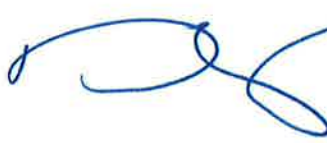




MEMORANDUM

TO: Central Florida Expressway Authority CLIENT-MATTER NO.: 19125.0153
Board Members

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

DATE: October 24, 2016

RE: State Road 429 Wekiva Parkway, Project 429-204; Parcel 260
Proposed Offer of Judgment

Shutts & Bowen LLP, Right-of-Way Counsel, seeks the approval of the CFX Board for an Offer of Judgment in full settlement of Parcel 260 owned by William S. and Peggy H. Bennett for State Road 429 Wekiva Parkway, Project 429-204.

DESCRIPTION AND BACKGROUND

Parcel 260 is a fee simple whole taking consisting of 2.441 acres which was the homestead of Mr. and Mrs. Bennett. The property is located along the west side of Plymouth Sorrento Road, north of Ondich Road, in the Apopka area of Orange County, Florida. The subject property is improved with a 2,777 square foot, 5-bedroom, 3-bath single-family residence built in 1971. The northwesterly wing of the home has 2 bedrooms, 1 bath, kitchen and family room and is utilized as a guest apartment. The residence has an attached 2-car garage, fireplace, in-ground swimming pool, 4-stall horse barn, shed, dog pen, fencing, and various other agricultural/rural residential related improvements.

The CFX's appraisal of the property was prepared by Chad Durrance of Durrance & Associates. Mr. Durrance opined the highest and best use of the property is for residential use. Mr. Durrance used seven (7) comparable land sales with prices ranging from \$23,400 per acre to \$29,300 per acre to arrive at the valuation of \$27,500 per acre or \$67,000 for the fee simple market value of the land. Additionally, Mr. Durrance used three (3) improved comparable sales ranging in price from \$102 per s.f. to \$115 per s.f. to determine the value of the improvements at \$258,000, for a total property value of \$325,000 (Land \$67,000 and improvements \$258,000.)

Mr. and Mrs. Bennett are represented by Tom Callan, Esq. We have attempted to engage in settlement negotiations with Mr. Callan in an effort to settle this parcel or set it for trial if we were unable to reach a resolution. Unfortunately, Mr. Callan has some health issues that require

a surgery in December 2016, which is likely the cause for a delay in settlement negotiations. Additionally, in light of Mr. Callan's health issues, the court has removed several of his parcels from the trial docket. Therefore, filing a notice for trial on this parcel would likely not render a trial date to be set on the Court's docket. Accordingly, in an effort to move this case to fruition, to provide the property owners a settlement offer and potentially cap the costs to be incurred by the property owner (which are recoverable against the CFX), we are proposing an Offer of Judgment. If the Offer of Judgment is accepted by the property owner, then the case would be concluded. If the Offer of Judgment is not accepted within 30 days, then it expires. If a jury subsequently renders a verdict equal to or less than the Offer of Judgment, the property owner shall not recover any costs (including expert fees) incurred from the expiration of the Offer of Judgment through trial.

Based upon our extensive knowledge and review of numerous parcels on the project, positions taken by opposing counsel and experts, prior settlements and prior jury verdicts, I would propose an Offer of Judgment for Parcel 260 in the amount of \$484,740.00, plus statutory attorney's fees and experts costs. The Offer of Judgment reflects an increase in the land value and additional monies for the improvements. Additionally, the Bennetts were eligible for and received a Replacement Housing Payment under the Uniform Relocation Act due to the taking displacing the Bennetts from their home. Accordingly, since the proposed Offer of Judgment is greater than the CFX's appraised value, the CFX is entitled to an RHP credit back from the Bennetts in the amount of \$62,716.55, which will offset the Offer of Judgment amount upon distribution, including a credit for the CFX's good faith deposit.

For the above-cited reasons, Right-of-Way counsel requests the CFX Board approve an Offer of Judgment in the amount of \$484,740.00, plus statutory attorney's fees and experts costs, which is in the CFX's best interest.

The Right-of-Way Committee recommended approval of the proposed Offer of Judgment at its October 26, 2016 meeting.

RECOMMENDATION

We respectfully request that the CFX Board approve the Offer of Judgment in the amount of \$484,740.00, plus statutory attorney's fees and experts costs in full settlement of all claims for compensation in the acquisition of Parcel 260.

ATTACHMENTS

Exhibit "A" – Sketch of the Subject Property

Exhibit "B" – Photographs of the Subject Property and Area

Reviewed by: _____



ORLDOCS 15012286 |

LEGAL DESCRIPTION

PARCEL 260
 PURPOSE: LIMITED ACCESS RIGHT OF WAY
 ESTATE: FEE SIMPLE


THAT PART OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH,
 RANGE 27 EAST, ORANGE COUNTY, FLORIDA, BEING THE LANDS DESCRIBED
 IN OFFICIAL RECORDS BOOK 1932, PAGE 388, PUBLIC RECORDS OF ORANGE
 COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

"THE SOUTH 1/2 OF THE NORTH 1/2 OF THE SE 1/4 OF THE SE 1/4 OF THE
 SE 1/4, SECTION 1 TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY,
 FLORIDA."


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 2.441 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 FLORIDA STATUTES. SUBJECT TO NOTES AND NOTATIONS SHOWN HEREON.



 RUSSELL J. MARKS, PSM NO. 5623 3/25/14
 DATE
 NOT VALID WITHOUT SIGNATURE AND ORIGINAL RAISED SEAL

FOR: ORLANDO ORANGE COUNTY EXPRESSWAY AUTHORITY		STATE ROAD 429	
DESIGNED BY: RJM	DATE: 3/18/14	 URS CORPORATION 315 E. ROBINSON STREET SUITE 245 ORLANDO, FL 32801-1949 PH (407) 422-0353 LICENSED BUSINESS NO. 6839	REVISIONS:
DRAWN BY: SMP	JOB NO:		
APPROVED BY: RJM	OOCEA PROJECT NO: 429-204		SHEET: 1 OF 2

SKETCH OF DESCRIPTION

PARCEL: 260
 PURPOSE: LIMITED ACCESS RIGHT OF WAY
 ESTATE: FEE SIMPLE

LEGEND

C = CALCULATED
 CCR = CERTIFIED CORNER RECORD
 CM = CONCRETE MONUMENT
 DB = DEED BOOK
 F = FIELD
 FND = FOUND
 ID = IDENTIFICATION
 IR = IRON ROD
 LA = LIMITED ACCESS
 LB = LICENSED BUSINESS
 OR = OFFICIAL RECORDS
 PL = PROPERTY LINE
 PG = PAGE
 POB = POINT OF BEGINNING
 POC = POINT OF COMMENCEMENT
 COR = CORNER
 R = RADIUS
 RGE = RANGE
 R/W = RIGHT OF WAY
 SEC = SECTION
 TWP = TOWNSHIP

TOWNSHIP 20 SOUTH RANGE 27 EAST

LINE TABLE		
L1	N 00°01'26" W	30.00'(C)
L2	S 89°21'11" W	30.00'(C)

NE COR SE 1/4
 FND 1" IR
 NO ID
 (IN WELL BOX)
 CCR 41735

EXISTING
 WEST R/W
 LINE

30' R/W PER
 DB 402, PG 116

RGE 27 E
 RGE 28 E
 (R/W VARIES)

SOUTH BOUNDARY
 LANDS DESCRIBED
 IN OR 1936, PG 571

EAST BOUNDARY
 LANDS DESCRIBED
 IN OR 9022, PG 3774

NORTH BOUNDARY
 LANDS DESCRIBED
 IN OR 8458, PG 4756

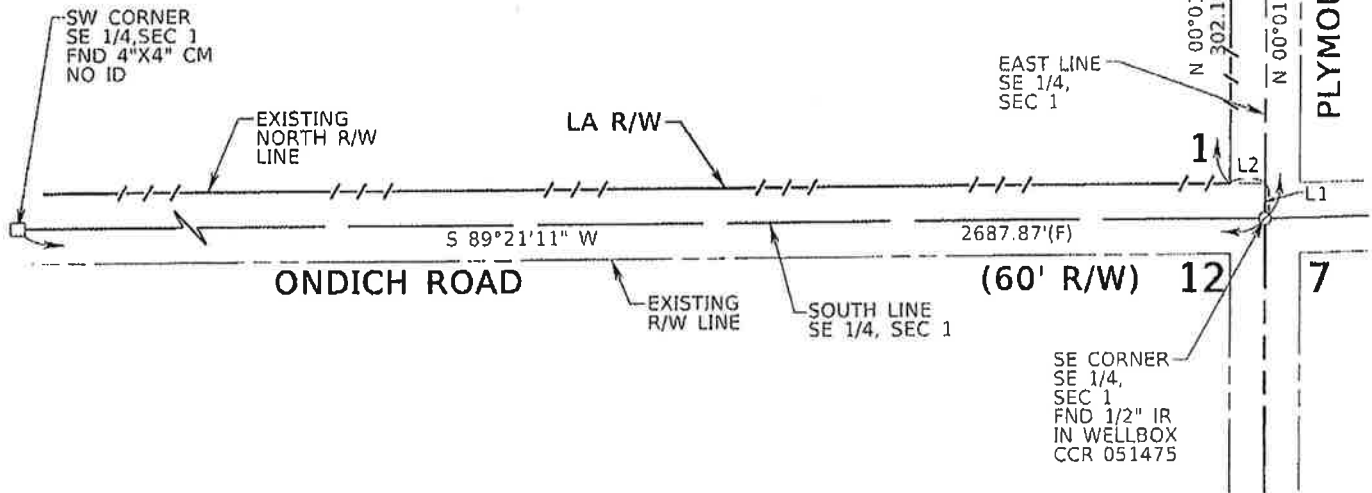
8' FLORIDA POWER CORP
 DISTRIBUTION EASEMENT
 OR 2151, PG 276

2.441 AC±

PLYMOUTH SORRENTO ROAD
 (R/W VARIES)



SCALE:
 1" = 150'

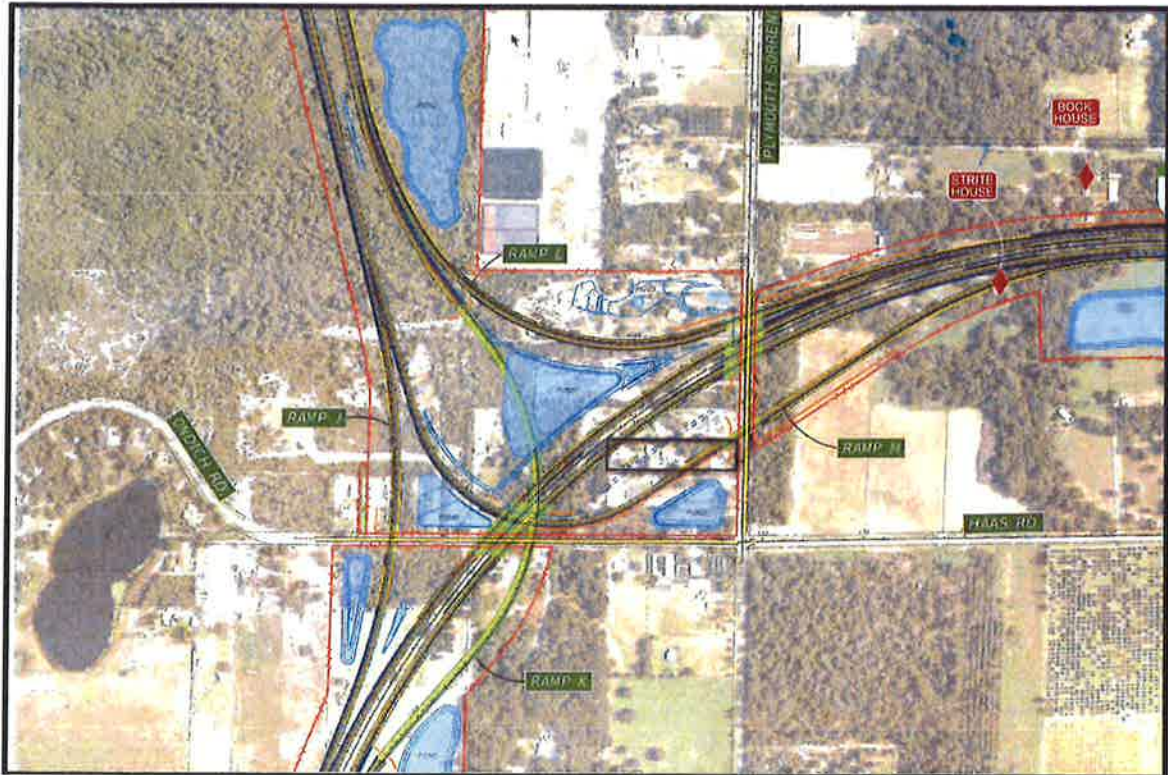


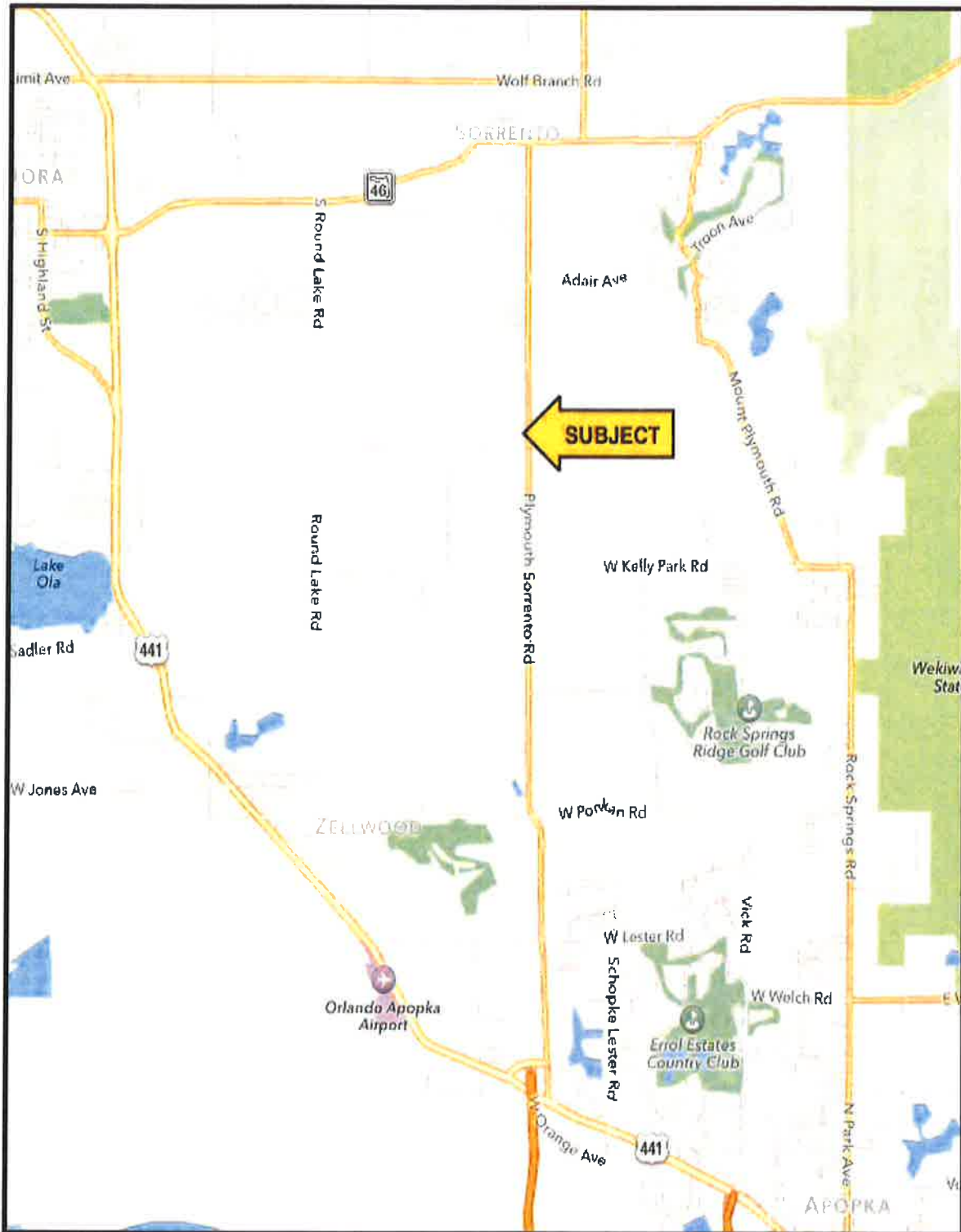
GENERAL NOTES:

- THE BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE 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°21'11" WEST.
- THERE MAY BE OTHER RECORDED DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY THAT ARE NOT SHOWN 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. 2037-2857112 WAS REVIEWED BY THE SURVEYOR AND EXCEPTIONS (IF ANY) NOTED ON SAID CERTIFICATE ARE SHOWN HEREON.

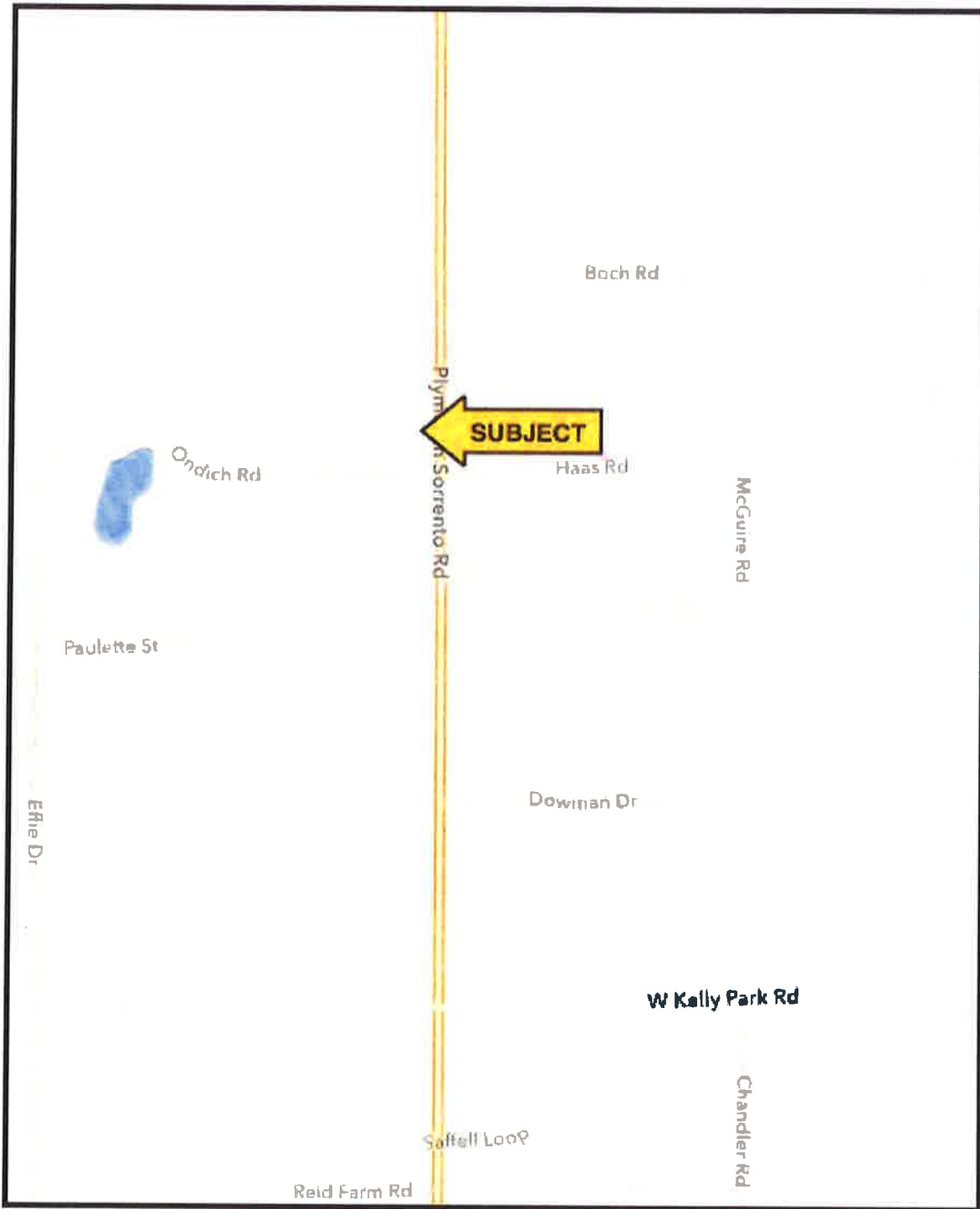
FOR: ORLANDO ORANGE COUNTY EXPRESSWAY AUTHORITY		STATE ROAD 429	
DESIGNED BY: RJM	DATE: 3/18/14	URS CORPORATION 315 E. ROBINSON STREET SUITE 245 ORLANDO, FL 32801-1949 PH (407) 422-0353 LICENSED BUSINESS NO. 6839	REVISIONS:
DRAWN BY: SMP	JOB NO:		
APPROVED BY: RJM	OCEA PROJECT NO: 429-204		SHEET: 2 OF 2

The proposed design of the Wekiva Parkway improvements in the area of the subject property is shown below.





LOCATION MAP



LOCATION MAP



AERIAL

(Source: OCPAFL.org – 2014 Image Date)



AERIAL/SKETCH



BIRDS EYE/IMPROVEMENTS



Westerly view of subject from Plymouth Sorrento Road. (Photo #1)



View of carport area. (Photo #2)



Northerly view of pool and deck. (Photo #3)



A view of the dog pen. (Photo #4)



A view of the horse barn. (Photo 5)



Interior view of home. (Photo 6)