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 Board Members

FROM: James Edward Cheek, III, Right of Way Counsel

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

DATE: May 24, 2016

RE: S.R. 429 Wekiva Parkway, Project 429-204; Parcels 262, 266 and 866 -

Recommendation for Board Approval for Settlement of Attorney's Fees

Winderweedle, Haines, Ward & Woodman, P.A., right of way counsel, seeks this Board's approval of attorney's fees for the representation of Ryan Ackley ("tenant"), incurred in Parcels 262, 266 and 866 (the "Taking" or "Property") for the construction of the S.R. 429 Wekiva Parkway, Project 429-204.

DESCRIPTION and BACKGROUND:

Parcel 262 is the subject of a separate memorandum submitted by the law firm of Shutts and Bowen. Warren and Wendy Ackley (the "Ackleys") have an easement interest in Parcel 266 for access purposes.

Parcel 266 involves a partial taking of 4.707 acres of land from a 5.157 acre property, leaving a .450 acre remainder. **Parcel 866** is a permanent easement over 600 square feet of property. The subject is located along Plymouth Sorrento Road in unincorporated Orange County, and is improved with a 2,750 square foot residence, as well as a mobile home. The property was owned by Warren and Wendy Ackley, and the mobile home was owned by the Ryan Ackley, a tenant on the property.

The Board approved a settlement in this case in the amount of \$726,770.00 on June 11. 2015. Included within that settlement was a payment of attorneys fees to Kurt Bauerle from the law firm of Harris Harris Bauerle Ziegler & Lopez, P.A., for Mr. Bauerle's representation of Warren and Wendy Ackley. The attorney fee payment in the amount of \$55,770, was based on the statutory betterment between the amount of the first offer to Warren and Wendy Ackley and the final settlement amount. This amount did not include attorneys fees for representation of the tenant.

At the time of the settlement approval, Mr. Bauerle's attorneys fees for his representation of Ryan Ackley were not included in the settlement proposal. This attorney fee information was

not received until after settlement approval. Mr. Bauerle is requesting \$9,750 for his representation of Ryan Ackley's tenancy interest and interest in the mobile home (as well as his Parcel 262 representation discussed below). The value of the mobile home was not included in the first offer, and was valued in a letter addendum for \$29,000.

In addition, Mr. Bauerle represented the Ackleys' interest in Parcel 262, the settlement of which is before this Committee under a separate memorandum prepared by the law firm of Shutts and Bowen. The Ackleys were the owners of an easement interest for cross-access purposes in Parcel 262. Compensation for easement interests are generally determined in post-judgment apportionment proceedings, for which attorneys fees are provided under Section 73.092(2), Florida Statutes, which awards attorneys fees based on factors such as time and effort put into the case (as opposed to betterment). Mr. Bauerle negotiated a resolution with the Landowners' counsel in Parcel 262 regarding the Ackleys' easement interest, thus eliminating the need for an apportionment hearing on this issue.

Mr. Bauerle has agreed to accept the \$9750.00 in fees for his representation of both the tenant in Parcel 266 and the Ackleys in Parcel 262.

Counsel has reviewed the amount sought by Mr. Bauerle and believes it to be reasonable.

RECOMMENDATION:

The proposed settlement was recommended for Board approval by the Right of Way Committee on May 25, 2016. We respectfully request that this Board's approval of the proposed attorney fee payment in the amount of \$9,750.00 to Kurt Bauerle to compensate him for his services in representing the tenant, Ryan Ackley, in Parcels 266 and 866 and for the Ackleys' easement interests in Parcel 262.

ATTACHMENTS:

Sketch of Subject Property Order of Taking, including Sketch, on Parcel 262

Reviewed by: Joseph Hassinton

LEGAL DESCRIPTION

PARCEL 266

PURPOSE: LIMITED ACCESS RIGHT OF WAY

ESTATE: FEE SIMPLE

THAT PART OF THE NORTH 1/2 OF THE SE 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 3815, PAGE 1298 AND OFFICIAL RECORDS BOOK 4694, PAGE 1298, PUBLIC RECORDS OF ORANGE COUNTY. FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST (A 1/2" IRON ROD IN WELLBOX AS NOW EXISTS); THENCE, NORTH 00°01'26" WEST ALONG THE EAST LINE OF THE SOUTHEAST 1/4, A DISTANCE OF 990.97 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 337.86 FEET OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4: THENCE, DEPARTING SAID EAST LINE, SOUTH 89°08'49" WEST ALONG SAID SOUTH LINE A DISTANCE OF 30.00 FEET TO A POINT ON THE EXISTING WEST RIGHT OF WAY LINE OF PLYMOUTH SORRENTO ROAD AND THE POINT OF BEGINNING; THENCE, DEPARTING SAID EXISTING WEST LINE, CONTINUE SOUTH 89°08'49" WEST ALONG SAID SOUTH LINE A DISTANCE OF 1308.69 FEET TO A POINT ON THE WEST LINE OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE, DEPARTING SAID SOUTH LINE, NORTH 00°17'04" EAST ALONG SAID WEST LINE A DISTANCE OF 337.93 FEET TO A POINT ON THE NORTH LINE OF THE NORTH 337.86 FEET OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE, DEPARTING SAID WEST LINE, NORTH 89°08'49" EAST ALONG SAID NORTH LINE A DISTANCE OF 96.06 FEET; THENCE, DEPARTING SAID NORTH LINE SOUTH 59°23'50" EAST A DISTANCE OF 183.70 FEET; THENCE, NORTH 59°36'28" EAST A DISTANCE OF 126.25 FEET; THENCE, NORTH 81°45'02" EAST A DISTANCE OF 261.15 FEET TO A POINT ON THE WEST LINE OF THE EAST 7 (5.2) FEET OF SAID NORTH 337.86 FEET; THENCE, DEPARTING SAID NORTH LINE, SOUTH 00°01'26" EAST ALONG SAID WEST LINE A DISTANCE OF 3 | 7.89 FEET; THENCE, DEPARTING SAID WEST LINE, NORTH 89°08'49" EAST A DISTANCE OF 685.28 FEET TO A POINT ON SAID EXISTING WEST RIGHT OF WAY LINE; THENCE, SOUTH 00°01'26" EAST ALONG SAID EXISTING WEST LINE A DISTANCE OF 20.00 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 4.707 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 PROVIDE STATUTES. SUBJECT TO NOTES AND NOTATIONS SHOWN HEREON.

06/15 MARKS, PSM NO. 5623 RUSSEM

NOT WITHOUT SIGNATURE AND ORIGINAL RAISED SEAL

FOR: CENTRAL FLORIDA EXPRESSWAY AUTHORITY		STATE ROAD 429		
DESIGNED BY: RJM	DATE: 1/05/15	URS	URS CORPORATION 315 E ROBINSON STREET	REVISIONS:
DRAWN BY: DJK	JOB NO:		SUITE 245 ORIANDO, FL 32801-1949	
APPROVED BY: RJM	OOCEA PROJECT NO: 429-204		PH (407) 422-0353 HCENSED BUSINESS NO. 6839	Sheet: Of 3

LEGAL DESCRIPTION

PARCEL 866

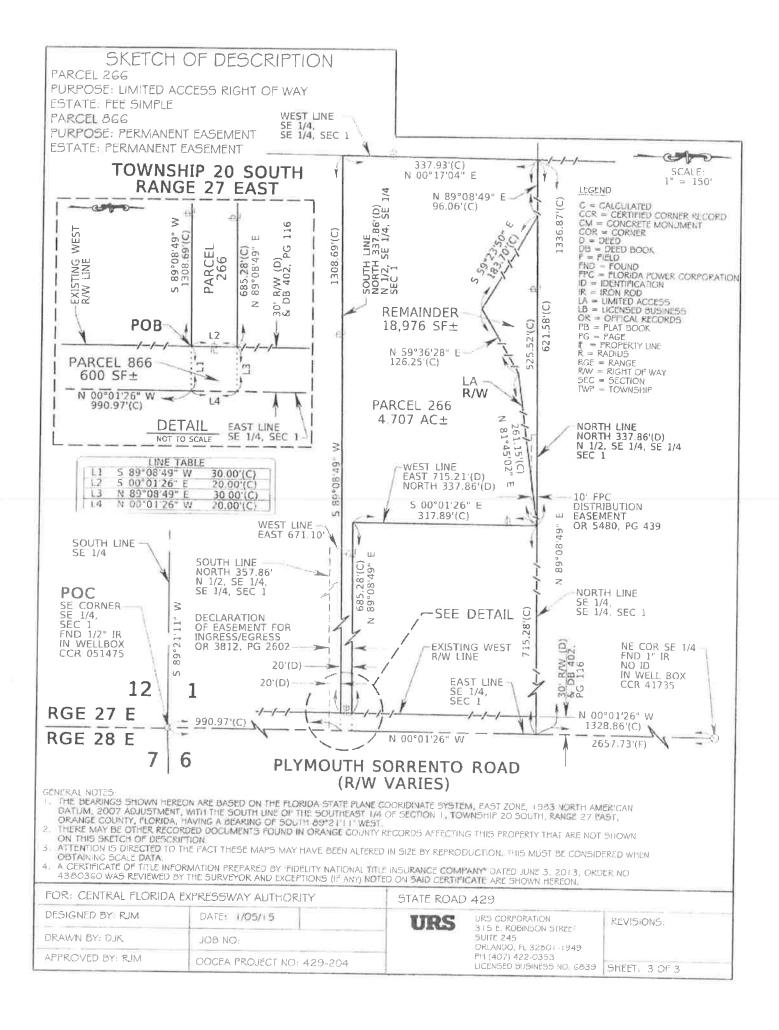
PURPOSE: PERMANENT EASEMENT ESTATE: PERMANENT EASEMENT

THAT PART OF THE NORTH 1/2 OF THE SE 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 3815, PAGE 1298 AND OFFICIAL RECORDS BOOK 4694, PAGE 1298, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST (A 1/2" IRON ROD IN WELLBOX AS NOW EXISTS); THENCE, NORTH 00°01'26" WEST ALONG THE EAST LINE OF THE SOUTHEAST 1/4, A DISTANCE OF 990.97 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 337.86 FEET OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE, DEPARTING SAID EAST LINE, SOUTH 89°08'49" WEST ALONG SAID SOUTH LINE A DISTANCE OF 30.00 FEET TO A POINT ON THE EXISTING WEST RIGHT OF WAY LINE OF PLYMOUTH SORRENTO ROAD AND THE POINT OF BEGINNING; THENCE, DEPARTING SAID SOUTH LINE, NORTH 00° 01'26" WEST ALONG SAID EXISTING WEST LINE A DISTANCE OF 20.00 FEET; THENCE, DEPARTING SAID EXISTING WEST LINE, NORTH 89°08'49" EAST A DISTANCE OF 30.00 FEET TO A POINT ON SAID EAST LINE OF THE SOUTHEAST 1/4; THENCE, SOUTH 00°01'26" EAST ALONG SAID EAST LINE A DISTANCE OF 20.00 FEET TO A POINT ON SAID SOUTH LINE; THENCE, DEPARTING SAID EAST LINE, SOUTH 89°08'49" WEST ALONG SAID SOUTH LINE; THENCE, DEPARTING SAID EAST LINE, SOUTH 89°08'49" WEST ALONG SAID SOUTH LINE A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 600 SQUARE FEET, MORE OR LESS.

FOR: CENTRAL FLORIDA EXPRESSWAY AUTHORITY		STATE ROAD 429		
DESIGNED BY: RJM	DATE: 1/05/15	3+5 E. ROBINSON 5 SUITE 245 ORLANDO, FL 3280 PH (407) 422-035	URS CORPORATION 315 E. ROBINSON STREET	REVISIONS
DRAWN BY: DJK	JOB NO		SUITE 245 ORLANDO, FL 3280 1949 PH (407) 422 0353 LICENSED BUSINESS NO. 6839	
APPROVED BY: RJM	OOCEA PROJECT NO: 429-204			SHEET 2 OF 3



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,

77 25

Petitioner,

V.

CASE NO.: 2015-CA-001150-O

HAFEEZ R. ALI, et al.,

Parcel

262

Respondents.

Subdivision 39

ORDER OF TAKING AS TO PARCEL 262

THIS CAUSE came on to be heard by the Court, and it appearing that proper notice was first given to all Respondents and to all persons having or claiming any equity, lien, or other interest in or to the real property described in the Petition that the Petitioner would apply to this Court on the 8th day of April, 2015, for an Order of Taking, and the Court being fully advised in the premises, upon consideration, it is therefore:

ORDERED AND ADJUDGED:

- 1. That this Court has jurisdiction of this action, of the subject property, and the parties to this cause.
- 2. That the pleadings in this cause are sufficient, and the Petitioner is properly exercising its delegated authority.
- 3. That the Declaration of Taking filed in this cause by the Petitioner was made in good faith, and based upon a valid appraisal.

 DOC # 20150177430 B: 10901 P: 9347

04/10/2015 10:33 AM Page 1 of 6
Rec Fee: \$0.00
Deed Doc Tax: \$0.00
Mortgage Doc Tax: \$0.00
Intangible Tax: \$0.00
Martha O, Haynie, Comptroller
Orange County, FL
Ret To: ORANGE COUNTY CLERK OF COURT
ERECORD

- 4. That upon the payment of the deposit hereinafter specified into the Registry of this Court, the right, title or interest specified in the Petition as described herein shall vest in the Petitioner, as attached as Exhibit "A."
- 5. That the good faith deposit amount to be deposited in the Registry of the Court within twenty (20) days is ONE HUNDRED SEVENTY-FIVE THOUSAND, ONE HUNDRED SEVENTY AND NO/100 DOLLARS (\$175,170.00) consisting of the good faith deposit amount of \$175,000, plus a \$170.00 clerk's fee.
- 6. That the deposit of money will secure the persons lawfully entitled to compensation, as will be determined ultimately by final judgment of the Court, or otherwise settled.
- That the Court reserves jurisdiction to enforce the terms of this Order of Taking.
 DONE AND ORDERED in Orlando, Orange County, Florida this day of April,

Cheun radige

CERTIFICATE OF SERVICE

Judicial Assistant

SERVICE LIST PARCEL 262

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Orange County Tax Collector

PSP/MRC Debt Portfolio S-1, L.P., a Delaware limited partnership c/o THE CORPORATION TRUST COMPANY, Registered Agent Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

Unknown Beneficiaries Address Unknown Unknown Tenants and Other Parties in Possession Address Unknown

20150177430 Page 4 of 6

Unknown Parties with Interest in the Property Address Unknown

ORLDOCS 13963209 1

LEGAL DESCRIPTION

PARCEL 262

PURPOSE: LIMITED ACCESS RIGHT OF WAY

ESTATE: FEE SIMPLE

THAT PART OF THE NORTH 1/2 OF THE SE 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 8615, PAGE 4918, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

"A PORTION OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA. LESS THE NORTH 337.86 FEET THEREOF AND ALSO LESS THE EAST 30.00 FEET FOR ROAD PURPOSES.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 1; THENCE ALONG THE EAST LINE OF SAID SECTION 1 NORTH OO DEGREES 07'20" WEST 663.42 FEET; THENCE SOUTH 89 DEGREES 10'25" WEST 30.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF PLYMOUTH SORRENTO ROAD; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE NORTH OO DEGREES 07'20" WEST 326.54 FEET; THENCE SOUTH 89 DEGREES 03'09" WEST 639.36 FEET; THENCE SOUTH 00 DEGREES 02'02" WEST 325.39 FEET; THENCE NORTH 89 DEGREES 10'25" EAST 640.23 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 4,786 ACRES, MORE OR LESS.

I HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION AND SKETCH IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTIHER CERTIFY THAT THIS LEGAL DESCRIPTION AND SKETCH MEETS THE MINIMUM TECHNICAL STANDARDS AS SETFORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5.1-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES. SUBJECT TO NOTES AND NOTATIONS SHOWN HEREON.

12/18/13 DATE

RUSTEL J. MARKS, PSM NO. 5623

NOT VALID WITHOUT SIGNATURE AND ORIGINAL RAISED SEAL

FOR: ORLANDO ORANGE COUNTY EXPRESSWAY AUTHORITY		STATE ROAD	STATE ROAD 429			
DESIGNED BY: RJM	DATE: 12/18/13	URS	URS CORPORATION 315 E. ROBINSON STREET	REVISIONS:		
DRAWN BY: DJK	JOB NO:		5UITE 245 ORLANDO, FL 32601-1949 PH (407) 422-0353 LICENSED BUSINESS NO. 6839			
APPROVED BY: RJM	OOCEA PROJECT NO: 429-204			SHEET: 1 OF 2		

SKETCH OF DESCRIPTION PARCEL 262 PURPOSE: LIMITED ACCESS RIGHT OF WAY ESTATE: FEE SIMPLE NE COR SE 1/4: FND 1" IR NO ID (IN WELL BOX) LEGEND C = CALCULATED C = CALCULATED CCR = CERTIFIED CORNER RECORD CM = CONCRETY MONUMENT COR = CORNER D = DEED DB = DEED BOOK F = FIELD FPC = FLORIDA POWER CORPORATION FND = FOUND ID = IDENTIFICATION IR = IRON ROD LA = LIMITED ACCESS LB = LICENSED BUSINESS OR = OFFICAL RECORDS PB = PLAT BOOK PG = PAGE TOWNSHIP 20 SOUTH RANGE 27 EAST CCR 41735 LINE TABLE S 89*15'01" W (C) 30.00°(C)(D) DB 402 PG 116 щи 00 PB = PLAT BOOK PG = PAGE PAGE R = PROPERTY LINE R = RADIUS RGE = RANGE RW = RIGHT OF WAY SEG = SPCTION TWP = TOWNSHIP SOUTH LINE NORTH 337.86' (D) GE OAL 20'(D) K 0 K SORRENTÓ -639.34'(C)-639.36'(D) 2657.73'(- N 89"08'49" E 00 326,54'(D) 326,48'(C)-VARIES DISTRIBUTION DECLARATION OF 39 EASEMENT FOR INGRESS/EGRESS OR 3812, PG 2602 WEST LINE EASEMENT OR 3882 PG 4705 SE 1/4 SE 1/4 (D) -D W w 4.786 AC+ PLYMOUTH 00.01.26, 00.01.48 SCALE: Z 640.23'(D) LI 640.20'(C) ST LINE 1/4, SEC 5 89°15'01" W 00.01.26 POB EAST I SOUTH LINE 00|z N 1/2 SE 1/4 SE 1/4 (D) SW CORNER SE 1/4,SEC 1 FND 4"X4" CM 42'(663. EXISTING -WEST R/W LINE NO 1D CCR 0047859 SOUTH LINE SE 1/4, SEC 1 **EXISTING** NORTH R/W 6 2687.87'(F) S 89°21'11" W (60' R/W) ONDICH ROAD EXISTING R/W LINE POC SE CORNER SE 1/4, SEC 1 FND 1/2" IR IN WELLBOX CCR 051475 NERAL NOTES: THE BLARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORIDINATE 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"! I* WEST. THERE MAY BE OTHER RECORDED DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY THAT ARE NOT SHOWN ON THIS REPORT OF DESCRIPTION. ON THIS SKETCH OF DESCRIPTION. ATTENTION IS DIRECTED TO THE FACT THESE MAPS MAY HAVE BEEN ALTERED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALE DATA, A CERTIFICATE OF TITLE INFORMATION PREPARED BY "FIRST AMERICAN TITLE INSURANCE COMPANY" DATED NOVEMBER 27, 2012, FILE NO. 2037-2857 | 29 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 URS CORPORATION 315 E. ROBINSON STREET REVISIONS: DATE: 12/18/13 URS DESIGNED BY: RJM SUITE 245 ORLANDO, FL 32801-1949 DRAWN BY: DJK JOB NO: PH (407) 422-0353 LICENSED BUSINESS NO. 6839 APPROVED BY: RJM OOCEA PROJECT NO: 429-204 SHEET: 2 OF 2