNER'S REPRESENTATIVE REGARDING OUR ASSIGNMENT. | 1.00 |
| 04/14/15 | CONFERENCE WITH EXPERTS TO DISCUSS AND REVIEW HIGHEST AND BEST USE. | 0.50 |
| 11/09/15 | REVIEW INFORMATION FROM OWNER'S REPRESENTATIVE. | 0.50 |
| 11/13/15 | REVIEW OUR FILE; REVIEW LAND SALES; PREPARE FOR CONFERENCE CALL WITH EXPERTS. | 1.50 |
| 11/19/15 | REVIEW OUR FILE; PREPARE FOR CONFERENCE CALL WITH EXPERTS; CONFERENCE WITH EXPERTS TO REVIEW HIGHEST AND BEST USE AFTER THE TAKING. | 2.75 |
| 12/07/15 | REVIEW HOME AND LAND SALE WRITE-UPS. | 1.75 |
| 12/09/15 | INSPECT SUBJECT PROPERTY AND SALES. | 3.50 |
| 12/14/15 | REVIEW/WRITE APPRAISAL. | 6.75 |
| 12/18/15 | REVIEW REPORT. | 0.75 |
| 01/04/16 | REVIEW REPORT; CONFERENCE WITH OWNER'S REPRESENTATIVE; REVIEW LAND PLANNING INFORMATION; CONFERENCE WITH ENGINEER. | <u>4.25</u> |
| | | 24.00 |
| 02/11/16 | MEETING WITH ASSOCIATE TO REVIEW REBUTTAL REPORT ANALYSIS. | 0.75 |
| 02/16/16 | REVIEW INFORMATION FROM REBUTTAL REPORT; CONFERENCE WITH OWNER'S REPRESENTATIVE. | 1.50 |
| 02/17/16 | REVIEW INFORMATION ON REBUTTAL REPORT CONTENTS; CONFERENCE WITH OWNER'S REPRESENTATIVE TO REVIEW. | 1.75 |
| 03/02/16 | REVIEW CFX REBUTTAL REPORTS (HALL AND HENDERSON); REVIEW WITH ASSOCIATE AND HAROLD LASSMAN. | 2.75 |

| | | |
|------------------|-----------------------|---------------------------------|
| OWNER | RIGSBY | RICHARD C. DREGGORS, GAA |
| PROJECT | WEKIVA PARKWAY | |
| PARCEL(S) | 240 | |
| COUNTY | ORANGE | |

| DATE | TYPE OF SERVICE | HOURS |
|-------------|---|--------------|
| 03/04/16 | CONFERENCE CALL WITH EXPERTS AND OWNER'S REPRESENTATIVE REGARDING REBUTTAL REPORTS. | <u>0.75</u> |
| | TOTAL HOURS | 7.50 |

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: 3/10/2016

Invoice Number: 191021H-1

Invoice Amount Due: **\$15,062.25**

JOB: SR 429, Parcel 240

Rigsby

Engineering Analysis

| Description | Hours | Rate | Fee | Total |
|-----------------------|-------|----------|----------------------|--------------------|
| Principal (DLM) | 36.5 | \$250.00 | \$9,125.00 | \$9,125.00 |
| Senior Designer (JRR) | 37.5 | \$120.00 | \$4,500.00 | \$4,500.00 |
| Designer (MP) | 8.0 | \$90.00 | \$720.00 | \$720.00 |
| | | | Subtotal | \$14,345.00 |
| | | | Expense (5%) | \$717.25 |
| | | | Total Fee Due | \$15,062.25 |

See attachment for detail.

Payment is due upon settlement of compensation for subject parcel.

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

191021H

Job Name *SR429-204, P240, Rigsby*

| <i>Date</i> | <i>Hours</i> | <i>Task</i> | <i>Work Description</i> |
|---------------------|--------------|-------------|---|
| 12/2/2015 | 8.0 | | review construction plans and CFX appraisal report |
| 12/3/2015 | 8.0 | | preliminary analysis of impacts |
| 12/6/2015 | 5.5 | | preliminary engineering report |
| 12/7/2015 | 8.5 | | preliminary engineering report |
| 12/8/2015 | 6.5 | | analysis of existing drainage patterns and SR429 drainage, preliminary engineering report |
| <i>Total Hours:</i> | | 36.5 | |

Work Descriptions for John R. Russell

191021H

Job Name *Wekiva Parkway P240 Rigsby*

| <i>Date</i> | <i>Hours</i> | <i>Task</i> | <i>Work Description</i> |
|-------------|--------------|-------------|---|
| 11/20/2015 | 2.0 | | Before Conditions |
| 11/20/2015 | 1.0 | | Download & Review Appraisal |
| 11/23/2015 | 2.0 | | Draft Proposed Drainage Ditches |
| 11/23/2015 | 2.5 | | OverAll UnCured Remainder Exhibit |
| 11/23/2015 | 2.5 | | UnCured Remainder Exhibit |
| 11/23/2015 | 2.0 | | AOT Exhibit |
| 11/24/2015 | 3.0 | | Draft Light Poles; Hatch UnCured Remainder |
| 12/1/2015 | 3.0 | | Adjust Sheet Setup from In-House MarkUps |
| 12/1/2015 | 3.0 | | Assemble Sheets From Cadd Files, Shading & Check Plot |
| 2/10/2016 | 4.0 | | Drafting SR 429 Roadway Plans |
| 2/10/2016 | 2.0 | | USGS, FEMA, Aerial & Location Map Exhibits |
| 2/12/2016 | 4.5 | | SR 429 Roadway Plans - Drainage Ditches |
| 2/12/2016 | 3.0 | | SR 429 Roadway Plans - Striping & Shading |
| 2/13/2016 | 3.0 | | Create Exhibit Plan Sheets & Labeling |

Total Hours: *37.5*

Work Descriptions for Mitchell Pentecost

191021

Job Name *SR 429, P240, Rigsby*

| <i>Date</i> | <i>Hours</i> | <i>Work Description</i> |
|----------------------------|---------------------|--|
| 11/19/2015 | 1.5 | began printing relevant construction plans |
| 11/20/2015 | 3.5 | continue printing relevant construction plans, drainage maps, structures, etc. Assemble physical folder |
| <i>Total Hours:</i> | <i>5.0</i> | |

Work Descriptions for Mitchell Pentecost

191021H

Job Name *SR429, P240, Rigsby*

| <i>Date</i> | <i>Hours</i> | <i>Work Description</i> |
|----------------------------|---------------------|--|
| 12/7/2015 | 1.0 | Print relavant lighting and striping/signage plans |
| 12/8/2015 | 2.0 | Print relavant lighting and striping/signage plans |
| <i>Total Hours:</i> | <i>3.0</i> | |



Invoice

Please remit to:

Vanasse Hangen Brustlin, Inc.

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

617.924.1770 F 617.924.2286

Harold Lassman, Esq.
Maguire Lassman, P.A.
605 E. Robinson Street
Suite 140
Orlando, FL 32801

Invoice No: <Draft>
March 02, 2016
VHB Project No: 62434.00

| | |
|----------------------|-------------------|
| Invoice Total | \$1,967.47 |
|----------------------|-------------------|

Professional Planning Services for Rigsby Property

Professional Services Thru February 13, 2016

Professional Personnel

| | Hours | Rate | Amount | |
|---------------------------|--------------|-------------|---------------|-----------------|
| Principal 1 | 1.00 | 250.00 | 250.00 | |
| Technical/Professional 06 | .50 | 125.00 | 62.50 | |
| Technical/Professional 05 | 11.00 | 125.00 | 1,375.00 | |
| Technical/Professional 04 | 2.00 | 95.00 | 190.00 | |
| Totals | 14.50 | | 1,877.50 | |
| Total Labor | | | | 1,877.50 |

Reimbursable Expenses

| | | | | |
|----------------------------|--|--|--------------|--------------|
| Printing | | | 89.97 | |
| Total Reimbursables | | | 89.97 | 89.97 |

| | |
|---------------------------|-------------------|
| Total this Invoice | \$1,967.47 |
|---------------------------|-------------------|

Billings to Date

| | Current | Prior | Total |
|---------------|-----------------|--------------|-----------------|
| Labor | 1,877.50 | 0.00 | 1,877.50 |
| Expense | 89.97 | 0.00 | 89.97 |
| Totals | 1,967.47 | 0.00 | 1,967.47 |



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

Project Number: 62434.00

Period: 201513

| Date | Location | Job Type | User | Total |
|--------------|-----------------|-----------------------|--------------|----------------|
| 11/18/2015 | Orlando FL | Sm Fmt Color Printing | katieshannon | \$31.96 |
| 11/19/2015 | Orlando FL | Sm Fmt Color Printing | katieshannon | \$9.59 |
| Total | | | | \$41.55 |




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

Project Number: 62434.00

Period: 201601

| Date | Location | Job Type | User | Total |
|-------------|-----------------|-----------------------|--------------|----------------|
| 12/15/2015 | Orlando FL | B/W Laser Printing | katieshannon | \$3.08 |
| 12/16/2015 | Orlando FL | B/W Laser Printing | katieshannon | \$1.54 |
| 1/4/2016 | Orlando FL | B/W Laser Printing | katieshannon | \$1.54 |
| 12/15/2015 | Orlando FL | Sm Fmt Color Printing | katieshannon | \$17.04 |
| 12/16/2015 | Orlando FL | Sm Fmt Color Printing | katieshannon | \$8.52 |
| 1/4/2016 | Orlando FL | Sm Fmt Color Printing | katieshannon | \$8.52 |
| | | | Total | \$40.24 |

 Power Acoustics, Inc.

12472 Lake Underhill Rd #302
Orlando, FL 32828

Invoice

| | |
|----------|-----------|
| DATE | INVOICE # |
| 3/7/2016 | 16-03249 |

| |
|---|
| 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 | Rigsby/CFX |

| DESCRIPTION | QTY | RATE | AMOUNT, US\$ |
|---|-------|--------------------------|-------------------|
| Principal Consultant Hourly Rate see attached hourly breakdown | 42.75 | 210.00 | 8,977.50 |
| | | | |
| | | Total, US Dollars | \$8,977.50 |

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: Rigsby vs Expressway Authority eminent domain

Client: Maguire Lassman

| Date | Time | Rate | Work Accomplished |
|------------|------|------|---|
| 6/29/2015 | 4 | 210 | 840 Review aerials and appraisal |
| 6/30/2015 | 5 | 210 | 1050 Prep and Setup monitor, review Rigsby Property |
| 7/1/2015 | 3 | 210 | 630 Retrieve instrumentation, check out equipment |
| 7/2/2015 | 3 | 210 | 630 Download data, pictures, document data conditions |
| 11/17/2015 | 6 | 210 | 1260 Review plot 24 hour sound data, correct nighttime, location figure |
| 11/18/2015 | 8 | 210 | 1680 model traffic noise |
| 11/19/2015 | 8 | 210 | 1680 report |
| 11/20/2015 | 1 | 210 | 210 review PAI report and send draft to Lassman |
| 3/1/2016 | 0.25 | 210 | 52.5 review Siebein rebuttal report |
| 3/7/2016 | 4.5 | 210 | 945 Letter of response to Siebein rebuttal and finding Siebein references |
| SUBTOTAL | | | Hours Worked |
| | | | 42.75 |
| | | | \$8,977.50 |

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: April 11, 2016

RE: S.R. 429 Wekiva Parkway, Project 429-202; Parcel 140 
Recommendation for Board Approval of Offer of Judgment

Winderweedle, Haines, Ward & Woodman, P.A., right of way counsel, seeks the Right of Way Committee's recommendation of Board approval to serve an Offer of Judgment to GGH 10, LLC ("Landowner") for Parcel 140. The Court entered an Order of Taking for this parcel on May 15, 2014.

DESCRIPTION and BACKGROUND:

This case involves the partial taking of unimproved property owned by GGH 10, LLC, located at 3100 Bailey Hill Road, Apopka, Florida, approximately ¼ mile west of Plymouth Sorrento Road. The subject is a 10.633 acre, irregularly-shaped lot located in unincorporated Orange County, Florida. CFX is acquiring approximately half of the property.

The property is a vacant piece of land that had previously been excavated by the Acme Recycling Corporation and used for a clay pit, and then subsequently as a land clearing debris disposal facility. Soil borings from a level 2 contamination impact assessment indicate landfill debris (mostly wood, tree trunks, asphalt, tires and concrete) between two and eight feet deep covering most of the property, except for an area of approximately half an acre in the southeast corner of the parcel. It appears that there is no physical access to the property, as Bailey Hill Road ends approximately 600 feet east of the southeast corner of the property. The Landowner would therefore have to rely on obtaining either an implied easement or statutory easement of necessity across adjoining property. There are no utilities currently onsite.

CFX initially retained the services of Craig Ebaugh with Bledsoe & Ebaugh, LLC, to appraise the property. Mr. Ebaugh concluded that, due to the subject's marginal land characteristics and lack of physical access, development potential was questionable. He therefore utilized three comparable sales of similarly marginal land that had values between \$4,000 - \$6,000 per acre, and reconciled on a value of **\$5,000 per acre**. This resulted in a total compensation

estimate of \$30,400, which is the amount deposited into the court registry as CFX's good faith estimate of value.

CFX subsequently retained the appraisal services of Chad Durrance of Durrance & Associates to update the appraisal to the date of taking. Mr. Durrance considered additional cost information to remediate the site and to acquire and construct access to the site, including removal of a much greater amount of debris than was originally estimated. Mr. Durrance similarly concluded that the property had limited development potential, and identified comparable sales ranging in value from \$2,000 - \$5,000 per acre. Mr. Durrance determined that the property would be worth \$4,000 per acre if it had access. However, due to uncertainty of access and the costs associated with establishing and constructing access, he determined that the property was worth **\$500 per acre**, for a total parent tract value of \$5,000. Mr. Durrance's compensation estimate is summarized as follows:

| | |
|---|-------------------|
| Value of Part Taken (4.943 acres) | \$2,500.00 |
| <u>Severance Damages to Remainder (5.6 acres)</u> | <u>\$1,500.00</u> |
| Total Compensation | \$4,000.00 |

The Landowner has retained the appraisal services of Rick Dreggors with Calhoun, Dreggors & Associates, Inc. Mr. Dreggors opined that the highest and best use of the subject is for a single residential homesite, to be constructed on the half-acre of allegedly developable property located in the southeast corner (where they opine that an implied easement exists). Mr. Dreggors considers five comparable sales that range in size from 3 acres to 11 acres, all of which had access and contained all useable uplands. The properties sold for between \$23,000-\$49,000 per acre. Mr. Dreggors reconciles on a value of **\$30,000 per acre**, for a total parent tract value of \$318,900.

In the after condition, the Landowner contends that the remainder will be left land-locked, as access to the purported implied easement over the adjoining property will be cut-off by the expressway. Furthermore, the entire half-acre of allegedly developable property is located within the taking, leaving only non-developable property in the remainder. Mr. Dreggors' compensation estimate is summarized as follows:

| | |
|---------------------------------------|------------------|
| Value of Part Take | \$148,200 |
| <u>Severance Damages to Remainder</u> | <u>\$167,500</u> |
| Total Compensation | \$313,900 |

OFFER OF JUDGMENT

Mediation was conducted on April 12, 2016 without a successful resolution. This case is scheduled to go to trial during the September 12, 2016 trial docket. It is requested that this ROW Committee recommend Board approval to authorize service of an Offer of Judgment. Offers of Judgment are authorized in eminent domain actions under §73.032, Florida Statutes, which provides that if a defendant rejects an Offer of Judgment and the verdict or judgment is less than the amount of that offer, the court shall not award any costs incurred by the defendant after the date the Offer was rejected.

The undersigned counsel seeks the ROW Committee's recommendation of Board approval to serve an Offer of Judgment in the amount of **\$50,000**, exclusive of attorney's fees and costs. CFX has already deposited \$30,400.00 as its good faith estimate of value. Therefore, if the offer of judgment is accepted, CFX will have to pay an additional \$19,600 to resolve this case, in addition to attorneys fees and costs.

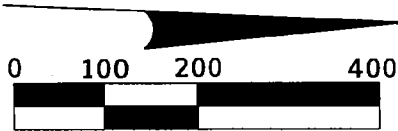
RECOMMENDATION:

The undersigned counsel respectfully requests that the Right of Way Committee recommend CFX Board approval for service of an Offer of Judgment in the amount of \$50,000 to fully resolve GGH 10's interest in this case, exclusive of attorneys fees and costs, or such other amount as this Committee deems appropriate.

ATTACHMENTS:

Sketch of Property

SKETCH OF DESCRIPTION



Scale: 1" = 200'

SECTION 25, TOWNSHIP 20 SOUTH, RANGE 27 EAST

NW CORNER OF
THE SE 1/4 OF
SECTION 25-20-27
CALCULATED POSITION
NO POINT FOUND OR SET

STA 170+19.34
495.29' LT(F)
FND 5/8" IRC
"PROP CORNER RLS 1111"

8' EASEMENT TO
FLORIDA POWER CORPORATION
ORB 2374, PG 155

W LINE OF
E 1/2 OF SE 1/4

N00°11'21"W 998.15'(F)

AREA TAKEN = 4.943 ACRES±
AREA REMAINING = 5.690 ACRES±

POINT OF
CURVATURE
R=11078.00'(C)
Δ=02°19'53"(C)
L=450.77'(C)
CD=450.74'(C)
CB=N10°21'47"W

STA 172+79.86
103.58' LT(F)
FND 5/8" IRC
"SSMC LS 4245"
FND 4"x4" CM
"PRM LB 4475"
0.51'S, 0.13'W(F)

LESS OUT FOR ROAD
ORB 7223, PG 3102

LESS OUT FOR ROAD
ORB 1314, PG 501
N LINE OF E 1/2 OF
S 1/2 OF NW 1/4 OF
NE 1/4 OF SE 1/4
S89°29'21"W 59.50'(F)

W LINE OF E 1/2
OF S 1/2 OF
NW 1/4 OF
NE 1/4 OF SE 1/4

E LINE OF W 393'
OF N 1/4 OF NE 1/4
OF SE 1/4

P.O.B.
FND 4"x4" CM
"PRM LB 4475"
S00°13'37"E, 0.16'(F)
FND 1/2" IR
NO ID
0.01'N, 0.32'E(F)

15' INGRESS &
EGRESS EASEMENT
ORB 1708, PG 993

STA 168+89.88
157.13' RT(F)
FND 5/8" IRC
"SSMC LS 4245"
FND 1" IP NO ID
2.25'S, 2.76'W(F)
FND 1" IP NO ID
0.10'E(F)
FND 1/2" IR NO ID
0.17'N, 0.17'E(F)

NOT PLATTED

LA R/W LINE
30' EASEMENT FOR
RIGHT OF WAY
ORB 2163, PG 293'

S00°02'40"E 333.22'(F)

LESS OUT FOR ROAD
ORB 7223, PG 3102

W LINE OF
SE 1/4 OF
NE 1/4 OF
SE 1/4

CITY OF
APOPKA

APPROXIMATE
CITY LIMITS LINE

SE CORNER OF
SECTION 25-20-27
FND 6"x6" CM
TOP BROKEN
WITH 1" IP
NO IDENTIFICATION
N: 1592291.6144
E: 476781.1709
FND 5/8" IR
NO IDENTIFICATION
0.36'S, 0.04'W(F)
CCR 85450

30' R/W AGREEMENT
PER DB 997, PG 166

RANGE 27 E

RANGE 28 E

E LINE SE 1/4

S00°06'03"W 2662.93'(F)

SECTION 30, TOWNSHIP 20 SOUTH, RANGE 28 EAST

NOT PLATTED

CITY OF
APOPKA

APPROXIMATE
CITY LIMITS LINE

S LINE OF N 1/2 OF
NE 1/4 OF SE 1/4

N LINE OF SE 1/4

APPROXIMATE
CITY LIMITS LINE

942.88'(F)

P.O.C.
STA 177+74.32
1006.31' RT(F)
NE CORNER OF
THE SE 1/4 OF
SECTION 25-20-27
CCR 18850
FND 4"x4" CM
"PRM LB 4475"
FND 1" IP
NO IDENTIFICATION
7.33'N, 0.25'E(F)

36 25
31 30

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: MARCH 14, 2013

PROJECT NO.: H20-01

DRAWN: PMM CHECKED: JMS

STATE ROAD 429
OOCEA PROJECT NO. 429-202
PARCEL NO. 140



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



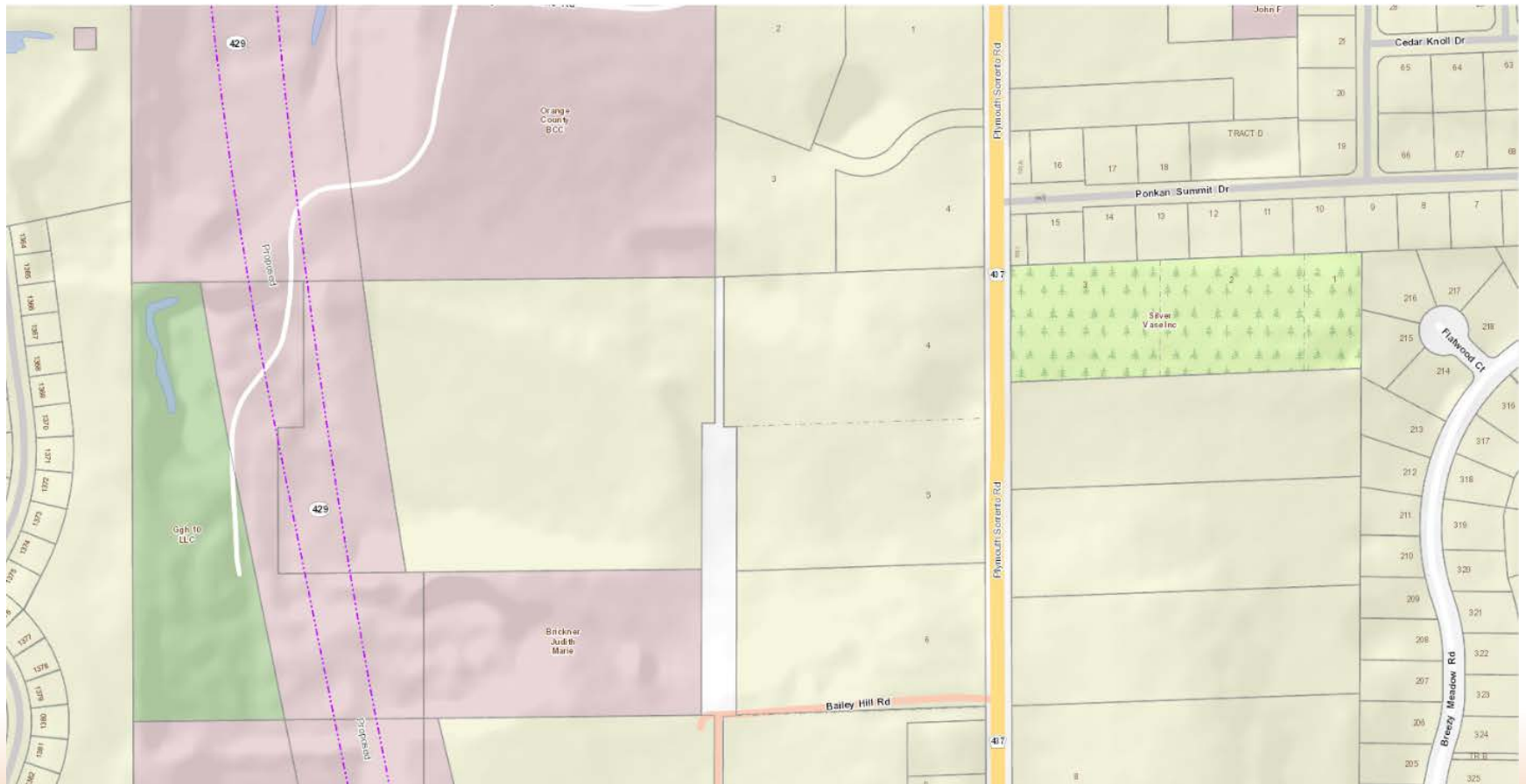


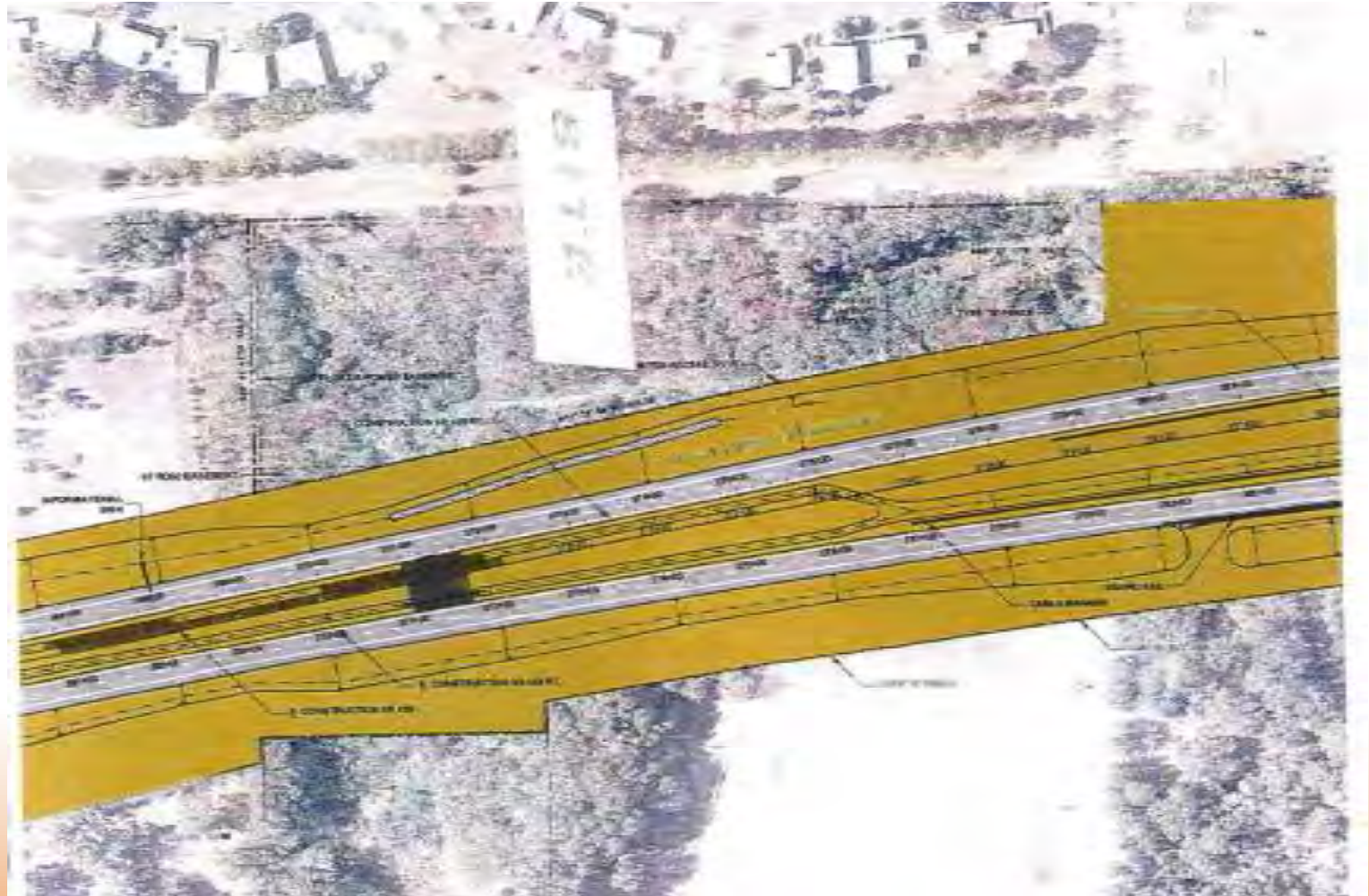
Central Florida Expressway Authority
Right of Way Committee
April 27, 2016

**Recommendation for Approval of Service
of Offer of Judgment**

**S.R. 429 Wekiva Parkway
Project 429-202
Parcel 140**







CENTRAL FLORIDA EXPRESSWAY AUTHORITY



Subject Property Remainder/Landfill Debris





Appraisal Comparison

| PARCEL 140 | CFX | GGH 10, LLC |
|--------------------------------------|-----------------------|-------------------------|
| Value of Parent Tract (10.633 acres) | \$5,000 | \$318,900 |
| Part Taken (4.943 acres) | \$2,500 | \$148,200 |
| Price per acre | \$500 | \$30,000 |
| <u>Severance Damages</u> | <u>\$1,500</u> | <u>\$165,700</u> |
| Total Compensation | \$4,000 | \$313,900 |



RECOMMENDATION


We respectfully request that the Right of Way Committee recommend CFX Board approval of service of an Offer of Judgment in the amount of \$50,000.00 for Parcel 140.

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 
Winderweeidle, Haines, Ward & Woodman, P.A.

DATE: April 11, 2016

RE: S.R. 429 Wekiva Parkway, Project 429-202; Parcel 141
Recommendation for Board Approval of Settlement Proposal

Winderweeidle, Haines, Ward & Woodman, P.A., right of way counsel, seeks the Right of Way Committee's recommendation for Board approval of a settlement with Plymouth Harbor, LLC ("Landowner"), for the acquisition of Parcel 141 (the "Taking" or "Property") for the construction of the S.R. 429 Wekiva Parkway, Project 429-202. The Court entered an Order of Taking for this parcel on June 19, 2014.

DESCRIPTION and BACKGROUND:

The instant action involves the partial taking of property owned by Plymouth Harbor, LLC, and is located at 2404 Plymouth Sorrento Road in Apopka, Florida. The subject is a 24.406 acre rectangular lot improved with a single family residence and horse farm. The improvements are considered an interim use, as the property owner previously received governmental approvals for a 47-lot single-family subdivision. CFX is acquiring approximately 3.24 acres from the property, which effectively reduces the size of the parent tract by 13%.

The land is zoned R-1AA, Residential Single-Family District, by the City of Apopka. This allows development of up to 3.5 residential units per acre. The future land use plan designates the site as RLS, Low Density Suburban Residential. Both parties' appraisers agree that the highest and best use of the subject is for a residential subdivision. CFX's appraiser contends that the property could be developed with 47 lots, which is consistent with the previous site approval; the Landowner's appraiser contends that the site can be developed with 60 lots.

The Landowner claims that it received two prior offers for the property, and had a sales contract which allegedly fell through because of the planned Wekiva Parkway. Specifically, the Landowner has identified (1) a Contract for Sale and Purchase received from Ashland Park Homes, Inc., on July 10, 2006 to purchase the property for \$2,530,000 (\$103,663 per acre / \$53,830 per lot); (2) an offer from Armor Development, LLC on July 14, 2006 to purchase the property for \$2,760,000 (\$113,087 per acre, or \$58,723 per lot); and (3) a Sales Contract with

Susan Chang of Evergreen Properties, USA, for \$2,380,000 (\$97,517 per acre, or \$50,630 per lot). This third sales contract by Susan Chang was accepted by Plymouth Harbor, and the contract was signed by both parties on March 5, 2007. This signed sales contract had a 120 day feasibility study period, during which time the buyer allegedly became aware of the impending Wekiva Parkway project and cancelled the sale.

CFX retained the appraisal services of Chad Durrance of Durrance & Associates to appraise the property. Mr. Durrance determined that the highest and best use of the property was for development of a residential subdivision similar to that described in the sales contract with Susan Chang, which includes the development of 47 lots. Mr. Durrance considered 6 comparable sales that ranged in value from \$24,800 per acre to \$46,000 per acre, and reconciled on a value of **\$38,500 per acre** (\$20,000 per lot for 46 lots). This equates to a total value of \$955,700 for the parent tract, and **\$124,900 for the part taken**.

In his severance damage analysis, Mr. Durrance determined that the taking would result in the remainder being able to accommodate eight (8) fewer lots. The loss of 8 lots x \$20,000 per lot, results in total loss of \$160,000. Mr. Durrance also considers the loss in value of the improvements within the area of taking, increased wall cost, the cost to revise development plans, and the reduction in value due to proximity to the expressway. These additional losses and expenses resulted in a severance damages and cost to cure estimate of **\$214,400**. Mr. Durrance's valuation estimate is summarized as follows:

| | |
|---|------------------|
| Value of the Part Taken - 3.24 acres | \$140,600 |
| <u>Severance Damages to the 21-acre remainder</u> | <u>\$214,400</u> |
| CFX's Total Compensation Estimate | \$355,000 |

The Landowner retained the appraisal services of Grant Austin with American Valuation Inc. Mr. Austin opined that the property could be developed with 60 lots, rather than 47 lots as initially planned. He considered three comparable sales to determine the before value, ranging from \$50,356 per acre (\$28,000 per lot) to \$102,000 per acre (\$34,614 per lot), and reconciled on a value of **\$76,210 per acre** (\$31,000 per lot for 60 lots). This equates to a total value of \$1,860,000 for the parent tract land and **\$247,186 for the land taken**.

Mr. Austin utilized the discounted cash flow method to arrive at a severance damage claim of **\$1,258,535**. First, he determined that the remainder would be able to accommodate 52 lots, rather than 60 lots in the before. He then determined that the remainder would experience a holding period of 5 years before it would likely be sold for residential development. He concluded that, absent the taking, the remainder has a current land value of \$1,479,000. He then uses a discount rate of 26% per year to arrive at an after value for the property of \$606,755 (very similar to CFX's after-value of \$600,000). This results in an effective severance damage rate of about 60%. Mr. Austin's compensation estimate is summarized as follows:

| | |
|--|---------------------|
| Value of Part Take | \$ 274,000 |
| <u>Severance Damages to Remainder</u> | <u>\$1, 258,535</u> |
| Landowner's Total Compensation Estimate | \$1,561,035 |

EXPERT AND ATTORNEY FEES:

The Landowner retained the services of Mark Natirboff, Esq., who has agreed to accept a statutory betterment attorney fee award. A settlement in the amount of \$700,000 to the Landowner would result in an attorney fee award of \$126,100, based on betterment.

The Landowner has also submitted expert invoices in the amount of \$123,423, as summarized below:

| | |
|---|------------------|
| Grant Austin (Appraiser) | \$62,814 |
| Reginal Messimer (Engineer) | 24,061 |
| Nexgen (Land Planners) | 34,941 |
| Marcus Allen (survey) | 537 |
| Patricia Doney (survey) | 900 |
| <u>Earthworks - Estimating Services</u> | <u>170</u> |
| Total | \$123,423 |

CFX's expert fees in this case totaled \$78,094.91, as summarized below:

| | |
|----------------------------------|-----------------|
| Chad Durrance (Appraiser) | \$44,985 |
| MacIntosh & Assoc (Engineer) | 30,919 |
| BDA (Environmental Consultants) | 1,542 |
| <u>John Speer (Cost to Cure)</u> | <u>650</u> |
| Total | \$78,095 |

After negotiations, the Landowner's experts agreed to accept **\$105,000** to resolve its expert fee claims. This represents a reduction of about 15% below invoice amounts. The undersigned counsel has reviewed the invoices submitted and believes that this negotiated fee resolution is reasonable and in the best interest of CFX.

SETTLEMENT PROPOSAL

Mediation was conducted on April 12, 2016 without a successful resolution. However, shortly after mediation the Landowner agreed to accept CFX's proposal to resolve this case for a total of \$931,100, which represents \$700,000 to the Landowner, \$105,000 for expert fees, and \$126,100 in statutory attorney's fees. A resolution of \$700,000 to the Landowner is less than half the amount of compensation estimated in Mr. Austin's appraisal report, and is significantly below the midpoint of the appraisals (\$958,017). The undersigned believes that this settlement proposal is reasonable, especially considering the executed purchase contract signed with Susan Chang in the amount of \$2,380,000, or \$97,517 per acre. The two other offers made on the property set the value even higher (between \$103,000 - \$113,000 per acre).

CFX previously deposited \$275,600 into the court registry as its good faith estimate of value. A settlement in the amount of \$931,100 would require CFX to deposit an additional sum of \$655,500. The terms of the settlement proposal are summarized as follows:

| | |
|---------------------------|------------------|
| Compensation to Landowner | \$700,000 |
| Attorney's fees | \$126,100 |
| <u>Expert fees</u> | <u>\$105,000</u> |
| Total Settlement | \$931,100 |

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:

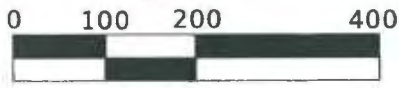
The undersigned counsel respectfully requests that the Right of Way Committee recommend CFX Board approval for settlement in the amount of \$931,100 to fully resolve Plymouth Harbor's interests in Parcel 141, inclusive of attorney's fees and costs.

ATTACHMENTS:

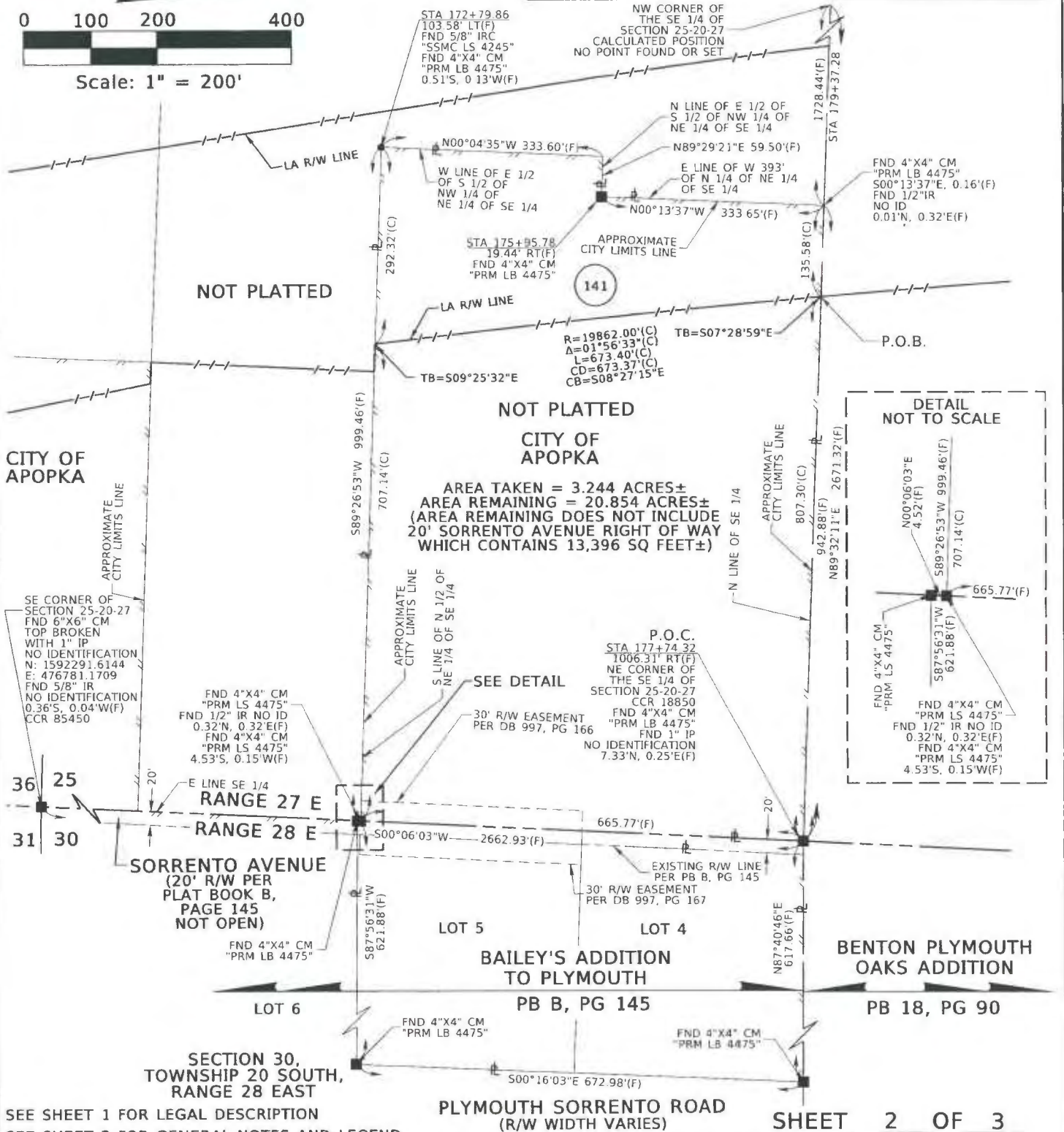
Sketch of Property

SKETCH OF DESCRIPTION

SECTION 25,
TOWNSHIP 20 SOUTH,
RANGE 27 EAST



Scale: 1" = 200'



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: MARCH 14, 2013

PROJECT NO.: H20-01

DRAWN: PMM CHECKED: JMS

STATE ROAD 429
OOCEA PROJECT NO. 429-202
PARCEL NO. 141



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
April 27, 2016

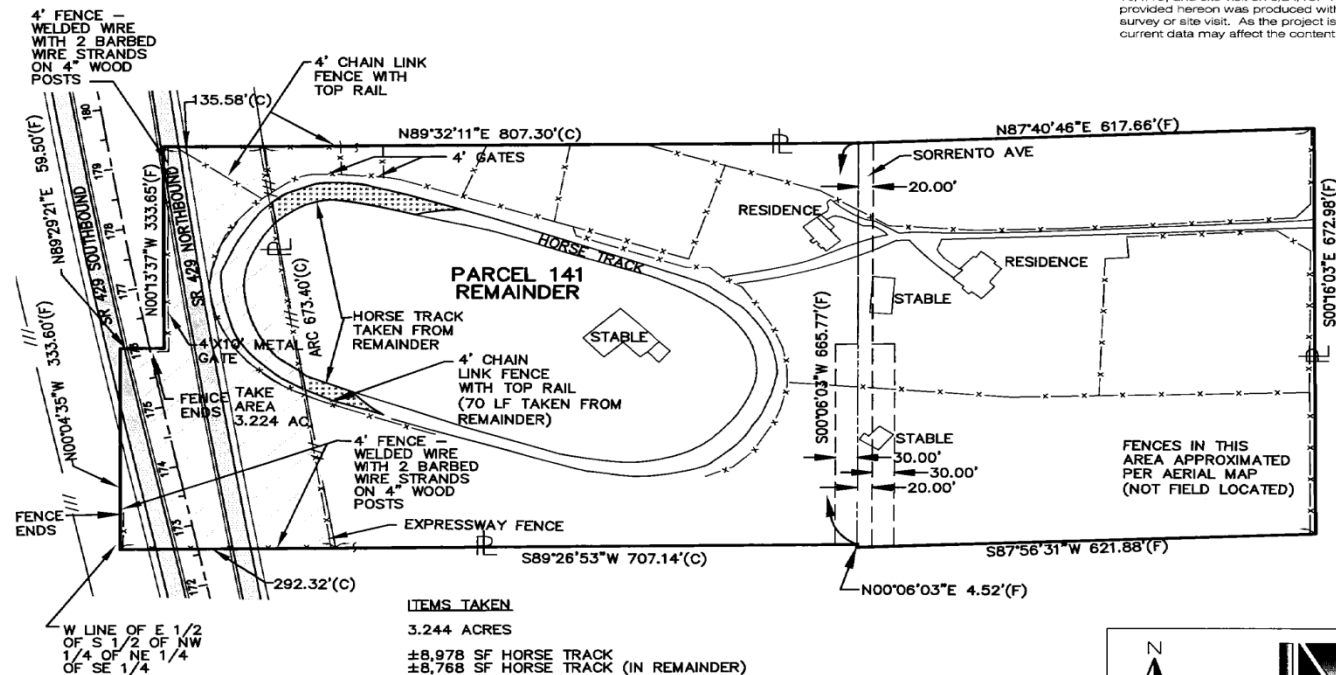
**Recommendation for Approval of
Settlement in the Amount of \$931,100.00**

**S.R. 429 Wekiva Parkway
Project 429-202
Parcel 141**



Subject Property





ITEMS TAKEN

3.244 ACRES

±8,978 SF HORSE TRACK
±8,768 SF HORSE TRACK (IN REMAINDER)

±8,768 SF HORSE TRACK (IN REMAINDER)

±682 LF 4' CHAIN LINK
FENCE WITH TOP RAIL

±70 LF OF 4' CHAIN LINK
FENCE WITH TOP RAIL (IN REMAINDER)

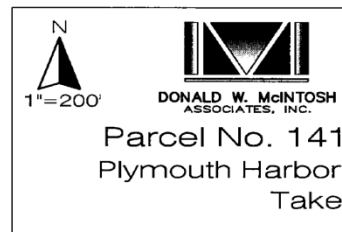
±70 LF OF 4' CHAIN LINK
FENCE WITH TOP RAIL (IN REMAINDER)

+695 LF 4' FENCE -

±695 LF 4' FENCE -
WELDED WIRE WITH TWO
BARBED WIRE STRANDS
ON 4" WOOD POSTS

±4'X10' METAL GATE

14 X 10 METAL GATE

Plymouth Harbor
Take

Take



Appraisal Comparison

| PARCEL 141 | CFX | PLYMOUTH HARBOR |
|--|------------------|--------------------|
| Value of Parent Tract (24.406 acres) | \$955,700 | \$2,135,000 |
| Part Taken (3.244 acres) | \$140,600 | \$274,000 |
| Price per acre | \$38,500.00 | ~\$76,200 |
| Severance Damages/ Cost to Cure | \$214,400 | \$1,258,535 |
| Total Compensation | \$355,000 | \$1,561,035 |



Settlement Proposal

| PARCEL 141 | REQUESTED BY OWNER | SETTLEMENT PROPOSAL (ESTIMATED BREAKDOWN) |
|-------------------------|--------------------|--|
| Compensation to Owner | \$1,561,035 | \$700,000 |
| Expert Fees | \$123,423 | \$105,000 |
| <u>Attorney's fees</u> | <u>\$126,100</u> | <u>\$126,100</u> |
| Total Settlement | \$1,810,558 | \$931,100 |



RECOMMENDATION


We respectfully request that the Right of Way Committee recommend CFX Board approval of settlement in the amount of \$931,100.00 for Parcel 141.

Tab G

WINDERWEEDLE, HAINES, WARD & WOODMAN, P.A.

Winter Park Office
329 Park Avenue North
Second Floor
Post Office Box 880
Winter Park, Florida 32790-0880
Telephone (407) 423-4246
FAX (407) 645-3728

M E M O R A N D U M

To: Central Florida Expressway Authority Right of Way Committee
From: James Edward Cheek, III, Right of Way Counsel 
Subject: Utility Relocation Agreement between CFX and Duke Energy Florida, LLC, for relocation of Duke Energy's Transmission and Distribution Facilities for the Wekiva Parkway Project 429-205, Parcel 291
Date: April 19, 2016

Winderweedle, Haines, Ward & Woodman, P.A., right of way counsel, seeks the Right of Way Committee's recommendation for Board approval of the Utility Relocation Agreement ("Utility Relocation Agreement") between Duke Energy Florida, LLC ("Duke Energy") and the Central Florida Expressway Authority ("Authority") for relocation of Duke Energy's Transmission facilities in the S.R. 429-205 corridor, Parcel 291 (the "Project"). A copy of the proposed Utility Relocation Agreement is attached for your review.

BACKGROUND

The design and construction of the Project require the relocation of a portion of Duke Energy's transmission facilities located within or near the Authority's limited access right-of-way line for S.R. 429-205, at Parcel 291. The purpose of the Utility Relocation Agreement is to facilitate the relocation, identify the reimbursable expenses of Duke Energy, and coordinate the construction responsibilities of Duke Energy as it relates to the Authority's construction schedule for the Project.

When Duke Energy's facilities that must be relocated for the Project are located in a valid identifiable easement, the Authority is required to pay for the acquisition of replacement easements, as well as the relocation of these facilities. The Authority is generally responsible for reimbursing Duke Energy for its relocation costs associated with the Project. These relocation costs include engineering costs, construction costs, materials, labor, equipment, etc.

The Utility Relocation Agreement identifies Duke Energy's reimbursable cost estimates for the transmission facilities. The Authority will be responsible for its share of the actual costs associated with the relocation, as identified in the agreement.

Duke Energy has estimated the actual cost to the Authority for relocation of Duke's transmission facilities as not to exceed \$1,977,550.63. Should the actual costs exceed the above estimates by more than 10%, the Utility Relocation Agreement requires Duke Energy to submit a request for prior approval in writing, setting forth the amount of such additional costs and the changed conditions requiring the additional costs, and obtain the prior written agreement of the CFX before performing work, in order for CFX to become responsible for any additional reimbursement to Duke Energy for the additional amounts.

The estimates provided by Duke Energy incorporated into the Utility Relocation Agreement were reviewed by CH2MHill and determined to be within a reasonable range.

REQUESTED ACTION

It is respectfully requested that the Right of Way Committee recommend that the Board members (1) approve the terms of the Utility Relocation Agreement between Duke Energy and the Authority; and (2) authorize the Executive Director to execute the Utility Relocation Agreement following satisfactory review by legal counsel. Agreement value: \$1,977,550.63.

ATTACHMENTS

Utility Relocation Agreement

Prepared By and Return to:

James Edward Cheek, III
Winderweedle, Haines, Ward &
Woodman, P.A.
P.O. Box 880
Winter Park, Florida 32790-0880

S.R. 429-205 (PARCEL 291)
UTILITY RELOCATION AGREEMENT

This Utility Relocation Agreement ("Agreement") is entered into this ____ day of _____, 2016, between the Central Florida Expressway Authority, a body politic and corporate, and an agency of the state, under the laws of the State of Florida ("CFX"), and Duke Energy Florida, LLC, a Florida limited liability company d/b/a Duke Energy ("Duke Energy").

RECITALS

WHEREAS, Duke Energy is the holder of certain easement interests, written or prescriptive, located within the S.R. 429-205 corridor, as subordinated by that certain Subordination of Easement Agreement recorded in Official Records Book _____, Page _____, of the public records of Orange County, Florida, a copy of which is attached hereto as Exhibit "A" (such interests referred to herein as the "Existing Easement"); and

WHEREAS, the Existing Easement encumbers certain lands owned by CFX that will be used for the construction, operation, maintenance, repair, and replacement from time to time of the parcel 291 of CFX Project 429-205; and

WHEREAS, the proposed construction and use of S.R. 429-205 and, specifically, parcel 291 located in that Project, requires that portions of the Existing Easements and the electric transmission and distribution facilities (collectively, the "Facilities") located therein be removed and relocated; and

WHEREAS, CFX is willing to replace Duke Energy's Existing Easement with a certain new easement, with the new easement being described as shown in Exhibit "B" to this Agreement; and

WHEREAS, CFX agrees to reimburse Duke Energy for the direct costs associated with relocation of its Facilities, subject to certain reimbursements and/or credits to CFX for portions of the Existing Easement, and certain time constraints (as identified herein).

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, CFX and Duke Energy agree as follows:

CFX AGREEMENT TO REIMBURSE DUKE ENERGY

1. The foregoing recitals are true and correct and are hereby incorporated herein by this reference.

2. Duke Energy will perform engineering services in coordination with CFX concerning CFX's Wekiva Parkway Project in Orange County, Florida (CFX PROJECT No. 429-205, the "Project") and Duke Energy's facilities affected or potentially affected by the Project. The engineering services performed for this project are defined as follows.

a. The engineering analysis and preparation of engineering plans for the relocation or adjustment of the existing overhead Duke Energy transmission facilities within the limits of the Wekiva Parkway SR 429, Project 429-205, which shall include the relocation of portions of the Piedmont-Sorrento 230kV transmission line, specifically poles PS-93 through PS-96.

b. The engineering analysis and preparation of engineering plans for the relocation or adjustment of the existing overhead Duke Energy distribution facilities within the limits of the Wekiva Parkway SR 429, Project 429-205.

c. The engineering analysis will also include soil borings, soil thermal properties and subsurface utility exploration.

d. The establishment of the placement location of any new facilities within new and existing easements.

e. The development of a schedule for finalization of design plans and permits.

f. The development of a schedule for procurement and for construction of all facilities, the procurement and construction schedules being contingent upon execution of this Agreement.

g. The establishment of a final construction cost estimate that includes all procurement costs.

h. The performance of the relocation construction activities scoped under this Agreement. The relocation construction activities scoped under this Agreement will start _____, 2016 and will be performed in accordance with the Utility Work Schedules attached hereto as Exhibit "C."

3. **Transmission Facilities:** At this time, it is estimated that the total actual cost associated with the relocation and adjustment of the Duke Energy transmission facilities will be \$1,977,550.63 as described in the Reimbursable Costs – Estimate Summary Sheet attached hereto as Exhibit "D." Subject to the limitations of the terms and conditions of this Agreement, CFX agrees to reimburse Duke Energy for the actual costs of the relocation and adjustment, not to exceed the amount of \$1,977,550.63. Any deviation by CFX or its contractor from the plans for the Project during construction may render this estimate null and void. Duke Energy is not responsible for events beyond its control that could not reasonably be anticipated and which could not be avoided with the exercise of due diligence at the time of occurrence. Should the total actual cost of the relocation and adjustment exceed ten (10) percent more than the original estimate of \$1,977,550.63, Duke Energy shall submit a request for prior approval in writing, setting forth the amount of such additional costs and the changed conditions requiring the additional costs, and obtain the prior

written agreement of the CFX before performing work, in order for CFX to become responsible to reimburse Duke Energy for the additional amounts.

INVOICE PROCEDURES

4. The following terms and conditions apply to all invoices submitted pursuant to this Agreement for reimbursement by CFX:

a. Duke Energy may at monthly intervals submit progress invoices for all actual costs incurred for the period covered by the invoice. All invoices shall be submitted in detail sufficient to identify the work performed during the invoice period.

b. All invoices for materials shall include sufficient backup data and information to establish compliance with Federal Highway Administration (FHWA) 23 U.S.C. § 313 – Buy America, requiring that steel, iron, and manufactured products used in the relocation and adjustment be produced in the United States (“Buy America” compliance).

c. Duke Energy shall submit a final invoice to CFX for payment of all reimbursable costs within one hundred eighty (180) days after completion of the relocation.

d. Invoices shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Invoices for any travel expenses shall be submitted in accordance with Section 112.061, Florida Statutes. All cost records and accounts shall be maintained in auditable condition for a period of five (5) years after final payment is received by Duke Energy and shall be subject to audit by a representative of the CFX at any reasonable time during this five year period.

e. Upon receipt of an invoice, CFX has twenty (20) days to approve the invoice or to return the invoice to Duke Energy for revisions or further documentation.

f. CFX shall pay properly and completely submitted invoices within the time frames set forth in the Florida Property Payment Act, Chapter 218.70-218.80, Florida Statutes, and the provisions of the Act shall apply. Invoices which have to be returned to Duke Energy because of Duke Energy’s preparation errors will result in a delay in the payment. The invoice payment requirements described above do not start until a properly completed invoice is provided to CFX. In the event of a bona fide dispute regarding an invoice, CFX shall provide a statement of the dispute and will authorize payment of the undisputed amount.

TRANSFER OF EASEMENT INTERESTS

5. If not already transferred, CFX will transfer the permanent utility easement interests to Duke Energy within ninety (90) days after it has made final payment to Duke Energy hereunder, or within (90) days after Duke Energy pay its share, if any, of the Total Easement Acquisition Costs if any of said costs are invoiced separately. The easements to be transferred to Duke Energy, and the terms of those easements, are described in Exhibit “B” to this Agreement.

MISCELLANEOUS PROVISIONS

6. This Agreement constitutes the complete and final agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings or negotiations with respect thereto.

7. This Agreement shall be governed by the laws of the State of Florida. The exclusive venue for any legal or equitable action that arises out of or relates to this Agreement shall be the appropriate state court in Orange County, Florida. In any such action, the parties waive any right to jury trial.

8. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining provisions hereof to the extent provided by Florida law.

9. Notices required to be given to another party under the provisions of this Agreement may be given to such party by any one or more of the following methods: prepaid US certified mail, return receipt requested; overnight next day courier service, facsimile, email transmission; or by delivery in person.

CFX: Central Florida Expressway Authority
Name of contact: Glenn M. Pressimone
Telephone No.: (407) 690-5321
Fax No.: (407) 690-5011
Email address: Glenn.Pressimone@CFXWay.com

Duke Energy: Duke Energy Florida, LLC d/b/a Duke Energy

Transmission:

Name of contact: Joel Chatham
Telephone No.: (813) 919-7511
Email address: Joel.Chatham@duke-energy.com

Distribution:

Name of contact: Doug Buxton
Telephone No.: (863) 678-4462
Mobile: (863) 241-8865
Email address: Douglas.Buxton@duke-energy.com

10. In order to enter upon CFX property, Duke Energy will properly complete and deliver to CFX a right of entry application in the form approved by CFX. Upon receipt and approval of this form, CFX will grant to Duke Energy all such licenses and rights of access reasonably necessary to allow Duke Energy to perform the work described in this Agreement, including, without limitation, the right to enter upon CFX property. Duke Energy may exercise such rights after coordinating with and obtaining approval from the CFX contact referenced in Paragraph 9 above, so as to avoid, to the

extent reasonably practicable, any disruption of or interference with the quiet enjoyment of CFX's property.

11. Either party to this Agreement may, from time to time, change the contact information set forth above by giving notice of such change by any one or more of the methods specified.

[Signatures appear on following page]

DUKE ENERGY FLORIDA, LLC, a Florida limited liability
d/b/a DUKE ENERGY

By: _____

Print name: _____

Title: _____

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: _____

Print name: _____

Title: _____

Legal review: _____

Print name: _____

APPROVED AS TO FORM AND LEGALITY FOR USE
AND RELIANCE BY THE CENTRAL FLORIDA
EXPRESSWAY AUTHORITY:

BY: _____
James Edward Cheek, III,
Winderweedle, Haines, Ward & Woodman, P.A.

RECEIVED AND REVIEWED BY THE OFFICE OF
GENERAL COUNSEL, CENTRAL FLORIDA
EXPRESSWAY AUTHORITY

By: _____
Linda Brehmer-Lanosa, Deputy General Counsel

Dated: _____, 2016.

APPROVED BY CFX BOARD ON _____

EXHIBIT A

Prepared By and Return To:
James E. Cheek III., Esq.
Winderweede, Haines, Ward & Woodman, P.A.
Post Office Box 880
Winter Park, Florida 32790-0880

SUBORDINATION OF EASEMENT AGREEMENT

THIS SUBORDINATION OF EASEMENT AGREEMENT, entered into this ____ day of _____, 2016, by and between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a public corporation of the State of Florida (the "Authority"), having an address of 4974 ORL Tower Road, Orlando, Florida 32807, and **DUKE ENERGY FLORIDA, LLC, A Florida limited liability company d/b/a Duke Energy** (the "Utility"), having an address of P.O. Box 14042, St. Petersburg, Florida 33733.

RECITALS:

WHEREAS, the Utility has perpetual easement(s) for the transmission and distribution of electricity encumbering certain lands hereinafter described that have been determined necessary for expressway purposes; and

WHEREAS, the proposed use of these lands for expressway purposes shall require subordination of the interest in such lands by the Utility to the Authority; and

WHEREAS, the Utility has the authority to subordinate its interest as hereinafter set forth; and

WHEREAS, the Authority is willing to replace Utility's perpetual easements with new easements encumbering different lands and pay for the removal or relocation of Utility's facilities.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, Utility and Authority agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are hereby incorporated herein by this reference.
2. **Subordination.** The Utility subordinates to the Authority, its successors and assigns, any and all of its existing or future easements only to the extent they encumber listed property in the lands described as follows, to wit:

[See Composite Exhibit "A" attached hereto and incorporated by reference herein]

for the purpose of constructing, improving, maintaining and operating an expressway and appurtenant improvements over, through, upon, and/or across such lands.

3. **Reservation of Rights.** The Utility reserves the right to construct, operate, maintain, improve, add to, upgrade, remove, or relocate facilities on, within, and upon the lands described herein in accordance with the Authority's current minimum standards, as may be amended, for such facilities as required by the State of Florida Department of Transportation ("FDOT"), Utility Accommodation Guide.

4. **Relocation of Easements.** Should the Authority require the Utility to alter, remove, adjust, or relocate its facilities located within any portion of the above-described lands, the Authority hereby agrees to pay the direct costs of such alteration, adjustment, relocation or removal including, but not limited to the cost of acquiring appropriate replacement easements to cover the relocated facilities. Any relocation, alteration or removal of the Utility's facilities not required by the Authority shall be performed at the Utility's sole cost and expense.

5. **Maintenance Access by the Utility.**

a. The Utility shall retain the reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 3 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that the exercise of such rights does not unreasonably interfere with the operation and safety of the Authority's expressway. The Utility shall pay tolls for the entry and exit of all its equipment and vehicles and those of its contractor at the prevailing rate.

b. In the exercise of the rights and privileges under Paragraphs 3 and 5a. above, the Utility shall not damage or disturb any improvements located outside of the easement areas and, upon completion of any work, shall repair and restore any damage to the Authority property or improvements to the satisfaction of the Authority. The Utility shall be responsible for the proper construction, operation, maintenance and repair of the facilities installed and maintained by the Utility, and the Authority shall assume no responsibility or liability for the maintenance, repair or safe operation of such facilities. All entries upon property owned by the Authority by Utility, its employees, agents and contractors, shall be at Utility's risk and expense. The Utility shall agree to indemnify the Authority against any loss or damage directly resulting from the Utility's exercise of its rights outlined in Paragraphs 3 and 5a. above.

6. **Non-Interference with Facilities.** The Authority covenants not to interfere with the Utility's facilities within the easement area on the above-described property.

7. **Notice of Construction.** Except in case of emergency, the Authority shall give a minimum of forty-eight (48) hours' notice to the Utility's local office prior to the commencement of construction over the Utility's easement areas in the above-described property. In emergency situations, Authority shall notify the Utility's office as soon as possible.

8. **General Provisions.** No failure of either party to exercise any power given

hereunder or to insist upon strict compliance with any obligation specified herein shall constitute a waiver of either party's right to demand strict compliance with the terms hereof. This Agreement contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Any amendment to this Agreement shall not be binding upon any of the parties hereto unless such amendment is in writing and executed by the parties. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns. Time is of the essence of this Agreement. The headings inserted at the beginning of each paragraph are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph. This Agreement shall be interpreted under the laws of Florida. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

[SIGNATURE PAGES TO FOLLOW]

Signed, sealed and delivered
in our presence as witnesses:

(Print Name)

(Print Name)

Signed, sealed and delivered
in our presence as witnesses:

(Print Name)

(Print Name)

**CENTRAL FLORIDA
EXPRESSWAY AUTHORITY**

By: _____

Print Name: _____
Title: Deputy Executive Director

**CENTRAL FLORIDA
EXPRESSWAY AUTHORITY**

By: _____

Linda Brehmer Lanosa
Print Name: _____
Title: Deputy General Counsel

Approved as to form for execution by the
Authorized Signatory of the Central
Expressway Authority

By: _____

Print Name: _____
Right of Way Counsel

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by _____ as _____ of CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a municipal corporation, who is personally known to me or has produced _____ as identification and who did/did not take an oath.

Notary Public

Print Name
Notary Public, State of Florida
Commission No. _____
My commission expires:

Signed, sealed and delivered
in our presence as witnesses:

DUKE ENERGY FLORIDA, LLC,
a Florida limited liability company
d/b/a Duke Energy

(Print Name)

(Print Name)

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by _____ as _____ of Duke Energy Florida, LLC, a Florida limited liability company d/b/a Duke Energy, on behalf of the company, who is personally known to me or has produced _____ as identification and who did/did not take an oath.

Notary Public

Print Name

Notary Public, State of Florida
Commission No. _____
My commission expires:

EXHIBIT B

ORLANDO ORANGE COUNTY
EXPRESSWAY AUTHORITY
STATE ROAD 429
PROJECT NO. 429-205

PARCEL NO. 991
PURPOSE: PART A PERMANENT EASEMENT
PURPOSE: PART B PERMANENT EASEMENT
ESTATE: PERMANENT EASEMENT

LEGAL DESCRIPTION

PARCEL 991 - PART A PERMANENT EASEMENT

ALL THAT TRACT OR PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 20 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; BEING A PORTION OF THE SOUTHEAST 1/4 OF SAID SECTION 5 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SECTION 5, TOWNSHIP 20 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A FOUND BENT 1/2" IRON ROD AND NO IDENTIFICATION; THENCE NORTH 03°29'07" WEST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 5, A DISTANCE OF 1284.16 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 5, SAID POINT BEING A FOUND 1/2" IRON ROD AND NO IDENTIFICATION; THENCE DEPARTING SAID WEST LINE, RUN NORTH 03°29'28" WEST ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 5, A DISTANCE OF 1283.73 FEET TO THE NORTHEAST CORNER THE SOUTHWEST 1/4 OF SAID SECTION 5, SAID POINT BEING A FOUND 1/2" IRON ROD AND NO IDENTIFICATION; THENCE DEPARTING SAID WEST LINE, RUN NORTH 88°13'13" EAST ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 5, A DISTANCE OF 292.94 FEET TO A POINT ON THE EAST LINE OF THE EXISTING FPC TRANSMISSION LINE EASEMENT AS RECORDED IN OFFICAL RECORDS BOOK 3349, PAGE 1972 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH 26°36'38" EAST ALONG SAID EAST LINE, A DISTANCE OF 640.43 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID EAST LINE, RUN SOUTH 42°05'57" EAST, A DISTANCE OF 350.84 FEET TO A POINT; THENCE SOUTH 09°38'11" EAST, A DISTANCE OF 68.04 FEET TO A POINT; THENCE SOUTH 83°07'27" WEST, A DISTANCE OF 78.43 FEET TO A POINT ON AFORESAID EAST LINE OF THE EXISTING FPC TRANSMISSION LINE EASEMENT; THENCE NORTH 26°36'38" WEST ALONG SAID EAST LINE, A DISTANCE OF 376.69 FEET TO THE POINT OF BEGINNING.

CONTAINING 20,311 SQUARE FEET, MORE OR LESS.

SEE SHEET 3 FOR SKETCH OF DESCRIPTION
SEE SHEET 4 FOR GENERAL NOTES AND LEGEND

SHEET 1 OF 4

FOR: ORLANDO-ORANGE COUNTY
EXPRESSWAY AUTHORITY

DATE: FEBRUARY 03, 2014

PROJECT NO.: P04-04

DRAWN: DPW CHECKED: JMS

STATE ROAD 429
OOCEA PROJECT NO. 429-205
PARCEL NO. 991



GEODATA CONSULTANTS, INC.

SURVEYING & MAPPING

1349 S. INTERNATIONAL PARKWAY

SUITE 2401

LAKE MARY, FLORIDA 32746

VOICE: (407) 732-6965 FAX: (407) 878-0841

LAND SURVEYOR BUSINESS LICENSE NO. 6556

ORLANDO ORANGE COUNTY
EXPRESSWAY AUTHORITY
STATE ROAD 429
PROJECT NO. 429-205

PARCEL NO. 991
PURPOSE: PART A PERMANENT EASEMENT
PURPOSE: PART B PERMANENT EASEMENT
ESTATE: PERMANENT EASEMENT

LEGAL DESCRIPTION

PARCEL 991 - PART B PERMANENT EASEMENT

ALL THAT TRACT OR PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 20 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; BEING A PORTION OF THE SOUTHEAST 1/4 OF SAID SECTION 5 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SECTION 5, TOWNSHIP 20 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A FOUND BENT 1/2" IRON ROD AND NO IDENTIFICATION; THENCE NORTH 03°29'07" WEST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 5, A DISTANCE OF 1284.16 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 5, SAID POINT BEING A FOUND 1/2" IRON ROD AND NO IDENTIFICATION; THENCE DEPARTING SAID WEST LINE, RUN NORTH 03°29'28" WEST ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 5, A DISTANCE OF 1283.73 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 5, SAID POINT BEING A FOUND 1/2" IRON ROD AND NO IDENTIFICATION; THENCE DEPARTING SAID WEST LINE, RUN NORTH 88°13'13" EAST ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 5, A DISTANCE OF 292.94 FEET TO A POINT ON THE EAST LINE OF THE EXISTING FPC TRANSMISSION LINE EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 3349, PAGE 1972 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH 26°36'38" EAST ALONG SAID EAST LINE, A DISTANCE OF 1017.12 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID EAST LINE, RUN NORTH 83°07'27" EAST, A DISTANCE OF 78.43 FEET TO A POINT; THENCE SOUTH 09°38'11" EAST, A DISTANCE OF 240.24 FEET TO A POINT ON AFORESAID EXISTING FPC TRANSMISSION LINE EASEMENT; THENCE THE FOLLOWING TWO COURSES ALONG SAID EXISTING FPC TRANSMISSION LINE EASEMENT: THENCE SOUTH 71°52'36" WEST, A DISTANCE OF 3.73 FEET TO A POINT; THENCE NORTH 26°36'38" WEST, A DISTANCE OF 255.71 FEET TO THE POINT OF BEGINNING.

CONTAINING 9,882 SQUARE FEET, MORE OR LESS.

SEE SHEET 3 FOR SKETCH OF DESCRIPTION
SEE SHEET 4 FOR GENERAL NOTES AND LEGEND

SHEET 2 OF 4

FOR: ORLANDO-ORANGE COUNTY
EXPRESSWAY AUTHORITY

DATE: FEBRUARY 03, 2014

PROJECT NO.: P04-04

DRAWN: DPW CHECKED: JMS

STATE ROAD 429
OOCEA PROJECT NO. 429-205
PARCEL NO. 991



GEODATA CONSULTANTS, INC.

SURVEYING & MAPPING

1349 S. INTERNATIONAL PARKWAY

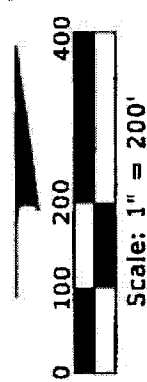
SUITE 2401

LAKE MARY, FLORIDA 32746


VOICE: (407) 732-6965 FAX: (407) 878-0841

LAND SURVEYOR BUSINESS LICENSE NO. 6556

PART A EASEMENT AREA= 20,311 SQUARE FEET±
PART B EASEMENT AREA= 9,882 SQUARE FEET±
EASEMENT AREA= 30,193 SQUARE FEET± (0.693 ACRES±)



SHEET 3 OF 4

 **GEODATA CONSULTANTS, INC.**
SURVEYING & MAPPING
1349 S. INTERNATIONAL PARKWAY
SUITE 2401
LAKE MARY, FLORIDA 32746
VOICE: (407) 732-6965 FAX: (407) 878-0843
LAND SURVEYOR BUSINESS LICENSE NO. 6556

SKETCH OF DESCRIPTION

LEGEND AND ABBREVIATIONS

| | | | |
|-----|-----------------------------|--------|-------------------------|
| (C) | = CALCULATED | LT | = LEFT |
| CL | = CENTERLINE | N: | = NORTHING |
| CCR | = CERTIFIED CORNER RECORD | NO. | = NUMBER |
| E: | = EASTING | ORB | = OFFICIAL RECORDS BOOK |
| (F) | = FIELD | PL | = PROPERTY LINE |
| FPC | = FLORIDA POWER CORPORATION | PG | = PAGE |
| FND | = FOUND | PB | = PLAT BOOK |
| ID | = IDENTIFICATION | P.O.B. | = POINT OF BEGINNING |
| IP | = IRON PIPE | P.O.C. | = POINT OF COMMENCEMENT |
| IR | = IRON ROD | RT | = RIGHT |
| LA | = LIMITED ACCESS | R/W | = RIGHT OF WAY |
| | | STA | = STATION |

GENERAL NOTES:

1. THE PURPOSE OF THIS SKETCH IS TO DELINEATE THE DESCRIPTION ATTACHED HERETO. THIS DOES NOT REPRESENT A BOUNDARY SURVEY.
2. THE BEARINGS SHOWN HEREON ARE RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983/2007 ADJUSTMENT (NAD83/07), EAST ZONE, WITH THE WEST LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 05, TOWNSHIP 20 SOUTH, RANGE 28 EAST, HAVING A BEARING OF NORTH 03°29'28" WEST.
3. UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS SKETCH IS FOR INFORMATIONAL PURPOSES ONLY.
4. THIS SKETCH MAY HAVE BEEN REDUCED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.
5. A CERTIFICATE OF TITLE INFORMATION PREPARED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY DATED JANUARY 02, 2013, POLICY NO. FL4149-10-4150814-2012.2730609-87774489, WAS REVIEWED BY THE SURVEYOR. EXCEPTIONS LISTED THEREIN (IF ANY) WHICH AFFECT THE PARCEL DESCRIBED HEREON, WHICH CAN BE DELINEATED OR NOTED, ARE SHOWN HEREON.
6. CITY LIMITS SHOWN HEREON ARE TAKEN FROM THE ORANGE COUNTY GEOGRAPHIC INFORMATION SYSTEM SITE AND ARE APPROXIMATE.
7. ALL RECORDING REFERENCES SHOWN ON THIS SURVEY REFER TO THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, UNLESS OTHERWISE NOTED.
8. THIS SKETCH IS NOT A SURVEY.

SEE SHEETS 1 & 2 FOR LEGAL DESCRIPTIONS
SEE SHEET 3 FOR SKETCH OF DESCRIPTION

SHEET 4 OF 4



| | | | |
|---|-----|---|--|
| | | I HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION AND SKETCH IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS LEGAL DESCRIPTION AND SKETCH MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 81-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES SUBJECT TO NOTICES AND NOTATIONS SHOWN HEREON. | |
| | |  3-24-2016 H. Paul DeVivero, Professional Land Surveyor No. 4088 DATE | |
| ADDED PART B EASEMENT | DPW | 04/28/2014 | |
| REVISED PER COMMENTS | DPW | 03/11/2014 | |
| REVISION | BY | DATE | |
| FOR: ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY | | STATE ROAD 429 | |
| DATE: FEBRUARY 03, 2014 | | OOCEA PROJECT NO. 429-205 | |
| PROJECT NO.: P04-04 | | PARCEL NO. 991 | |
| DRAWN: DPW CHECKED: JMS | |  GEODATA CONSULTANTS, INC. SURVEYING & MAPPING 1349 S. INTERNATIONAL PARKWAY SUITE 2401 LAKE MARY, FLORIDA 32746 VOICE: (407) 732-6955 FAX: (407) 878-0841 LAND SURVEYOR BUSINESS LICENSE NO. 6556 | |

EXHIBIT C

CENTRAL FLORIDA EXPRESSWAY AUTHORITY (CFX) UTILITY WORK SCHEDULE

UTILITIES
10/8/2015
1 of 4

| | | | | | |
|--|--|-----------------------------------|--|---------------------------------------|--|
| Project Title: Wakiva Parkway | | CFX Proj# 429-205 | | Federal Aid Project ID: n/a | |
| County: Orange | | State Road No.: 429 | | | |
| Utility Agency/Owner (UAO): Duke Energy Florida D/B/A Duke Energy Transmission | | | | | |
| A. Summary of Utility Work and Execution | | | | | |
| NON-CONSTRUCTION ITEMS | | CONSTRUCTION ITEMS | | Estimated Time (Calendar Days) | |
| Preliminary | | Prior to CFX Project Construction | | n/a | |
| Material Procurement | | During CFX Project Construction | | 36 | |
| Right-of-Way | | Total | | 36 | |
| Other | | | | | |
| Total | | | | | |

This document has been developed as the method for a Utility Agency/Owner (UAO) to transmit to the CENTRAL FLORIDA EXPRESSWAY AUTHORITY (CFX). CFX's Contractor, and other right-of-way users, the location, relocation, adjustment, installation, and/or protection of their facilities, on this project. The following data is based on the CFX Pre-Bid 100% Construction Plans dated June 2014. Any deviation by CFX or its contractor from the plans, as provided, may render this work schedule null and void. Upon notification by CFX of such change, this utility may require additional days for assessment and negotiation of a new work schedule. This UAO is not responsible for events beyond the control of the UAO that could not reasonably be anticipated by the UAO and which could not be avoided by the UAO with the exercise of due diligence at the time of the occurrence. The UAO agrees to notify the Authority in writing prior to starting, stopping, resuming, or completing work. During the project, the UAO shall locate its facilities within 48 hours notice to their:

UAO Project Representative: Joel Chatham Telephone Number: 407-942-9640

UAO Field Representative: George Baxter Telephone Number: 727-483-3242

This document is a printout of a CFX form maintained in an electronic format, and all revisions thereto by the UAO in the form of additions, deletions or substitutions are reflected only in an Appendix entitled "Changes to Form Document" and no change is made in the text of the document itself. Hand notations on affected portions of this document may refer to changes reflected in the above-named Appendix but are for reference purposes only and do not change the terms of the document. By signing this document, the UAO hereby represents that no change has been made to the text of this document except through the terms of the appendix entitled "Changes to Form Document".

The UAO MUST signify by selecting or checking which of the following applies:

☒ No changes to forms document.
☐ Appendix "Changes to Forms Document" is attached. Number of Attachment Pages: _____

| | | |
|---|---|--------------------------|
| Authorized Utility Agent | Engineer of Record (EOR) | Acceptance by CFX |
| <u>Ed Burkot</u> (Signature) | <u>Rodger Schmidt, PE, Engineer of Record</u> (Signature) | _____ (Signature) |
| <u>Ed Burkot, Senior Engineer</u> (Name) (Title) | <u>Rodger Schmidt, PE, Engineer of Record</u> (Name) (Title) | _____ (Name) |
| <u>NOVEMBER 23, 2015</u> (Date) | _____ (Date) | _____ (Date) |

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
UTILITY WORK SCHEDULE**

UTILITIES
10/8/2015
2 of 4

| | |
|---|---|
| Project Title: Wekiva Parkway | County Road Number: N/A |
| State Road No: 429 | City Road: N/A |
| Project No: 429-205(2A) | |
| UTILITY AGENCY/OWNER (UAO): Duke Energy Florida D/B/A Duke Energy Transmission | |
| B. | Special Conditions / Constraints |

1) The Duke Energy Transmission (DET) existing facilities indicated on the attached plans are shown as they existed on 02/2012, in reference to the drawings dated 06/2014. Please contact the DET UAO representative previously listed to ensure that changes have not taken place and if so, what those changes are prior to performing any work that may be dependent upon the DET facilities' location and related data.

2) When requesting outages, the contractor must follow these guidelines:

- i. The roadway contractor must provide an outage package indicating: the scope of work, start to finish schedule, type of equipment utilized, contractor team contact information, design drawings and other information as identified by DET as necessary. Outage initiation requires a minimum of 21-days from the approval of the outage package. In cases where multiple transmission lines are impacted by the project, DET will only allow one circuit out of service at any given time.
- ii. If at any time a de-energized line will need to be placed back into service, such as a system emergency (e.g. hurricane, loss of another transmission line, and/or extreme load, etc.) DET will ask the roadway contractor, within a two-hour period, to shut down any construction that would restrict DET construction crews from placing the de-energized line back into service.
- iii. Typically, any de-energizing of any DET lines can only occur during the following time periods: October 1st to November 15th, and March 1st to April 15th. Any additional required de-energized time periods needed throughout the project will need to be coordinated with the UAO representative previously listed.
- iv. Typically an outage cannot exceed a two-week duration; a new request may be required if additional outage time is needed.
- v. DET can NOT guarantee that the roadway contractor will get the approval for the outage; it is the contractor's responsibility to follow up with the above-listed contact.
- vi. If for any reason the outage was approved but can't be accomplished, then DET will reserve the right to cancel the outage with 2-hours advance notification.
- vii. In cases where multiple transmission lines are impacted by the project, DET will only allow one circuit out of service at any given time.
- viii. A responsible representative from the roadway contractor's staff will attend all daily and necessary pre-job briefing meetings conducted by DET.

3) This project is to be constructed in the vicinity of energized 230kV OH transmission.

4) When doing any work or task under or near any DET facilities, all NESC & OSHA guidelines must be adhered to.

5) Any relocation of existing or proposed DET facilities beyond what is described in this document that is required to accommodate construction will require notice sufficient to cover analysis, design, material logistics & mobilization/demobilization.

6) When the roadway contractor is excavating around DET facilities, they shall provide at least a 15-foot horizontal clearance to the facility; if this cannot be met, a notification must be sent to the UAO Field Representative previously listed to arrange for a field meeting.

7) No grading is allowed within any DET easement without prior approval from Asset Protection

8) The DET Project Representative shall be notified by the CFX or roadway contractor when any dependent activities are completed.

9) All relocation activities by DET will be performed during regular working hours between Monday through Friday. No night time or weekend activities will be performed unless otherwise coordinated in advance.

10) DET & DET contractor crews availability may be affected or limited due to DET requirement to respond to emergency conditions on or off of the DET system. This emergency response condition may affect this project's construction schedule.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
UTILITY WORK SCHEDULE

UTILITIES
10/8/2015
3 of 4

| | |
|--|----------------------------------|
| Project Title: Wekiva Parkway | County Road Number: N/A |
| State Road No: 429 | City Road: N/A |
| | Project No: 429-205(2A) |
| UTILITY AGENCY/OWNER (UAO): Duke Energy Florida D/B/A Duke Energy Transmission | |
| B. | Special Conditions / Constraints |

Conditions continued...

11) Upon completion of adjustment of this utility's facilities as described in this approved Utility Work Schedule-any additional adjustment of this Utility's same facilities that is required due to deviation by the CFX or its roadway contractor from the above referenced roadway plan date provided to this utility will be conveyed to the CFX and/or its roadway contractor for consideration to mitigate the conflict or for review by the CFX for reimbursement. Upon agreement with the CFX, this Utility will proceed with the design and construction of the additional adjustment within the standard work schedule of this utility.

12) Clearing and grubbing of 100 foot wide path across CFX property centered on planned DET route to be completed by CFX contractor prior to DET beginning construction. Area within 50 foot radius of PS-94 to have a slope of not greater than 1 to 10 prior to DET beginning construction.

13) The estimated calendar days of construction assumes all work is done during normal business, daylight hours, that there are no weather related work delays, and that no emergency situations arise to cause the crew to stop work on this project.

14) All proposed structures and transmission wires to be installed and the line energized prior to any existing structures and wires being removed.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
UTILITY WORK SCHEDULE

UTILITIES
10/8/2015
4 of 4

| | | | | |
|---|---|-------------------------|------------------------|------------------------------|
| Project Title: Wekiva Parkway | | County Road Number: N/A | | |
| State Road No: 429 | | City Road: N/A | | |
| | | Project No: 429-205(2A) | | |
| UTILITY AGENCY/OWNER (UAO): Duke Energy Florida D/B/A Duke Energy Transmission | | | | |
| C. Disposition of Facilities (List All Existing & Proposed) on Project: | | | | |
| UTILITY FACILITIES by TYPE/SIZE/MATERIAL/OFFSET TO BASELINE FROM STA TO STA | DESCRIPTION OF UTILITY WORK | DEPENDENT ACTIVITIES | M.O.T. Phase Number | CONSECUTIVE CALENDAR DAYS |
| CONSTRUCTION DURING CFX CONSTRUCTION | | | | |
| BL NB SR 429 | | | | |
| | | | | |
| 470+03 L1081; PS-96; 85' WD H- STR(2); EMBEDDED 13' | STRUCTURE TO BE REMOVED | n/a | none | 4 |
| | | | | |
| 470+09 L1070; PS-96 | PROPOSED OH TRANSMISSION STRUCTURE | Special Condition #12 | none | 4 |
| | | | | |
| 472+71 L524; PS-95 | PROPOSED OH TRANSMISSION STRUCTURE | Special Condition #12 | none | 4 |
| | | | | |
| 472+77 L514; PS-95; 85' WD H- STR(2);18" DIA.; EMBEDDED 12' | STRUCTURE TO BE REMOVED | n/a | none | 4 |
| | | | | |
| 475+07 L263; PS-94 | PROPOSED OH TRANSMISSION STRUCTURE | Special Condition #12 | none | 4 |
| | | | | |
| 475+20; PS-95 TO PS-94; 230kV TRANSMISSION CROSSING | OH TRANSMISSION CROSSING TO BE REMOVED | n/a | none | 0 |
| | | | | |
| 475+30; PS-94 TO PS-93A; 230kV TRANSMISSION CROSSING | PROPOSED OH TRANSMISSION CROSSING | n/a | none | 0 |
| | | | | |
| 475+53 R46; PS-94; 3X95' ST; 30" DIA.; EMBEDDED 14' | STRUCTURE TO BE REMOVED | n/a | none | 4 |
| | | | | |
| 475+86 R513; PS-93A | PROPOSED OH TRANSMISSION STRUCTURE | Special Condition #12 | none | 4 |
| | | | | |
| 476+09 R787; PS-93; 114'CC H- STR(2);30" DIA.; EMBEDDED 18' | STRUCTURE TO BE REMOVED | n/a | none | 4 |
| | | | | |
| 476+16 R896; PS-93 | PROPOSED OH TRANSMISSION STRUCTURE | Special Condition #12 | none | 4 |

EXHIBIT D

**PS 230kV Wekiva Pkwy OCEA 431081-
1-32-01 OrangeCo**

UTILITY ESTIMATE SUMMARY

Final billing will be based on actual costs

| | |
|---|--|
| Financial Management No.: 431081-1-32-01 | Federal Aid No.: 431081-1-32-01 |
| County: Orange | State Road No.: Wekiva Parkway CFX 429-205 (2A) |
| Utility Agency/Owner(UAO): DUKE ENERGY FLORIDA, D/B/A DUKE ENERGY-TRANSMISSION | |

TYPE OF WORK ESTIMATED: (Mark "X" in appropriate box(es).)

| <u>Engineering</u> | <u>Relocation/ Installation</u> | <u>Items(s)</u> |
|-------------------------------------|-------------------------------------|----------------------|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Force Account |
| <input type="checkbox"/> | <input type="checkbox"/> | Lump Sum |
| <input type="checkbox"/> | <input type="checkbox"/> | Third Party Contract |
| <input type="checkbox"/> | <input type="checkbox"/> | Other _____ |

Estimate Summary: (If more than one work order complete "Total" column)

| Item(s) | Job or Work Order No. () | Job or Work Order No. 2451T3 | Total |
|---|------------------------------|---------------------------------|-----------------|
| Preliminary Engineering | | | \$ - |
| R/W (Acquisition Only) | | | \$ - |
| Construction Engineering | | | \$ 278,879.25 |
| Construction Labor | | | \$ 1,017,648.76 |
| Materials & Supplies | | | \$ 470,925.99 |
| Materials Handling Charges | | | \$ - |
| Transportation & Equipment | | | \$ - |
| Contract Construction | | | \$ - |
| Miscellaneous Expense | | | \$ - |
| Inspection Costs | | | \$ - |
| General Overhead Costs | | | \$ 210,096.63 |
| GROSS RELOCATION COSTS: | | | \$ - |
| *Salvage | | | \$ - |
| *Betterment | | | \$ - |
| *Expired Service Life | | | \$ - |
| *Nonreimbursable | | | \$ - |
| TOTAL CREDITS: | () | () | () |
| TOTAL REIMBURSABLE COSTS: | | | \$ 1,977,550.63 |
| *% To be Applied to Final Billing for Credits Due Project | (%) | (%) | (%) |

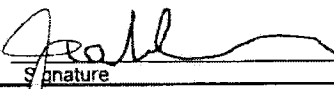
Submitted for the utility owner by:

Joel Chatham

October 22,
2015

Print Name

Date



Signature

Tab H

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: Right of Way Committee Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel
Glenn Pressimone, Director of Engineering 

DATE: April 12, 2016

RE: *Central Florida Expressway Authority v. Mega GNG, LLP, et al.*
Case No. 2014-CA-003590-O, Project: 429-203, Parcel 232
Owner: Mega GNG, LLLP
Location: 2809 W. Kelly Park Rd, Apopka, Florida 32712
Size of Land: Before: 39.849± gross / net acres
Taken: 0.170± gross / net acres (7,407± square feet)
Remainder: 39.679± gross / net acres

INTRODUCTION AND PROPERTY DESCRIPTION

Mega GNG's property is located on the northeast corner of Plymouth Sorrento Road and West Kelly Park Road, in unincorporated Orange County, Florida. The easterly portion of the parent tract is improved with a modular office building, a metal warehouse building, three greenhouses, asphalt driveways, a cylindrical storage container, perimeter chain link fencing with barbed wire, a chain link gate, and a decorative brick wall with columns and metal entrance gates. Primary access is available on the east side of Plymouth Sorrento Road and north side of West Kelly Park Road. The property is zoned A-1, Citrus Rural District by Orange County. The future land use is Rural.

Parcel 232 is a strip and corner clip taking consisting of 7,407 square feet along the south border of the parent tract and the southwest corner. According to construction plans, West Kelly Park Road and Plymouth Sorrento Road will be constructed with 12-foot wide lanes, 10-foot wide shoulders (5-foot paved, 5-foot stabilized) and roadside ditches. A center left turn-only lane for traffic turning onto southbound Plymouth Sorrento Road will be constructed on West Kelly Park Road in front of the subject property for 236 feet from the signalized intersection.

SUMMARY OF CFX'S APPRAISAL REPORT

Walter N. Carpenter, Jr., MAI, CRE, appraised the property. He concluded that the highest and best use "*as though vacant*" is to hold for future commercial or mixed use development until economic conditions improve and as dictated by market demand. The highest and best use "*as improved*" is the existing use as interim until economic conditions improve and as dictated by market demand. Based upon the comparable sales approach, Mr. Carpenter estimated the value of Parcel 232 as of June 6, 2014 as follows:

Project: 429-203, Parcel 232
Owner: Mega GNG, LLLP

| Description | Amount |
|--|-----------------|
| Value of Land Taken (7,407 sf @ \$2/sf) | \$14,800 |
| Improvements (740-ft chain link fence, sod) | 11,680 |
| Severance Damages | 0 |
| Cost to Cure (contributory value of fence based upon 15% depreciation) | 5,490 |
| Total | \$31,970 |

**SUMMARY OF THE OWNER'S DEMAND,
ATTORNEY'S FEES, EXPERT FEES AND COSTS**

After consulting with Dan K. Richardson, PhD, MAI, AI-GRS, and John M. Donaldson of JMD Engineering, Inc., the owner, Mega GNG, demanded the following

| Description | Amount |
|--|------------------|
| Value of Land Taken (7,407 sf @ \$6.48/sf) | \$48,000 |
| Improvements (740-ft chain link fence, sod) | 30,670 |
| Severance Damages | 0 |
| Cost to Cure (contributory value of fence based upon 15% depreciation) | 9,773 |
| Total | \$88,000 |
| Expert Fees | |
| Dan K. Richardson, PhD, MAI | \$ 1,950 |
| JMD Engineering, Inc. | 1,974 |
| Statutory Attorney's Fees | 18,490 |
| Total Request for Expert Fees and Costs and Attorney's Fees and Costs | \$22,414 |
| All Inclusive Total | \$110,414 |

Although the owner's did not produce expert reports, the expert fees and costs were correspondingly lower.

REQUEST

After informal communications and discussions, the parties reached a proposed settlement in the amount of **\$59,000** resolving all claims for compensation from Petitioner resulting from the taking of Parcel 232, including severance damages, business damages, tort damages, interest, attorney's fees, attorney's costs, expert fees, expert costs, and any other claim, subject to apportionment, if any. We respectfully request the Committee's recommendation for Board approval of the proposed settlement.

Project: 429-203, Parcel 232
Owner: Mega GNG, LLLP

Attachments: Mediated Settlement Agreement
Excerpt of Appraisal Report

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

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

Petitioner,

v.

Case No. 2014-CA-003590-O

MICHAEL TYSZKO;

Parcel 232

MEGA GNG, L.L.P. a Florida limited liability
limited partnership; et al..

Division 39

Respondents.

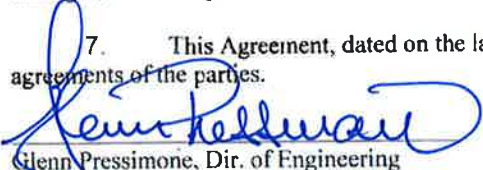
SETTLEMENT AGREEMENT

The parties reached the following Settlement Agreement:

1. Petitioner will pay to Respondent, **MEGA GNG, LLLP**, a Florida limited liability partnership, ("Respondent") the sum of **Fifty-Nine Thousand Dollars (\$59,000)**, in full settlement of all claims for compensation from Petitioner resulting from the taking of Parcel 232, including severance damages, business damages, tort damages, interest, attorney's fees, attorney's costs, expert fees, expert costs, and any other claim, subject to apportionment, if any.
2. Petitioner is entitled to a credit in the amount of **Thirty-One Thousand Nine Hundred Seventy Dollars (\$31,970)**, which sum was previously deposited in the Registry of the Court in this case by Petitioner.
3. Petitioner will pay Respondent the balance due of **Twenty-Seven Thousand Thirty Dollars (\$27,030)**, within twenty (20) days of the actual date of receipt by Petitioner's counsel of a conformed copy of the aforesaid Stipulated Final Judgment from the Court.
4. This Agreement is contingent upon the approval of the Central Florida Expressway Authority ("CFX") Right of Way ("ROW") Committee and the CFX Board of Directors.
5. Counsel for Petitioner and Respondent will jointly submit to the Court for signature a mutually approved Stipulated Final Judgment in this matter as soon as practicable after the approval of this mediated settlement agreement by the CFX Board.

6. This Agreement resolves all claims whatsoever, including claims of compensation arising from the taking of Parcel 232, such as severance damages, business damages, tort damages, interest, attorney's fees, expert fees, costs, and any other claim.

7. This Agreement, dated on the last day executed below, contain(s) all the agreements of the parties.


Glenn Pressimone, Dir. of Engineering
Central Florida Expressway Authority

Date:


4/12/2016


Owner

Shun-Chi Huang
Print Name and Title

Date

4/12/2016


Linda Brehmer Lanosa, Esq. for
Central Florida Expressway Authority

Date:

April 12, 2016


Meredith Delcamp, Attorney for Owner

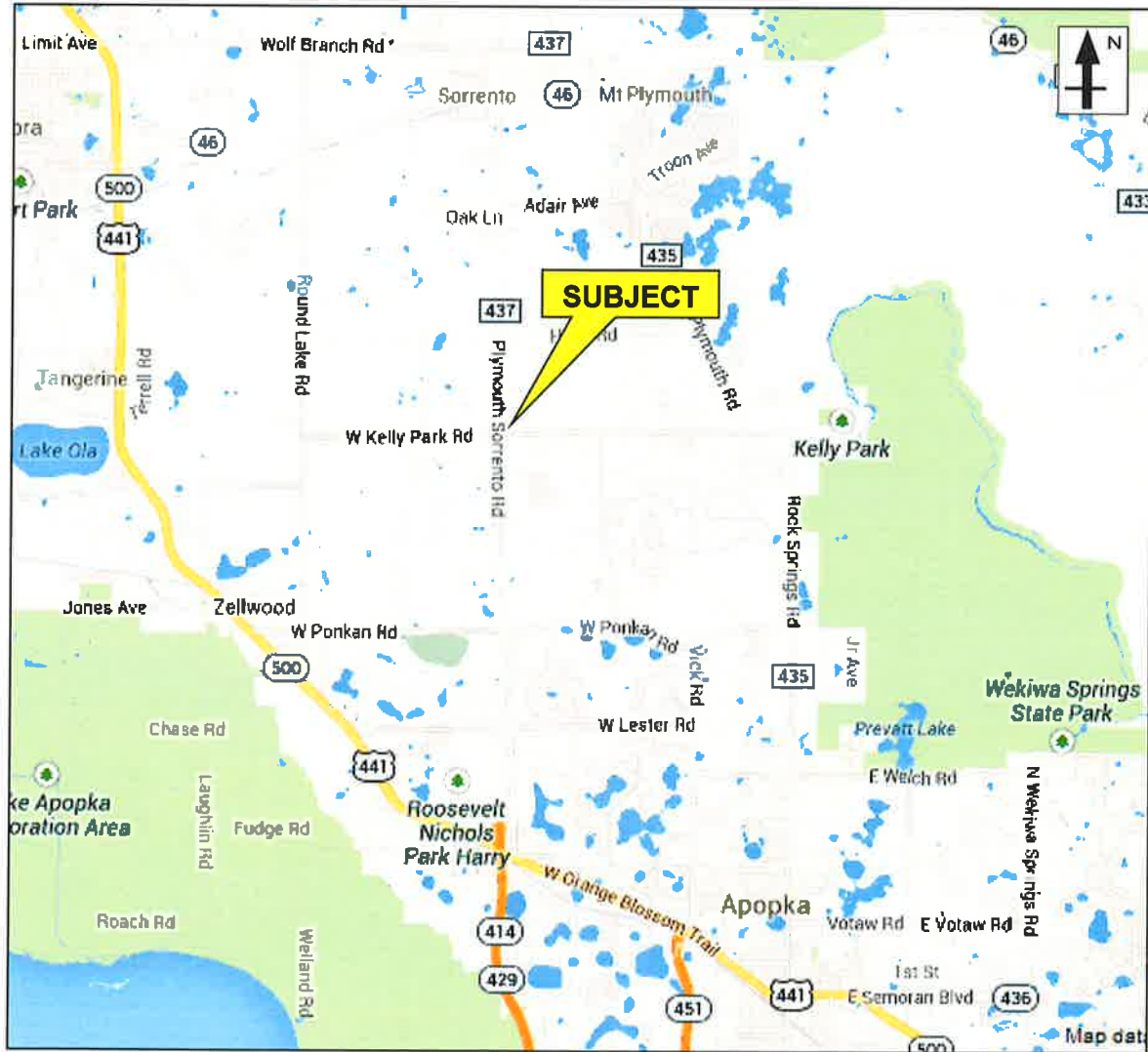
Date:

4-12-16

PARCEL NO.: 232
OWNER: MEGA GNG, LLLP
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203
CITY/COUNTY: UNINCORPORATED/ORANGE

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LOCATION MAP

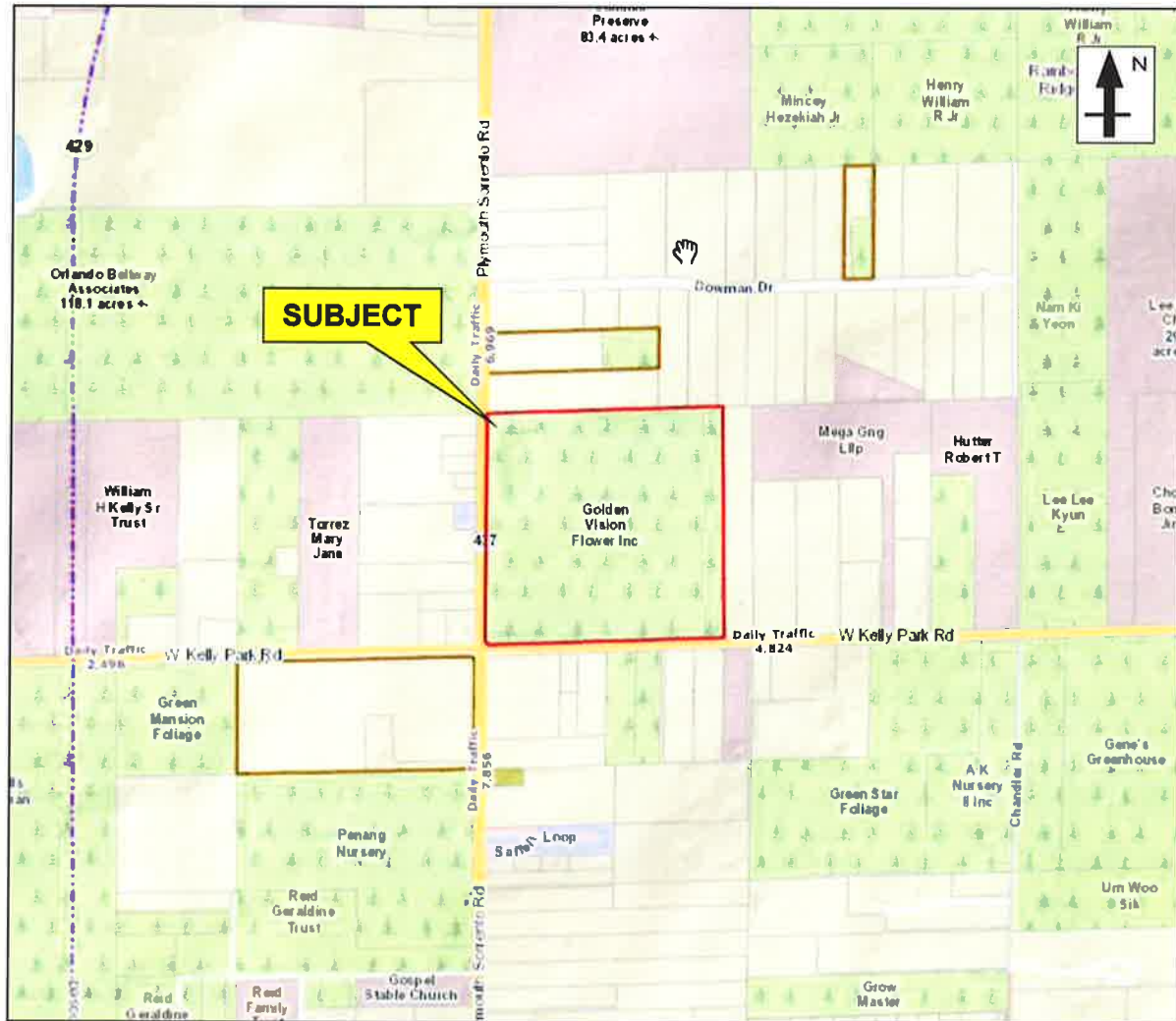


Approximate Representation
Source: Google Maps

PARCEL NO.: 232
OWNER: MEGA GNG, LLLP
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203
CITY/COUNTY: UNINCORPORATED/ORANGE

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TAX MAP

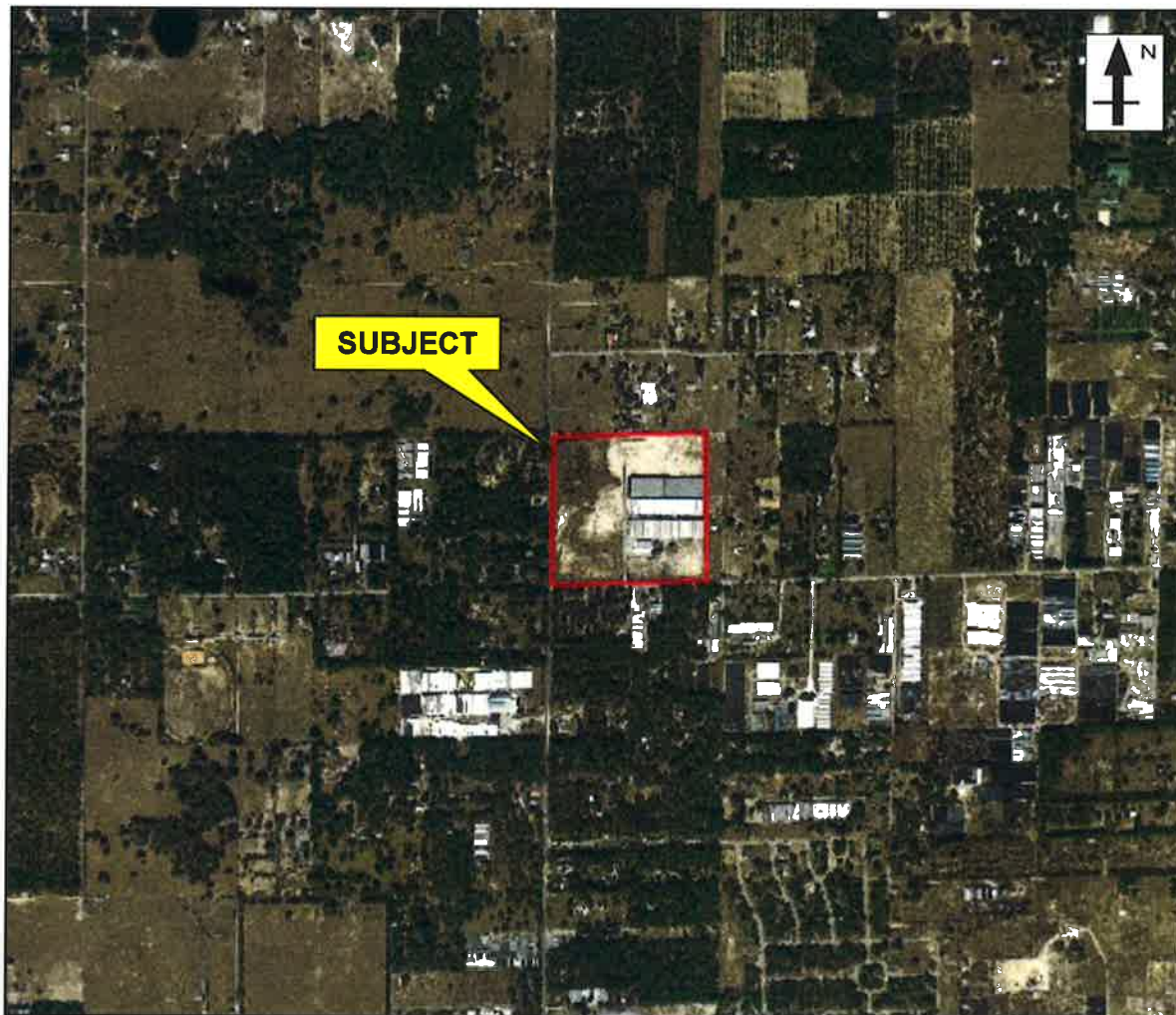


Approximate Representation
Source: Orange County Property Appraiser

PARCEL NO.: 232
OWNER: MEGA GNG, LLLP
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203
CITY/COUNTY: UNINCORPORATED/ORANGE

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AERIAL PHOTOGRAPH



*Approximate Representation
Source: Orange County Property Appraiser*

PARCEL NO.: 232
OWNER: MEGA GNG, LLLP
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203
CITY/COUNTY: UNINCORPORATED/ORANGE

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SUBJECT PHOTOGRAPHS



View of the southeast area of the parent tract facing northeast from West Kelly Park Rd



View of the central area of the parent tract, facing north from West Kelly Park Rd

PARCEL NO.: 232
OWNER: MEGA GNG, LLLP
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203
CITY/COUNTY: UNINCORPORATED/ORANGE

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SUBJECT PHOTOGRAPHS (CONT.)



View of the central area of the parent tract, facing northeast from West Kelly Park Rd



View of the subject commercial sign on the south border of the parent tract

PARCEL NO.: 232
OWNER: MEGA GNG, LLLP
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203
CITY/COUNTY: UNINCORPORATED/ORANGE

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SUBJECT PHOTOGRAPHS (CONT.)



View of the southwest corner of the parent tract and the area of taking



View of the southern border of the parent tract and the area of taking

SUBJECT PHOTOGRAPHS (CONT.)



View of West Kelly Park Rd, looking east. Subject parent tract is on the left side.



View of West Kelly Park Rd, looking west. Subject parent tract is on the right side.

PARCEL NO.: 232
OWNER: MEGA GNG, LLLP
PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203
CITY/COUNTY: UNINCORPORATED/ORANGE

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SUBJECT PHOTOGRAPHS (CONT.)

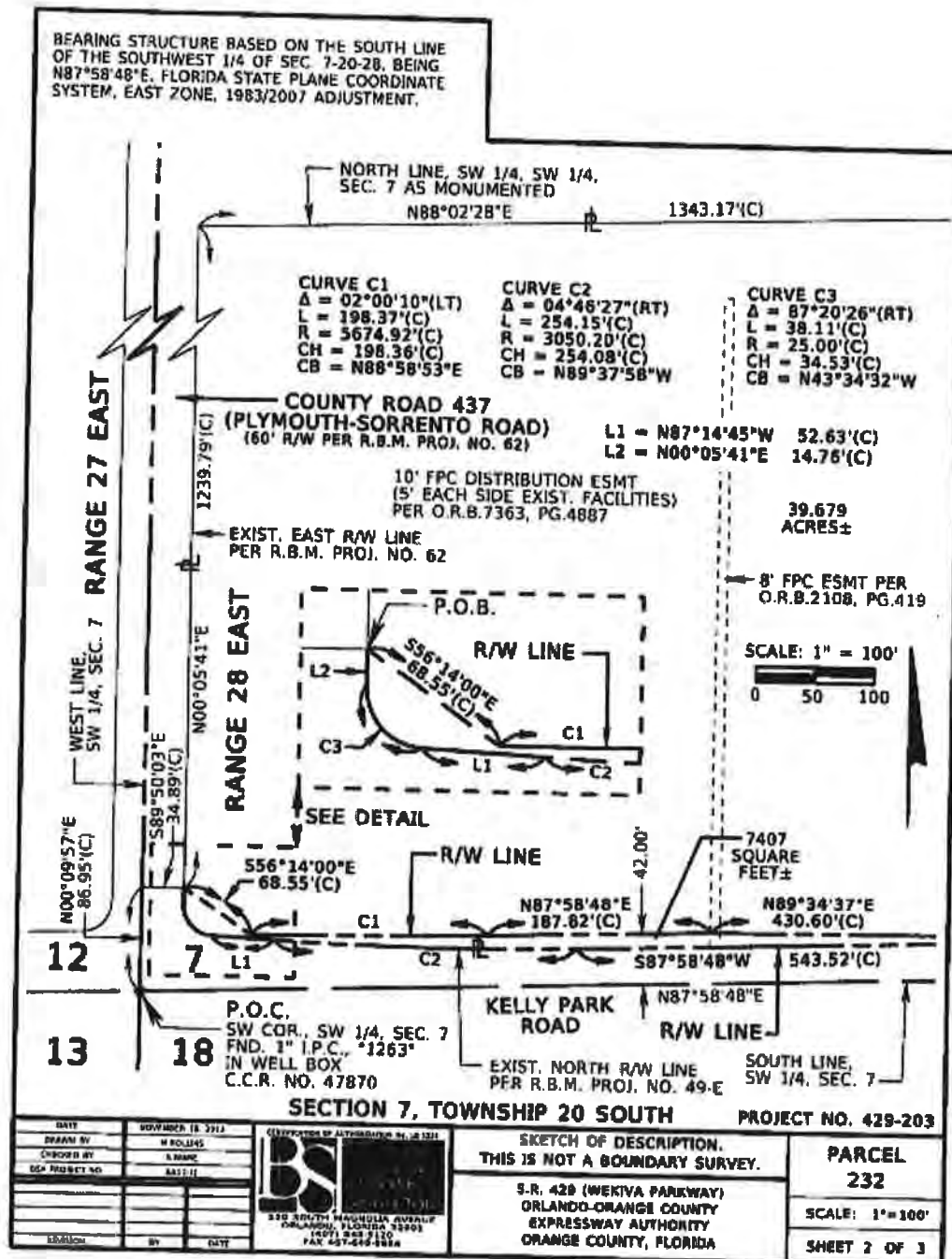


View of Plymouth Sorrento Rd, looking north. Subject parent tract is on the right side.

PARCEL NO.: 232
 OWNER: MEGA GNG, LLLP
 PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO. 429-203
 CITY/COUNTY: UNINCORPORATED/ORANGE

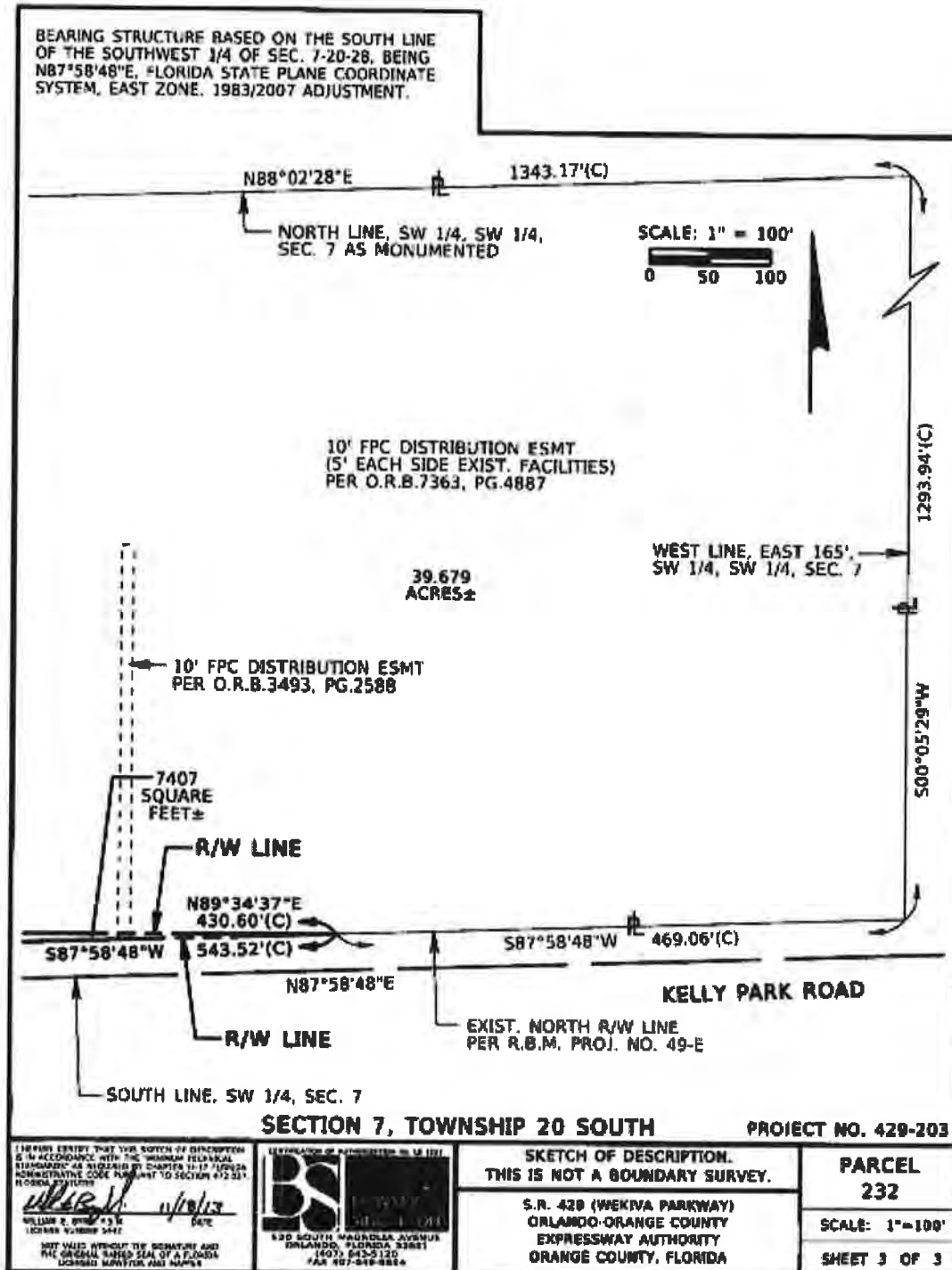
36

SKETCH OF THE PARENT TRACT AND RIGHT-OF-WAY TAKING



PARCEL NO.: 232
 OWNER: MEGA GNG, LLLP
 PROJECT: SR 429 WEKIVA PARKWAY EXTENSION PROJECT NO 429-203
 CITY/COUNTY: UNINCORPORATED/ORANGE

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CENTRAL FLORIDA EXPRESSWAY AUTHORITY

RIGHT OF WAY COMMITTEE MEETING

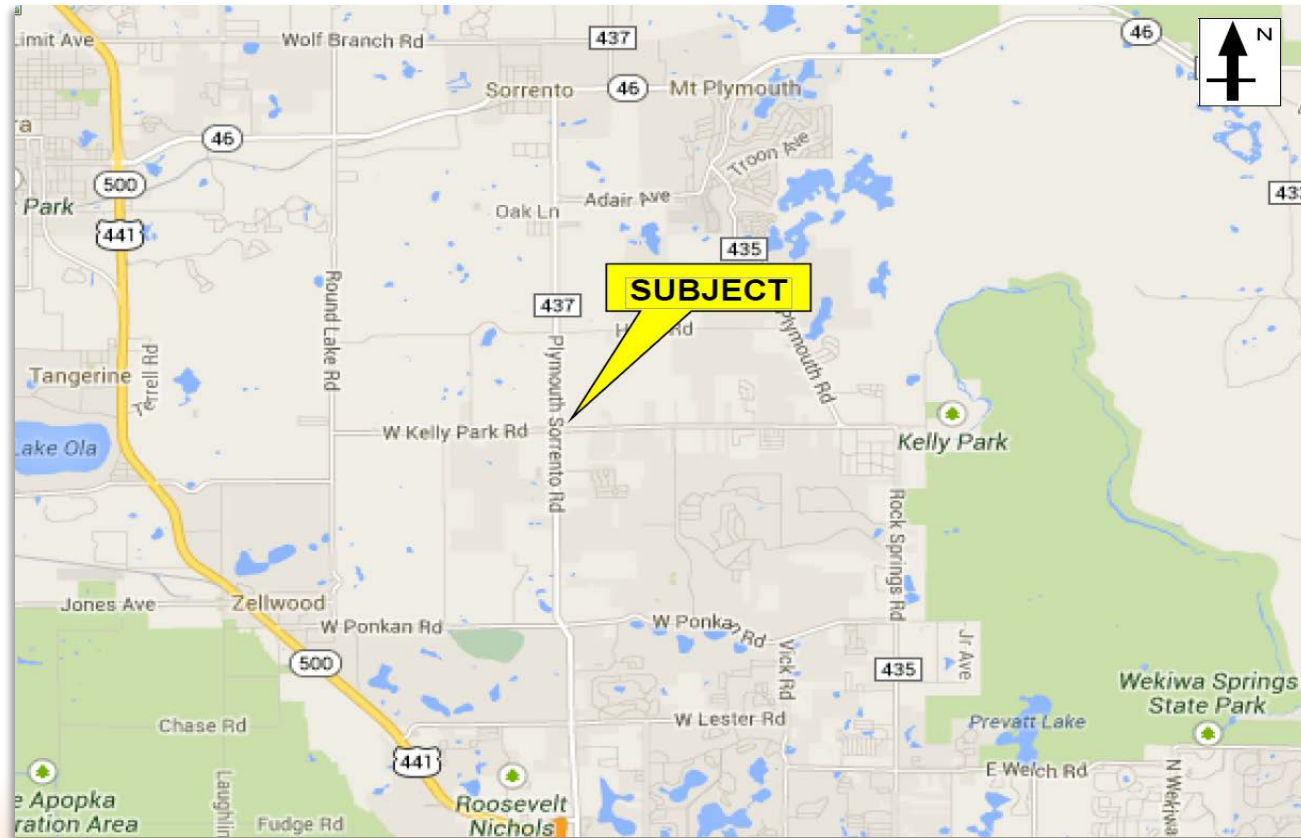
April 27, 2016

Parcel 232

Proposed Settlement



Aerial of Subject Property



Subject Photos



View of the southeast area of the parent tract facing northeast from West Kelly Park Rd



View of the southern border of the parent tract and the area of taking

»»» Subject Photos



View of West Kelly Park Rd, looking east. Subject parent tract is on the left side.



View of West Kelly Park Rd, looking west. Subject parent tract is on the right side.



Construction Plans

AERIAL PHOTO (ACQUISITION)





Appraised Value vs. Demand

| Parcel 232 | CFX's Appraisal (Carpenter) | Owner's Initial Demand | Proposed Settlement |
|---|-----------------------------------|---------------------------|------------------------|
| Value of Land Taken (7,407 sf) | @2/sf = \$14,800 | @ \$6.48/sf = \$48,000 | |
| Improvements (740-ft chain fence, sod) | \$11,680 | \$30,670 | |
| Cost to Cure (15% depreciation) | \$ 5,490 | \$ 9,773 | |
| Total for Land Taken | \$31,970 | \$88,443* | |
| Dan K. Richardson, MAI | | \$ 1,950 | |
| JMD Engineering | | \$ 1,974 | |
| Statutory Attorney's Fees | | \$18,490 | |
| All Inclusive Total | | \$110,857* | \$59,000 |

*rounded down



Recommendation

Please recommend to the Board a settlement in the amount of \$59,000 for all compensation arising from the taking of Parcel 232, including severance damages, business damages, tort damages, interest, attorney's fees, attorney's costs, expert fees, expert costs, and any other claim.

Tab I

MEMORANDUM TO RIGHT-OF-WAY COMMITTEE

TO: Central Florida Expressway Authority Right of Way Committee
FROM: Richard N. Milian, Broad and Cassel
DATE: April 8, 2016
RE: Recommendation for Board Approval of Mediated Settlement Agreement of Attorneys' Fees and Experts Costs in Joseph B. Doerr Trust v. Central Florida Expressway Authority (Parcel 406)

Broad and Cassel seeks the Right of Way Committee's recommendation for Board Approval of a Mediated Settlement Agreement of Attorneys' Fees and Experts Costs with Joseph B. Doerr Trust (hereinafter "Doerr"), arising from the acquisition of Parcel 406 required for the construction of the State Road 429 project.

I. CASE BACKGROUND

In 2006 the Central Florida Expressway Authority's predecessor, Orlando/Orange County Expressway Authority (hereinafter "the Authority") filed a Petition in Eminent Domain to acquire 9.81 acres from Doerr for the State Road 429 project. The acquisition was a total taking of vacant commercial property at the 441/Maitland Boulevard intersection. Before the suit was filed, the Authority had an appraisal report completed which determined that the value of the property to be acquired was \$4,300,000.00. The parties entered into pre-suit negotiations and a tentative agreement was reached to settle the matter for \$5,000,000 plus attorneys' fees. The Right of Way Committee which existed at that time, rejected the proposed settlement because the landowners were insisting on an attorneys' fee payment of approximately \$100,000. Thereafter, Broad and Cassel recommended that the Authority submit a first offer significantly greater than its appraised value in an effort to encourage settlement.

On June 5, 2006, the Authority submitted to Doerr a pre-suit written offer to purchase Parcel 406 for \$4,914,221.00, which was over \$600,000.00 greater than the Authority's appraised value. The first offer was not accepted by Doerr. The case was ultimately tried to a jury which found that the value of the taking was \$5,744,830.00. Attorneys' fees in eminent domain cases are generally governed by Florida Statute 73.092(1), which provides that attorneys' fees are to be based on the betterment achieved. Based on the first offer submitted by the Authority, and the jury verdict in the case, the attorneys' fee to be awarded pursuant to 73.092(1) was \$227,652.25. After the jury verdict, the Authority sought to have the trial judge enter an attorneys' fee award in this amount. The landowners, however, filed a motion asserting that the Authority's first offer was invalid and that attorneys' fees should be based on hourly rates pursuant to Florida Statute 73.092(2). Doerr requested that the trial judge enter an attorneys' fees award well in excess of \$1,000,000. The trial judge ultimately entered an order striking the Authority's first offer and entered an attorneys' fee award in the amount of \$816,000.00 based on hourly rates.

II. DISTRICT COURT APPEALS

The trial court awarded \$816,000.00 in attorneys' fees based on hourly rates because it concluded the Authority's first offer was invalid. Specifically, the Authority's first offer provided that the Authority would pay Doerr \$4,914,221.00 "subject to all apportionment claims". In other words, the Authority's offer was conditioned upon Doerr providing clear title. This is a normal practice in eminent domain cases, as a condemning authority needs to obtain the property free and clear of any other interest. Doerr argued that including the language "subject to all apportionment claims" in the first offer, made the first offer conditional and invalid. The trial court agreed with the landowner and struck the Authority's first offer and then awarded attorneys' fees of \$816,000.00 based on hourly rates. The Authority appealed the trial court's attorneys' fees order to the Fifth District Court of Appeal (hereinafter "5th DCA"). The 5th DCA found the Authority's first offer was in fact valid and reversed the trial court's award of attorneys' fees. The 5th DCA did, however, remand the case back to the trial court for consideration of Doerr's additional claim that the application of the benefit statute (73.092(1)) violated Doerr's constitutional right to full compensation because the Authority caused "excessive litigation".

After the 5th DCA's first appellate ruling, the trial court again considered an appropriate attorneys' fee in this case. The trial court again refused to award an attorneys' fee of \$227,652.25 based on the benefit statute. Instead, this time the trial court found that the Authority caused "excessive litigation" and again awarded an attorneys' fee of \$816,000.00 based on hourly rates. The Authority appealed the trial court's ruling. On the second appeal, the 5th DCA again ruled in the Authority's favor. The 5th DCA found that attorneys' fees should have been based on the betterment statute and that if there was any "excessive litigation" the landowner should have sought sanctions for such "excessive litigation". The 5th DCA did, however, certify a question of great public importance to the Florida Supreme Court. Specifically, the 5th DCA asked the Florida Supreme Court to determine whether the benefit statute was appropriate if the case involved a claim of "excessive litigation".

III. FLORIDA SUPREME COURT RULING

The Florida Supreme Court ruled that the trial court should have primarily used 73.092(1) to determine attorneys' fees in this case, but that in the event there was excessive litigation in the case, the trial court can award an additional attorneys' fee, but only for those hours incurred in defending against the excessive litigation. In other words, the Florida Supreme Court ruled that the trial court should have awarded \$227,652.25 as the main attorneys' fee in this case, but that the trial court can also award an additional attorneys' fee for the hours incurred in defending against excessive litigation. The Florida Supreme Court took special effort to note that even though this case was a hard fought case, there was no indication that the case was litigated with "bad faith, illegal motives, or motivation by improper considerations". The Florida Supreme Court has remanded this case back to the trial court for the trial court to hold an evidentiary hearing to determine whether an additional award of attorneys' fee should be made based on hours incurred by Doerr because of excessive litigation.


IV. DOERR'S ATTORNEYS FEES AND EXPERT FEE CLAIMS

Doerr's most recent attorneys' fee and expert fee claim is set out in Exhibit "1" attached hereto. As can be seen, the claim is now in the amount of \$3,287,459.96. The claim is comprised of the following:

- \$183,440 for attorneys' fees for the second DCA appeal. Under Florida law, the landowner is entitled to attorneys' fees for any appeal brought by the condemning authority, whether the landowner wins or loses. The Authority brought the second appeal and thus must pay Doerr's attorneys' fees, even though the Authority prevailed. The Authority has already paid Doerr's attorneys' fees for the first DCA appeal, but has not paid attorneys' fee for the second DCA appeal. By way of comparison, the Expressway Authority's attorneys' fees for the second DCA appeal were \$68,835.00.
- \$240,113.30 for attorneys' fee for the Supreme Court appeal. Again, the Authority is statutorily obligated to pay Doerr's attorneys' fee for the Supreme Court appeal. By way of comparison, the Authority's attorneys' fees for the Supreme Court appeal were \$77,451.00.
- \$1,050,000.00 for Supreme Court allowed additional fees. Doerr is claiming it expended 2,200 attorney hours, and 400 paralegal hours, to respond to "excessive litigation". Doerr is arguing that it should be paid \$1,050,000.00 for this time.
- \$1,062,560.37 for litigating entitlement to any additional fees. Doerr's attorneys have argued that they are entitled to a fee of \$1,062,510.37 for litigating entitlement to any additional fees allowed pursuant to the Florida Supreme Court decision.
- \$701,926.29 for interest on attorneys' fees to be paid to Doerr.
- \$49,420.00 for expert witness fees of Mr. Spalla. Mr. Leavitt's expert fees have not been determined.

V. SETTLEMENT RECOMMENDATION

On February 12, 2016 a mediation conference was held regarding the Doerr's attorneys' fee and expert witness fee claim wherein a tentative settlement agreement was reached to pay \$1,500,000.00 in full and final settlement of all attorneys' fees and expert fees in this matter. While many of the claims Doerr has made regarding attorneys' fees and expert costs are debatable, it is highly likely that the trial judge will award significant attorneys' fees. Additionally, the cost of continued litigation will be significant. The undersigned recommends approval of the Mediated Settlement Agreement in order to bring this matter to a final resolution.


BROAD AND CASSEL
Richard N. Milian, P.A.

This document is temporarily exempt from disclosure under the Public Records Act, Chapter 119, Florida Statutes, because it has been prepared by Expressway Authority counsel and reflects mental impressions, conclusions, litigation strategies, or legal theories, and was prepared exclusively for use in connection with civil litigation.

This exemption shall expire, and this document shall be subject to public disclosure, at the conclusion of the litigation. Authority: Section 119, Florida Statutes

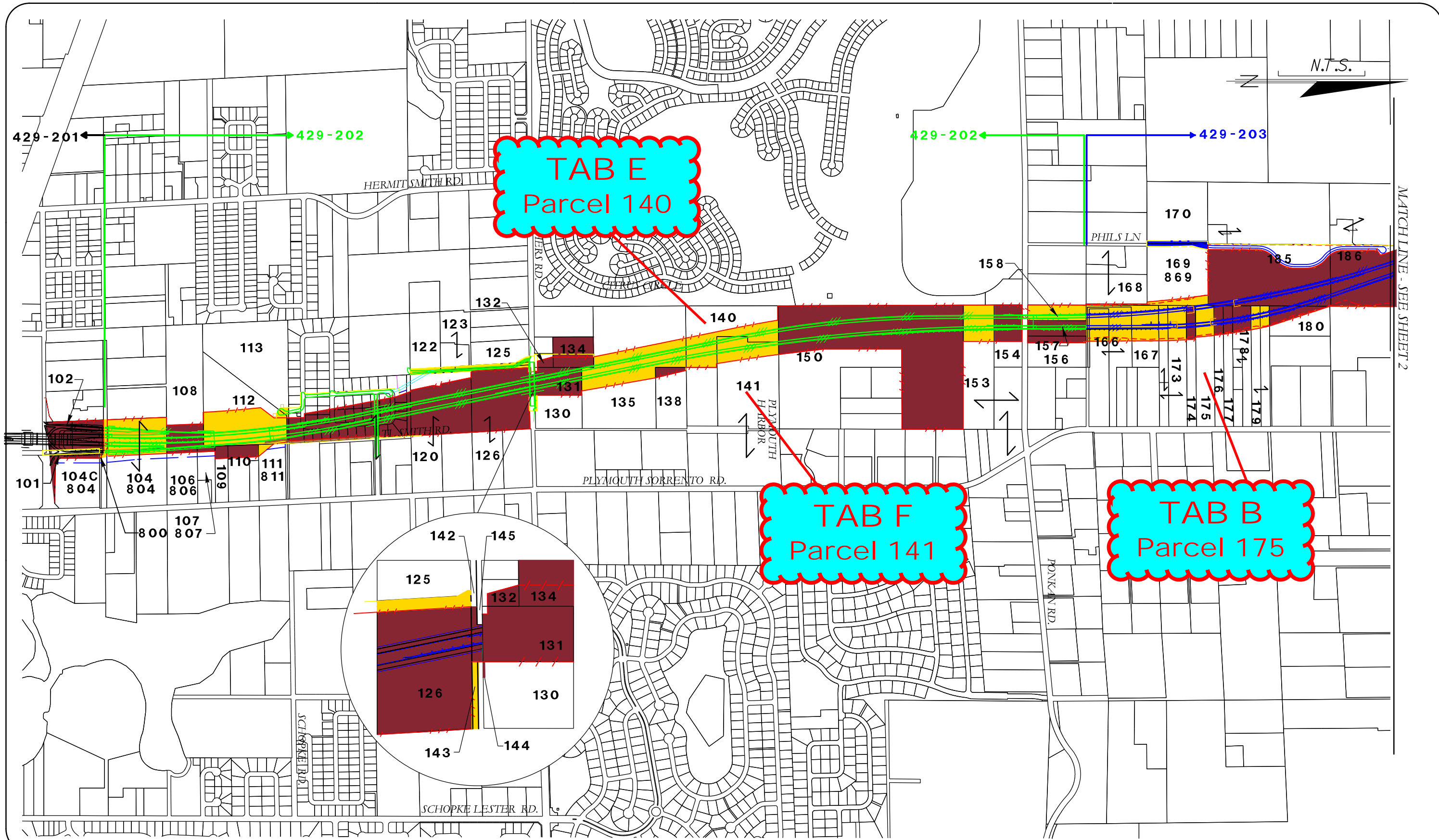
DOERR ATTORNEYS FEES CLAIM

| | | |
|--------------|---|---------------------------------|
| (I) | <u>SECOND DCA APPEAL</u> | \$183,440.00 |
| • | Fixel Firm | \$133,640.00 |
| • | James Hauser | \$ 49,800.00 |
| (II) | <u>SUPREME COURT APPEAL</u> | \$240,113.30 |
| • | Fixel Firm | \$168,290.00 |
| • | Ausley Firm | \$ 21,673.30 |
| • | James Hauser | \$ 50,150.00 |
| (III) | <u>SUPREME COURT MANDATE FEES</u> | \$1,050,000.00 |
| • | Fixel Firm | \$1,050,000.00 |
| | ▪ \$450/hr x 2,200 attorneys hours = | \$990,000.00 |
| | ▪ \$150/hr for 400 paralegal hours = | \$ 60,000.00 |
| (IV) | <u>FEES AND COSTS FOR LITIGATING ENTITLEMENT TO CONSTITUTIONAL BASED FEE</u> | \$1,062,560.37 |
| • | Fixel Firm Attorneys: | |
| ➤ | CBW | 896.4 X \$450/hr = \$403,380.00 |
| ➤ | JWF | 876.8 X \$450/hr = \$400,860.00 |
| ➤ | RFM | 51.9 x \$450/hr = \$ 23,355.00 |
| ➤ | WAF | 13.9 x \$350/hr = \$ 4,865.00 |
| | | <u>\$832,460.00</u> |
| • | James Hauser | 375.3 X \$500/hr = \$188,150.00 |
| • | Fixel Firm Paralegal | |
| ➤ | JSH | 322.6 X \$150/hr = \$ 48,390.00 |
| (V) | <u>INTEREST</u> | \$701,926.29 |
| A. | Interest on §73.092(1) fees paid by OOCEA | |
| | \$227,652 from 02/25/08 to 06/28/12 = | \$ 72,801.29 |
| B. | Interest on §73.092(2) fees to be paid by OOCEA | |
| | \$1,050,000 from 02/25/08 to 02/12/16 = | \$629,125.00 |
| (VI) | <u>EXPERT COSTS</u> | |
| • | Fixel Firm Witness Fees: | |
| ➤ | A. J. Spalla | \$49,420.00 |
| ➤ | Mark Leavitt | <u>N/K</u> |

TOTAL: \$3,287,459.96

EXHIBIT "1"

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CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY

WEKIVA PARKWAY

RIGHT-OF-WAY EXHIBIT
April 20, 2016
SUBJECT TO CHANGE

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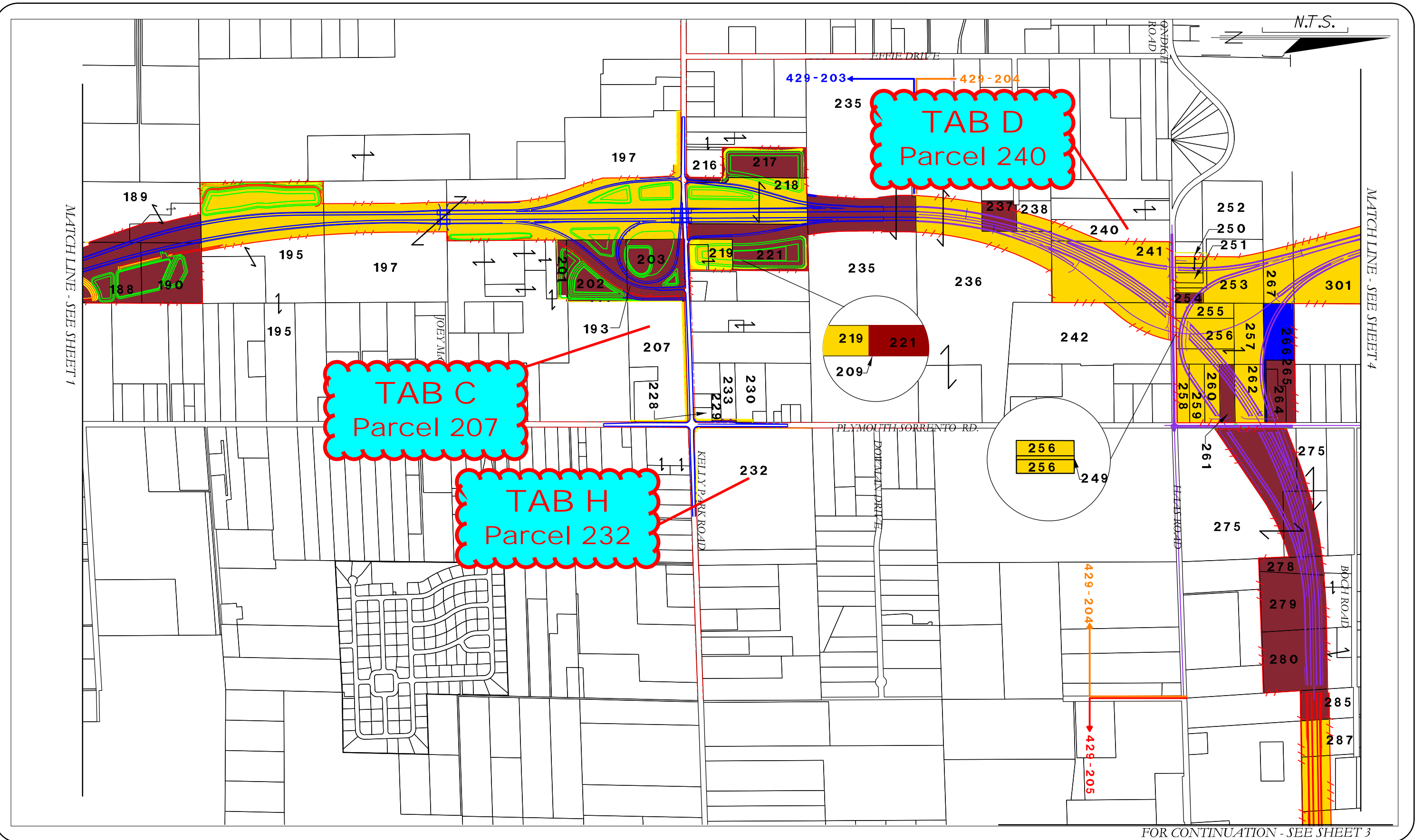
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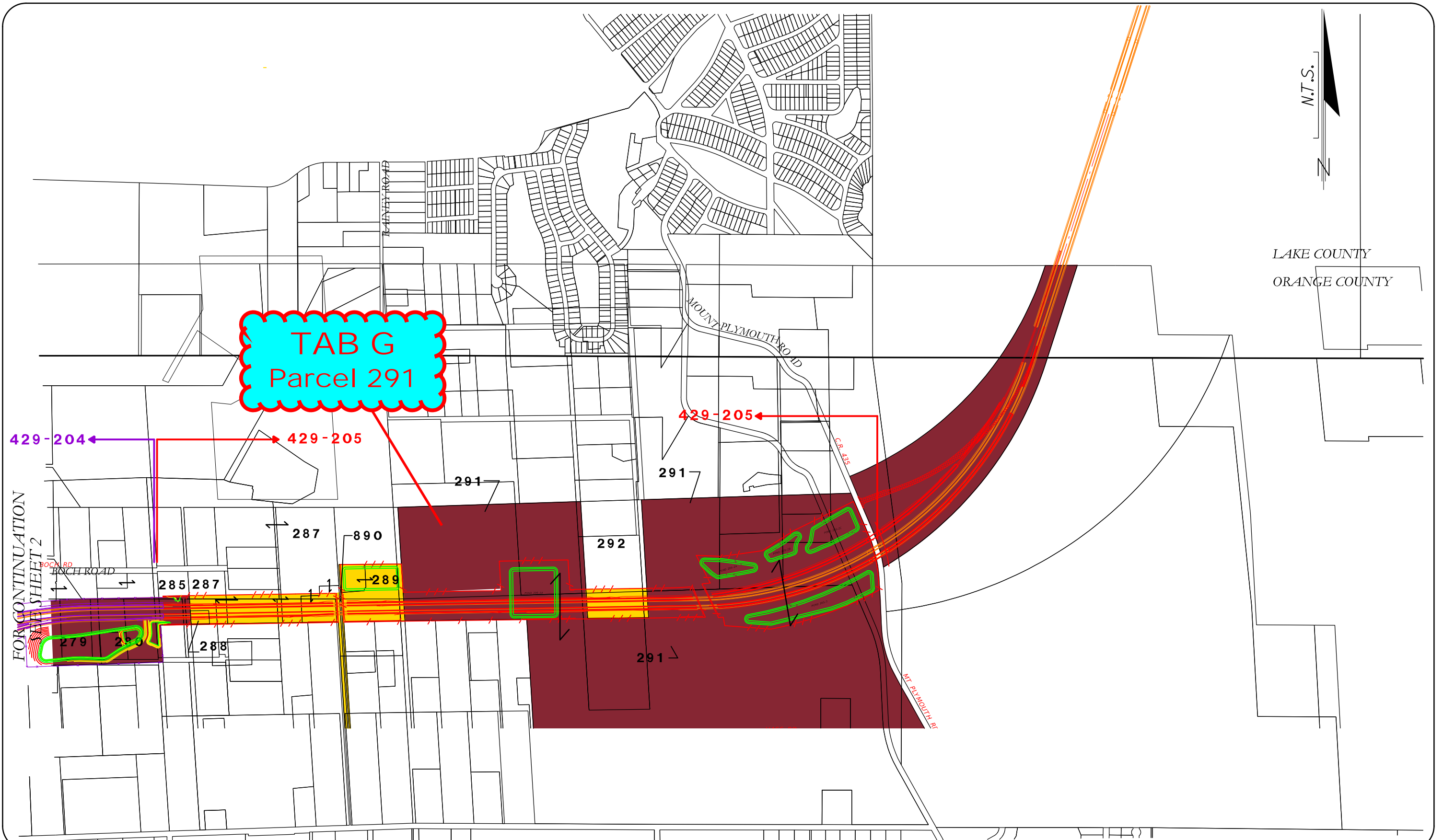
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RIGHT-OF-WAY EXHIBIT
April 20, 2016
SUBJECT TO CHANGE

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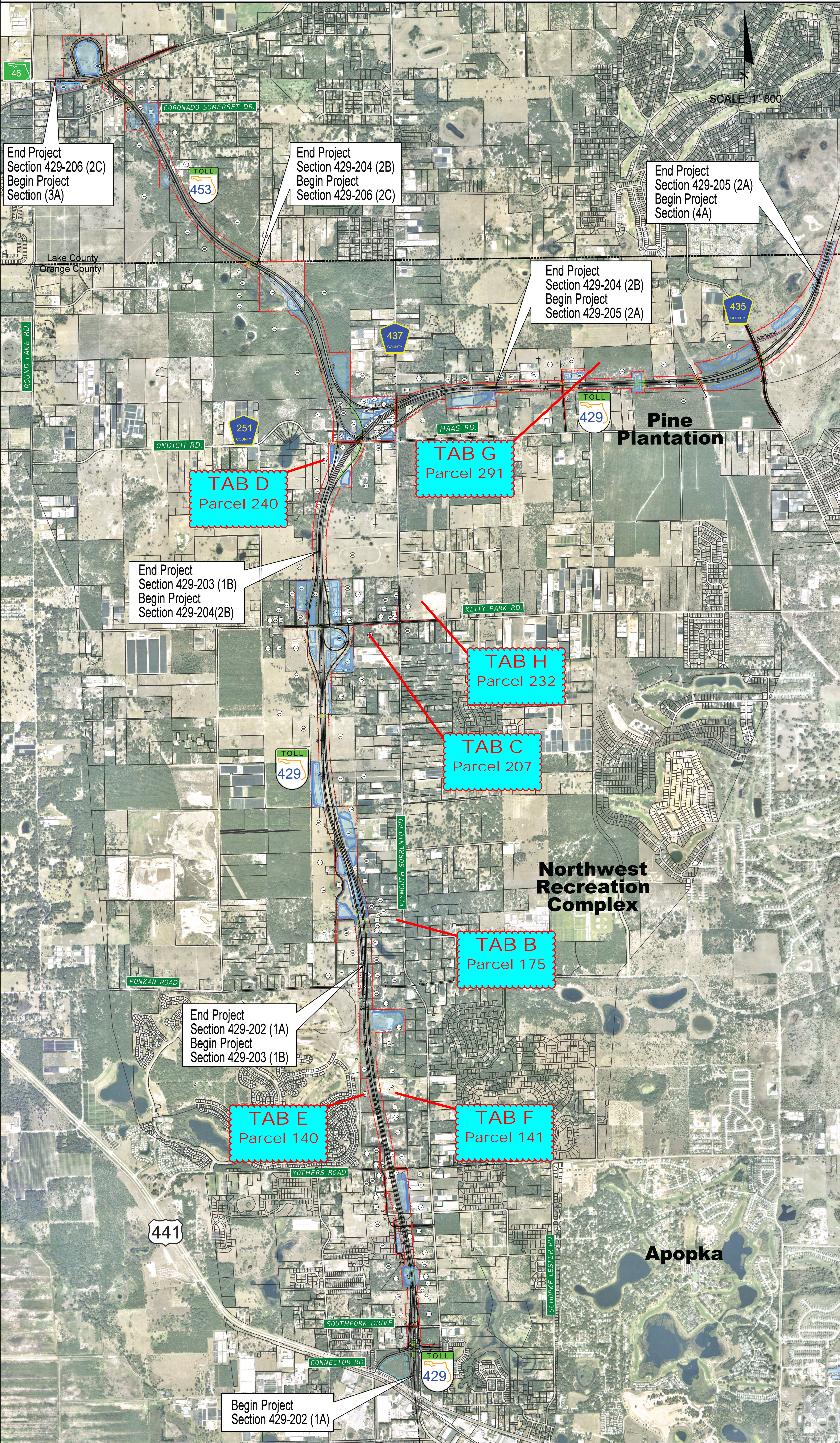
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RIGHT-OF-WAY EXHIBIT
April 20, 2016
SUBJECT TO CHANGE

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OOCEA Project Section Map



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CENTRAL
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EXPRESSWAY
AUTHORITY

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RIGHT-OF-WAY EXHIBIT
April 20, 2016
SUBJECT TO CHANGE

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