

Appendix E
Memorandum of Agreement between
FHWA and the SHPO

MEMORANDUM OF AGREEMENT
BETWEEN
THE FEDERAL HIGHWAY ADMINISTRATION
AND
THE FLORIDA STATE HISTORIC PRESERVATION OFFICER

PURSUANT TO 36 CFR PART 800
REGARDING THE WEKIVA PARKWAY (SR 429)/SR 46 REALIGNMENT
PROJECT IN ORANGE, LAKE, AND SEMINOLE COUNTIES, FLORIDA

WHEREAS, the U.S. Department of Transportation, Federal Highway Administration (FHWA) proposes to provide financial assistance to the Florida Department of Transportation (FDOT) and the Orlando-Orange County Expressway Authority (OOCEA) for the Wekiva Parkway (SR 429)/SR 46 Realignment Project (FDOT Financial Project Numbers: 238275-1 and 240200-1) located in Orange, Lake, and Seminole Counties, Florida (hereafter referred to as the Project); and

WHEREAS, FHWA has consulted with the State Historic Preservation Officer (SHPO) in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. (NHPA), and its implementing regulations [36 CFR Part 800.6 (b)(1)] and has determined that the Project will have adverse effects upon the Paul Bock House (8OR7946) and the Strite House (8OR9844), properties eligible for inclusion in the National Register of Historic Places (NRHP); and

WHEREAS, FHWA has consulted with the Apopka Historical Society, the Orange County Regional History Center, the current property owners of record or their designees, and members of the public and considered their input regarding the proposed effects to the Paul Bock House and the Strite House as well as potential minimization and mitigation options; and

WHEREAS, the FDOT and OOCEA have participated in the consultation and have been invited to concur in this Memorandum of Agreement;

NOW, THEREFORE, FHWA and the SHPO agree that the Project shall be implemented in accordance with the following stipulations in order to take into account the effect of the Project on historic properties.

STIPULATIONS

FHWA will ensure that the following measures are implemented:

I. Project Design and Construction

- A. The Project will be constructed by OOCEA/FDOT within the right-of-way and elevations delineated on the *Wekiva Parkway (SR 429)/SR 46 Realignment PD&E Study Preliminary Concept Plans for the Proposed Build Alternative* (hereafter referred to as "Plans") dated July 2010, subject to alterations that may be necessary during the Project design phase to achieve the Project's purpose.
- B. Should there be any alterations to the Project that could result in adverse effects to historic resources not addressed in this agreement, OOCEA/FDOT shall notify FHWA to advise the SHPO of these alterations and provide the SHPO with an opportunity to review and comment on the Project, in accordance with Stipulation VII.C.

II. Mitigation of Adverse Effects to the Paul Bock House

- A. Prior to initiating any alterations to the Bock House, OOCEA/FDOT shall complete Historic American Building Survey (HABS) Level II documentation and provide it to FHWA for transmittal to the SHPO, Orange County Regional History Center and Apopka Historical Society for their review and comment and for archiving.
 - 1. Pursuant to Section 110(b) of the National Historic Preservation Act, OOCEA/FDOT shall ensure that:
 - a. The documentation shall be completed and submitted to FHWA for transmittal to the SHPO, Orange County Regional History Center, and Apopka Historical Society.
 - b. All documentation shall be completed in accordance with the *Secretary of the Interior's Standards and*

Guidelines for Architectural and Engineering Documentation Level II (68 FR 43159-62).

- c. For the Paul Bock House, the following HABS Level II documentation shall be prepared:
 - i. Drawings - Select existing drawings, where available, should be photographed with large-format negatives or photographically reproduced on Mylar. If existing drawings are unavailable, an existing floor plan of the main house and site plan of the property, including the outbuildings and landscape features, shall be produced.
 - ii. Photographs - Photographs will be prepared with large-format negatives of exterior and interior views, or historic views, where available. Historic outbuildings and landscape features will also be photographed. All negatives and prints will be processed to meet archival standards.
 - iii. Written Data - A substantive and detailed report with a narrative description of the historic building, outbuildings, landscape features, discussion of the significance, and historical context will be prepared.
2. The mitigation activities in Stipulation II.A.1 will commence during the design phase of the Project and will be submitted to the SHPO, Orange County Regional History Center, and Apopka Historical Society no later than eighteen (18) months after the completion of the design phase for this portion of the Project.
- B. In order to mitigate potential visual impacts that may occur with the introduction of the Wekiva Parkway within the historic boundaries of the Paul Bock property, OOCEA/FDOT will ensure that the following activities shall take place in coordination with the property owner of record or their designee:

1. New doors and windows with appropriate glass thickness shall be installed in the current door and windows openings of the Paul Bock House. Replacement doors and windows shall be consistent with the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* (U.S. Department of the Interior, National Park Service, 1999) and *Preservation Brief #9: The Repair of Wooden Windows* (U.S. Department of the Interior, National Park Service, 1981).
2. Wall insulation shall be installed and any gaps in the walls shall be sealed on the Paul Bock House. Any repairs to the building shall be consistent with the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* (U.S. Department of the Interior, National Park Service, 1999).
3. Landscape screening shall be installed on the Paul Bock House property, or within the Project right-of-way between the roadway and the Paul Bock House, as a visual buffer between the house and historic outbuildings and the Wekiva Parkway facility. Any landscaping that is installed shall be consistent with the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* (U.S. Department of the Interior, National Park Service, 1999).
4. The mitigation activities in Stipulations II.B.1-3 will commence, as soon as practical, once the right-of-way acquisition of property from within the Paul Bock House boundaries has been completed.
5. A Preservation Covenant or Easement shall be developed in consultation with OOCEA/FDOT, FHWA, the SHPO, and the property owner of record or their designee to ensure protection of the historic structure following commencement of the improvements listed in Stipulations II.B.1-3.
6. Any documents or information provided to the SHPO by FHWA will be subject to review and comment by the SHPO.

III. Mitigation of Adverse Effects to the Strite House

- A. Prior to initiating any alterations to the Strite House, OOCEA/FDOT shall complete Historic American Building Survey (HABS) Level II documentation and provide it to FHWA for transmittal to the SHPO, Orange County Regional History Center and Apopka Historical Society for their review and comment and for archiving.
1. Pursuant to Section 110(b) of the National Historic Preservation Act, OOCEA/FDOT shall ensure that:
 - a. The documentation shall be completed and submitted to FHWA for transmittal to the SHPO, Orange County Regional History Center, and Apopka Historical Society.
 - b. All documentation shall be completed in accordance with the *Secretary of the Interior's Standards and Guidelines for Architectural and Engineering Documentation Level II* (68 FR 43159-62).
 - c. For the Strite House, the following HABS Level II documentation shall be prepared:
 - i. Drawings - Select existing drawings, where available, should be photographed with large-format negatives or photographically reproduced on Mylar. If existing drawings are unavailable, an existing floorplan of the main building and site plan of the property, including ancillary structures and landscape features, shall be produced.
 - ii. Photographs - Photographs will be prepared with large-format negatives of exterior and interior views, or historic views, where available. Historic ancillary structures and landscape features will also be photographed. All negatives and prints will be processed to meet archival standards.

- iii. Written Data - A substantive and detailed report with a narrative description of the historic building, ancillary structures, landscape features, discussion of the significance, and historical context will be prepared.
 2. The mitigation activities in Stipulation III.A.1 will commence during the design phase of the Project and will be submitted to the SHPO, Orange County Regional History Center, and Apopka Historical Society no later than eighteen (18) months after the completion of the design phase for this portion of the Project.
- B. In order to mitigate the Project impacts that will occur, OOCEA/FDOT will ensure the following activities are undertaken:
 1. Perform a feasibility assessment on the ability to relocate the main Strite House, the historic garage and water tower. Once the feasibility assessment is complete, coordinate with FHWA and the SHPO on the results of the study to confirm the plan as follows:
 - a. If feasible, and in coordination with the property owner of record or their designee, the three historic structures will be moved to a location within the parcel where the structures are currently located;
 - b. If feasible, the new site for the three historic structures must allow for placement and use of the historic structures in a manner similar to those allowed by the original site;
 - c. If feasible, the relocated historic structures shall be sited so that the spacing and relationship of the structures at the new site is compatible with those aspects of the former site;
 - d. The new site must not possess historical and archaeological resources that would be adversely affected by the siting of the historic structures.

2. Ensure that the historic structures are moved to the new site in accordance with the approaches recommended in *Moving Historic Buildings* (John Obed Curtis, U.S. Department of the Interior, National Park Service, 1979), by a professional mover who has demonstrated the capability to properly move historic structures.
3. Ensure that the historic structures are rehabilitated on the exterior to meet the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* (U.S. Department of the Interior, National Park Service, 1999).
4. If feasible, historic landscape materials from the original Strite House property should be relocated and placed at appropriate locations on the new site. Any historic landscaping that is installed shall be consistent with the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* (U.S. Department of the Interior, National Park Service, 1999).
5. Landscape screening shall be installed at the new site as a buffer for potential visual impacts between the historic structures and the Wekiva Parkway facility. Any new landscaping that is installed shall be consistent with the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* (U.S. Department of the Interior, National Park Service, 1999).
6. The mitigation activities in Stipulations III.B.1-5 will commence within eighteen (18) months of the right-of-way acquisition of property from within the Strite House boundaries.
7. Within ninety (90) days after the historic structures are moved, OOCEA/FDOT will prepare a re-evaluation of their eligibility for inclusion in the National Register in accordance with the applicable provisions of 36 CFR 60 and applicable National Park Service guidelines. This re-evaluation will be submitted to FHWA for transmittal to the SHPO for review.

8. A Preservation Covenant or Easement shall be developed in consultation with OOCEA/FDOT, FHWA, the SHPO, and the property owner of record or their designee to ensure protection of the historic structures following commencement of relocation and rehabilitation.
 9. Any documents or information provided to the SHPO by FHWA will be subject to review and comment by the SHPO.
- C. Should the owner of the Strite House choose to relocate or rehabilitate the structures in a manner that does not meet the requirements listed in Stipulation III.B, public funds will not be expended on the relocation and rehabilitation efforts. In the event that Stipulation III.B cannot be met, OOCEA/FDOT will summarize the issues and submit the information to FHWA for transmittal to the SHPO, pursuant to Stipulation VII.C.
- D. If it is not feasible for the historic structures to be moved and rehabilitated in accordance with Stipulations III.B.1-5., OOCEA/FDOT shall inform the SHPO through FHWA, and may demolish the structures after providing the SHPO a sufficient opportunity to comment and completing the documentation outlined in Stipulation III.A.

IV. Public Recognition and Education

- A. A historic resources survey shall be conducted by OOCEA/FDOT, which will document the resources located in the historic rural areas of Orange County, including Zellwood, Bay Ridge, and Rock Springs. The boundaries of the survey area, which were developed in consultation with the SHPO, Orange County Regional History Center, and the Apopka Historical Society, are Ponkan Road to the south, Orange County line to the north, U.S. 441 to the west, and C.R. 435 to the east (a map showing the boundaries is provided in Appendix A). As part of this survey, a context of the historic communities will be developed, and historic resources that are fifty (50) years and older will be documented with Florida Master Site File forms and their significance will be evaluated according to criteria established by the National Register. The overall intent of this survey will be the development of a comprehensive inventory and assessment of the survey area's remaining historic rural

resources. The final report document and associated Florida Master Site File forms will be provided to FHWA for distribution to the SHPO, the Orange County Regional History Center, and the Apopka Historical Society.

V. Archaeological Monitoring/Discoveries

- A. In consultation with the SHPO and FHWA, OOCEA/FDOT will ensure efforts to avoid, minimize, or mitigate adverse effects to any discoveries of significant archaeological resources during the Project shall be addressed according to 36 CFR 800.13(b). All records resulting from archaeological discoveries shall be in accordance with 36 CFR 79, and shall be submitted to the SHPO through FHWA.
- B. Should unmarked human remains be encountered during construction of the Project, OOCEA/FDOT will ensure that they are treated in accordance with Chapter 872.05, Florida Statutes.

VI. Professional Qualifications

- A. All documentation of historic properties pursuant to this agreement shall be conducted by or under the direct supervision of a person or persons meeting the *Secretary of the Interior's Professional Qualifications Standards* (Code of Federal Regulations 36 CFR Part 61) in the fields of *History, Architectural History, or Historical Architecture*; and that all archaeological work is carried out by or under the direct supervision of a person or persons meeting the *Secretary of the Interior's Professional Qualifications Standards* (Code of Federal Regulations 36 CFR Part 61) in the field of *Archaeology*.

VII. Administrative Stipulations

- A. The Advisory Council on Historic Preservation (Council) will be consulted only when the project activity involves a National Historic Landmark or when there is dispute between review agencies.
- B. Any party to this agreement may propose to the other parties that it be amended, whereupon the parties will consult and consider the amendment pursuant to 36 CFR 800.6(c)(7).

- C. Should any party to this agreement object within thirty (30) days after receipt to any plans, specifications, contracts, or other documents provided for review pursuant to this agreement, or to the manner in which this agreement is being implemented, FHWA shall consult with the objecting party to resolve the objection. If, after initiating such consultation, FHWA determines that the objection cannot be resolved through consultation, FHWA shall forward all documentation relevant to the dispute to the SHPO, and, as appropriate, the Council. Within thirty (30) days after receipt of all pertinent documentation, the SHPO and/or Council will either:
1. Provide FHWA with recommendations, which FHWA will take into account in reaching a final decision regarding the dispute; or
 2. Notify FHWA that the SHPO or Council will comment pursuant to 36 CFR 800.7 and proceed to comment. Any comment provided in response to such request will be taken in to account by FHWA in accordance with 38 CFR 800.7(c) with reference to the subject of the dispute.
 3. Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; FHWA's and OOCEA's/FDOT's responsibilities to carry out all of the actions under this agreement that are not the subject of the dispute will remain unchanged.

Execution of this agreement regarding the Project, and implementation of its terms by FHWA, FDOT, OOCEA, and the SHPO, evidences that FHWA has satisfied requirements of Section 106 of the National Historic Preservation Act [Title 16 USC Section 470(f)].

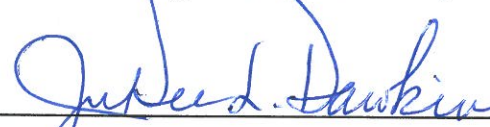
Approved:

By: 

Date: 6/27/11

per Martin Knopp, Division Administrator

United States Department of Transportation, Federal Highway Administration

By: 

Date: 7-12-11

JuDee L. Dawkins, Deputy Secretary of State
Cultural, Historical and Information Programs
Interim Florida State Historic Preservation Officer

Concurred:


LEGAL REVIEW

By: 

Date: 6-22-11

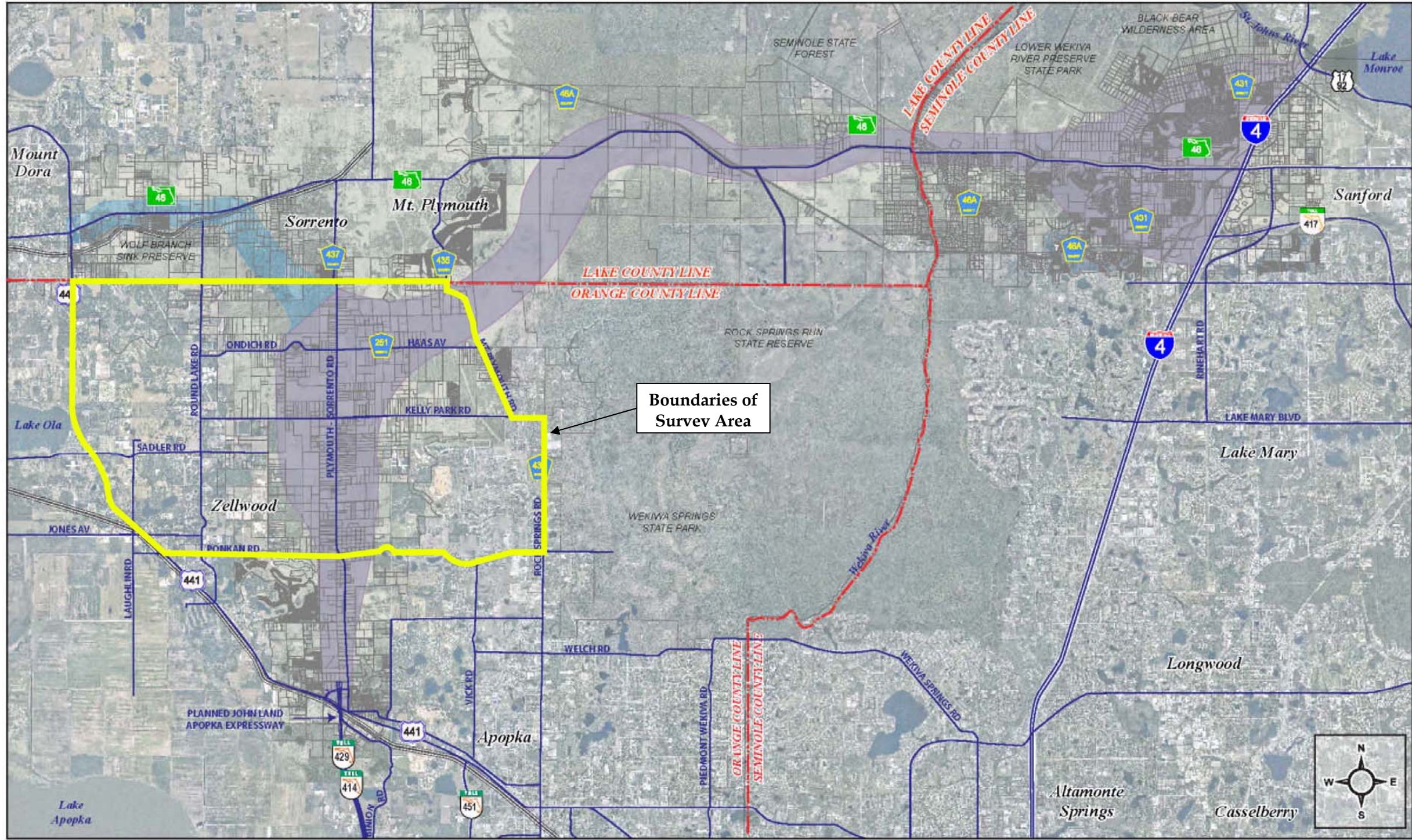
Noranne Downs, District Secretary
Florida Department of Transportation, District 5

By: 

Date: 6/22/11

Michael Snyder, Executive Director
Orlando-Orange County Expressway Authority

APPENDIX A:
BOUNDARIES OF HISTORIC RESOURCES SURVEY AREA



Boundaries of Survey Area

LEGEND
 Wekiva Parkway Study Corridor
 SR 46 Realignment Study Corridor

Exhibit 1-1
Project Study Corridor

