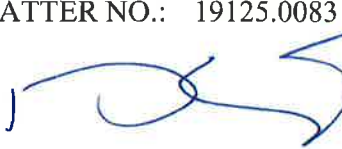




## MEMORANDUM

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 167  
Proposed Mediated Settlement Including Fees and Costs

---

Shutts & Bowen LLP, Right-of-Way Counsel, seeks the approval by the CFX Board of a proposed mediated settlement between Damen Reid, (the "Owner") and the Central Florida Expressway Authority (the "CFX") for the acquisition of Parcel 167 (the "Taking" or "Property") for the construction of State Road 429 Wekiva Parkway, Project 429-203.

### DESCRIPTION AND BACKGROUND

Parcel 167 ("Subject Property") is a fee simple acquisition of 2.952 acres from a 5-acre tract, located on Plymouth Sorrento Road in Orange County, Florida. The property is improved with a 1,742 sf single-family residence, a detached 900 sf carport/workshop, septic system, well, hog wire fence, metal gate and landscaping consisting of grass and trees. In the after condition, the remainder consists of two non-contiguous parcels of land containing 1.915 acres ("Northern remainder") and a 0.130 acre parcel ("Southern remainder") located 673 feet west of Plymouth Sorrento Road, adjacent to an existing right-of-way which provides access to Plymouth Sorrento Road.

The Property is zoned A-1, Citrus Rural District 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 continued use of the existing improvements as a single-family residence 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 \$27,000 per acre. Mr. Starkey used Marshall Valuation Service to estimate the replacement cost of the improvements on the subject property. Mr. Starkey concluded the replacement cost new of the overall improvements to the property, including site improvements, indirect costs, and entrepreneurial profit totaled \$184,124. After depreciation totaling \$52,526, Mr. Starkey opined the depreciated replacement cost of the improvements was \$131,600. Mr. Starkey also used three (3) comparable sales of single-family residences ranging in price from \$77.38 to \$125.32 per sf to arrive at a square footage value of \$110, providing an indicated value of \$191,600. Mr. Starkey reconciled the cost approach and sales comparison approach to conclude a reconciled value of the entire property and improvements of \$220,000 (\$118,200 for improvements and \$101,800 for land). Based on the reconciled valuation, Mr. Starkey opined the value of the taking is \$220,000 (\$79,700 for the land and \$118,200 for the improvements taken, and severance damages of \$19,950 [Northern and Southern remainder]).

Richard H. Parham of Calhoun, Collister & Parham, Inc., prepared the appraisal report for the Respondent. 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 \$40,000 per acre or \$220,600 for the land taken. Mr. Parham used Marshall and Swift Valuation Service to determine the replacement cost new of the improvements at \$155,189, plus soft costs and site improvement of \$7,759, or a total of \$162,948 as the total replacement cost. Mr. Parham then added entrepreneurial profit of 10% (\$16,295) and subtracted depreciation at 10% (\$17,924) to arrive at a depreciated value of the subject improvements of \$161,300. Mr. Parham also applied the sales comparison approach, using 4 comparable sales range in price from \$102 to \$138 per sf. Based on these comparable sales, Mr. Parham opined the value of the 1,742 sf single-family residence should be \$130 per sf or \$226,500. Mr. Parham valued the surplus land at \$80,000, but with the northern remainder no longer having access from the public right-of-way, the property becomes two non-contiguous properties. Therefore, Mr. Parham reconciled the remainder at a nominal value of \$500. Mr. Parham values the total compensation due the owner at \$329,500 (\$118,00 for the land, \$130,000 for the improvements taken, and \$81,500 for severance damages).

At mediation on January 4, 2017, Kurt Bauerle, counsel for Mr. Reid, argued several issues including Integra's appraisal report update identified a 39% increase in property values since July 2011, however he made no subsequent upward adjustments to account for these market conditions, and the depreciation for the improvements was improperly used, as the residence was a modular home (not a manufactured home) whose depreciation schedule is 50 to 55 years, not 25 to 30 for manufactured. Additionally, Parham identified a recent sale of a parcel contiguous to the adjacent Parcel to 167 that confirms the significant increase in market value year over year.

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 \$274,000 as full settlement of all claims for compensation by the property owner, plus attorney's fees and costs totaling \$28,347, plus expert fees and costs totaling \$15,435.

For the above-cited reasons, Right-of-Way counsel requests the CFX Board approve the mediated settlement in the amount of \$317,782, 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 167.

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 the CFX Board approve the proposed settlement agreement with a total settlement of \$317,782 in full settlement of all claims for compensation in the acquisition of Parcel 167, including all 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 167
- Exhibit "D" – Experts Invoices

Reviewed by:

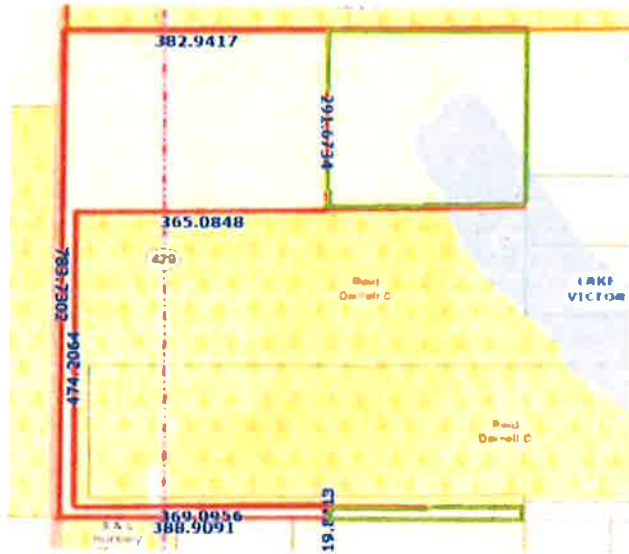
  
\_\_\_\_\_  
General Counsel

ORLDOCS 15176402 1





**Subject Property (Parent Tract)**

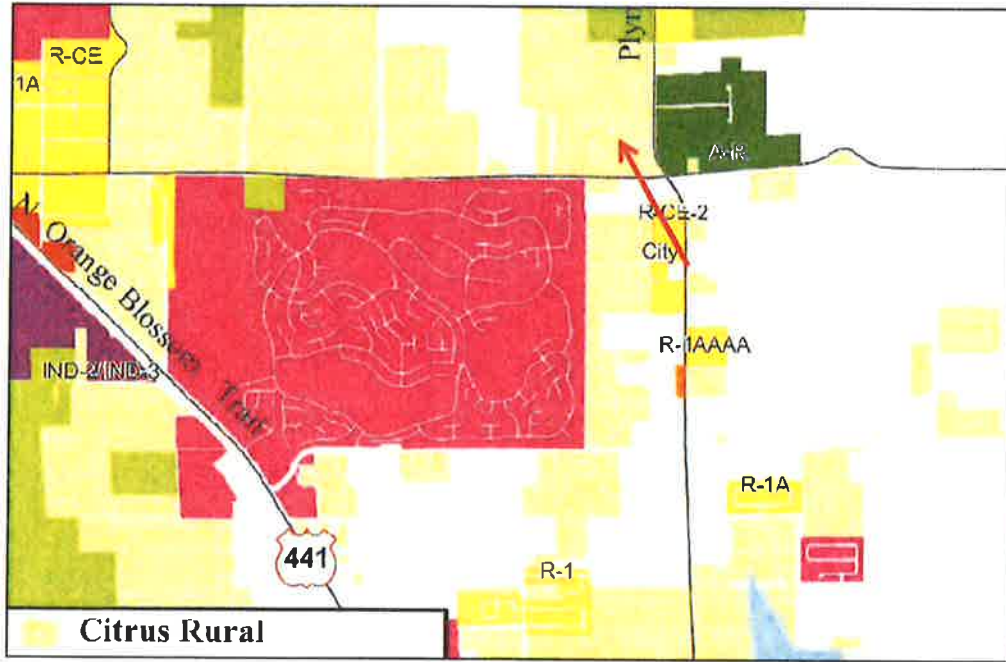


**Taking (Outlined in Red)**

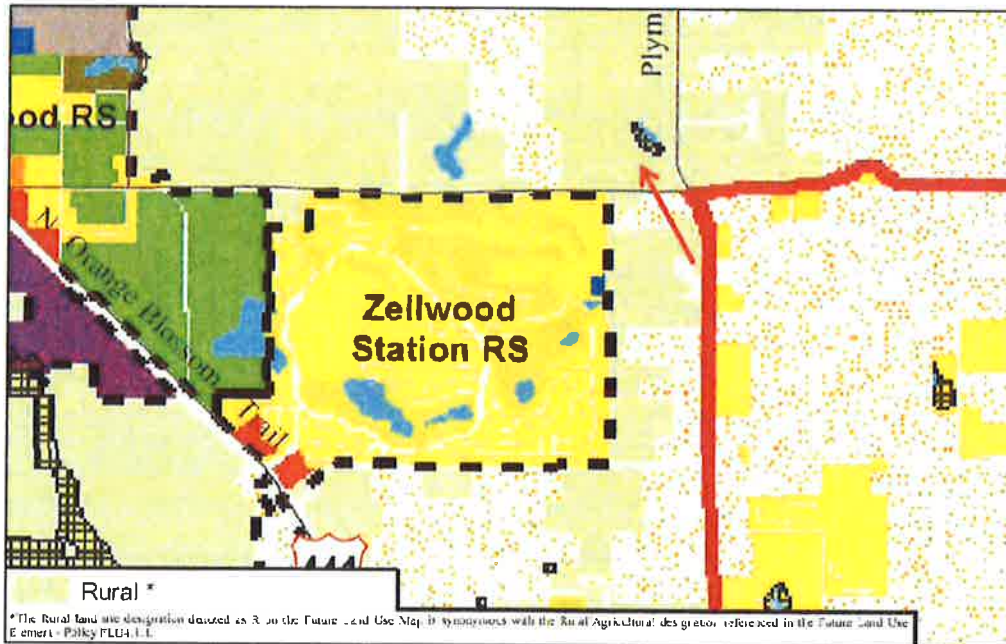
**Wekiva Parkway Project 429-203(1B) Parcel 167**  
3100 Plymouth Sorrento Road  
Apopka, Florida



**Zoning Map**



**Future Land Use Map**



\*See map footnote



Facing south – Entrance drive into subject/gate  
(Photo Taken on July 11, 2013)



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



Northern elevation of larger modular home  
(Photo Taken on July 11, 2013)



View of larger modular home, facing southeast  
(Photo Taken on July 11, 2013)



View of carport/ work shed  
(Photo Taken on July 11, 2013)



Western elevation of larger modular home  
(Photo Taken on July 11, 2013)





View of kitchen/dining room  
(Photo Taken on July 11, 2013)



View of master bathroom  
property (Photo Taken on July 11, 2013)



Typical view of bedroom  
(Photo Taken on July 11, 2013)



View of living room  
(Photo Taken on July 11, 2013)



View of Northern Remainder  
(Photo Taken on July 11, 2013)



View of Southern Remainder  
(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-003698-0

Subdivision 39

Petitioner,

Parcel 167

vs.

DARRELL D. REID, KATIE J. REID, his wife,  
DARRELL REID d/b/a Happy et. al.  
Hills; DAMEN REID,  
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), DAMEN REID

(referred to as "Respondent") the sum of TWO HUNDRED SEVENTY-FOUR THOUSAND Dollars exactly (\$274,000.00), in full settlement of all claims for compensation from Petitioner whatsoever for the taking of Parcel 167, 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 TWENTY THOUSAND Dollars (\$220,000.00). 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 FIFTY-FOUR THOUSAND DOLLARS. Dollars exactly (\$54,000.00), 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 TWENTY-EIGHT THOUSAND THREE HUNDRED FORTY-SEVEN Dollars (\$28,347) 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 FOUR HUNDRED THIRTY-FIVE Dollars (\$15,435) 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.

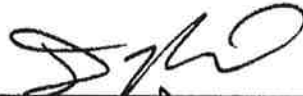
6. The parties agree to waive any confidentiality provisions set forth in Chapter 44 of Florida Statutes, the Florida Rules of Civil Procedure, and the Florida Rules of Evidence, if applicable, for the limited purpose of consideration of this proposed Settlement Agreement by the ROW Committee and the 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 167, severance damages, business damages, tort damages, interest, attorney's fees, attorney's costs, expert fees, expert costs, and any other claim.

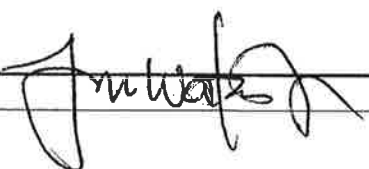
4<sup>th</sup> 9. This Settlement Agreement, executed by the parties and their counsel on this day of Jan. 2017, ~~2016~~, contains all the agreements of the parties.

  
Print Name: LINDA S.B. LANOSA  
Central Florida Expressway Authority

  
Print Name: DAMEN REED  
Owner

  
Print Name: David A. Shortz  
Counsel for CFX

Print Name: \_\_\_\_\_  
Owner

Print Name:   
Mediator

  
Print Name: Kurt Bensch  
Attorney for Owner



# 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  
Fax: (904) 764-4006

Tampa Office  
10014 N. Dale Mabry Highway  
Suite 201  
Tampa, Florida 33618-4426  
Phone: (813) 961-8300  
Toll Free: (800) 280-8140  
Fax: (813) 962-6363

West Palm Beach Office  
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, DAMIEN  
**PROJECT:** WEKIVA PKWY  
**COUNTY:** ORANGE  
**FILE NO:** 4736

---

## INVOICE

---

| <u>NAME</u>                 | <u>HOURS</u> | <u>HOURLY RATE</u> | <u>SUBTOTAL</u> |
|-----------------------------|--------------|--------------------|-----------------|
| PARHAM                      | 27.00        | \$225.00           | \$6,075         |
| MEYERS                      | 55.00        | \$165.00           | \$9,075         |
| COTHRON                     | 27.25        | \$110.00           | \$2,997         |
| <b>TOTAL INVOICE AMOUNT</b> |              |                    | <b>\$18,147</b> |

Sincerely,

Richard H. Parham  
Partner

EXHIBIT "D"



**OWNER:** REID, DAMIEN  
**FILE NO:** 4736  
**PROJECT:** WEKIVA PKWY  
**COUNTY:** ORANGE

**PARHAM**

| <b>DATE</b> | <b>DESCRIPTION</b>  | <b>HOURS</b> |
|-------------|---|--------------|
| 01/24/14    | CONDUCT ANALYSIS OF DATA.   | 1.75         |
| 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         |
| 06/11/14    | ANALYSIS OF FACTUAL DATA AND RESEARCH. PREPARE FOR AND ATTEND MEETING.  | 3.75         |
| 03/11/15    | CONDUCT ANALYSIS OF POTENTIAL COMPARABLE LAND SALES, IMPROVED SALES AND ASSESS IMPACT OF TAKING ON REMAINDER PROPERTY. PREPARE FOR AND CONDUCT A CONFERENCE CALL WITH KIRK BAUERLE TO DISCUSS THE SAME. AFTER CONFERENCE CALL CONDUCT ADDITIONAL ANALYSIS AND SPEAK WITH KIRK AGAIN IN THE AFTERNOON. | 5.50         |
| 03/18/15    | CONDUCT VALUATION ANALYSIS. ASSESS IMPACT OF TAKING ON REMAINDER PROPERTY.  | 1.75         |
| 03/19/15    | CONDUCT VALUATION ANALYSIS. ANALYSIS OF COMPARABLE 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         |
|             | <b>TOTAL HOURS</b>  | <b>27.00</b> |

**OWNER:** REID, DAMIEN  
**FILE NO:** 4736  
**PROJECT:** WEKIVA PKWY  
**COUNTY:** ORANGE

**MEYERS**

| <b>DATE</b> | <b>DESCRIPTION</b>   | <b>HOURS</b> |
|-------------|--|--------------|
| 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 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 ROAD PROJECT INFORMATION AND TAKINGS.   | 1.50         |
| 04/24/14    | PREPARED FOR AND CONDUCTED PHYSICAL INSPECTION OF COMPARABLE LAND SALES AND IMPROVED SALES IN ORANGE COUNTY.   | 4.00         |
| 06/11/14    | RESEARCHED CASE MATTERS. PREPARED FOR AND ATTENDED CONFERENCE CALL. SENT CLIENT PERTINENT DATA.  | 1.50         |
| 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.                   | 3.50         |
| 03/12/15    | REVIEWED MARSHALL & SWIFT RESIDENTIAL HANDBOOK. REVIEWED COST NEW AND DEPRECIATION TABLES.   | 4.00         |
| 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 APPRAISAL REPORT.   | 3.00         |
| 03/18/15    | VERIFICATION OF COMPARABLE LAND 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.  | 4.50         |
| 03/20/15    | VERIFICATION OF COMPARABLE SALES AND PREPARED SALE WRITE-UPS.  | 1.50         |
| 04/29/15    | PREPARED FINAL APPRAISAL REPORT AND SENT CLIENT COPY OF REPORT.  | 2.50         |
| 12/19/16    | ASSISTED WITH MEDIATION PREPARATION.   | 2.00         |

**OWNER:** REID, DAMIEN  
**FILE NO:** 4736  
**PROJECT:** WEKIVA PKWY  
**COUNTY:** ORANGE

**MEYERS**

| <b>DATE</b> | <b>DESCRIPTION</b>   | <b>HOURS</b> |
|-------------|--|--------------|
| 12/20/16    | RESEARCHED COMPARABLE LAND AND IMPROVED SALES. REVIEWED MARSHALL AND SWIFT RESIDENTIAL HANDBOOK LIFE EXPECTANCY AND DEPRECIATION TABLES. | 3.75         |
| 12/21/16    | REVIEWED VARIOUS EXPRESSWAY STUDIES AND ASSISTED WITH MEDIATION PREPARATION.   | 1.50         |
| 01/03/17    | ASSISTED WITH MEDIATION PREPARATION.   | 0.75         |
|             | <b>TOTAL HOURS</b>   | <b>55.00</b> |

**OWNER:** REID, DAMIEN  
**FILE NO:** 4736  
**PROJECT:** WEKIVA PKWY  
**COUNTY:** ORANGE

**COTHRON**

| <b>DATE</b> | <b>DESCRIPTION</b>  | <b>HOURS</b> |
|-------------|---|--------------|
| 02/04/14    | RESEARCHED LAND SALES IN THE SUBJECT MARKET AREA .  | 2.25         |
| 02/06/14    | RESEARCHED IMPROVED SALES IN THE SUBJECTS MARKET AREA. FOR THE REID PROPERTIES.                                 | 3.75         |
| 02/07/14    | UPDATED VACANT LAND SALES RESEARCH FOR REID PROPERTIES.   | 4.25         |
| 02/11/14    | MAPPED OUT LAND SALES AND RESEARCHED BACKUP DATA FOR THE MARKET AREA.   | 2.50         |
| 02/12/14    | MAPPED OUT IMPROVED SALES AND GATHERED BACKUP DATA FOR THE MARKET AREA.   | 2.50         |
| 03/18/15    | CONDUCTED SALE VERIFICATION CALLS ON IMPROVED RESIDENTIAL SALES IN THE SUBJECTS MARKET AREA.                    | 3.25         |
| 03/20/15    | CONDUCTED SALE VERIFICATION CALLS. DEVELOPED SALE WRITE-UPS AND EXHIBITS. VERIFIED ZONING AND FUTURE LAND USES. | 1.25         |
| 05/05/15    | VERIFIED ZONING AND FUTURE LAND USE. UPDATED SALE WRITE-UPS. CREATED MAPS AND EXHIBITS.                         | 2.25         |
| 05/06/15    | CONDUCTED SALE VERIFICATION CALLS. UPDATED SALE WRITE-UPS AND EXHIBITS. CREATED NEW IMPROVED SALES MAPS.        | 3.75         |
| 05/07/15    | CONDUCTED SALE VERIFICATION CALLS AND CREATED NEW WRITE-UPS, MAPS AND EXHIBITS FOR NEW IMPROVED SALES.          | 1.50         |
|             | <b>TOTAL HOURS</b>  | <b>27.25</b> |