

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: Central Florida Expressway Authority Board Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel *Linda S. B. Lanosa*
Deb Keeter, Project Manager, Atkins *Deb Keeter*

DATE: August 22, 2016

SUBJECT: *Central Florida Expressway Authority v. CSX Transportation, Inc., Successor in Interest to the Atlantic Coast Line Railroad Company, et al.,*
Case No. 2015-CA-001707, Project: 429-206, Parcel 827/727
Owner: CSX Transportation, Inc.
Tenant: Florida Central Railroad Company, Inc.
Location: South Side of State Road 46, East of Round Lake Road, Sorrento, Lake County, Florida. Size of Parent Tract: 11.636 gross acres

PROPERTY DESCRIPTION

The subject property is located in Lake County and is a 100-foot-wide linear parcel that is a portion of the former Atlantic Coast Line Railroad railroad line. Prior to 1987, the 11.01-mile-long parcel was part of a railroad corridor that extended from the town of Sorrento to Sanford, Florida, connecting to CSX Transportation's hub in Sanford. In 1987, the rail corridor north of State Road 46 in Sorrento was abandoned. As a result, the rail corridor was severed.

Currently, the 11.01-mile corridor runs from State Road 46 to Tavares. It is leased to the Florida Central Railroad Company with an initial term of 10 years and successive five-year options to extend. The property is used for rail car storage and is improved for use as a Class 1 track allowing for speeds up to 10 to 15 miles per hour.

The Expressway Authority is acquiring two parcels from CSX Transportation. Parcel 827 is a non-exclusive permanent easement to construct and maintain support columns for the overhead roadway, excluding the right to cross the railroad tracks at grade. Parcel 827 is 0.649 acres and extends across the 100-foot width of the parent tract.

Parcel 727 is a temporary construction easement ("TCE") encumbering 4,945 square feet. The TCE is rectangular in shape and is located near the center of Parcel 827. The TCE will be used for a temporary retaining wall for a period of 42 months from the date of taking.

SUMMARY OF CFX'S APPRAISAL REPORT

Michael A. McElveen, MAI, CCIM, appraised the property. He concluded that the highest and best use of the property is for assemblage with adjoining property owners. Based upon the comparable sales approach, Mr. McElveen estimated the value of Parcel 827 and 727, as of October 9, 2015 as follows:

Project: 429-206, Parcels 827/727
Owner: CSX Transportation, Inc.

Description	Amount
Value of Parcel 827 (0.649 acres @ \$53,700/acre @ 75% for easement)	\$26,200
Value of Parcel 727 (TCE) (0.114 acres @ \$53,700/acre @ 10% return/year for 42 months at a 1.80% discount rate)	\$ 2,100
Total	\$28,300

SUMMARY OF NEGOTIATIONS

The Expressway Authority and CSX Transportation's tenant, the Florida Central Railroad Company, previously entered into an agreement to pay flagging fees and costs arising out of the acquisition of Parcels 827 and 727.

After the claim by the tenant was resolved, Ms. Keeter was able to negotiate a resolution with the owner of the property, CSX Transportation, for the additional sum of **\$1,180**, which sum includes the payment of attorney's fees, expert fees, and costs, for a total of \$29,480 as full compensation for the taking of Parcels 827 and 727.

REQUESTED ACTION

Board approval is requested to execute the attached Joint Motion for Stipulated Final Judgment in the amount of **\$29,480**, resolving all claims for compensation for the taking of Parcels 827 and 727, including severance damages, business damages, tort damages, interest, attorney's fees, attorney's costs, expert fees, expert costs, and any other claim, subject to apportionment, if any.

The Right of Way Committee recommended approval on August 24, 2016.

Reviewed by: _____



Project: 429-206, Parcels 827/727
Owner: CSX Transportation, Inc.

CSX Tavares to Sorrento Railroad



Project: 429-206, Parcels 827/727
Owner: CSX Transportation, Inc.

Larger Parcel

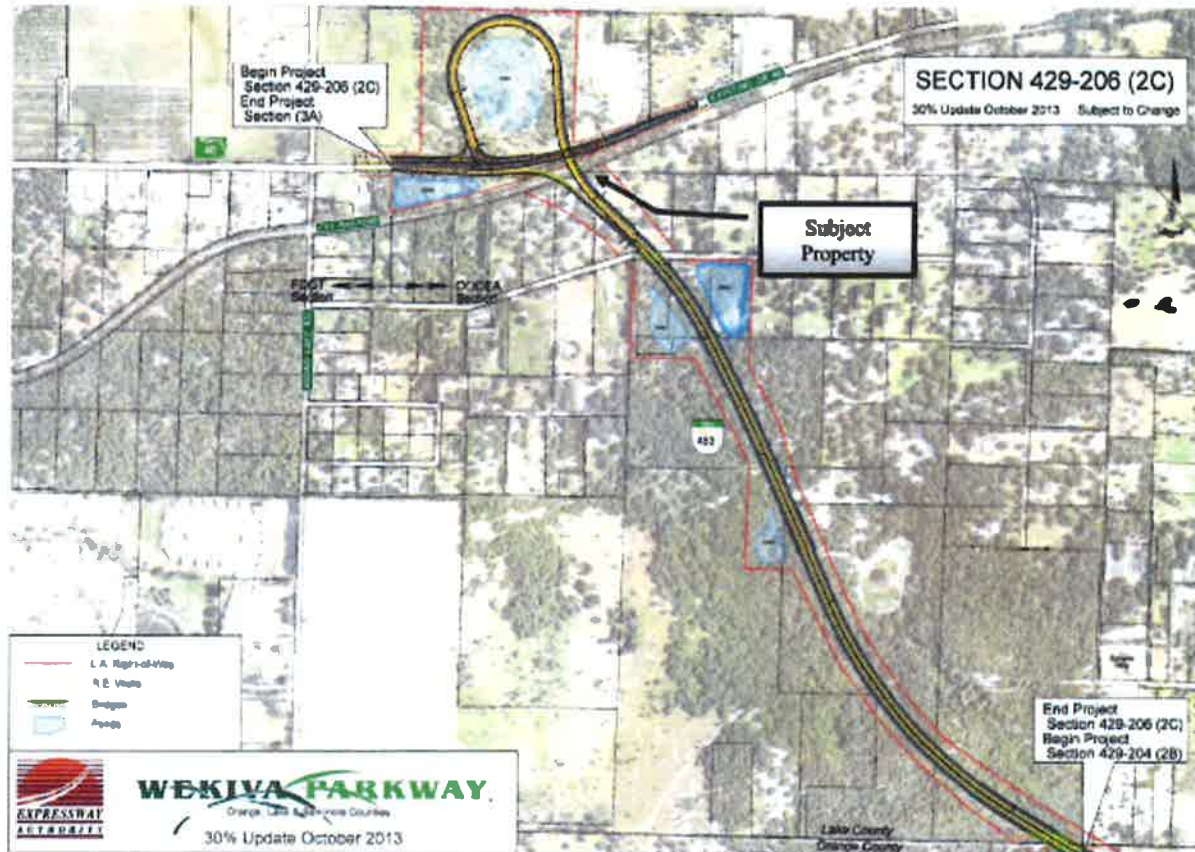


Project: 429-206, Parcels 827/727
Owner: CSX Transportation, Inc.



VIEW WEST ALONG PARCEL CENTERLINE, NOTE TOPOGRAPHY ON LEFT

Project: 429-206, Parcels 827/727
Owner: CSX Transportation, Inc.



IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR LAKE 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,

Petitioner,

CASE NO.: 2015-CA-001707

v.

Parcels 827/727

CSX TRANSPORTATION, INC., Successor in
Interest to the Atlantic Coast Line Railroad
Company; FLORIDA CENTRAL RAILROAD
COMPANY, INC.; UNKNOWN TENANTS
AND OTHER PARTIES IN POSSESSION;
UNKNOWN PARTIES WITH AN INTEREST
IN THE PROPERTY; and BOB McKEE, LAKE
COUNTY TAX COLLECTOR,

Respondents.

JOINT MOTION FOR
STIPULATED FINAL JUDGMENT AS TO PARCELS 827/727


Petitioner, CENTRAL FLORIDA EXPRESSWAY AUTHORITY, and Respondent, CSX
TRANSPORTATION, INC., Successor in Interest to the Atlantic Coast Line Railroad Company,
respectfully move for entry of the attached Stipulated Final Judgment as to Parcels 827 and 727.

The undersigned are authorized to enter into this Motion.

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

LINDA S. BREHMER LANOSA, ESQ.
Linda.Lanosa@cfxway.com
Florida Bar No. 901296
Central Florida Expressway Authority

CSX TRANSPORTATION, INC.


Richard M. Hood, CSX Real Property, Inc. Signing on
behalf of CSX
Address: 500 Water Street
City, State: Jacksonville, Florida
Telephone No. 904-279-3817
Transportation, Inc.

4974 ORL Tower Road
Orlando, Florida 32807
(407) 690-5000 (main)
(407) 690-5382 (direct)

Secondary E-Mail:

Mimi.Lamaute@cfxway. com;
Counsel for Petitioner,
Central Florida Expressway Authority
Dated: _____, 2016

Email: _____
Dated: _____, 2016
Respondent, CSX TRANSPORTATION, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, pursuant to Florida Rule of Judicial Administration 2.516, the foregoing was filed with the Clerk of the Court this ____ day of _____, 2016, by using the Florida Courts E-Filing Portal System. Accordingly, a copy of the foregoing is being served on this day to all attorneys and interested parties identified on the e-Portal Electronic Service List, via transmission of Notices of Electronic Filing generated by the e-Portal System, to:

Robert Q. Williams, Esq.
Williams, Smith & Summers, P.A.
rqw@wssattorneys.com
cic@wssattorneys.com
Attorneys for Respondent,
Bob McKee, Lake County Tax Collector

I HEREBY CERTIFY that on this ____ day of _____, 2016, the foregoing was served via U.S. Mail to:

CSX Transportation, Inc., Successor in interest
to the Atlantic Coast Line Railroad Company
c/o Corporate Creations Network, Inc., Registered Agent
11380 Prosperity Farms Road, #221E
Palm Beach Gardens, FL 33410

CSX Transportation, Inc.
Attn: Real Property
500 Water Street
Jacksonville, Florida 32202

Florida Central Railroad Company, Inc.
c/o The Prentice-Hall Corporation System, Inc., Registered Agent
1201 Hays Street, Suite 105
Tallahassee, FL 32301

/s/

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR LAKE 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,

Petitioner,

CASE NO.: 2015-CA-001707

v.

Parcels 827/727

CSX TRANSPORTATION, INC., Successor in
Interest to the Atlantic Coast Line Railroad
Company; FLORIDA CENTRAL RAILROAD
COMPANY, INC.; UNKNOWN TENANTS
AND OTHER PARTIES IN POSSESSION;
UNKNOWN PARTIES WITH AN INTEREST
IN THE PROPERTY; and BOB McKEE, LAKE
COUNTY TAX COLLECTOR,

Respondents.

STIPULATED FINAL JUDGMENT AS TO PARCELS 827/727

THIS CAUSE having come on for consideration upon the Joint Motion for entry of a Stipulated Final Judgment by the Petitioner, CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("Petitioner"), and the Respondent, CSX Transportation, Inc., (referred to as "Respondent"), as the fee owner of Parcels 827 and 727, and it appearing to the Court that the parties were authorized to enter into such motion, the Court finding that the compensation to be paid by the Petitioner is full, just and reasonable for all parties concerned and the Court being otherwise fully advised in the premises, finds:

- A. The taking is necessary for a public purpose.
- B. This Court found that the good faith estimate of value was Twenty-Eight Thousand

Three Hundred and 00/100 Dollars (\$28,300.00) for Parcels 827 and 727.

C. Petitioner previously deposited the sum of Twenty-Eight Thousand Three Hundred 00/100 Dollars (\$28,300.00) in the Registry of the Court and Petitioner shall receive a credit in that amount regarding the sum due.

D. The compensation to be paid by Petitioner is full, just and reasonable for all parties concerned.

E. Respondent agrees to resolve full compensation for the taking of Parcels 827 and 727.

F. That the parties have waived the right to trial by jury and consent to the immediate entry of this Stipulated Final Judgment. Accordingly, it is

ORDERED AND ADJUDGED as follows:

1. That full and complete compensation for the taking of Parcels 827 and 727, including damages resulting to the remainder and for any other damages of any kind and nature, including business damages, tort damages (if any), interest, attorneys' fees, experts' fees, costs, and any other claim, is the sum of Twenty-Nine Thousand, Four Hundred Eighty and 00/100 Dollars (\$29,480.00).

2. That title to the property designated as Parcels 827 and 727 and more particularly described below:

See Schedule "A" attached hereto

vested in the Petitioner, Central Florida Expressway Authority, pursuant to the Order of Taking and deposit of money made on or about November 13, 2015. The vesting of title is hereby approved, confirmed and ratified.

3. That there shall be no further claim by Respondent, and all parties claiming by, through, under or against said Respondent, in this action for any further monies from the Petitioner.

4. That within twenty (20) days after receipt by the Petitioner of this Stipulated Final Judgment, Petitioner shall deposit the total amount of ONE THOUSAND ONE HUNDRED EIGHTY DOLLARS AND NO/100ths Dollars (\$1,180.00) into the Registry of the Court, which sum represents the difference between full compensation and the amount previously deposited.

5. In addition, Petitioner shall pay the eminent domain registry deposit fee of ONE HUNDRED SEVENTY DOLLARS (\$170.00) to the Lake County Clerk of the Circuit Court by issuing a check made payable to "Neil Kelly, Lake County Clerk of the Circuit Court."

6. Respondent shall be fully responsible for any and all apportionment claims as may be asserted by other parties with respect to the compensation proceeds as described in Paragraph 3 of this Stipulated Final Judgment.

7. Respondent shall be responsible for the preparation and transmittal of any I.R.S. 1099 forms as necessary and shall provide CFX with a disclosure form, if appropriate, pursuant to Section 286.23, Florida Statutes.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida, this _____ day of _____, 2016.

G. RICHARD SINGELTARY
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed with the Clerk of the Court this _____ day of _____, 2016, by using the Florida Courts E-Filing Portal System. Accordingly, a copy of the foregoing is being served on this day to all attorneys/ interested parties identified on the e-Portal Electronic Service List, via transmission of Notices of Electronic Filing generated by the e-Portal System.

Judicial Assistant/Attorney/Paralegal

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
STATE ROAD 453
PROJECT No. 429-206

PARCEL 827

PURPOSE: PERMANENT EASEMENT
(ESTATE: PERMANENT EASEMENT)

A parcel of land lying in the Southwest 1/4 of Section 26 and the Northwest 1/4 of Section 35, Township 19 South, Range 27 East, Lake County, Florida, being more particularly described as follows:

Commence at the Southeast corner of the Southwest 1/4 of Section 26, Township 19 South, Range 27 East, Lake County, Florida, said point being a 6"x6" concrete monument with a bent nail; thence run North 01°17'01" West along the East line of said Southwest 1/4, a distance of 176.35 feet to a point on the Southerly right of way line of the Atlantic Coast Line Rail Road per Right-of-Way and Track Map V.3b Fla 5; thence departing said East line, run South 67°42'49" West along said Southerly right of way line, a distance of 391.72 feet to the POINT OF BEGINNING; thence continue South 67°42'49" West along said Southerly right of way line, a distance of 336.23 feet to a point on a non-tangent curve, concave to the Southwest, having a radius of 519.13 feet and a Central Angle of 18°37'43"; thence departing said Southerly right of way line, run Northwesterly along the Arc of said curve, a distance of 168.78 feet (Chord Bearing = North 75°30'13" West, Chord Distance = 168.04 feet) to the end of said curve and a point on the Northerly right of way line of said Rail Road and a point on a non-tangent curve to the left, concave Northwesterly, having a Radius of 5679.65 feet and a Central Angle of 00°50'50"; thence run along said Northerly right of way line and the Arc of said curve, a distance of 83.98 feet (Chord Bearing = North 68°08'14" East, Chord Distance = 83.98 feet) to the point of tangency; thence continue along said Northerly right of way line North 67°42'49" East, a distance of 303.10 feet to a point on a non-tangent curve to the left, concave Northeasterly, having a radius of 927.39 feet and a Central Angle of 04°59'02"; thence, departing said Northerly right of way line, run Southeasterly along the Arc of said curve, a distance of 80.67 feet (Chord Bearing = South 29°31'27" East, Chord Distance = 80.64 feet) to the end of said curve; thence run North 67°42'49" East, a distance of 73.59 feet; thence run South 22°17'11" East, a distance of 20.00 feet to the POINT OF BEGINNING.

Less and except the following described parcel:

Commence at the Southeast corner of the Southwest 1/4 of Section 26, Township 19 South, Range 27 East, Lake County, Florida, said point being a 6"x6" concrete monument with a bent nail; thence run North 01°17'01" West along the East line of said Southwest 1/4, a distance of 176.35 feet to a point on the Southerly right of way line of the Atlantic Coast Line Rail Road per Right-of-Way and Track Map V.3b Fla 5; thence departing said East line, run South 67°42'49" West along said Southerly right of way line, a distance of 588.96 feet; thence, departing said Southerly right of way line, run North 22°17'11" West, a distance of 20.00 feet to the POINT OF BEGINNING; thence run South 67°42'49" West, a distance of 58.80 feet to a point on a non-tangent curve to the left, concave to the Southwest, having a radius of 592.22 feet and a Central Angle of 08°04'10"; thence run Northwesterly along the Arc of said curve, a distance of 83.41 feet (Chord Bearing = North 66°14'06" West, Chord Distance = 83.34 feet) to the end

SHEET 1 OF 5

SCHEDULE "A"

of said curve; thence North $67^{\circ}42'49''$ East, a distance of 109.34 feet to a point on a non-tangent curve to the left, concave Northeasterly, having a radius of 1049.47 feet and a Central Angle of $03^{\circ}18'01''$; thence run Southeasterly along the Arc of said curve, a distance of 60.45 feet (Chord Bearing = South $29^{\circ}13'30''$ East, Chord Distance = 60.44 feet) to the POINT OF BEGINNING.

Containing 0.649 acres, more or less.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
STATE ROAD 453
PROJECT No. 429-206

PARCEL 727

PURPOSE: TEMPORARY CONSTRUCTION EASEMENT
(ESTATE: TEMPORARY EASEMENT)

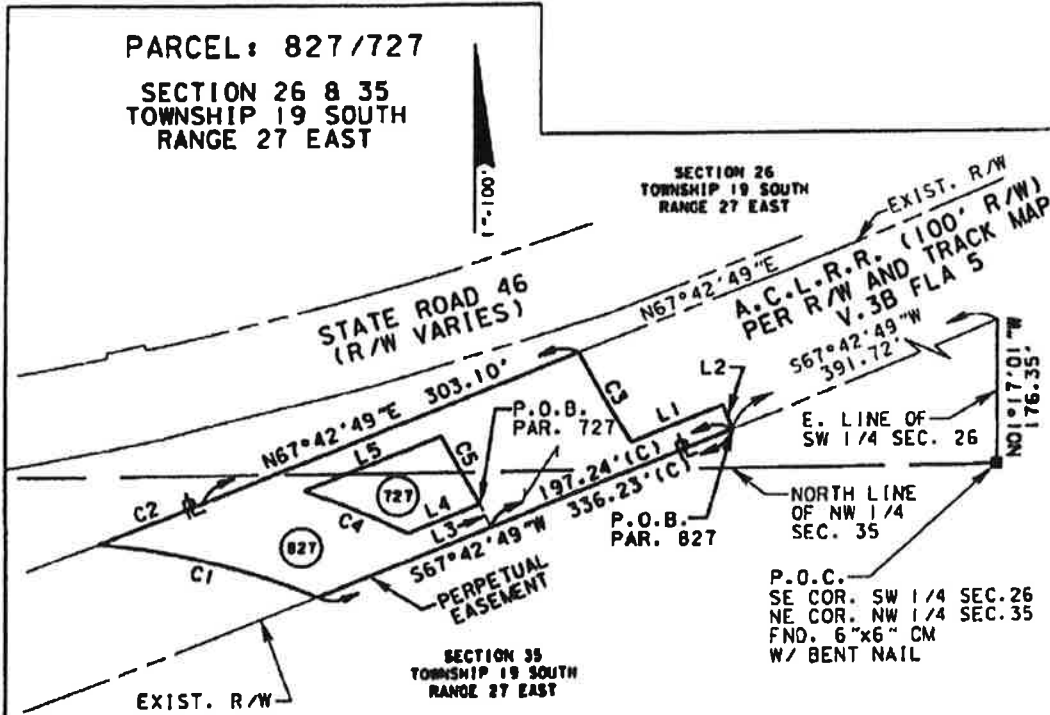
A parcel of land lying in the Southwest 1/4 of Section 26 and the Northwest 1/4 of Section 35, Township 19 South, Range 27 East, Lake County, Florida, being more particularly described as follows:

Commence at the Southeast corner of the Southwest 1/4 of Section 26, Township 19 South, Range 27 East, Lake County, Florida, said point being a 6"x6" concrete monument with a bent nail; thence run North 01°17'01" West along the East line of said Southwest 1/4, a distance of 176.35 feet to a point on the Southerly right of way line of the Atlantic Coast Line Rail Road per Right-of-Way and Track Map V.3b Fla 5; thence departing said East line, run South 67°42'49" West along said Southerly right of way line, a distance of 588.96 feet; thence, departing said Southerly right of way line, run North 22°17'11" West, a distance of 20.00 feet to the POINT OF BEGINNING; thence run South 67°42'49" West, a distance of 58.80 feet to a point on a non-tangent curve to the left, concave to the Southwest, having a radius of 592.22 feet and a Central Angle of 08°04'10"; thence run Northwest along the Arc of said curve, a distance of 83.41 feet (Chord Bearing = North 66°14'06" West, Chord Distance = 83.34 feet) to the end of said curve; thence North 67°42'49" East, a distance of 109.34 feet to a point on a non-tangent curve to the left, concave Northeasterly, having a radius of 1049.47 feet and a Central Angle of 03°18'01"; thence run Southeasterly along the Arc of said curve, a distance of 60.45 feet (Chord Bearing = South 29°13'30" East, Chord Distance = 60.44 feet) to the POINT OF BEGINNING.

Containing 4945 square feet, more or less.

PARCEL: 827/727

SECTION 26 8 35
TOWNSHIP 19 SOUTH
RANGE 27 EAST



C1
Δ - 18°37'43"(LT)
L - 168.78'
R - 519.13'
C.B. - N75°30'13"W
C.D. - 168.04'

C2
Δ - 00°50'50"(LT)
L - 83.98'
R - 5679.65'
C.B. - N68°08'14"E
C.D. - 83.98'

C3
Δ - 04°59'02"(LT)
L - 80.67'
R - 927.39'
C.B. - S29°31'27"E
C.D. - 80.64'

C4
Δ - 08°04'10"(LT)
L - 83.41'
R - 592.22'
C.B. - N66°14'06"W
C.D. - 83.34'

C5
Δ - 03°18'01"(LT)
L - 60.45'
R - 1049.47'
C.B. - S29°13'30"E
C.D. - 60.44'

L1 - N67°42'49"E
73.59'(C)
L2 - S22°17'11"E
20.00'(C)
L3 - N22°17'11"W
20.00'(C)

L4 - S67°42'49"W
58.80'(C)
L5 - N67°42'49"E
109.34'(C)

SEE SHEETS 1-3 OF 8 FOR LEGAL DESCRIPTION
SEE SHEET 5 OF 5 FOR NOTES AND LEGEND
THIS SKETCH IS NOT A SURVEY

RIGHT OF WAY
PARCEL SKETCH

STATE ROAD 453
(WEEKIVA PARKWAY)

CENTRAL FLORIDA
EXPRESSWAY
AUTHORITY

SECTION 429-206 (2C)

PROJECT NO. 12-0150.000		SHEET 4 OF 5		DATE: 05/28/14	
PAR. NUMBER		CIV 11/14		SCALE: 1" = 100'	
EASE. CHANGES		CIV 11/14		CHECKED: ALO	
PER COMMENTS		CIV 9/14		DRAWN: BJP	
REVISION	BY	DATE	REVISION	BY	DATE

SKETCH PREPARED BY
DRMP
331 LAKE BALCONY LANE
ORLANDO, FLORIDA 32814
(407) 896-0594
L.S. No. 2648

PARCEL: 827/727

NOTES:

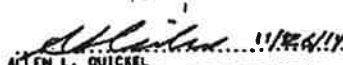

1. BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 27 EAST AS BEING NORTH 01°18'30" WEST, BASED ON NAD83, STATE PLANE COORDINATES, FLORIDA EAST ZONE.
2. THIS PARCEL SKETCH IS NOT A SURVEY. NO CORNERS WERE SET OR RECOVERED IN THE FIELD FOR THE PURPOSE OF PREPARING THIS SKETCH, EXCEPT AS SHOWN.
3. THE RIGHT-OF-WAY SHOWN FOR STATE ROAD 46 IS BASED ON A MAINTENANCE MAP PREPARED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION RECORDED IN ROAD PLAT BOOK 11, PAGE 1 OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.
4. PARCEL INFORMATION SHOWN HEREON IS SUPPORTED BY COMMITMENT FOR TITLE INSURANCE, SHUTTS AND BOWEN LLP ORDER No. 4887241, DATED JULY 20, 2014.

LEGEND:

A.C.L.R.R. = ATLANTIC COAST LINE RAILROAD
(C) = CALCULATED DATA
C.B. = CHORD BEARING
C.D. = CHORD DISTANCE
COR. = CORNER
CM = CONCRETE MONUMENT
(D) = DEED DATA
EASE. = EASEMENT
EXIST. = EXISTING
FND. = FOUND
I.D. = IDENTIFICATION
IP = IRON PIPE
L = ARC LENGTH
L.B. = LICENSED BUSINESS

OR = OFFICIAL RECORDS BOOK
P.L. = PROPERTY LINE
PAR. = PARCEL
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
No. = NUMBER
PG = PAGE
R = RADIUS
REQ. = REQUIRED
R/W = RIGHT-OF-WAY
SEC. = SECTION
Δ = CENTRAL ANGLE

SEE SHEET 4 OF 5 FOR
SKETCH OF DESCRIPTION

RIGHT OF WAY PARCEL SKETCH		STATE ROAD 453 (WEEKIVA PARKWAY)		CENTRAL FLORIDA EXPRESSWAY AUTHORITY		SECTION 429-206 (2C)	
 ALLEN L. QUICKEL FLORIDA REGISTERED LAND SURVEYOR NO. 6481 (NOT VALID UNLESS SIGNED AND SEALED)		PROJECT NO. 12-0150-000		SHEET 5 OF 5		DATE: 05/28/14	
		PAR. NUMBER		CWN		SCALE: 1" = 100'	
		EASE. CHANGES		CWN		CHECKED: ALO	
		PER COMMENTS		CWN		9/14	
		REVISION		BY		DATE	
						 DRMP 641 LAKE BALDWIN LANE ORLANDO, FLORIDA 32814 (407) 896-0884 L.S. No. 2648	