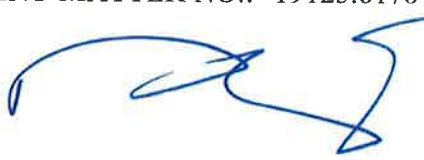




MEMORANDUM

TO: Central Florida Expressway Authority CLIENT-MATTER NO.: 19125.0170
Board Members

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

DATE: October 24, 2016

RE: State Road 453 Wekiva Parkway, Project 429-206; Parcel 315
Proposed Settlement Including Fees and Costs

Shutts & Bowen LLP, Right-of-Way Counsel, seeks the approval of the CFX Board of a negotiated settlement between Curtis Wayne McNeil And Brucene Kay McNeil, Life Estate, and Daniel Leon McNeil, Jeffrie Wayne McNeil, Dawn McNeil, and Karin Renee McNeil, Remaindermen, (the "Owners") and the Central Florida Expressway Authority (the "CFX") for the acquisition of Parcel 315 (the "Taking" or "Property") for the construction of State Road 453 Wekiva Parkway, Project 429-206.

DESCRIPTION AND BACKGROUND

Parcel 315 is a fee simple whole taking consisting of Part A containing 4.882 acres for use as limited access right-of-way, and Part B containing 9,969 square feet, more or less, for use as right-of-way. The property is located on the south side of Coronado Somerset Road, west of Swann Road in Lake County, Florida.

The subject is the homestead of Mr. and Mrs. McNeil, and is improved with a single-wide manufactured home connected to a one-story conventional residence with a total of 1,315 square feet of gross living area and an open porch. Other site improvements include a gravel stabilized driveway, two aluminum sheds (16' x 30' and 10 x 10'), 4-strand barbed wire cross fencing, and a septic system and well. The property is zoned A, Agriculture, by Lake County, with a future land use designation of Regional Office, by Lake County.

The CFX's appraisal of the property was prepared by Richard K. MacMillan, of The Appraisal Group of Central Florida, Inc. Mr. MacMillan opined the highest and best use of the property is for use as a single-family rural home site development with an interim use of the single-family manufactured residential improvements. Mr. MacMillan used four (4) comparable land sales ranging in size from 2.696 acres to 6.0 acres, with prices ranging from \$22,917 per

acre to \$28,713 per acre to arrive at an estimate of the land value of the Subject Property of \$25,000 per acre or \$127,800 as the land value.

Mr. MacMillan valued the interim use of the existing improvements over a five (5) year period to be \$27,900, up from his original estimate of \$27,000 in his initial appraisal. Thus, Mr. MacMillan opines the value of the land and the interim use of the existing improvements at \$155,700.

The McNeils are represented by Kurt Bauerle of Harris Harris Bauerle Ziegler Lopez, P.A. Although an appraisal report was not completed, Mr. Bauerle argued, that based upon the amounts being paid for similar acquisitions by the CFX, the land value should be at \$40,000 per acre and the improvements should be valued at \$30,000, or a total of \$234,440 to the McNeils.

Mr. Bauerle has incurred no expert fees allowing the parties to reach a negotiated settlement in the amount of \$200,000 in full settlement of all claims for compensation by the property owners, plus statutory attorney's fees of \$14,916, for a total settlement of \$214,916. The attached Settlement Agreement memorializes the agreement between Mr. Bauerle and Right-of-Way counsel.

For the above-cited reasons, Right-of-Way counsel requests the CFX Board approve the negotiated settlement for Parcel 315 in the amount of \$200,000, plus statutory attorney's fees of \$14,916, 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 315.

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

RECOMMENDATION

We respectfully request that the CFX Board approve the proposed settlement agreement with a total settlement of \$214,916 in full settlement of all claims for compensation in the acquisition of Parcel 315, including all statutory attorney's fees.

ATTACHMENTS

- Exhibit "A" – Sketch of the Subject Property
- Exhibit "B" – Photographs of the Subject Property and Area
- Exhibit "C" – Settlement Agreement

Reviewed by: _____



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

**PARCEL 315
PART A**

**PURPOSE: LIMITED ACCESS RIGHT OF WAY
(ESTATE: FEE SIMPLE)**

A parcel of land lying in the East 1/2 of the Southwest 1/4 of the Northwest 1/4 of the Northeast 1/4 of Section 35, Township 19 South, Range 27 East, Lake County, Florida, subject to the North 30 feet thereof for nonexclusive road right of way easement for Coronado Somerset Drive, being more particularly described as follows:

Commence at the Southeast corner of the Northeast 1/4 of Section 35, Township 19 South, Range 27 East, Lake County, Florida, said point being a 4"x4" concrete monument with no identification; thence run South 89°47'59" West along the South line of said Northeast 1/4, a distance of 1330.03 feet to the Southeast corner of the Southwest 1/4 of the Northeast 1/4 of said Section 35, said point being a 4"x4" concrete monument with disk stamped "PRM 3715 PCP"; thence run North 00°53'15" East along the East line of said Southwest 1/4 of the Northeast 1/4, a distance of 1341.56 feet to the Southeast corner of the Northwest 1/4 of the Northeast 1/4 of said Section 35; thence run South 89°41'48" West along the South line of said Northwest 1/4 of the Northeast 1/4, a distance of 664.74 feet to the Southeast corner of the East 1/2 of the Southwest 1/4 of the Northwest 1/4 of the Northeast 1/4 of said Section 35 and the POINT OF BEGINNING; thence continue South 89°41'48" West along said South line, a distance of 332.37 feet to the Southwest corner of said East 1/2; thence run North 00°54'23" East, along the West line of said East 1/2, a distance of 639.88 feet to a point on the South line of a 60-foot nonexclusive right of way easement for Coronado Somerset Drive; thence run North 89°38'42" East along said South line, a distance of 332.31 feet to the East line of aforesaid East 1/2; thence departing said South line, run South 00°54'00" West along the said East line of East 1/2, a distance of 640.18 feet to the POINT OF BEGINNING.

Containing 4.882 acres, more or less.

Together with all rights of ingress, egress, light, air, and view to, from or across any State Road 453 right of way property which may otherwise accrue to any property adjoining said right of way.

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

**PARCEL 315
PART B**

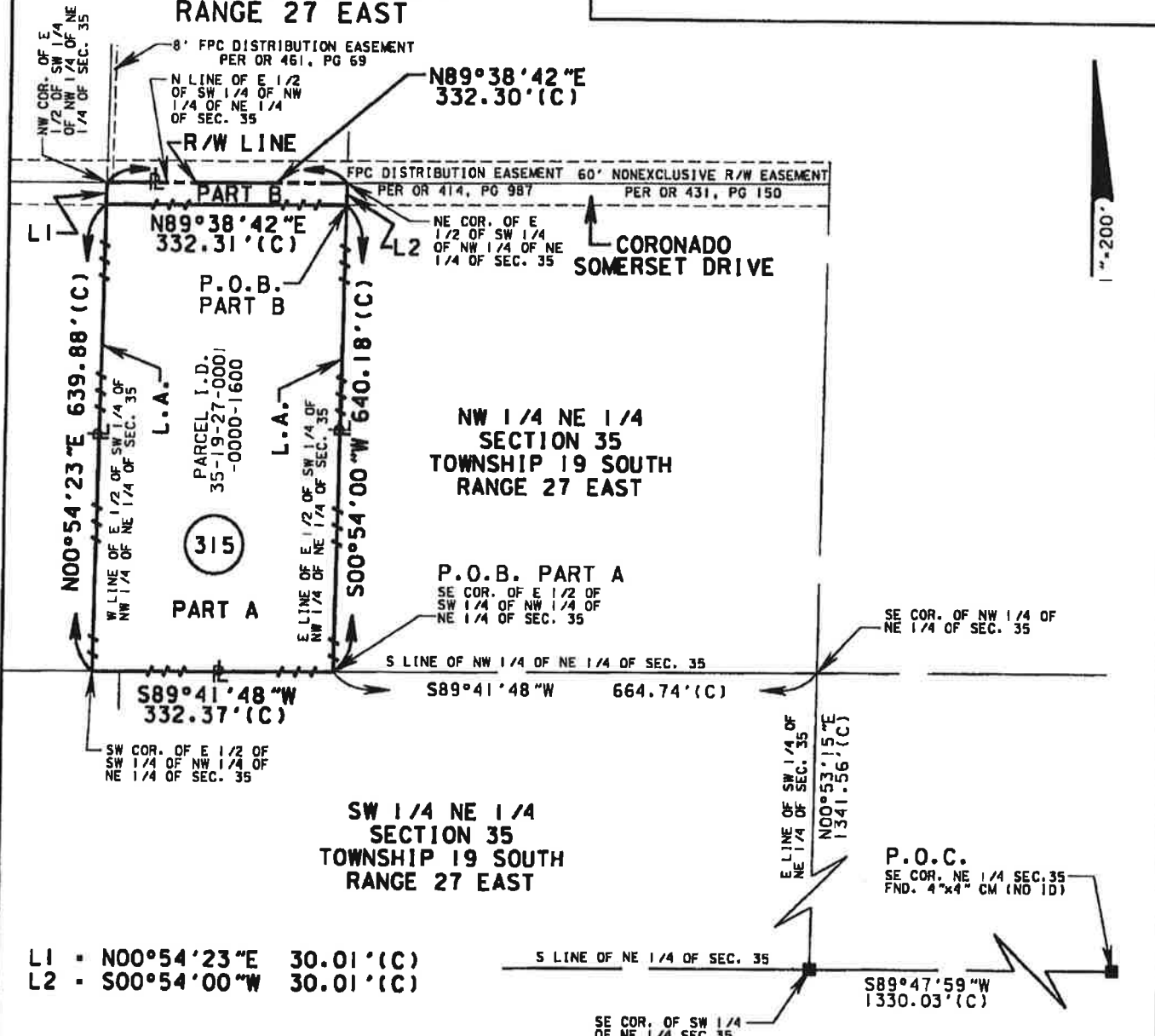
**PURPOSE: RIGHT OF WAY
(ESTATE: FEE SIMPLE)**

A parcel of land lying in the East 1/2 of the Southwest 1/4 of the Northwest 1/4 of the Northeast 1/4 of Section 35, Township 19 South, Range 27 East, Lake County, Florida, subject to the North 30 feet thereof for nonexclusive road right of way easement for Coronado Somerset Drive, being more particularly described as follows:

Commence at the Southeast corner of the Northeast 1/4 of Section 35, Township 19 South, Range 27 East, Lake County, Florida, said point being a 4"x4" concrete monument with no identification; thence run South 89°47'59" West along the South line of said Northeast 1/4, a distance of 1330.03 feet to the Southeast corner of the Southwest 1/4 of the Northeast 1/4 of said Section 35, said point being a 4"x4" concrete monument with disk stamped "PRM 3715 PCP"; thence run North 00°53'15" East along the East line of said Southwest 1/4 of the Northeast 1/4, a distance of 1341.56 feet to the Southeast corner of the Northwest 1/4 of the Northeast 1/4 of said Section 35; thence run South 89°41'48" West along the South line of said Northwest 1/4 of the Northeast 1/4, a distance of 664.74 feet to the Southeast corner of the East 1/2 of the Southwest 1/4 of the Northwest 1/4 of the Northeast 1/4 of said Section 35; thence run North 00°54'00" East, along the East line of the East 1/2 of the Southwest 1/4 of the Northwest 1/4 of the Northeast 1/4 of said Section 35, a distance of 640.18 feet to a point on the South line of a 60-foot nonexclusive right of way easement for Coronado Somerset Drive and the POINT OF BEGINNING; thence departing said East line, run South 89°38'42" West, along said South line, a distance of 332.31 feet to the West line of the East 1/2 of the Southwest 1/4 of the Northwest 1/4 of the Northeast 1/4 of said Section 35; thence departing said South line, run North 00°54'23" East, along said West line, a distance of 30.01 feet to the North line of the East 1/2 of the Southwest 1/4 of the Northwest 1/4 of the Northeast 1/4 of said Section 35; thence departing said West line, run North 89°38'42" East, along said North line, a distance of 332.30 feet to the aforesaid East line; thence departing said North line, run South 00°54'00" West, along said East line, a distance of 30.01 feet to the POINT OF BEGINNING.

Containing 9969 square feet, more or less.

PARCEL: 315
SECTION 35
TOWNSHIP 19 SOUTH
RANGE 27 EAST



1" = 200'

SEE SHEET 4 OF 4 FOR LEGEND & NOTES

SEE SHEETS 1-2 OF 4 FOR LEGAL DESCRIPTION
THIS SKETCH IS NOT A SURVEY

RIGHT OF WAY PARCEL SKETCH	STATE ROAD 453 (WEKIVA PARKWAY)	CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SECTION 429-206 (2C)
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DRMP PROJECT NO. 12-0150.000	SHEET 3 OF 4	DATE: 08/08/14
ADD REMAINDER	CWW 11/14	SCALE: 1" = 200'
L.A. CHANGES	CWW 11/14	CHECKED: ALO
REVISED TO WHOLE PARCEL TAKE	CWW 2/15	PER COMMENTS CWW 9/14
REVISION	BY DATE	REVISION BY DATE

SKETCH PREPARED BY



DRMP
ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS
941 LAKE BALDWIN LANE
ORLANDO, FLORIDA 32814
(407) 896-0594
L.B. No. 2648

PARCEL: 315

NOTES:


1. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH LINE OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 19 SOUTH, RANGE 27 EAST AS BEING SOUTH 89°47'59" 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. PARCEL INFORMATION SHOWN HEREON IS SUPPORTED BY COMMITMENT FOR TITLE INSURANCE, SHUTTS AND BOWEN LLP ORDER No. 4876575, DATED JULY 13, 2014.

LEGEND:

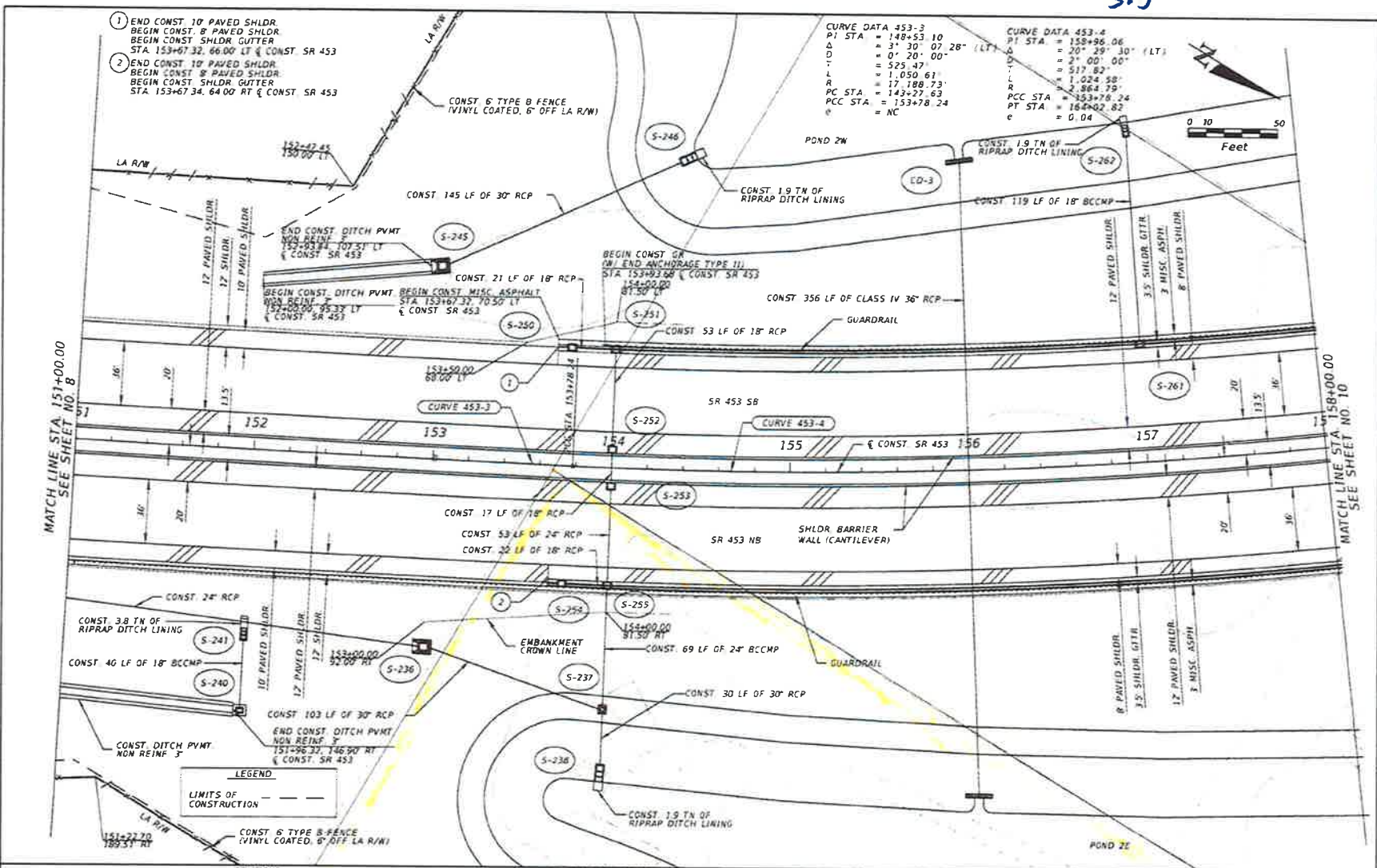
- (C) = CALCULATED DATA
- C.B. = CHORD BEARING
- C.D. = CHORD LENGTH
- COR. = CORNER
- CM = CONCRETE MONUMENT
- EXIST. = EXISTING
- FND. = FOUND
- I.D. = IDENTIFICATION
- IP = IRON PIPE
- L = ARC LENGTH
- L.A. = LIMITED ACCESS RIGHT OF WAY
- L.B. = LICENSED BUSINESS
- OR = OFFICIAL RECORDS BOOK
- ¶ = PROPERTY LINE
- 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 3 OF 4 FOR SKETCH OF DESCRIPTION

SEE SHEETS 1-2 OF 4 FOR LEGAL DESCRIPTION
THIS SKETCH IS NOT A SURVEY

RIGHT OF WAY PARCEL SKETCH	STATE ROAD 453 (WEKIVA PARKWAY)	CENTRAL FLORIDA EXPRESSWAY AUTHORITY	SECTION 429-206 (2C)
 ALLEN L. OULEKEL FLORIDA REGISTERED LAND SURVEYOR NO. 6481 (NOT VALID UNLESS SIGNED AND SEALED)	DRMP PROJECT NO. 12-0150.D00	SHEET 4 OF 4	DATE: 08/08/14
	ADD REMAINDER	CWW	11/14
	L.A. CHANGES	CWW	11/14
	PER COMMENTS	CWW	9/14
	REVISION	BY	DATE
		SCALE: 1" = 200'	CHECKED: ALO
		DRAWN: BJP	DRMP ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS 941 LAKE BALDWIN LANE ORLANDO, FLORIDA 32814 (407) 896-0594 L.S. No. 2648

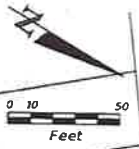
315



- ① END CONST 10' PAVED SHLDR
BEGIN CONST 8' PAVED SHLDR
BEGIN CONST SHLDR CUTTER
STA. 153+67.32, 66.00' LT & CONST. SR 453
- ② END CONST 10' PAVED SHLDR
BEGIN CONST 8' PAVED SHLDR
BEGIN CONST SHLDR CUTTER
STA. 153+67.34, 64.00' RT & CONST. SR 453

CURVE DATA 453-3
 P.I. STA = 148+53.10
 Δ = 3° 30' 07.28" (LT)
 D = 0° 20' 00"
 T = 525.47'
 L = 1,050.61'
 R = 17,188.73'
 PC STA = 143+37.63
 PCC STA = 153+78.24
 e = NC

CURVE DATA 453-4
 P.I. STA = 158+86.06
 Δ = 20° 29' 30" (LT)
 D = 2° 00' 00"
 T = 517.82'
 L = 1,024.58'
 R = 2,864.79'
 PCC STA = 153+78.24
 PT STA = 164+02.82
 e = 0.04



MATCH LINE STA. 151+00.00
SEE SHEET NO. 8

MATCH LINE STA. 158+00.00
SEE SHEET NO. 10

LEGEND
 LIMITS OF CONSTRUCTION - - - - -

DATE	DESCRIPTION	DATE	DESCRIPTION

DRMP
 DESIGN & CONSTRUCTION
 7411 LANE BLDG. 1000, ORLANDO, FLORIDA 32814
 PHONE: (407) 880-0294 FAX: (407) 880-4828
 CERTIFICATE OF AUTHORIZATION NO. 2848
 THOMAS C. CAFFEY, P.E. LICENSE NO. 80512

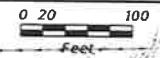
CFX PROJ. NO.
429-206

CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY

PLAN SHEET 9
SR 453

SHEET NO.
39

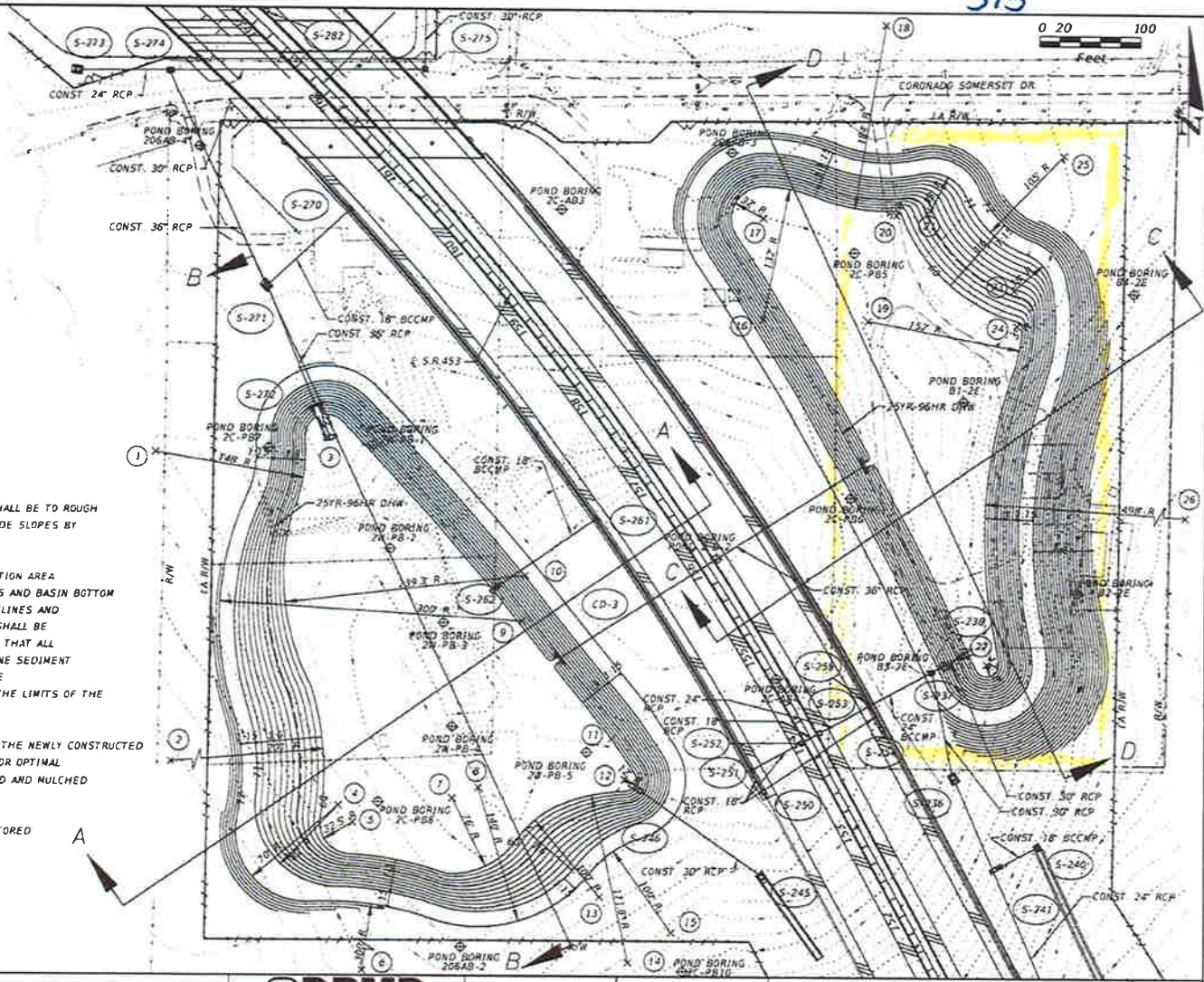
315



CONTROL POINTS		CONTROL POINTS	
ID	STATION, OFFSET	ID	STATION, OFFSET
1	160+47.88, 369.21 LT	14	152+85.42, 265.73 LT
2	158+37.15, 659.93 LT	15	152+91.92, 214.03 LT
3	159+37.05, 231.14 LT	16	157+64.80, 182.52 RT
4	155+94.69, 437.03 LT	17	158+39.37, 242.40 RT
5	155+68.62, 434.21 LT	18	159+07.64, 455.77 RT
6	152+10.24, 638.78 LT	19	157+08.16, 266.11 RT
7	155+32.48, 337.39 LT	20	157+70.58, 349.59 RT
8	155+27.87, 309.76 LT	21	157+56.70, 379.62 RT
9	156+54.54, 184.53 LT	22	153+82.12, 187.53 RT
10	156+92.91, 156.48 LT	23	156+58.43, 402.27 RT
11	154+98.78, 171.67 LT	24	156+30.75, 385.19 RT
12	154+55.10, 180.91 LT	25	157+29.42, 519.09 RT
13	153+58.02, 259.45 LT	26	152+62.54, 683.98 RT

POND NOTES

- INITIAL CONSTRUCTION OF THE RETENTION AREA BASIN SHALL BE TO ROUGH GRADE BY UNDER-EXCAVATING THE BASIN BOTTOM AND SIDE SLOPES BY APPROXIMATELY 12 INCHES
- AFTER THE DRAINAGE AREA CONTRIBUTING TO THE RETENTION AREA HAS BEEN FULLY STABILIZED, THE INTERIOR SIDE SLOPES AND BASIN BOTTOM SHALL BE EXCAVATED TO FINAL DESIGN SPECIFICATIONS (LINES AND GRADES). THE EXCESS SOIL AND UNSUITABLE MATERIAL SHALL BE CAREFULLY EXCAVATED AND REMOVED FROM THE POND SO THAT ALL ACCUMULATED SILTS, CLAYS AND ORGANICS AND OTHER FINE SEDIMENT MATERIAL ARE REMOVED FROM THE RETENTION AREA. THE EXCAVATED MATERIAL SHOULD BE DISPOSED OF BEYOND THE LIMITS OF THE DRAINAGE AREA OF THE BASIN.
- ONCE THE BASIN HAS BEEN EXCAVATED TO FINAL GRADE, THE NEWLY CONSTRUCTED BASIN BOTTOM SHOULD BE DEEP RAKED AND LOOSENED FOR OPTIMAL INFILTRATION. ALL AREAS TO INCLUDE TOP SOIL AND SEED AND MULCHED UNLESS OTHERWISE STATED.
- NO FILL OR OTHER CONSTRUCTION MATERIALS SHALL BE STORED AND/OR PLACED WITHIN THE LIMITS OF THE POND.



REVISIONS		REVISIONS	
DATE	DESCRIPTION	DATE	DESCRIPTION

<p>DRMP DESIGN-REPAIR-MONITORING PROJECT</p> <p>41 W. WALKER BLVD., SUITE 100, TAMPA, FLORIDA 33614 PHONE: (813) 896-0394 FAX: (813) 896-8814 CERTIFICATE OF AUTHORIZATION NO. 2848 DONALD A. BROWN, P.E. LICENSE NO. 36272</p>	CFX PROJ. NO	CENTRAL FLORIDA EXPRESSWAY AUTHORITY	PONDS 2E & 2W DETAIL SHEET	SHEET NO.
	429-206			155

PHOTOGRAPHS



(1) Westerly view of Coronado Somerset Drive.
Photograph taken by Thomas A. Riddle, MAI on July 21, 2015



(2) Easterly view of Coronado Somerset Drive.
Photograph taken by Thomas A. Riddle, MAI on July 21, 2015

PHOTOGRAPHS



(3) Southerly view of the subject property from Coronado Somerset Drive.
Photograph taken by Richard K. MacMillan, MAI on December 11, 2014



(4) Southeasterly view of the subject residence.
Photograph taken by Thomas A. Riddle, MAI on July 31, 2014

PHOTOGRAPHS



(5) Southwesterly view of the subject residence.
Photograph taken by Thomas A. Riddle, MAI on July 31, 2014



(6) Westerly view of the subject residence.
Photograph taken by Thomas A. Riddle, MAI on July 31, 2014

PHOTOGRAPHS



(7) Northerly view of the subject residence.
Photograph taken by Thomas A. Riddle, MAI on July 31, 2014



(8) Easterly view of the subject residence.
Photograph taken by Thomas A. Riddle, MAI on July 31, 2014

PHOTOGRAPHS



(9) View of one of the two shed buildings on the property.
Photograph taken by Thomas A. Riddle, MAI on July 31, 2014



(10) View of both sheds on the subject property.
Photograph taken by Thomas A. Riddle, MAI on July 31, 2014

Parcel: 315A/B
Project: Wekiva Parkway 429-206
County: Lake

PHOTOGRAPHS



(11) Southeasterly view of the subject from Coronado Somerset Drive.
Photograph taken by Richard K. MacMillan, MAI on August 27, 2015

Parcel: 315A/B
Project: Wekiva Parkway 429-206
County: Lake

Aerial Site Map of Subject with Camera Angles



Aerial from the Lake County Property Appraiser's Website

**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,

v.

CURTIS WAYNE McNEIL, et al.,

CASE NO.: 2015-CA-001237

Respondents.

Parcel 315

Judge Davis

SETTLEMENT AGREEMENT

Counsel for the Petitioner, **CENTRAL FLORIDA EXPRESSWAY AUTHORITY** ("CFX"), and for Respondents, **CURTIS WAYNE MCNEIL, BRUCENE KAY MCNEIL, DANIEL LEON MCNEIL, JEFFRIE WAYNE MCNEIL, DAWN MCNEIL, and KARIN RENEE MCNEIL**, ("Respondents") have reached the following negotiated settlement of Parcel 315:

1. Respondents, Curtis Wayne McNeil, Brucene Kay McNeil, Daniel Leon McNeil, Jeffrie Wayne McNeil, Dawn McNeil, and Karin Renee McNeil, shall have and recover from the Petitioner the sum of **TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00)** in full payment for the property designated as Parcel 315 herein taken, severance damages, business damages, tort damages, if any, and all other damages and claims with the exception of attorney's fees, subject to apportionment, if any.

2. Petitioner is entitled to credit in the amount of **ONE HUNDRED FIFTY-FOUR THOUSAND, EIGHT HUNDRED AND NO/100 DOLLARS (\$154,800.00)** previously deposited into the Registry of the Court in this case by Petitioner.

3. Respondents do have and recover of and from the Petitioner the sum of **FOURTEEN THOUSAND, NINE HUNDRED SIXTEEN AND NO/100 DOLLARS (\$14,916.00)**, as attorney's fees for services rendered on behalf of Respondents by the Harris Harris Bauerle Ziegler Lopez, PA firm in this cause, pursuant to §§73.091 and 73.092, *Florida Statutes* (2015).

4. No experts' fees and costs were incurred on behalf of Respondents in this matter, and Petitioner shall not be responsible for, nor make payment for, such fees and costs.

5. This Settlement Agreement will be placed on the agendas for the CFX Right of Way Committee meeting and the CFX Board, and is conditioned upon final approval by the CFX Board.

6. Upon approval of this Settlement Agreement by the CFX Board, Counsel for

Petitioner and Counsel for Respondents shall jointly submit to the Court for entry a Stipulated Final Judgment in this matter as soon as practical.


7. Within thirty (30) days from the date of receipt by Petitioner's Counsel of a conformed copy of the Stipulated Final Judgment, Petitioner will pay to Respondents, by deposit into the Registry of the Court the balance due of **FORTY-FIVE THOUSAND, THREE HUNDRED SEVENTY AND NO/100 DOLLARS (\$45,370.00)**, this sum being the difference between the Petitioner's initial deposit and the final agreed settlement amount, plus a \$170.00 Clerk's fee.

8. Within thirty (30) days from the date of receipt by Petitioner's Counsel of a conformed copy of the Stipulated Final Judgment, Petitioner shall issue a check for the total amount of **FOURTEEN THOUSAND, NINE HUNDRED SIXTEEN AND NO/100 DOLLARS (\$14,916.00)**, payable to the firm of Harris Harris Bauerle Ziegler Lopez, P.A. and mail said check to Kurtis T. Bauerle, Esq., Harris Harris Bauerle Ziegler Lopez, P.A., 1201 East Robinson Street, Orlando, Florida 32801, as payment in full for all statutory attorney's fees as provided in this Agreement.


9. This Settlement Agreement, executed by the respective counsel on behalf of the parties, contains all of the agreements of the parties.

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY, PETITIONER

CURTIS WAYNE MCNEIL, BRUCENE
KAY MCNEIL, DANIEL LEON MCNEIL,
JEFFRIE WAYNE MCNEIL, DAWN
MCNEIL, and KARIN RENEE MCNEIL,
RESPONDENTS



David A. Shontz, Esq.
Attorney for Petitioner
Dated: September 22, 2016



Kurtis T. Bauerle, Esq.
Attorney for Respondents
Dated: September 22, 2016

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