



MEMORANDUM

TO: Central Florida Expressway Authority CLIENT-MATTER NO.: 19125.0147
 Board Members

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

DATE: October 3, 2016

RE: State Road 429 Wekiva Parkway, Project 429-204; Parcel 251
 Proposed Offer of Judgment

Shutts & Bowen LLP, Right-of-Way Counsel, seeks the approval of the CFX Board for an Offer of Judgment in full settlement of Parcel 251 owned by American Finance, LLC for State Road 429 Wekiva Parkway, Project 429-204.

DESCRIPTION AND BACKGROUND

Parcel 251 is a fee simple whole taking consisting of .76 acres. The property is located at 3305 Ondich Rd. in unincorporated Orange County, Florida. The subject property is improved with a 1,260 s.f. log cabin containing 4 bedrooms and 1 bathroom built in 1981. The property is zoned A-1, citrus rural district by Orange County.

The CFX's appraisal of the property was prepared by David Hall of Bullard, Hall and Adams. Mr. Hall opined the highest and best use of the property is for rural residential development. Mr. Hall used four (4) comparable land sales with prices ranging from \$35,000 per lot to \$41,800 per lot to arrive at an estimate of the land value of the Subject Property of \$41,000 per lot.

Mr. Hall used four (4) improved sales to determine the value of the improvements, with prices ranging from \$63.48 to \$76.82 s.f. Mr. Hall concluded a value of \$75 per s.f. for the improvements or \$94,500. Accordingly, Mr. Hall's total valuation of the taking of Parcel 251 is \$135,500.

American Finance, LLC is represented by Tom Callan, Esq. We have attempted to engage in settlement negotiations with Mr. Callan in an effort to settle these parcels or set them for trial if we were unable to reach a resolution. Unfortunately, Mr. Callan has some health issues that require a surgery in December 2016, which is likely the cause for a delay in

settlement negotiations. Additionally, in light of Mr. Callan's health issues, the court has removed several of his parcels from the trial docket. Therefore, filing a notice for trial on the parcels we have been unable to resolve would likely not render a trial date to be set on the Court's docket. Accordingly, in an effort to move these cases to fruition, to provide the property owners a settlement offer and potentially cap the costs to be incurred by the property owner (which are recoverable against the CFX), we are proposing an Offer of Judgment. If the Offer of Judgment is accepted by the property owner, then the case would be concluded. If the Offer of Judgment is not accepted within 30 days, then it expires. If a jury subsequently renders a verdict equal to or less than the Offer of Judgment, the property owner shall not recover any costs (including expert fees) incurred from the expiration of the Offer of Judgment through trial.

Based upon our extensive knowledge and review of numerous parcels on the project, positions taken by opposing counsel and experts, prior settlements and prior jury verdicts, I would propose an Offer of Judgment for Parcel 251 in the amount of \$205,200, plus statutory attorney's fees and experts costs. The Offer of Judgment reflects a slight increase in the land value and additional monies for the improvements.

For the above-cited reasons, Right-of-Way counsel requests approval by the CFX Board for an Offer of Judgment in the amount of \$205,200, plus statutory attorney's fees and experts costs, which is in the CFX's best interest.

RECOMMENDATION

We respectfully request that the CFX Board approve the Offer of Judgment in the amount of \$205,200, plus statutory attorney's fees and experts costs in full settlement of all claims for compensation in the acquisition of Parcel 251.

This matter was recommended for approval by the Right-of-Way Committee members at the September 28, 2016 meeting.

ATTACHMENTS

Exhibit "A" – Sketch of the Subject Property

Exhibit "B" – Photographs of the Subject Property and Area

Reviewed by: _____



LEGAL DESCRIPTION

PARCEL 25 I
 PURPOSE: LIMITED ACCESS RIGHT OF WAY
 ESTATE: FEE SIMPLE


THAT PART OF THE SOUTH 1/2 OF THE SE 1/4 OF THE SW 1/4 OF THE SE 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, BEING THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 7844, PAGE 4027 AND BOOK 8432, PAGE 4446, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

"THE WEST 110 FEET OF THE EAST 330 FEET OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, LESS THE SOUTH 30 FEET FOR ROAD RIGHT-OF-WAY."


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 0.760 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, P.S.M. NO. 5623
 DATE: 12/18/13
 NOT VALID WITHOUT SIGNATURE AND ORIGINAL RAISED SEAL

FOR: ORLANDO ORANGE COUNTY EXPRESSWAY AUTHORITY		STATE ROAD 429	
DESIGNED BY: RJM	DATE: 12/18/13	 URS CORPORATION 315 E. ROBINSON STREET SUITE 245 ORLANDO, FL 32801-1949 PH (407) 422-0353 LICENSED BUSINESS NO. 6839	REVISIONS:
DRAWN BY: DJK	JOB NO:		
APPROVED BY: RJM	OOCEA PROJECT NO: 429-204		SHEET: 1 OF 2

SKETCH OF DESCRIPTION

PARCEL 25 I
 PURPOSE: LIMITED ACCESS RIGHT OF WAY
 ESTATE: FEE SIMPLE

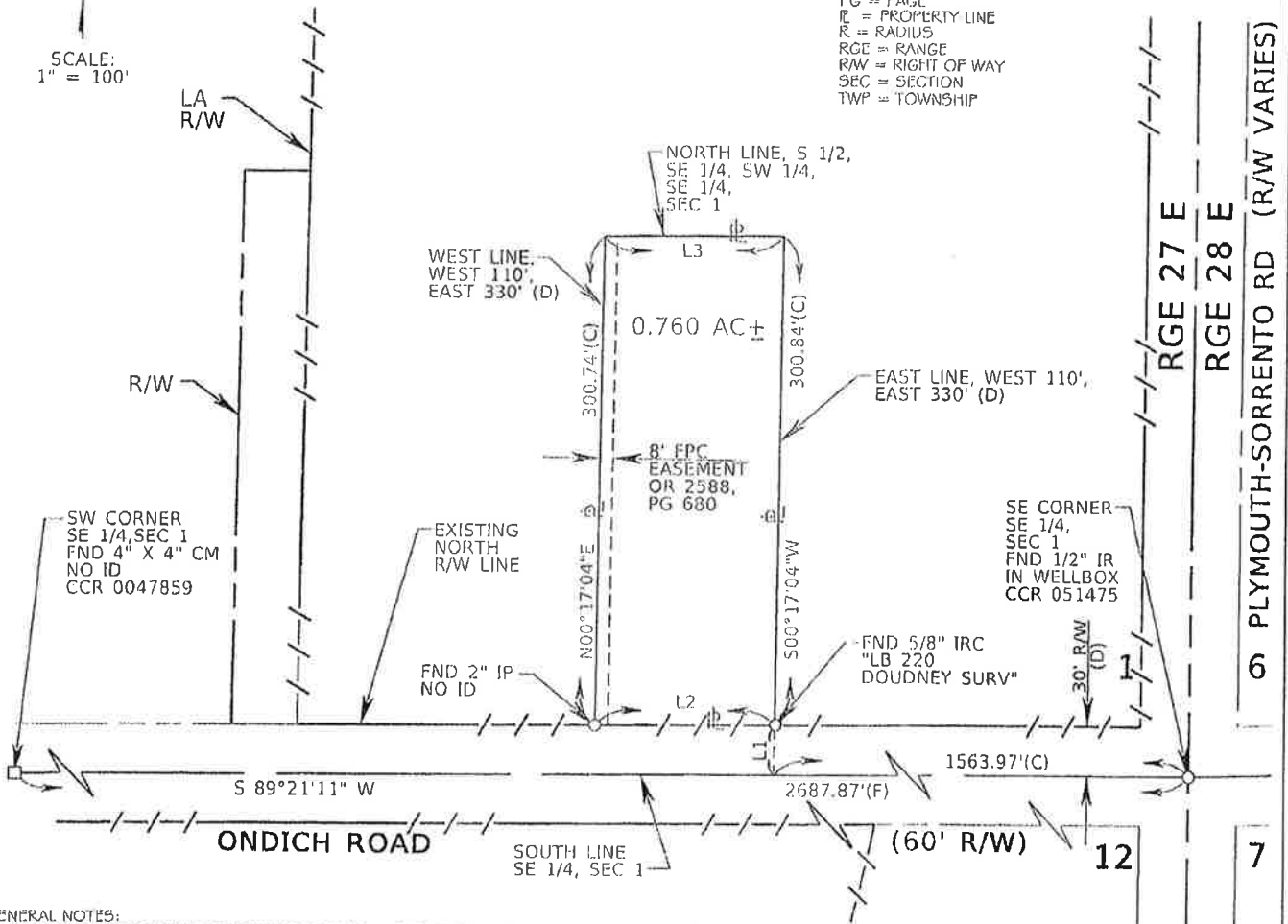
TOWNSHIP 20 SOUTH, RANGE 27 EAST

LINE TABLE		
L1	N 00°17'04" E	30.00'(C)
L2	S 89°21'11" W	110.01'(C)
L3	N 89°18'06" E	110.02'(C)

SCALE:
 1" = 100'

LEGEND

- C = CALCULATED
- CCR = CERTIFIED CORNER RECORD
- CM = CONCRETE MONUMENT
- COR = CORNER
- D = DEED
- DB = DEED BOOK
- F = FIELD
- FND = FOUND
- FPC = FLORIDA POWER CORPORATION
- ID = IDENTIFICATION
- IR = IRON ROD
- LA = LIMITED ACCESS
- LB = LICENSED BUSINESS
- OR = OFFICIAL RECORDS
- PB = PLAT BOOK
- PG = PAGE
- PL = PROPERTY LINE
- R = RADIUS
- RGE = RANGE
- R/W = RIGHT OF WAY
- SEC = SECTION
- TWP = TOWNSHIP



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 SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 1, 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 20, 2012, FILE NO. 2037-2856989 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: 12/18/13

URS

URS CORPORATION
 315 E. ROBINSON STREET
 SUITE 245
 ORLANDO, FL 32801-1949
 PH (407) 422 0353
 LICENSED BUSINESS NO. 6889

REVISIONS:

DRAWN BY: DJK

JOB NO:

APPROVED BY: RJM

OOCEA PROJECT NO: 429-204

SHEET: 2 OF 2

**PHOTOGRAPHS OF SUBJECT
PARCEL 251**



1. LOOKING EAST AT THE FRONTAGE ALONG ONDICH ROAD



2. LOOKING NORTH AT THE DRIVE

Photographs Taken By:
David K. Hall
May 29, 2015

EXHIBIT "B"

**PHOTOGRAPHS OF SUBJECT
PARCEL 251**



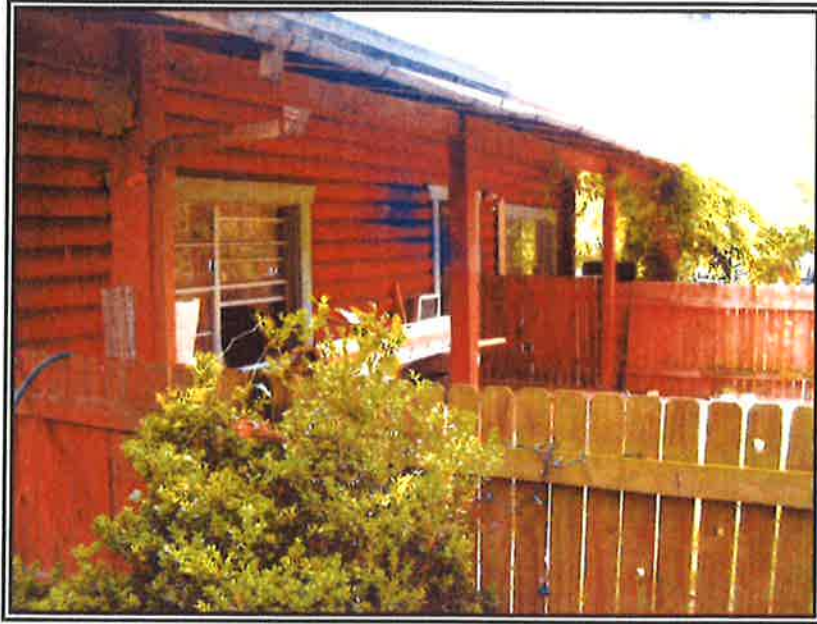
3. LOOKING NORTHWEST AT THE RESIDENCE



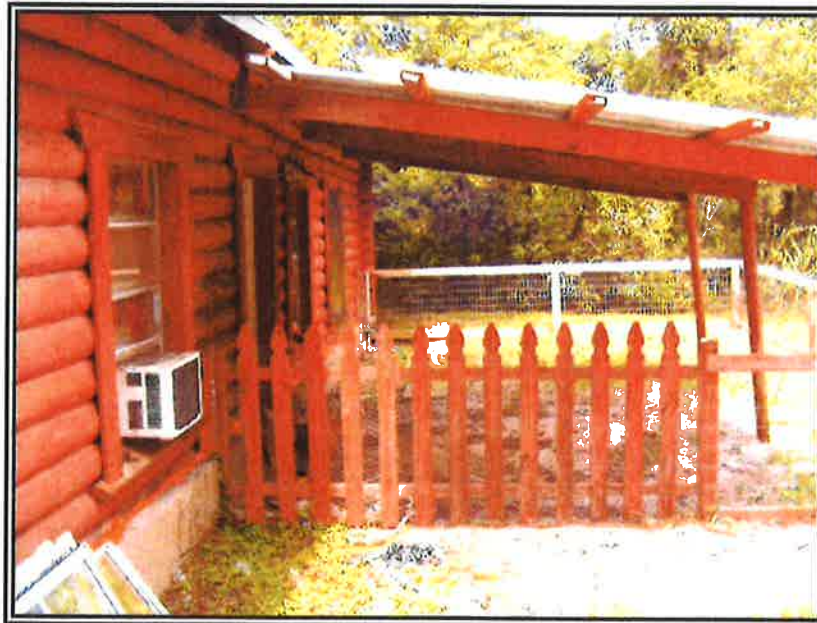
4. LOOKING NORTHWEST AT THE FRONT PORCH

Photographs Taken By:
Craig S. Adams
July 21, 2014

**PHOTOGRAPHS OF SUBJECT
PARCEL 251**



5. LOOKING NORTHEAST AT THE RESIDENCE

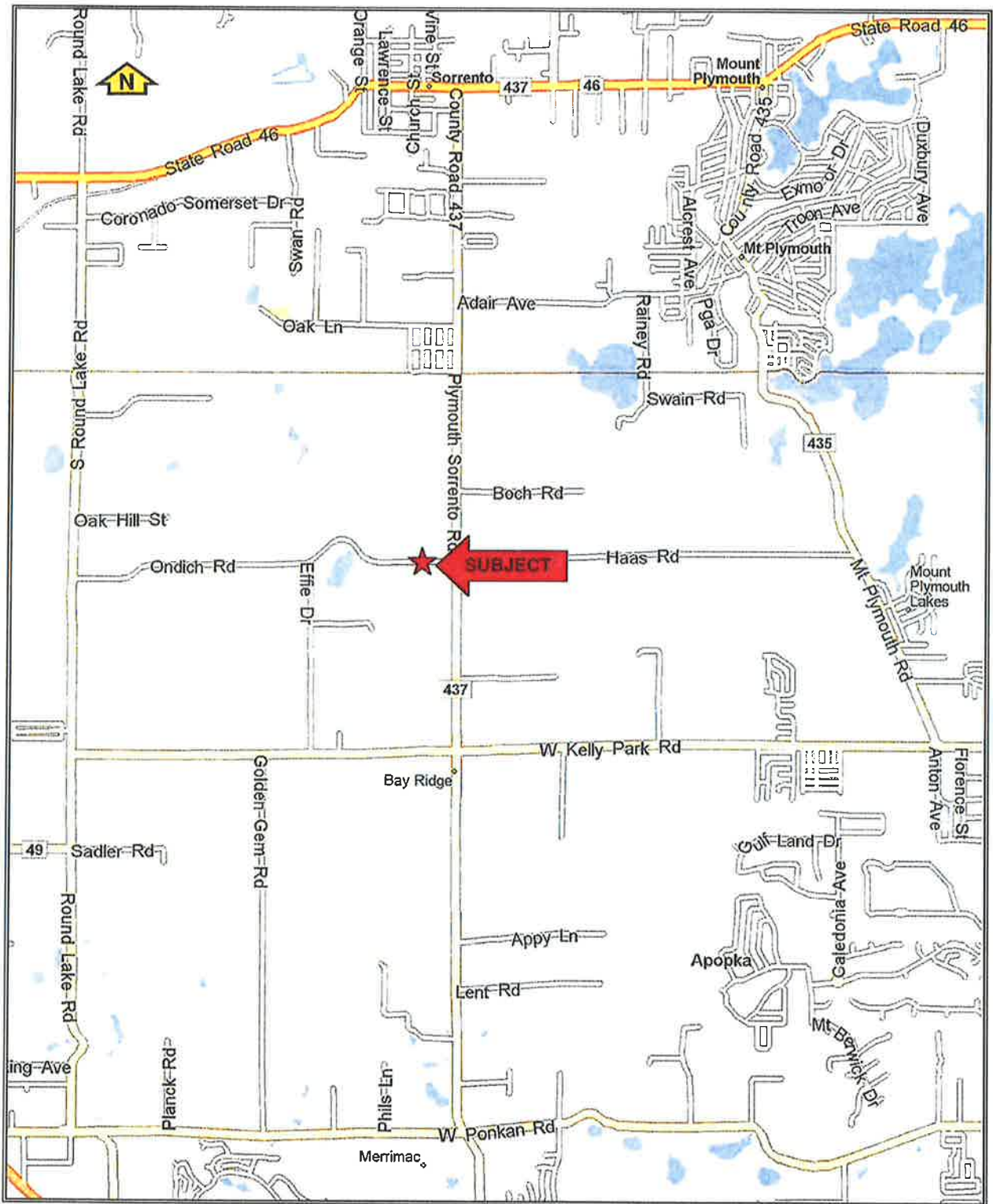


6. LOOKING WEST AT THE RESIDENCE

Photographs Taken By:
Craig S. Adams
July 21, 2014



**AERIAL PHOTO
PARCEL 251**



**SUBJECT LOCATION MAP
PARCEL 251**