




MEMORANDUM

TO: Central Florida Expressway Authority Board Members CLIENT-MATTER NO.: 19125.0083

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

DATE: January 23, 2017

RE: State Road 429 Wekiva Parkway, Project 429-203; Parcel 166
Proposed Mediated Settlement Including Fees and Costs

Shutts & Bowen LLP, Right-of-Way Counsel, seeks the approval of the CFX Board of a proposed mediated settlement between Darrell D. Reid, Katie J. Reid, his wife, and Darrell Reid dba Happy Hill, (the "Owners") and the Central Florida Expressway Authority (the "CFX") for the acquisition of Parcel 166 (the "Taking" or "Property") for the construction of State Road 429 Wekiva Parkway, Project 429-203.

Mr. and Mrs. Reid are the fee owners of the subject property – Parcel 166. They have experienced some significant tragic events in their lives recently. Mrs. Reid was accidentally killed by the discharge of a firearm at their home. Subsequent to Mrs. Reid's death, Mr. Reid was involved in a serious accident wherein he was hit by a car while riding his motorcycle. As a result, Mr. Reid had to have his leg amputated, among other injuries. Shortly after he had his leg amputated, Mr. Reid had a heart attack.

DESCRIPTION AND BACKGROUND

Parcel 166 ("Subject Property") is a fee simple acquisition 4.014 acres from two contiguous parcels with a combined area of 11.57 acres, located on Plymouth Sorrento Road in Orange County, Florida. The property is improved with a 672 sf manufactured home and two additional manufactured homes with an attached enclosed area totaling 2,430 sf. These manufactured homes were used as rental units consisting of 1 bedroom/1 bath and 6 apartments consisting of 12 bedrooms, 4 baths and 2 half-baths, respectively. Additionally, two travel trailers and two sheds of 600 to 800 sf and a 1,554 sf aluminum covered area, landscaping, hog wire fencing, and three metal gates were impacted by the taking.

The Property is zoned A-1, Citrus Rural by Orange County which provides for residential

and agricultural uses. The future land use designation is rural/agricultural. The highest and best use of the property as vacant was determined to be for future residential development. The highest and best use of the site as improved is for interim rental of the improvements until the demand for residential development of the site is warranted.

The CFX's appraisal of the property was prepared by Christopher D. Starkey, MAI, of Integra Realty Resources Orlando. Mr. Starkey used a sales comparison approach to estimate the value of the land of the Subject Property. In estimating the land value of the Subject Property, Mr. Starkey used four (4) comparable sales with an adjusted range of \$26,400 to \$27,600 per acre, to arrive at a concluded value of \$32,000 per acre. Mr. Starkey used the market approach to estimate the interim rental value of the improvements on the subject property. Mr. Starkey concluded a rental rate of \$400 per month for the 672 sf manufactured home and a combined rental rate of \$900 to \$1,800 per month for the two attached manufactured home, or an overall combine rental estimate of \$2,200 per month for the improvements. Calculating an 8% annual discount rate over a 6 year discount period, Mr. Starkey arrived at an indicated contributory value of the improvements of \$93,750. The value conclusion at which Mr. Starkey arrived is \$128,450 for the land and a total of \$100,035 for the contributory value of the building improvements.

After the taking, the property will be vacant, excluding the remaining perimeter fencing on the north, east and south sides. Zoning and physical configuration of the property in the after condition will remain the same, but the proposed limited access right-of-way adjacent to the remainder property will be constructed 30 feet above the existing grade and will be graded with a 3:1 slope to match the existing grade at the new right-of-way line. The ratio of the unusable land area of the overall property will be increased from 14% to 21%, almost a 50% increase. Due to these conditions, Mr. Starkey opined the severance damages to the remainder property at \$83,065. A cost to cure to replace the fencing and 3 gates totals \$2,125, arriving at a final estimate of value of **\$313,675** (\$228,485 land and contributory value of the building improvements, damages of \$83,065, and cost to cure of \$2,125).

Richard H. Parham of Calhoun, Collister & Parham, Inc., prepared the appraisal report for the Respondents. Mr. Parham included three (3) manufactured homes, three (3) accessory buildings, RV lots, a stabilized driveway, hog wire fencing with wooden posts, metal swing gates, sod, well, and septic system as improvements in the taking. Mr. Parham utilized four (4) comparable land sales ranging in price of \$28,253 to \$72,464 per acre to arrive at a value of \$55,000 per acre or \$220,600 for the land taken. Mr. Parham, like Mr. Starkey, opined the improvements represented an interim value for a 6 year period until the site could be redeveloped with residential use. Mr. Parham's rental value of the improvements was \$4,800 per month or \$57,600 per year, with vacancy and collection losses at 20% and expenses of 25%, resulting in a net operating income of \$34,560 for the improvements or a present value of the 6 year interim income of \$159,800. Mr. Parham concurred with Mr. Starkey in the reasons for a reduction in the value of the remainder property, but valued the remainder at \$19,250 per acre, resulting in severance damages of \$270,300. Thus, Mr. Parham valued the total value of the taking at **\$653,300** (\$220,600 land, \$159,800 improvements taken, \$270,300 damages, and \$2,600 cost to cure).

A mediation was held on January 4, 2017, wherein in further support of Mr. and Mrs. Reid's appraisal report valuation, Mr. Bauerle, counsel for the Reid's argued several issues including, Integra's appraisal report update identified a 39% increase in property values since July 2011, however Integra made no subsequent upward adjustments to account for these market conditions. Additionally, Parham identified a recent sale of a parcel contiguous to the adjacent parcel to Parcel 166 that, they argued, confirms the significant increase in market value year over year. Furthermore, the property owner argued that Starkey assigned severance damages to the remainder that included 10% for inferior topography in the after, 5% for ratio of usable vs. unusable and only 10% for proximity damages, despite the new Expressway to be constructed next to this residential property in the after condition. Additionally, Mr. Bauerle argued that Integra had previously opined 40% severance damages for another residential parcel in and around Parcel 166. Finally, we were advised at the mediation that Mr. Reid was receiving \$5,100 in rental income each month, which is far above the \$2,200 estimated by Starkey. Additionally, Reid had three (3) additional RV pads that were rented to third parties that were not included in the valuation.

Trial of this matter was scheduled to begin on April 10, 2017, 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 \$471,000 as full settlement of all claims for compensation (including business damages) by the property owner, plus statutory attorney's fees totaling \$82,500, plus expert fees and costs totaling \$15,800.

For the above-cited reasons, Right-of-Way counsel requests a recommendation for approval of the mediated settlement in the amount of \$569,300, including attorney's fees and costs and experts fees and costs, 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 166.

At its January 25, 2017 meeting, the CFX Right-of-Way Committee voted to recommend approval of the Mediated Settlement Agreement to the CFX Board.

RECOMMENDATION

We respectfully request that CFX Board approve the proposed settlement agreement with a total settlement of \$569,300 in full settlement of all claims for compensation in the acquisition of Parcel 166, including all statutory attorney's fees and costs and all experts' fees and costs.

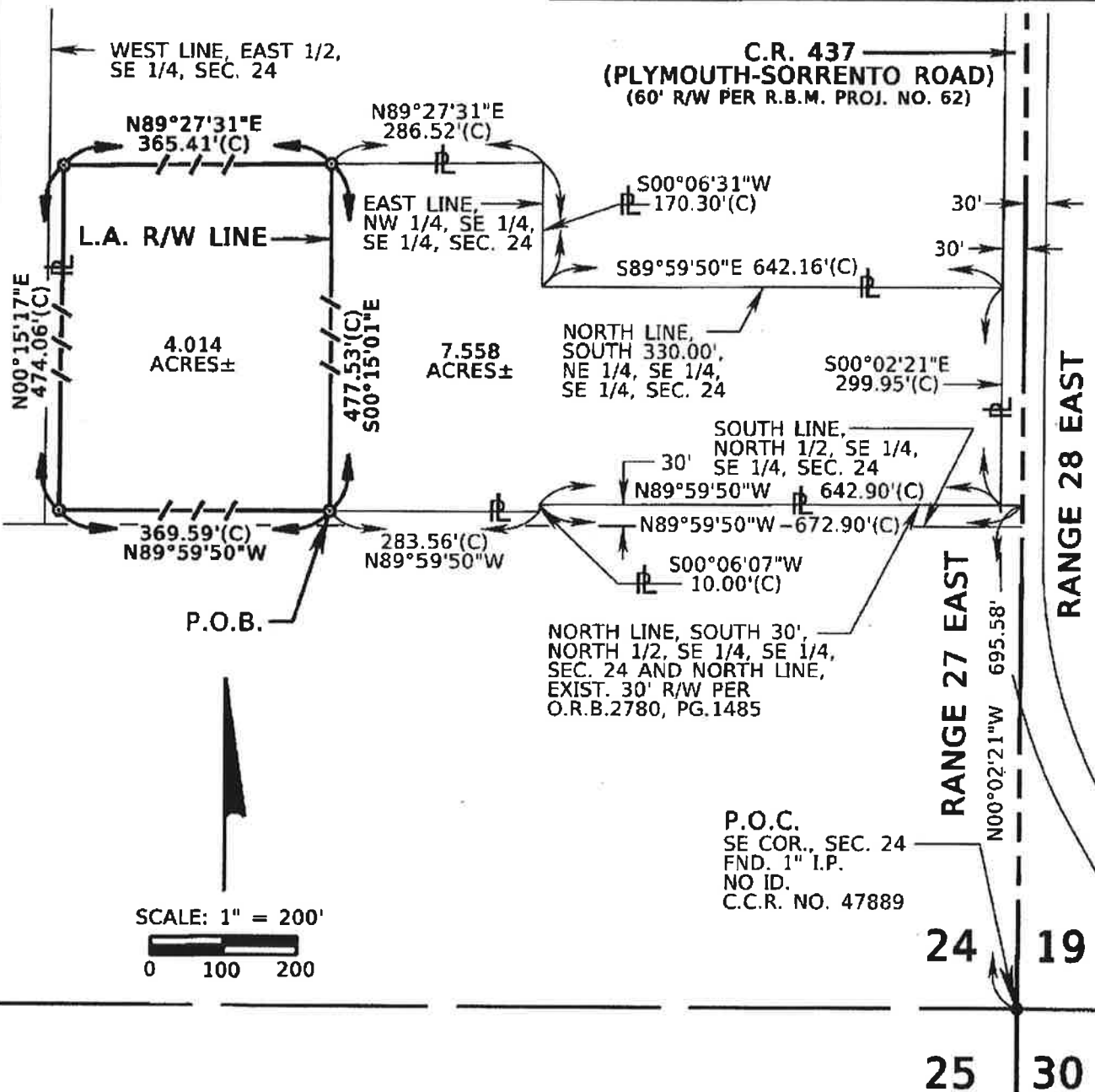
ATTACHMENTS

- Exhibit "A" – Sketch of the Subject Property
- Exhibit "B" – Photographs of the Subject Property and Area
- Exhibit "C" – Mediated Settlement Agreement – Parcel 166
- Exhibit "D" – Experts Invoices

Reviewed by: Joseph Hasiatse
General Counsel

ORLDOCS 15176388 |

BEARING STRUCTURE BASED ON THE EAST LINE OF THE SOUTHEAST 1/4 OF SEC. 24-20-27, BEING N00°02'21"W, FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, 1983/2007 ADJUSTMENT.



SECTION 24, TOWNSHIP 20 SOUTH PROJECT NO. 429-203

<p>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.</p> <p><i>William E. Boyd</i> 3/16/13 <small>WILLIAM E. BOYD, M.S.N. LICENSE NUMBER DATE</small></p> <p>NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>	<p>CERTIFICATION OF AUTHORIZATION No. LB 1221</p> <p>BS BOWLER SINGLE-TONE</p> <p>520 SOUTH MAGNOLIA AVENUE ORLANDO, FLORIDA 32801 (407) 843-5120 FAX 407-649-8664</p>	<p>SKETCH OF DESCRIPTION. THIS IS NOT A BOUNDARY SURVEY.</p> <p>S.R. 429 (WEKIVA PARKWAY) ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY ORANGE COUNTY, FLORIDA</p>	<p>PARCEL 166</p>
			<p>SCALE: 1" = 200'</p>
			<p>SHEET 2 OF 2</p>



Area of Taking

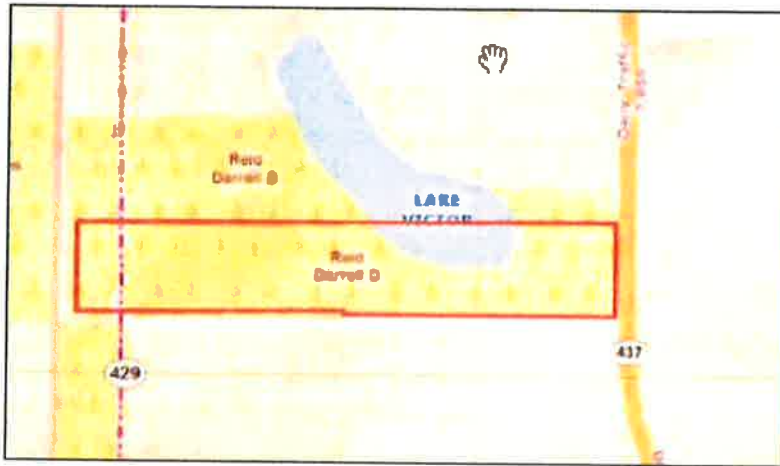


Parent Tract

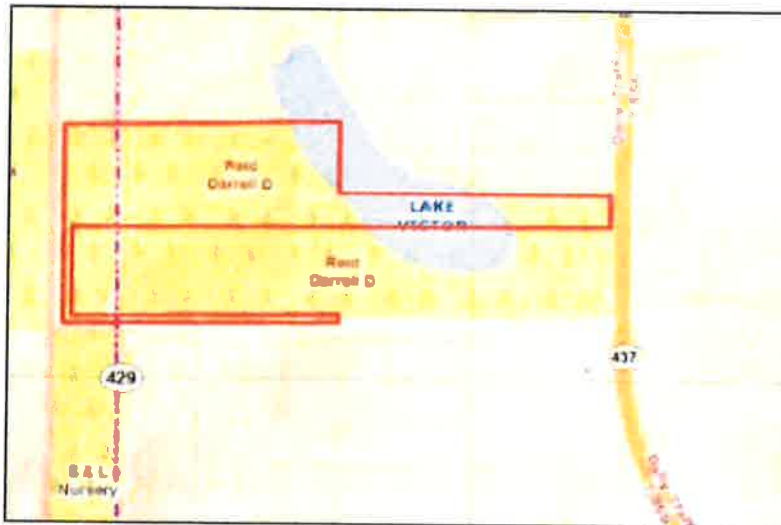
Wekiva Parkway Project 429-203(1B) Parcel 166
3134 Plymouth Sorrento Road
Apopka, Florida

Tax Maps

Parcel 24-20-27-0000-00-010



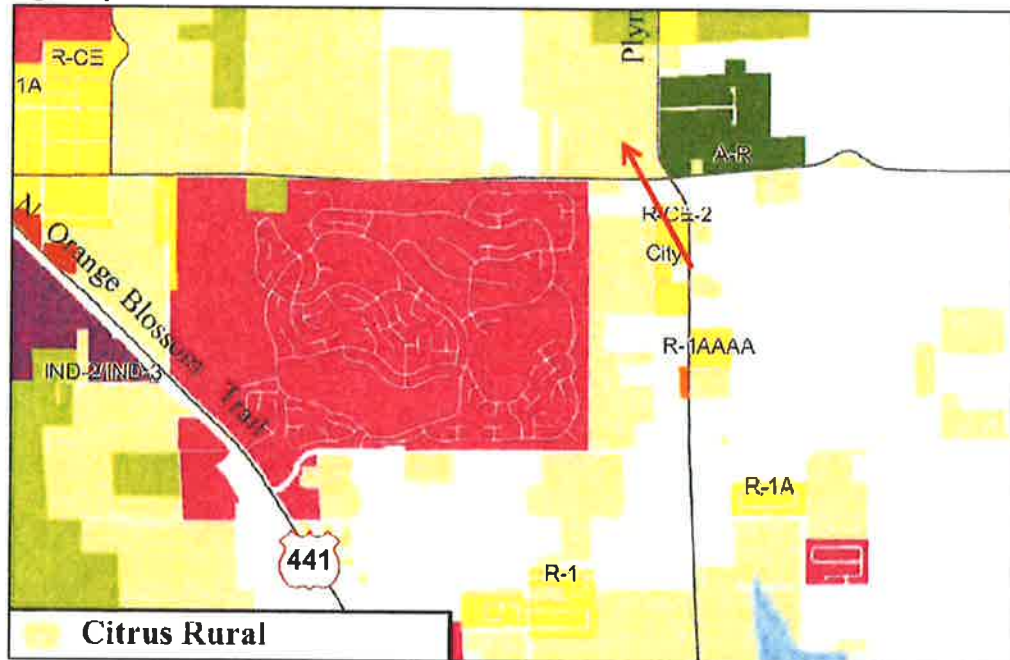
Parcel 24-20-27-0000-00-107



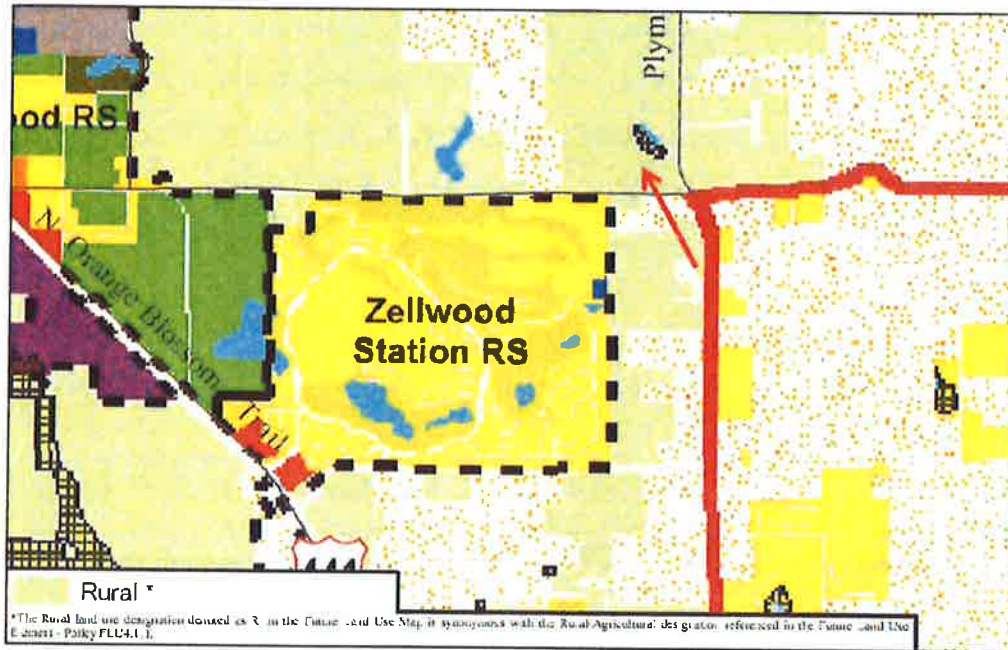
Aerial Map (Parcels Combined)



Zoning Map



Future Land Use Map



*See map footnote

Fencing



RETIRED
PROPERTY
BUY

RETIRED
PROPERTY
BUY



Facing west along right-of-way access, subject on right
(Photo Taken on July 11, 2013)



Facing east along right-of-way access, subject on left
(Photo Taken on July 11, 2013)



Southern view of larger manufactured home and gate
(Photo Taken on July 11, 2013)



Eastern view of larger manufactured home and gate
(Photo Taken on July 11, 2013)



View of smaller manufactured home
(Photo Taken on July 11, 2013)



Western view of larger manufactured home
(Photo Taken on July 11, 2013)





View of pasture area
(Photo Taken on July 11, 2013)



View of trailer trailers within the "take" area
property (Photo Taken on July 11, 2013)



View of aluminum shed within the "take" area
(Photo Taken on July 11, 2013)



Entrance into manufactured home/"take" area
(Photo Taken on July 11, 2013)



View of improvement within the "take" area.
(Photo Taken on July 11, 2013)



View of eastern portion of the subject
(Photo Taken on July 11, 2013)

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

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

CASE NO: 2014-CA-003698-1

Subdivision 39

Petitioner,

Parcel 166

vs.

DARRELL D. REID,
KATIE J. REID his wife, et. al.
DARRELL REID d/b/a Happy Hills,
Respondent(s).

MEDIATED SETTLEMENT AGREEMENT

At the Mediation Conference held on Jan. 4, 2017, the parties reached the following Settlement Agreement:

1. Petitioner will pay to Respondent(s), DARRELL D. REID, KATIE J. REID, his wife, and DARRELL REID d/b/a Happy Hills (referred to as "Respondent") the sum of FOUR HUNDRED SEVENTY-ONE THOUSAND Dollars exactly (\$471,000), in full settlement of all claims for compensation from Petitioner whatsoever for the taking of Parcel 166, 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 Three Hundred Thirteen Thousand Six Hundred Seventy-Five Dollars (\$313,675.00). Within thirty days (30) days from the date of receipt by Petitioner's counsel of a conformed copy of the Stipulated Final Judgment, Petitioner will pay to Respondent, by deposit in the Registry of the Court the sum of ONE HUNDRED FIFTY-SEVEN THOUSAND THREE HUNDRED TWENTY-FIVE Dollars exactly (\$157,325), representing the difference between the total settlement sum referenced above and the 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 Respondent's attorney the sum of EIGHTY-TWO THOUSAND FIVE HUNDRED Dollars (\$82,500.00) 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 Respondent's attorney the sum of FIFTEEN THOUSAND EIGHT HUNDRED Dollars (\$15,800) in full settlement and satisfaction of all expert witness fees and costs incurred by Respondent 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:~~

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 Respondent will jointly submit to the Court a mutually approved Stipulated Final Judgment containing the terms and conditions of this Settlement Agreement within fifteen (15) 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.

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 166, severance damages, business damages, tort damages, interest, attorney's fees, attorney's costs, expert fees, expert costs, and any other claim.

9. This Settlement Agreement, executed by the parties and their counsel on this 4 day of JAN. 2017, ~~2016~~, contains all the agreements of the parties.

Linda S. B. Jensen
Central Florida Expressway Authority

[Signature]
Counsel for CFX

Mediator: [Signature]

[Signature]
Owner: DANIEL REID

Owner: _____

[Signature]
Attorney for Owner
Kurt Bauerle



Calhoun, Collister & Parham, Inc.

Real Estate Appraisers & Consultants

Jacksonville Office
10151 Deerwood Park Boulevard
Building 200, Suite 250
Jacksonville, Florida 32256-0557
Phone: (904) 764-0200
Toll Free: (800) 280-8140
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Toll Free: (800) 280-8140
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777 South Flagler Drive
Suite 800 - West Tower
West Palm Beach, Florida 33401
Phone: (561) 909-3176
Toll Free: (800) 280-8140
Fax: (561) 909-3177

Remit to: Tampa Office

January 03, 2017

Gordon H. Harris
Harris Harris Bauerle Ziegler Lopez
1201 E. Robinson Street
Orlando, FL 32801

OWNER: REID, DARRELL D & KATIE J
PROJECT: WEKIVA PKWY
COUNTY: ORANGE
FILE NO: 4737

INVOICE

<u>NAME</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>SUBTOTAL</u>
PARHAM	29.50	\$225.00	\$6,637
MEYERS	59.00	\$165.00	\$9,735
COTHRON	20.25	\$110.00	\$2,227
TOTAL INVOICE AMOUNT			\$18,599

Sincerely,

Richard H. Parham
Partner

EXHIBIT "D"

OWNER: REID, DARRELL D & KATIE J
FILE NO: 4737
PROJECT: WEKIVA PKWY
COUNTY: ORANGE

PARHAM

DATE	DESCRIPTION	HOURS
02/17/14	PREPARE FOR THEN MEET WITH CLIENT TO DISCUSS SUBJECT PROPERTY. CONDUCT PHYSICAL INSPECTION OF SUBJECT PROPERTY TAKING PHOTOGRAPHS, NOTES AND MEASUREMENTS OF ALL IMPROVEMENTS. LAYOUT TAKING LINE AND PERFORM PRELIMINARY ANALYSIS OF IMPACT OF TAKING ON REMAINDER PROPERTY. INSPECT MARKET AREA.	3.25
04/23/14	CONDUCT ANALYSIS ON FACTUAL INFORMATION ON SUBJECT PROPERTY. PREPARE FOR FIELD WORK TOMORROW.	1.75
04/24/14	CONDUCT INSPECTION OF POTENTIAL COMPARABLE SALES AND MARKET AREA.	3.50
06/02/14	CONDUCT ANALYSIS OF VALUATION ISSUES AND PREPARE FOR AND CONDUCT CONFERENCE CALL WITH CLIENT.	3.50
06/25/14	CONDUCT ANALYSIS OF POTENTIAL COMPARABLE SALES.	3.75
07/07/14	CONDUCT VALUATION ANALYSIS. ASSESS IMPACT OF TAKING ON REMAINDER.	5.25
03/18/15	CONDUCT VALUATION ANALYSIS. ASSESS IMPACT OF TAKING ON REMAINDER PROPERTY.	1.75
03/19/15	SALES AND COMPARISON TO SUBJECT PROPERTY. REVIEW DRAFT APPRAISAL REPORT.	2.00
03/31/15	CONDUCT ANALYSIS OF UPDATED SALES INFORMATION. CONDUCT DAMAGE ANALYSIS AND ASSESS IMPACT OF TAKING ON REMAINDER PROPERTY.	2.00
04/01/15	CONDUCT ANALYSIS OF POTENTIAL COMPARABLE SALES. WORK ON VALUATION ANALYSIS.	1.75
10/04/16	REVIEW APPRAISAL.	1.00
	TOTAL HOURS	29.50

OWNER: REID, DARRELL D & KATIE J
FILE NO: 4737
PROJECT: WEKIVA PKWY
COUNTY: ORANGE

MEYERS

DATE	DESCRIPTION	HOURS
01/24/14	CONDUCTED SUBJECT RESEARCH. READ THROUGH CONDEMNOR APPRAISAL REPORT.	1.75
01/30/14	CONDUCTED COMPARABLE LAND SALES RESEARCH.	2.00
02/12/14	REVIEWED RESEARCHED COMPARABLE LAND AND IMPROVED SALES. PREPARED COMPARABLE LAND SALES SPREADSHEETS FOR INSPECTIONS.	2.50
02/17/14	PREPARED FOR AND CONDUCTED SUBJECT INSPECTION. INTERVIEWED PROPERTY OWNER, TOOK PHOTOGRAPHS, AND FIELD NOTES. INSPECTED SUBJECT MARKET AREA.	4.50
04/16/14	ANALYZED HIGHEST AND BEST USE BEFORE AND AFTER. REVIEWED COMPARABLE LAND SALES. REVIEWED VARIOUS SUBJECT LEASES AND PREPARED SUMMARY OF LEASES. REVIEWED ROAD PROJECT AND TAKING.	3.50
04/21/14	RESEARCHED COMPARABLE RENTALS IN ORANGE COUNTY.	2.50
04/24/14	PREPARED FOR AND CONDUCTED PHYSICAL INSPECTION OF COMPARABLE LAND SALES AND IMPROVED SALES IN ORANGE COUNTY.	4.00
07/07/14	RESEARCHED COMPARABLE LOT RENTAL RATES.	2.00
07/08/14	REVIEWED LEASES, ANALYZED RENTAL DATA, CREATED SPREADSHEET AND SENT CLIENT PERTINENT INFORMATION.	4.50
03/10/15	UPDATED COMPARABLE LAND SALES RESEARCH. PREPARED FOR AND ATTENDED CONFERENCE CALL WITH CLIENT.	2.50
03/11/15	RESEARCHED SUBJECT'S ZONING AND LAND USE DESIGNATIONS. PREPARED SUBJECT EXHIBITS AND NON-VALUATION SECTIONS OF THE APPRAISAL REPORT.	2.75
03/12/15	PREPARED NON-VALUATION SECTIONS OF THE APPRAISAL REPORT. RESEARCHED SALES AND PREPARED SALE WRITE-UPS.	2.50
03/15/15	PREPARED NON-VALUATION SECTIONS OF THE APPRAISAL REPORTS.	2.00
03/16/15	PREPARED SUBJECT EXHIBITS.	1.75
03/17/15	PREPARED NON-VALUATION SECTIONS OF THE REPORT.	1.75
03/18/15	VERIFICATION OF COMPARABLE SALES. PREPARED NON-VALUATION SECTIONS OF THE APPRAISAL REPORT. PREPARED FOR AND ATTENDED CONFERENCE CALL WITH CLIENT.	4.00
03/19/15	PREPARED COMPARABLE LAND SALE WRITE-UPS. PREPARED NON-VALUATION SECTIONS OF THE APPRAISAL REPORT.	5.00
10/04/16	FINALIZED APPRAISAL REPORT AND SENT TO CLIENT.	2.00
12/19/16	ASSISTED WITH MEDIATION PREPARATION.	2.00

OWNER: REID, DARRELL D & KATIE J
FILE NO: 4737
PROJECT: WEKIVA PKWY
COUNTY: ORANGE

MEYERS

DATE	DESCRIPTION	HOURS
12/20/16	RESEARCHED COMPARABLE LAND SALES AND SUBJECT RENTAL CONTRACTS.	3.25
12/21/16	REVIEWED VARIOUS EXPRESSWAY STUDIES AND ASSISTED WITH MEDIATION PREPARATION.	1.50
01/03/17	ASSISTED WITH MEDIATION PREPARATION.	0.75
	TOTAL HOURS	59.00

OWNER: REID, DARRELL D & KATIE J
FILE NO: 4737
PROJECT: WEKIVA PKWY
COUNTY: ORANGE

COTHRON

DATE	DESCRIPTION	HOURS
02/04/14	RESEARCHED LAND SALES IN THE SUBJECT MARKET AREA.	2.50
02/05/14	UPDATED LAND SALES RESEARCH IN THE SUBJECTS MARKET AREA. CREATED SALES SPREADSHEETS AND MAPS.	3.00
02/12/14	RESEARCHED BACKUP DATA FOR THE MARKET AREA. CREATED UPDATED SALES AND SUBJECT MAPS.	2.50
03/19/15	CONDUCTED SALE VERIFICATION CALLS, CREATED SALE WRITE-UPS FOR VACANT LAND SALES.	4.25
03/20/15	CONDUCTED SALE VERIFICATION CALLS, CREATED NEW SALE WRITE-UPS, VERIFIED ZONING AND FUTURE LAND USE ON LAND SALE.	2.25
05/05/15	UPDATED SALE WRITE-UPS AND VERIFICATION CALLS. CREATED MAPS AND EXHIBITS.	2.50
05/07/15	CONDUCTED SALE VERIFICATION CALLS ON NEW SALES, CREATED NEW WRITE-UPS, MAPS AND EXHIBITS. VERIFIED ZONING AND FUTURE LAND USE. UPDATED SALES MAPS AND SPREADSHEETS.	3.25
	TOTAL HOURS	20.25