

MEMORANDUM

**OFFICE OF
PLANNING & ZONING**
315 W. Main St., Suite 510
Tavares, FL 32778



LAKE COUNTY
FLORIDA

P: 352.343.9641
F: 352.343.9767
www.lakecountyfl.gov

To: Lake County Planning and Zoning Board

Through: Tim McClendon, Director, Office of Planning and Zoning

From: Bobby Howell, AICP, Senior Planner, Office of Planning and Zoning

Date: November 1, 2017

Subject: Agenda Item #4: Development Agreement - Cemex Four Corner Sand Mine

The Office of Planning and Zoning is requesting the Planning and Zoning Board forward a recommendation of approval for the attached Development Agreement between Cemex Construction Materials Florida LLC, and Lake County, Florida to the Board of County Commissioners. The Board of County Commissioners will consider approval of the Development Agreement at their November 21, 2017 meeting.

The Development Agreement is prepared in accordance with the Florida Local Government Development Agreement Act, Florida Statutes 163.3220-163.3243, and the Lake County Development Agreement Act, Sections 14.18.00-14.18.06, Lake County Code of Ordinances and has been advertised in a newspaper of general circulation.

CEMEX DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (hereinafter the “**Agreement**”) is made and entered into this ____ day of _____, 2017 by and between CEMEX Construction Materials Florida LLC, a Florida corporation (“**CEMEX**”), LAKE LOUISA LLC (“**Lake Louisa**”) and LAKE COUNTY, Florida, a county government duly organized and existing under the laws of the State of Florida (hereinafter referred to as the “**Lake County**” or as “**County**”). CEMEX, Lake Louisa and Lake County are sometimes hereinafter collectively referred to herein as the “**Parties**”, or singly as a “**Party**”.

RECITALS:

A. Lake Louisa is the owner of roughly 1200 acres of land located in the County and legally described in annexed **Exhibit “A”** (the “**Lake Louisa Property**”). CEMEX leases the Lake Louisa Property for sand mining purposes.

B. The Lake Louisa Property is currently designated “Rural” on the Lake County Comprehensive Plan “Planning Horizon 2030” Future Land Use Map now in effect. The Lake Louisa Property also has a zoning classification of “Agricultural.” The uses permitted on the Lake Louisa Property are set forth in Section 3.01.02 B, Lake County Code of Ordinances, and include general agriculture (§3.01.02 B.1), and mining and quarrying (§3.01.02 B.8). The Lake Louisa Property is currently being utilized for agricultural purposes.

C. The Parties desire that roughly 600 acres of the Lake Louisa Property be developed and operated for sand mining purposes in accordance with the provisions and requirements of the Lake County Comprehensive Plan and Lake County Land Development Regulations in effect on the date the Lake County Board of County Commissioners (“**Lake County BoCC**”) approves this Agreement (the “**Approval Date of this Agreement**”), and in accordance with the terms and conditions of this Agreement.

D. The Parties desire that the portion of the Lake Louisa Property not developed for sand mining purposes, or portions no longer utilized for sand mining purposes, can be utilized for agricultural purposes in accordance with the provisions and requirements of the Lake County Comprehensive Plan and Lake County Land Development Regulations in effect on the Approval Date of this Agreement, and in accordance with the terms and conditions of this Agreement.

E. The Parties also desire that development of the Lake Louisa Property other than for sand mining purposes or agriculture, be in accordance with the provisions and requirements of the County comprehensive plan and land development regulations in effect at the time of application for any such development.

F. This Agreement is entered into as a “development agreement” under the Florida Local Government Development Agreement Act, Sections 163.3220 – 163.3243,

Florida Statutes, and the Lake County Development Agreement Act, Sections 14.18.00 - 14.18.06, Lake County Code of Ordinances (“**Lake County Code**”).

NOW, THEREFORE, in consideration of only the written terms, conditions, covenants and mutual promises set forth herein, CEMEX, Lake Louisa and the County agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by reference. All exhibits to this Agreement are hereby made a part hereof.
2. **Definitions.** The following defined terms shall have the meaning set forth below for purposes of this Agreement:
 - a. “**Agreed Development Conditions**” means the Agreed Development Conditions annexed hereto and incorporated by reference herein as **Exhibit “B”**.
 - b. “**Developer**” means CEMEX, its successors or assigns.
 - c. “**Develop**” or “**Development**” for purposes of this Agreement means the carrying out of any sand mining operation, including without limitation: clearing of land, carrying out of any building activity, making of any material change in the use or appearance of any structure or land, excavation, mining, processing, and storing of sand or other materials on the Project Site (as defined below); the selling of sand and other materials; the trucking and transport of sand or other materials to and from the Project Site, including on Schofield Road; reclamation and associated activities at the Project Site; the use of the Lake Louisa Property for agriculture; construction of the Schofield Road Improvements (as defined below); and other operations customarily associated with any of the foregoing, as same relate to the contemplated sand mining operations contained in the application for a mining conditional use permit (“MCUP”) submitted by CEMEX to Lake County (the “**MCUP Application**”), and as may be approved by Lake County in any MCUP issued to CEMEX pursuant to the MCUP Application (an “**Issued MCUP**”).
 - d. “**Effective Date**” is the date of recordation of this Agreement as provided in Section 163.3239, Florida Statutes.
 - e. “**Existing Comprehensive Plan**” means the Lake County Comprehensive Plan “Planning Horizon 2030” in effect on the Approval Date of this Agreement, that was previously adopted by the County pursuant to, and which meets the requirements of, Chapter 163, Florida Statutes.
 - f. “**Existing Land Development Regulations**” means the ordinances, rules, regulations and policies in effect on the Approval Date of this Agreement that have been enacted and implemented by the County for the regulation of any aspect of development of land within the County applicable to Development, and to the Project (as defined below), including any County zoning, rezoning, mining, building, construction, road, sign or other regulation that controls the

development of land or construction, that govern and will continue to govern the Project, and related development and use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land (as defined herein below), in accordance with the terms of this Agreement. *See* Section 163.3221(8), Florida Statutes.

g. “**Existing Zoning**” means zoning under the Existing Land Development Regulations for development of land within the County applicable to the Project, and related development and use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land, in effect as of the Approval Date of this Agreement, that govern and will continue to govern the Project, and related development and use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land, in accordance with the terms of this Agreement.

h. “**Mining Plan**” means the mining plans, the reclamation plans, the Agreed Development Conditions, and all other application materials submitted by CEMEX as part of the MCUP Application for inclusion in any Issued MCUP.

i. “**Project**” means the Development and related use and operations permitted pursuant to the Project Approvals.

j. “**Project Approvals**” means approval by the Lake County BoCC of this Agreement; approval by the Lake County BoCC of any other written agreements that may be entered into between CEMEX, Lake Louisa and the County in connection with the MCUP Application (“Other Agreements”); approval by the Lake County BoCC of any MCUP Application and Mining Plan; issuance of any Issued MCUP, which shall provide the binding development guidelines for the Project, and related development and use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land, and issuance of any operating or other County permits related to the Project, and related use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land.

k. “**Project Site**” means the roughly 600 acres of the Lake Louisa Property to be developed for sand mining purposes as delineated in the Mining Plans.

l. “**Public Facilities**” means major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities. *See* Section 163.3221(13), Florida Statutes.

3. **Land Subject to this Agreement.** The land that is the subject of this Agreement consists of: (i) the Lake Louisa Property; (ii) the land and right of way within Lake County comprising Schofield Road, which is owned by Lake County, the legal description of which is annexed as **Exhibit “C”** (the “**Existing Schofield Road Property**”); and (iii) any land conveyed to the County for purposes of constructing the “**Schofield Road Improvements**” as defined and provided in

Paragraph 2 of the Agreed Development Conditions (collectively the “**Dedicated Land**”).

4. **Duration.** This Agreement and its terms and conditions shall be in full force and effect for an initial term of time commencing on the Effective Date of this Agreement and ending 10 years thereafter (the “**Initial Term**”), and provided only that Development has commenced and is continuing when the Initial Term expires, a second term shall immediately commence upon the expiration of the Initial Term and end 10 years thereafter (the “**Second Term**”). The commencement of the Initial Term shall be extended at the request of CEMEX for the same period of time that Development is prevented or delayed due to any challenge to or appeal of the approval of: (i) the Issued MCUP, (ii) any other permit required to conduct Development, (iii) this Agreement, or (iv) any Other Agreements. The Initial Term and the Second Term shall be extended for as long as any permit required for Development is suspended or revoked. The Initial Term and Second Term shall also be extended for the same period of time that the Project, and related development and use of the Lake Louisa Property, Project Site, Schofield Road, or any Dedicated Land is delayed due to matters beyond the control of CEMEX. Moreover, the Initial Term and Second Term shall be suspended and extended as may be provided in any Other Agreements. Reference to the Initial Term or the Second Term shall hereinafter mean as may be extended as provided herein. However, under no circumstances shall the term of this Agreement exceed 30 years from the Effective Date of this Agreement as defined herein below, or the term allowed under the Agreed Development Conditions, whichever ends first (the “**Maximum Term**”).
5. **Governing Law and Regulations of Development.** For the Initial Term and the Second Term of this Agreement: the Existing Comprehensive Plan, Existing Land Development Regulations, Existing Zoning, Mining Plan and Project Approvals shall establish the criteria, conditions, and limitations of the Project, and related development and use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land; and, subject to the terms and conditions of this Agreement, the County shall permit the Project, and related development and use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land, to proceed and be conducted in accordance with the Existing Comprehensive Plan, Existing Land Development Regulations, Existing Zoning, Mining Plan and Project Approvals, and any other laws and policies in effect on the Approval Date of this Agreement which are or may be applicable to the Project, and related development and use of the Lake Louisa Property, Project Site, Schofield Road and any Dedicated Land. The County shall not downzone or otherwise limit or impair the ability of CEMEX and Lake Louisa to proceed with the Project, or to conduct the related development and use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land, in accordance with the Project Approvals and this Agreement, and nothing shall prohibit the issuance of further development orders and approvals in conformity with the Project Approvals and this Agreement. The parties hereby agree that any use of the Lake Louisa Property, other than in connection with the Project or as provided

herein (“**New Use**”), shall be in compliance with the applicable provisions of the Lake County Comprehensive Plan and Land Development Regulations in effect at the time application for any New Use is filed with Lake County.

6. **Binding Agreement / Covenants Running with the Land.** Once this Agreement is approved by the Lake County BoCC, the County shall execute and deliver this Agreement and deliver it to CEMEX no later than 5 days after the day it is approved by the Lake County BoCC, and CEMEX shall thereafter promptly record this Agreement in the Public Records of Lake County no later than 5 days thereafter. Once recorded, the terms and conditions of this Agreement, and the obligations imposed herein, shall become effective, and shall run with the Lake Louisa Property, Project Site, Schofield Road and any Dedicated Land, and shall be binding upon and enforceable by and against the Parties, their successors, grantees, and assigns, and all other persons claiming by, through or under them, for the Initial Term and Second Term of this Agreement (as may be extended as provided herein subject to the Maximum Term set forth in Paragraph 4 herein above).
7. **Public Facilities.** No Public Facilities or services are required for the Project other than the Schofield Road Improvements. CEMEX shall be responsible for providing such facilities in accordance with and subject to the terms and conditions set forth in the Agreed Development Conditions and any Other Agreements. Completion of the Schofield Road Improvements from US 27 to the mine entrance near Cook Road (“**Mine Entrance**”) must be constructed by CEMEX and accepted by the County in writing prior to the transport of sand or other materials from the Project Site along this portion of Schofield Road, within the time and under the terms and conditions provided in the Agreed Development Conditions. The Schofield Road Improvements between the Mine Entrance and the Orange County Line must be constructed and accepted by the County prior to the transport from the Project Site of sand or other materials sold to third parties along this remaining portion of Schofield Road, also within the time and under the terms and conditions provided in the Agreed Development Conditions. However, transport of any items and materials into or from the Project Site for purposes of Development, including without limitation, clearing of land, constructing the Berm, constructing the processing plant, constructing other infrastructure necessary for mining and processing, and conducting excavation, mining, and processing, is allowed prior to the completion of the Schofield Road Improvements to the Mine Entrance.
8. **Concurrency.** For the purposes of concurrency review, it is hereby found that, throughout the duration of this Agreement, sufficient roadway capacity will be available and sufficient capacity will be reserved and remain available to serve the Project. All subsequent development orders or permits sought to be issued which are in conformity with this Agreement are hereby found to meet the concurrency standards set forth in Chapter V of the Existing Land Development Regulations and in the Existing Comprehensive Plan (collectively the “**Concurrency Regulations**”), and to be consistent with the Existing Zoning, Existing Land

Development Regulations, and Existing Comprehensive Plan so long as CEMEX and Lake Louisa Develop the Lake Louisa Property in general compliance with the terms and conditions contained within the Project Approvals and this Agreement; provided however, that the parties hereby agree that there are no concurrency guarantees for any New Use. For any New Use, Concurrency will be determined based upon the Lake County Comprehensive Plan and the Lake County Land Development Regulations in effect at the time application for any New Use is filed with Lake County.

9. **Reservation or Dedication of Land.** Except as provided in Paragraph 3 above, and except as may be needed for construction of the Schofield Road Improvements, the Developer shall not be required to dedicate or reserve any land within the Lake Louisa Property or any Dedicated Land for any public purpose. Additional land may be required for any New Use, as determined in accordance with the Lake County Comprehensive Plan and Lake County Land Development Regulations in effect at the time the application for any New Use is filed with Lake County.
10. **Required Development Permits.** The local development permits needed to be approved for the Project, and related development and use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land, excluding any New Use, are the Project Approvals and any related operating or other permit anticipated to be issued by the County, and any construction or related permits required to construct the Schofield Road Improvements.
11. **Consistency with Existing Comprehensive Plan and Land Development Regulations.** The proposed Project, Development, and any related development and use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land, are consistent with the Existing Comprehensive Plan and Existing Land Development Regulations. This provision does not apply to any New Use, which will be determined at the time an application for any such New Use is filed with Lake County.
12. **Public Health, Safety, and Welfare of Citizens.** Except for any terms, conditions, restrictions, or requirements set forth in an Issued MCUP, the Agreed Development Conditions, any Other Agreements, or any permit required for Development, no other terms, conditions, restrictions, or requirements are necessary to assure consistency with the public health, safety, or welfare of Lake County citizens.
13. **Necessity of Complying with County Regulations Relative to Development Permits.** The Parties agree that the failure of this Agreement to address a particular permit, condition, term or restriction of the County in effect on the Approval Date of this Agreement, shall not relieve CEMEX or Lake Louisa of the necessity of complying with the law existing on the Approval Date of this Agreement governing said permitting requirements, conditions, terms or restrictions, as long as compliance with said permitting requirements, conditions,

terms or restrictions does not prohibit, restrict or impede the Project, and related development and use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land, consistent with the Project Approvals and this Agreement.

14. **Impact Fees.** The impact fees that are in effect as of the Approval Date of this Agreement that will apply to the Development of the Project and any Dedicated Land, and any impact fee credits regarding same, will be identified and addressed in any separate impact fee credits agreement between the Parties. No impact fees of any kind will apply to the Project, or to the related development and use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land. No new impact fees or increases to the impact fees in existence as of the Approval Date of this Agreement shall be applied to the Project, and related development and use of the Lake Louisa Property, Project Site, Schofield Road, and any Dedicated Land, during the Initial Term and the Second Term of this Agreement (as may be extended as provided herein). However, nothing herein shall prohibit the imposition of applicable impact fees to any New Use of the Lake Louisa Property. The Parties shall coordinate their efforts to derive the maximum benefit of any impact fee credits in favor of the Project and the County.
15. **Vested Rights.** This Agreement, the Agreed Development Conditions, and any Other Agreements, are not intended to diminish any of CEMEX's vested rights or remedies provided or available under common or statutory law, or equity. Any such rights or remedies, and any rights or remedies provided in writing under this Agreement, the Agreed Development Conditions, or any Other Agreements shall be cumulative. This provision, however, is not intended to and does not relieve CEMEX of any of its obligations under the terms and conditions of this Agreement, the Agreed Development Conditions, or any Other Agreements that are approved by Lake County BoCC and entered into by the Parties.
16. **Breach of Agreement and Required Notice.**
 - a. **Breaches of Agreement.** The failure of any Party to comply with the written terms and conditions set forth in this Agreement or of any of the Project Approvals shall constitute a breach of this Agreement and shall be enforceable only as provided herein. In the event a Party wishes to enforce this Agreement or Project Approvals, or take action against another Party who has breached any term of this Agreement or any term of the Project Approvals (hereinafter an "**Enforcing Party**"), such Enforcing Party must first provide each Party who committed a breach (the "**Breaching Party**") with written notice that identifies each breach (the "**Breach Notice**"), and a reasonable opportunity to cure each breach as provided herein, before any lawsuit or other proceeding regarding the breach can be instituted.
 - b. **30-Day Opportunity to Cure.** A Breaching Party is entitled to thirty (30) days from receipt of a Breach Notice by which to cure any breach capable of being cured within thirty (30) days. If such a breach is not cured within thirty (30)

days of receipt of a Breach Notice identifying such breach, then each Enforcing Party sending the Breach Notice shall be immediately entitled to seek any legal or equitable remedies regarding the breach available under applicable law.

- c. Reasonable Opportunity to Cure. For breaches that require longer than thirty (30) days to cure, a Breaching Party is entitled to a reasonable period of time by which to cure each such breach, provided: (i) the Breaching Party gives each Enforcing Party within thirty (30) days of receipt of the Breach Notice, written notice that explains why it will take longer than thirty (30) days to cure any identified breach, and sets forth a written schedule for curing any such breach (an “**Explanation Notice**”); (ii) the Breaching Party begins reasonable efforts to cure any such breach as reasonably soon as possible within forty-five (45) days of receipt of the Breach Notice, and (iii) reasonable efforts to cure any such breach are diligently pursued by the Breaching Party until any such breach is cured. If an Explanation Notice is not timely provided as required herein; or if reasonable efforts to cure any such breach are not commenced within forty-five (45) days from receipt of the Breach Notice; or if a Breaching Party intentionally ceases reasonable efforts to cure any such breach for a period of more than thirty (30) days; or if for any reason, any such breach is not cured within the schedule provided by the Breaching Party, then each Enforcing Party shall be immediately entitled to seek any legal or equitable remedies available under applicable law. The time deadlines set forth in this Subparagraph 16c., shall be extended for as long as, and only for as long as, conditions beyond the control of the Breaching Party prevent it from commencing or engaging in efforts to cure any breach.

17. Notices: All notices, demands, or other writings required or permitted to be given or made or sent under this Agreement, by either Party to the others, shall be in writing and shall be deemed to have been fully delivered upon (i) receipt of such notice when hand delivered (by personal courier or overnight delivery service) to the Party to whom such notice is addressed as set forth below, (ii) receipt of such notice as indicated by the signature, and date on the return receipt of a certified mailing, or (iii) on the same day if sent by facsimile and a printed confirmation of transmission is obtained by the sender and a copy sent by certified mail, and addressed and transmitted to the Party to whom such notice is to be delivered as set forth below:

CEMEX

Cemex Construction Materials Florida,
LLC
Attn: General Counsel
1501 Belvedere Road
West Palm Beach, FL 33406
Phone No.: (561) 650-7130
Fax No.: (561) 803-6044

COUNTY

Lake County
Attn: County Manager
Post Office Box 7800
Tavares, Florida 32778
Phone No.: 352-343-9495
Fax No.:

With a copy to:

Roger Sims, Esq.
Holland & Knight, LLP
200 South Orange Ave, Suite 2600
Orlando, Florida 32801
Phone No.: (407) 244-5107
Fax No.: (407) 244-5288

With a copies to:

Lake County Public Works
Attn: County Engineer
P.O. Box 7800
Tavares, Florida 32778
Phone No.:
Fax No.:

Lake County Attorney
Post Office Box 7800
Tavares, Florida 32778
Phone No.: 352-343-9787
Fax No.:

Any party by written notice in accordance with the requirements of this Section may modify its address for receipt of all future notices.

18. The Parties further agree as follows:

- a. Headings. Section and subsection headings in this Agreement are for convenience of reference only, and shall not govern or influence in any manner whatsoever the interpretation of any provision hereof.
- b. Severability. If any provisions of this Agreement, the deletion of which would not adversely affect the receipt of any material benefits by a Party hereunder or substantially increase the burden of a Party hereunder, shall be held invalid or unenforceable to any extent by a court of competent jurisdiction, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.
- c. Waiver. No failure of any Party to exercise any power given under this Agreement or to insist upon strict compliance with any of the terms or conditions specified in this Agreement shall constitute a waiver of such Party's right to demand exact compliance with the terms of this Agreement.
- d. Entire Agreement. This Agreement, any Other Agreements, and any documents to be executed and delivered in connection with the forgoing, are intended by the Parties as a final expression of their agreement with respect to the subject matter of the forgoing and are intended as a complete and exclusive statement of the terms and conditions of the foregoing, and this Agreement, any Other Documents, and any documents to be executed and delivered in connection with the foregoing, supersede and replace all prior negotiations and agreements between the Parties, or any of them, whether written or oral, with respect to the terms of this Agreement and any Other Agreements. Each of the Parties acknowledges that no other Party, or agent or attorney of any other

Party, has made any promise, representation, or warranty whatsoever, express or implied, not contained herein, whether concerning the subject matter hereof or otherwise, to induce any other Party to execute this Agreement, any Other Agreements, or any documents to be executed and delivered in connection with the foregoing, and each Party hereto acknowledges that it has not executed this Agreement, or any Other Agreements, or any such other document in reliance upon any promise, representation, or warranty not contained in the foregoing. Accordingly, this Agreement, any Other Agreements, and any documents to be executed and delivered in connection with the foregoing, cannot be contradicted by evidence of any prior or contemporaneous oral agreement.

- e. Amendment in Writing Only. This Agreement may only be modified, amended, or released, by written instrument signed by CEMEX, Lake Louisa, and by the County Manager of Lake County, provided that such modification, amendment, or release has been approved by the County after public hearing, pursuant to Sections 163.3225, and 163.3229, Florida Statutes. Accordingly, any provision of this Agreement, any Other Agreements, or any documents to be executed and delivered in connection with the foregoing, may be changed, waived or terminated only by written instrument signed by the Party against whom the change, waiver, or termination is sought to be enforced.
- f. Additional Actions. The Parties agree to take such additional actions, including the prompt execution and delivery of any additional documents, reasonably necessary or desirable to effectuate the provisions and spirit of this Agreement.
- g. No Admissions. Entry into this Agreement by CEMEX and Lake Louisa shall not constitute, and cannot be utilized to evidence, any admission or acknowledgment by them as to the validity or enforceability of the Wellness Way Area Plan (“WWAP”). This provision does not prevent use of this Agreement for any other purpose.
- h. Binding Agreement. This Agreement shall be binding in all respects upon the Parties and any successors, grantees, assigns or personal representatives of the Parties. The terms and conditions of this Agreement shall burden, benefit, and run with the title to the Lake Louisa Property and any Dedicated Land.
- i. Disclaimer of Third Party Beneficiaries. All covenants and agreements of the Parties in this Agreement are solely and exclusively for the benefit of the Parties, and no other person or entity shall have standing to require performance of any such covenants and agreements, and no other person or entity shall, under any circumstances, be deemed to be a beneficiary of such obligations or duties, except only successors, grantees or assigns of a Party to this Agreement as provided in Subparagraph 18h. above.

- j. Governing Law and Venue. This Agreement shall be construed in accordance with, and all disputes hereunder or in connection herewith shall be controlled by, the laws of the State of Florida. The venue of any action under or related to this Agreement shall be in Lake County, Florida, and any court of competent jurisdiction located in such county, whether state or federal court.
 - k. No Agreement Until Execution and Delivery: This Agreement will not exist and will not be binding or enforceable until CEMEX has executed and delivered this Agreement to the County, and until the Lake County BoCC approves this Agreement at a public hearing. This Agreement will become effective upon recording in the public records of Lake County, Florida as provided in Paragraph 6 above. (the “Effective Date”).
 - l. Construction of Agreement and Representation by Counsel. Each of the Parties and their undersigned counsel has participated in the negotiation of this Agreement and this Agreement shall be construed in accordance with its intent and with the fair meaning of its provisions, and without regard to any presumption or other rule of interpretation requiring construction thereof against the party who drafted the document.
 - m. Cumulative Right and Remedies. All rights, remedies, powers and privileges conferred on the Parties under this Agreement shall be cumulative of and in addition to, but not restrictive of or in lieu of, those conferred by law or available in equity.
 - n. Counterparts. This Agreement may be executed in several counterparts and all counterparts so executed shall constitute one Agreement binding on all the Parties, notwithstanding that all the Parties are not signatories to the original or the same counterpart. The exchange of a fully executed Agreement (in counterparts or otherwise) by facsimile or by electronic delivery in PDF format shall be sufficient to bind the Parties to the terms and conditions of this Agreement.
19. **Authority.** Each Party warrants and represents to the others that it has all necessary power and authority to enter into and consummate the terms and conditions of this Agreement, and that upon execution of this Agreement by all Parties, this Agreement shall be valid, binding and enforceable against such Parties and their respective successors and assigns

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have made and executed this Agreement on the respective dates under each signature.

ATTEST:

LAKE COUNTY, FLORIDA through its
BOARD OF COUNTY COMMISSIONERS

Neil Kelly, Clerk of the
Board of County Commissioners of
Lake County, Florida

Timothy I. Sullivan, Chairman

This _____ day of _____, 2017.

Approved as to form and legality:

Melanie Marsh,
County Attorney

WITNESSES:

CEMEX:

CEMEX Construction Materials Florida
LLC, a Delaware limited liability company

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2017 by _____, _____ of CEMEX Construction Materials Florida, LLC a Delaware limited liability company, who () is personally known to me or () produced _____ as identification.

My commission expires:

Notary Public Signature

Lake Louisa LLC

Lake Louisa LLC, a Florida limited liability company

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2017 by _____, _____ of Lake Louisa LLC, a Florida limited liability company, who () is personally known to me or () produced _____ as identification.

My commission expires:

Notary Public Signature

52067146

EXHIBIT A
Legal Description of Lake Louisa Property

PARCEL 1: The North half of Section 27, Township 23 South, Range 26 East, Lake County, Florida, LESS the West 33.00 feet and LESS the East 33.00 feet; ALSO the Southwest quarter of said Section 27, LESS the West 33.00 feet and LESS the South 33.00 feet; also LESS the North 50.00 feet of the South 83.00 feet of the West 35.00 feet of the East 1820.02 feet of the Southwest quarter of said Section 27; also LESS the North 20.00 feet of the South 53.00 feet of the West 30.00 feet of the East 1785.02 feet of the Southwest quarter of said Section 27.

PARCEL 2: The Southwest 1/4 of Section 26, Township 23 South, Range 26 East, Lake County, Florida, subject to a County Road Right-of-way over the North 33 feet and LESS the South 33 feet thereof; and the Southeast 1/4 of Section 27, Township 23 South, Range 26 East, Lake County, Florida, LESS the South 33 feet thereof; LESS AND EXCEPT: the Easterly 35.00 feet of the Westerly 129.88 feet of the Northerly 50.00 feet of the Southerly 83.00 feet of the Southwest 1/4 of the Southeast 1/4; and LESS the Westerly 35.00 feet of the Easterly 512.76 feet of the Northerly 50.00 feet of the Northeast 1/4 of the Southeast 1/4 of Section 27, Township 23 South, Range 26 East, in the County of Lake, State of Florida.

PARCEL 3: The Northeast 1/4, LESS the North 33 feet thereof; the East 1/2 of the Northwest 1/4, LESS the North 33 feet thereof; and the North 1/2 of the South 1/2, LESS the West 1/4 thereof; all being in Section 35, Township 23 South, Range 26 East, Lake County, Florida.

PARCEL 7: A portion of Section 35, Township 23 South, Range 26 East, Lake County, Florida described as follows: BEGINNING at the Northwest corner of Section 35, Township 23 South, Range 26 East; thence run South 89°42'57" East, along the North line of said Section 35, for a distance of 1290.76 feet to the West Right-of-way line of Cook Road, as recorded in Deed Book 357, Page 10, of the Public Records of Lake County, Florida; thence departing said North line, run South 00°41'04" East, along said West Right-of-way line for a distance of 1978.82 feet to the North line of the South 1/4 of the West 1/2 of the Northwest 1/4 of said Section 35; thence departing said West Right-of-way line, run South 89°56'46" West, along said North line for distance of 1293.39 feet to the West line of said Northwest 1/4 of Section 35; thence departing said North line, run North along the aforesaid West line of Section 35 to the POINT OF BEGINNING, LESS the South 70 feet thereof.

Schedule B-2 Exceptions per Title Commitment Agent File No. 11-249 issued by Old Republic National Title Insurance Company, bearing an effective date of December 11, 2011, at 11:00 PM. Items not listed below are standard title exceptions and/or are not matters or issues that pertain to this survey.

Declaration of Covenants, Conditions, Restrictions and Easements by Reedy Creek Improvement District recorded in O.R. Book 2173, Page 1321, together with First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements recorded in O.R. Book 4082, Page 2368, Public Records of Lake County, Florida. (As to Parcels 1-3). Document is blanket in nature (as to parcels

1-3), not plotted.

Right-of-Way Easements in favor of Sumter Electric Cooperative, Inc. recorded in O.R. Book 274, Page 809 and O.R. Book 384, Page 659, together with Quitclaim Deed executed by Sumter Electric Cooperative, Inc. recorded in O.R. Book 976, Page 1516, Public Records of Lake County, Florida. (As to Parcel 1). Affects subject property as depicted hereon. Said documents also reserves a 30 foot wide easement centered along all existing electric distribution lines within Parcel 1.

Utility Easement Agreement by and between Reedy Creek Improvement District and the City of Orlando recorded in O.R. Book 1326, Page 350, Public Records of Lake County, Florida. (As to Parcel 1). Affects subject property as depicted hereon.

Perpetual Utility Easement in favor of Orange County contained in that certain Order of Taking recorded in O.R. Book 845, Page 567, Public Records of Lake County, Florida. (As to Parcel 1). Affects subject property as depicted hereon.

Pipeline Easement in favor of Orange County recorded in O.R. Book 815, Page 1501, Public Records of Lake County, Florida. (As to Parcel 2). Affects subject property as depicted hereon.

Right-of-Way Easement in favor of Sumter Electric Cooperative, Inc. recorded in O.R. Book 283, Page 729, Public Records of Lake County, Florida. (As to Parcel 2). Affects subject property as depicted hereon.

Pipeline Easement in favor of Orange County recorded in O.R. Book 813, Page 193, Public Records of Lake County, Florida. (As to Parcel 2). Affects subject property as depicted hereon.

Easement in favor of Orange County recorded in O.R. Book 964, Page 1649, Public Records of Lake County, Florida. (As to Parcel 2). Affects subject property as depicted hereon.

Right-of-Way Easement in favor of Sumter Electric Cooperative, Inc. recorded in O.R. Book 618, Page 1113, Public Records of Lake County, Florida. (As to Parcel 2). Affects subject property as depicted hereon.

Easement in favor of Orange County recorded in O.R. Book 964, Page 1653, Public Records of Lake County, Florida. (As to Parcel 2). Affects subject property as depicted hereon.

Easement in favor of American Telephone and Telegraph Company recorded in O.R. Book 324, Page 457, Public Records of Lake County, Florida. (As to Parcel 3). Document calls for a 20 foot easement centered on the first cable laid in respect to parcel 3.

Agreement for the Delivery and Use of Reclaimed Irrigation Water recorded in O.R. Book 854, Page 865, together with Partial Release of Rights recorded in O.R. Book 1280, Page 1674, Public Records of Lake County, Florida. (As to Parcel 7). Document is blanket in nature (as to parcel 7), not plotted. Permanent Utility Easement in favor of the City of Orlando recorded in O.R. Book 1501, Page 2481, Public Records of Lake County, Florida. (As to Parcel 7). Does not affect subject property.

Easement in favor of American Telephone and Telegraph Company recorded in O.R. Book 326,

Page 849, Public Records of Lake County, Florida. Legal description contained in document is illegible surveyor believes document calls for a 20 foot easement centered on the first cable laid within the North 1/2 of the North 1/2 of the NW 1/4 of Section 35 (As to Parcel 3 & 7).

Riparian and littoral rights are not insured. (As to Parcel 7). Not a matter pertaining to this survey. Right-of-Way Deed in favor of Lake County recorded in Deed Book 357, Page 11, Public Records of Lake County, Florida. (As to Parcel 3); SHOWN FOR INFORMATION: Right-of-Way Deed in favor of Lake County recorded in Deed Book 357, Page 10, Public Records of Orange County, Florida. (As to the West 1/2 of Cook Road). Affects subject property as depicted hereon.

Right-of-Way Deed in favor of Lake County recorded in Deed Book 357, Page 15, Public Records of Lake County, Florida. (As to Parcel 2). Affects subject property as depicted hereon

.
Subject to the right-of-way for Schofield Road. (As to Parcel 7).

EXHIBIT “B”

AGREED DEVELOPMENT CONDITIONS

Agreed Development Conditions

Cemex Construction Materials Florida, LLC is sometimes hereinafter referred to as “CEMEX”. Lake Louisa, LLC is sometimes hereinafter referred to as “Lake Louisa”. Lake County, Florida, a political subdivision is sometimes hereinafter referred to as “Lake County” or “County”. CEMEX and Lake Louisa are sometimes hereinafter collectively referred to as “Petitioners”. CEMEX, Lake Louisa, and County may be hereinafter collectively referred to as “Parties” or singly as “Party”.

The following provisions (hereafter the “Agreed Development Conditions”) comprise a part of the MCUP Application (“MCUP Application”) recently filed by Petitioners with Lake County.

Definitions

When referenced herein, the following defined terms shall have the meanings set forth below:

A. *“Develop” or “Development” or “Operations”* means the carrying out of any sand mining operation, including without limitation: clearing of land, carrying out of any building activity, making of any material change in the use or appearance of any structure or land, excavation, mining, processing, and storing of sand or other materials on the Project Site; the selling of sand and other materials; the trucking and transport of sand or other materials to and from the Project Site, including on Schofield Road; reclamation and associated activities at the Project Site; the use of the Lake Louisa Property for agriculture; construction of the Schofield Road Improvements (as defined below); and other operations customarily associated with any of the foregoing, as same relate to the contemplated sand mining operations contained in the MCUP Application submitted by CEMEX to Lake County;

B. *“Expense or expense” or “Cost or cost”* means and includes all fees, costs, expenses, and other expenditures in any way related to the matters to which the word refers or applies.

C. *“Sand Transport Date”* means the first date that CEMEX trucks or transports sand or other materials sold to customers from the Project Site along Schofield Road between the Mine Entrance and US 27.

D. *“Urban Design”* and *“Rural Design”* mean the forms of road design identified on annexed **Exhibit “A”**.

E. *“Wellness Way Area Plan”* or *“WWAP”* is the document adopted by the Lake County Board of County Commissioners on January 5, 2016, in Ordinance No. 2016-1, which establishes the future land uses permitted within the identified area, including without limitation, mining, agriculture, retail, office, commercial, industrial, and residential uses and all provisions contained therein, as approved and adopted by Lake County, and as such may be amended or superseded by another future land use or comprehensive plan amendment adopted by Lake County.

Development Conditions

1) **Setback and Perimeter Improvements.**

a) CEMEX shall, at its expense, and in compliance with the setbacks referenced in annexed Exhibit “1”, construct a 10 foot high, 70 foot wide earthen berm with 3:1 slopes, with a 10 foot flat top (the “Berm”) around the property within Phase One and Phase Two of the Conceptual Mine Plan set forth on annexed Exhibit “2” (hereinafter the “Project Site”). CEMEX shall, at its expense, secure the Project Site from outside trespassers. The Berm for the Phase One portion of the Project Site (“Phase One Property”) shall be completed by CEMEX, at its expense, at least ninety (90) days prior to the Sand Transport Date (as defined herein below); and, subject to the terms set forth in Paragraph 5 herein below, shall thereafter be maintained by CEMEX, at its expense, until the Phase One Property is no longer used for any Operations and has been reclaimed in accordance with Appendix A, section 6.06.02 (D), of the Lake County Land Development Regulations (“LDRs”) and other applicable state and federal requirements.

b) The Berm for the Phase Two portion of the Project Site (the “Phase Two Property”) shall be completed by CEMEX, at its expense, at least ninety (90) days prior to commencement of mining on any portion of the Phase Two Property for purposes of processing, sale and transport offsite from the Phase Two Property (the “Phase Two Mining Date”); and, subject to the terms set forth in Paragraph 5 herein below, shall thereafter be maintained by CEMEX, at its expense, until the Phase Two Property is no longer used for any Operations and has been reclaimed in accordance with Section 6.06.02 (D), of the LDRs and other applicable state and federal requirements.

2) **Improvements to Schofield Road.**

a) CEMEX, at its expense, will design, permit, and construct in a single phase, the improvements to Schofield Road between US 27 and the Orange County line (“the Road Length”) utilizing right-of-way currently owned or controlled by Lake County, right of way or property currently owned or controlled by CEMEX or Lake Louisa, and right of way to be obtained from third parties.

b) The improvements to Schofield Road will include the design and construction of a 2-lane (Rural Design) paved road from US 27 to the Orange County Line (the “2-lane Road Section”). The improvements to the 2-lane Road Section will also include intersection improvements, including turn lanes and any other Lake County or FDOT required intersection improvements at the US 27 intersection with Schofield Road sufficient to accommodate traffic flow and stacking, including at peak hours, in accordance with and subject to FDOT and Lake County requirements.

c) As part of the improvements to Schofield Road, CEMEX shall, at its expense, permit and construct all roadway, stormwater and associated improvements included in the 2-lane Road Section, substantially in accordance with Lake County standards for future development in the WWAP (retail, office, commercial and residential uses), as amended or superseded by future land use or comprehensive plan amendments adopted by Lake County and as may be otherwise

required by Lake County Public Works or other state governmental entity with jurisdiction in accordance with applicable regulations, design requirements or established written policies.

d) Only those costs for the improvements to Schofield Road identified in this Paragraph 2, which are the 2-lane Road Section design, and the permitting, engineering, construction, easement and right of way property acquisition, and wetlands mitigation for 2-lane Road Section and intersection improvements all as provided in this Paragraph 2 (collectively the “Schofield Road Improvements”), shall be counted towards the maximum amount that CEMEX is required to fund for the Schofield Road Improvements. CEMEX will fund up to, and in any event not more than, 15 million dollars (\$15,000,000.00) for the costs of the Schofield Road Improvements.

e) Subject to the other limitations set forth herein, construction of the Schofield Road Improvements shall begin at US 27 and will proceed east, then south, then east along the 2-lane Road Section to the mine entrance to be located at Schofield Road near Cook Road (the “Mine Entrance”), and then east from the Mine Entrance to the Orange County Line; provided such construction shall cease at such time work costing \$15,000,000.00 has been performed. CEMEX shall have 18 months from the date that construction begins after Lake County issues a Notice to Proceed, by which to complete construction of the Schofield Road Improvements from US 27 to the Mine Entrance. Once construction of the Schofield Road Improvements has been completed from US 27 to the Mine Entrance, once such Schofield Road Improvements have been approved and accepted by the County, and once the County authorizes CEMEX to do so, CEMEX may begin trucking and transporting sand or other materials along Schofield Road between the Mine Entrance and US 27. CEMEX may conduct Operations and Develop the Phase One property while it constructs the Schofield Road Improvements between US 27 and the Mine Entrance, except only the trucking or transport of sand or other materials mined at or processed on the Phase One Property as provided in Paragraph 13 herein below.

f) If any portion of the \$15,000,000.00 remains unspent after completion of the Schofield Road Improvements from US 27 to the Mine Entrance, then CEMEX shall continue to construct the Schofield Road Improvements eastward to the Orange County Line, or until the \$15,000,000.00 amount is spent, whichever occurs first. CEMEX shall have thirty-six (36) months from the initial commencement of construction of the Schofield Road Improvements by which to complete all such improvements, unless the costs incurred by CEMEX equal \$15,000,000.00 before all Schofield Road Improvements are completed to the Orange County Line, in which case CEMEX may cease construction.

g) Prior to making a paved connection of Schofield Road into Orange County, CEMEX shall coordinate all plan reviews and seek any relevant approvals from Orange County for connection or any trucking or transporting of sand or other materials into Orange County along Schofield Road.

h) Notwithstanding anything else to the contrary in these Agreed Development Conditions or elsewhere, the obligations of CEMEX in this Paragraph 2, and in the other Agreed Development Conditions set forth herein, are conditioned on, and will not become binding or enforceable until: CEMEX obtains approval from the Lake County BoCC of the MCUP Application, the Development Agreement, and any other written agreements that may be entered into between the Petitioners and the County in connection with the MCUP Application which are approved by the Lake County BoCC, and fully executed and delivered by the Parties

(hereinafter “Other Agreements”), without the imposition of any terms or conditions unacceptable to CEMEX in its sole and absolute discretion; CEMEX obtains the MCUP as sought in the MCUP Application (the “Issued MCUP”); the Development Agreement as approved is fully executed and delivered, and recorded in the public records of Lake County; any Other Agreements are approved and fully executed and delivered by the Parties; CEMEX obtains all approvals and permits, including from Lake County or the St. Johns River Water Management District (“SJRWMD”), required to construct the Schofield Road Improvements; CEMEX obtains all other approvals and permits required to commence and conduct development and sand mining operations at and from the Project Site; and the Issued MCUP, the Development Agreement, any Other Agreements, and the construction and other approvals and permits to construct the Schofield Road Improvements and to develop the sand mine and conduct sand mining operations, all become final as approved. Moreover, the commencement of performance, performance, or completion of performance of the obligations of CEMEX under this Paragraph 2 shall be suspended, extended, or terminated: due to events beyond the control of CEMEX; for as long as any permit required to construct the Schofield Road Improvements is suspended or revoked; and for as long as CEMEX is prevented or delayed by any lawsuit, challenge, appeal, or governmental or third party action, from commencing or performing any of its obligations under these Agreed Development Conditions, or from commencing or conducting any Development.

3) Active Mining Area. No more than a total of 100-acres of the Project Site at any one time shall be excavated, mined or be in the process of being excavated or mined, in any combination. After completion of excavation and mining and subsequent backfill, sloping, and grading of a previously excavated mined area, such area shall no longer be categorized as being excavated or mined and will no longer count towards the 100-acre area that can be excavated, mined, or be in the process of being excavated or mined, in any combination, at one time. The plant processing area, freshwater reclamation lake, and tailings control areas (collectively “Processing Areas”) shall not count as part of the 100-acre area. CEMEX or Lake Louisa, or both, may utilize those portions of the Lake Louisa Property not part of the Project Site, those portions of the Project Site that have been mined and reclaimed, and any portion of the Project Site no longer used in connection with excavation and mining (the “Non-Mining Property”) for agricultural use as currently permitted. CEMEX or Lake Louisa, or both, may also seek to utilize Non-Mining Property for any other development use allowable under and in accordance with the provisions of the WWAP or Lake County comprehensive plan and land development regulations then in effect.

4) Mining Time Frames. CEMEX shall complete all excavation, mining, processing and all other Operations on or before the later of (21) years from the Sand Transport Date (the “21-year Mining Period”), or twenty-five (25) years from the date that the last of all permits required to enable CEMEX to commence and conduct excavation, mining, processing or other Operations on, to or from any portion of the Project Site, including any related to the construction of the Schofield Road Improvements, has been issued (the “25-year Mining Period). The 21-year Mining Period and the 25-year Mining Period shall be suspended and extended: due to events beyond the control of CEMEX; for as long as any permit required to construct the Schofield Road Improvements is suspended or revoked; and for as long as CEMEX is prevented or delayed by any lawsuit, challenge,

appeal, or governmental or third party action, from commencing or performing any of its obligations under these Agreed Development Conditions, or from commencing or conducting any Development. Without limitation, CEMEX may conduct reclamation, removal of structures, and other clean-up activities on the Project Site after the end of the 21-year Mining Period or 25-year Mining Period. No excavation, mining, processing or other Operations shall occur in any buffer or setback areas, except as provided in Paragraph 5 herein below.

5) Development after Mining. Upon completion of mining related activities and reclamation of mined or disturbed portions of the Project Site, any such reclaimed property and Berm, fencing, buffer, or setback area along the exterior perimeter of such reclaimed property may be developed for any permitted use other than excavation and mining, provided such use is consistent with the WWAP or the Lake County comprehensive plan and land development regulations then in effect. In any such event, CEMEX or Lake Louisa may remove or leave in place any Berm, fencing, or along the perimeter of such reclaimed property. If any Berm, fencing and of such reclaimed property is removed, and as a result, any remaining active area of or Operations associated with the Project Site (other than at the Mine Entrance, or with respect to trucking or transport of sand or other material to and from the Project Site) becomes visible or accessible, then CEMEX shall construct a similar Berm and place similar fencing along such exposed perimeter. This provision is not intended to diminish any development rights provided in the Development Agreement or in any Other Agreements.

6) Mining Commencement. Subsequent to completion of site development and infrastructure construction for excavation and mining operations, excavation and mining will begin generally within the southwest corner of the Project Site in the vicinity of Trout Lake, and as will be reflected in the excavation, mining and reclamation plans and maps to be submitted with the MCUP Application. CEMEX shall submit to Lake County staff any modifications to CEMEX's excavation, mining and reclamation plans and maps as necessary, as part of the operating permit process, and CEMEX shall comply with Section 6.06.03 (D) of the Lake County LDRs for operating permit issuance and amendments, all of which modifications must still be consistent with the requirements of these Agreed Development Conditions.

7) Mining Sequence.

a) CEMEX shall complete excavation and mining and all other Operations within 1000 feet of the westernmost boundary of the Phase One Property within which such activities are allowed by the earlier of 5 years from the Sand Transport Date or 7 years from the date that the last of all permits required to enable CEMEX to first commence and conduct excavation, mining, processing or other Operations on any portion of the Project Site, has been obtained by CEMEX, unless approval has been revoked or suspended by any governmental agency that issued a required permit, the basis of which revocation or suspension are not actions or inactions of CEMEX or Lake Louisa. These time periods shall be suspended and extended: due to events beyond the control of CEMEX; for as long as any permit required to construct the Schofield Road Improvements is suspended or revoked due to no act or inaction of CEMEX or Lake Louisa; and for as long as CEMEX is prevented or delayed by any

lawsuit, challenge, appeal, or governmental or third party action, from commencing or performing any of its obligations under these Agreed Development Conditions, or from commencing or conducting any Development.

b) Except as set forth in this Paragraph 7, CEMEX is free to mine sand on the Project Site in such sequence or rate it deems appropriate in its sole and absolute discretion, provided there is only 100 acres of active excavation and mining area occurring or existing at any single point in time as provided in Paragraph 3 above, provided all excavation and mining is completed within the times frames set forth in this Paragraph and Paragraph 4 above, CEMEX complies with the hours of operation as required in Paragraph 9 below, the trips per day associated with the Operations do not exceed the trips authorized by the Issued MCUP, and the excavated and mined areas have been fully backfilled, sloped and graded as required in the Issued MCUP.

8) Processing Plant. CEMEX shall construct the processing plant as indicated in the MCUP Application. Ingress to and egress from the processing plant, and for accessing the Project Site to excavate, mine, process, store, sell, truck and transport sand or other material, shall be limited to a single location on Schofield Road within 1,800 feet on either side of the intersection of Schofield Road and Cook Road, or as close to such location as Lake County permits.

9) Operating Hours. CEMEX may excavate, mine, process or conduct other Operations on the Project Site, seven days a week, 24 hours a day.

10) Deposit Account for Future Road Projects. CEMEX shall cause \$.037 per ton of materials from the Project Site and Lake Louisa Property sold or exchanged or provided for as part of any consideration to third parties to be deposited into an account for the benefit of Lake County to be used for the maintenance of Schofield Road or future roadway projects within the Wellness Way Planning Area (“WW Planning Area”), calculated annually on a calendar year basis and remitted to the County by February 15th of the following year. These sums shall be in addition to the monies CEMEX has agreed to expend for the Schofield Road Improvements identified in Paragraph 2 and such monies shall not be credited toward any portion of CEMEX’s \$15,000,000.00 maximum monetary obligation.

11) Vested Rights. These Agreed Development Conditions are not intended to diminish any vested rights or remedies of CEMEX or Lake Louisa provided or available under common or statutory law, or equity. This provision, however, is not intended to and shall not be construed to relieve CEMEX or Lake Louisa of any of their respective obligations under these Agreed Development Conditions.

12) Breach of Agreed Development Conditions, Required Notice, and Opportunity to Cure. The breach, notice, and opportunity to cure provisions set forth in the Development Agreement apply to any breach of these Agreed Development Conditions. Such breach, notice and opportunity to cure provisions supplement Lake County’s rights of enforcement, and nothing in the foregoing, these Agreed Development Conditions, the Development Agreement, or in any Other Agreement, limit or restrict Lake County’s right and authority to require, seek and obtain enforcement of and

compliance with the Agreed Development Conditions, the Issued MCUP and any and all Lake County Code requirements.

13) For purposes of clarification, and in addition to any other rights of CEMEX to conduct Operations or Development, CEMEX shall be permitted to: (a) conduct Operations and Develop the Phase One Property, and transport items and materials into or from the Project Site for purposes of such Operations and Development, while it constructs and prior to completion of the Schofield Road Improvements from US 27 to the Mine Entrance, except only that CEMEX may not truck or transport from the Phase One Property, sand or other materials mined or processed on the Phase One Property, until (i) CEMEX completes construction of the Schofield Road Improvements from US 27 to the Mine Entrance, (ii) such improvements are approved and accepted by Lake County, and (iii) Lake County authorizes CEMEX to transport sand and other materials along this completed section of Schofield Road; and (b) conduct Operations and Develop the Phase Two Property prior to the Phase Two Mining Date in accordance with Paragraph (1)(b) herein above.

#53446125v2

EXHIBIT 1 - Minimum Setbacks Agreed on CEMEX Four Corners Sand Mine Property

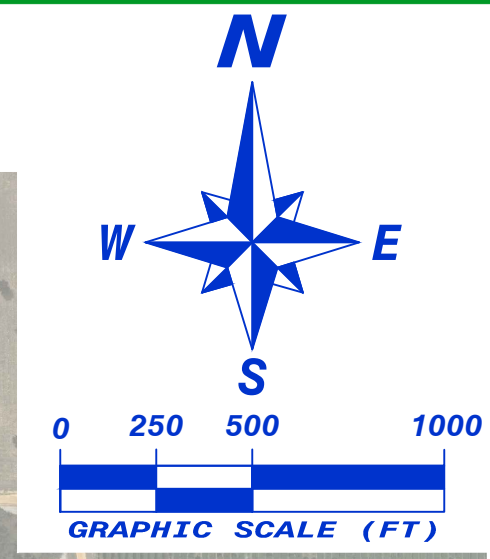
	Required Setback between Property line & toe of berm closest to Property line in feet	Berm width in feet	Other Setbacks (internal roads, ROW's, Open space, etc.)	Total setback to excavation in feet
West Property Line	127	70		197
North Property Line	130	70		200
East Property Line along 5 Mile Road	100	70		170
North Property Line along 5 Mile Road	100	70		170
East Property Line abutting Hills= Property		70	1000* (includes berm)	000
Property Line along Schofield Rd. (north side of road)	127	70		197
Property Line along Schofield Rd. (south side of road)	120	70	180 (includes berm)*	300
Cook Rd (east side of road)	120	<u>70</u>	225	22
South Property Line abutting Cra-Mar Grove=s Property)	The greater of 225 feet north of the ordinary high water line of Sawgrass Lake and 225 feet north of South Property Line		225	The greater of 225 feet north of the ordinary high water line of Sawgrass Lake and 225 feet north of South Property line
* denotes area covered under the Hills= agreement				

AERIALS Obtained from FDOT
 ftp://ftp.dot.state.fl.us/apac/LAK2014/
 Dates Flown between:
 Feb. 10, 2014 thru March 8, 2014

REV. No.	DATE	DESCRIPTION	CHK BY:

LEGEND

	PROPERTY BOUNDARY
	WETLAND
	ACCESS ROAD

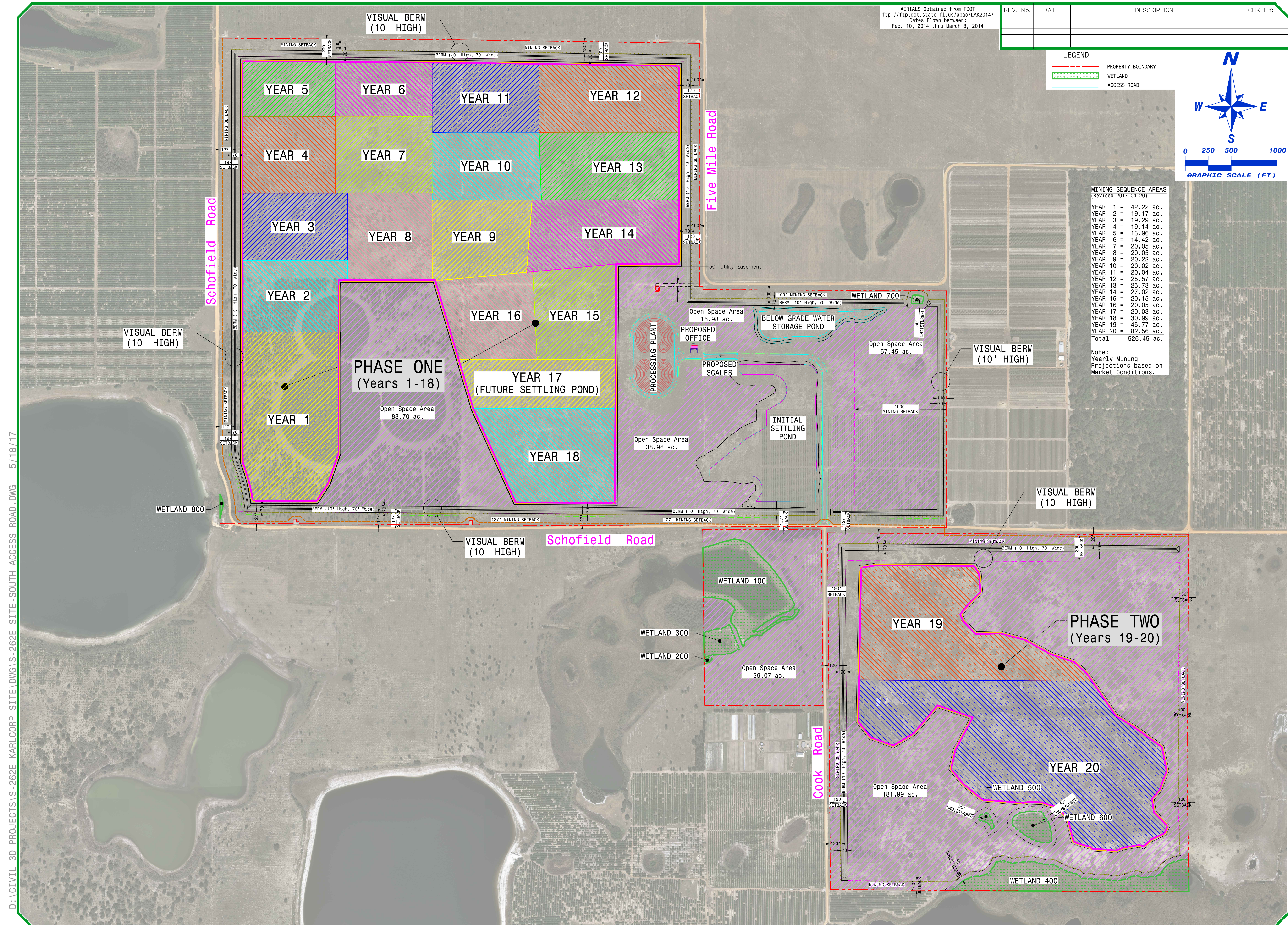


THE COLINAS GROUP, INC.
 Engineering and Environmental Consultants
 2031 Edgewood Drive, Suite #5
 Lakeland, FL 33803-3601
 Phone: (863) 669-9141 Fax: (863) 669-1742
 WWW.THECOLINASGROUP.COM

MINING SEQUENCE AREAS
 (Revised 2017-04-20)

YEAR 1	=	42.22 ac.
YEAR 2	=	19.17 ac.
YEAR 3	=	19.29 ac.
YEAR 4	=	19.14 ac.
YEAR 5	=	13.96 ac.
YEAR 6	=	14.42 ac.
YEAR 7	=	20.05 ac.
YEAR 8	=	20.05 ac.
YEAR 9	=	20.22 ac.
YEAR 10	=	20.02 ac.
YEAR 11	=	20.04 ac.
YEAR 12	=	25.57 ac.
YEAR 13	=	25.73 ac.
YEAR 14	=	27.02 ac.
YEAR 15	=	20.15 ac.
YEAR 16	=	20.05 ac.
YEAR 17	=	20.03 ac.
YEAR 18	=	30.99 ac.
YEAR 19	=	45.77 ac.
YEAR 20	=	82.56 ac.
Total	=	526.45 ac.

Note:
 Yearly Mining Projections based on Market Conditions.



CONCEPTUAL MINE SEQUENCE PLAN
FOUR CORNERS SAND MINE
CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC.
 LAKE COUNTY, FLORIDA

JOB #	S-262E	DATE	4/24/2017
SCALE:	as noted	CALC BY:	MRS
FIELD BY:	n/a	DRAWN BY:	gd
CHECKED BY:	MRS		

Mark R. Stephens, P.E., P.G.
 Florida P.E. Reg. No. 36179
 Engineering Business No. EB-0007934
 The Colinas Group, Inc.
 2031 E. Edgewood Drive, Suite 5
 Lakeland, FL 33803-3601
 (863) 669-9141

PRINTED COPIES OF THIS DOCUMENT
 ARE NOT CONSIDERED SIGNED AND
 SEALED AND THE SIGNATURE MUST BE
 VERIFIED ON ELECTRONIC COPIES.

D:\CIVIL\3D PROJECTS\S-262E KARL CORP SITE\DWG\S-262E SITE-SOUTH ACCESS ROAD.DWG 5/18/17

EXHIBIT "C"

LEGAL DESCRIPTION OF EXISTING SCHOFIELD ROAD PROPERTY

Roadway Legal Description for Scholfield Road

July, 20, 2017

This is a legal description for the existing right-of-way for Scholfield Road located in Sections 16, 21, 22, 25, 26, 27, 34, 35 and 36, Township 23 South, Range 26 East, Lake County, Florida lying between the East boundary of Lake County, Florida, Westerly to the right-of-way for U.S. Highway 27.

More specifically described as follows:

(North Right-of-way)

That part of the North right-of-way of Scholfield Road (aka Shell Pond Road) as described in OR. Book 225, Pages 510, 514, 516, 518 and 520 and OR. Book 226, Page 157 of public records of Lake County, Florida to the East boundary of Section 28, Township 23 South, Range 26 East;

Commence at the Southeast corner of Section 25, Township 23 South, Range 26 East, Lake County, Florida; thence Northerly along the east boundary thereof to the intersection with the Northerly right-of-way for Scholfield Road (aka Shell Pond Road) as described in OR. Book 225, Page 520, public records of Lake County, Florida also the Point of Beginning for the description; thence Westerly, as described in said OR. Book 225, Pages 518, 520 and OR. Book 226, Page 157 of public records of Lake County to the Westerly boundary of Section 27, Township 23 South, Range 26 East; thence Northerly, along the West boundary of said Section 27, according to OR. Book 225, Page 520 of Public Records of Lake County, Florida to the Southwest corner of Section 22, Township 23 South, Range 26 East, Lake County, Florida; Thence continue Northerly along the Westerly boundary said Section 22, according to OR. Book 225, Page 514 of public records of Lake County, Florida to the Northwest corner of the Southwest 1/4 of said Section 22 also being the Northeast corner of the Southeast 1/4 of Section 21, Township 23 South, Range 26 East, Lake County, Florida; thence Westerly along the North boundary of said Section 21 and according to OR. Book 225, Page 510 of public records of Lake County, Florida to the intersection with U.S Highway 27 (State Road 25) as recorded in OR. Book 411, Page 456 in 1969 and 1970, respectively. In 2005 new right-of-way maps were created per Final Project Id #238422 and a new centerline of survey was established. The Right-of-way described appears to be 33 feet in width more or less.

(South Right-of-way)

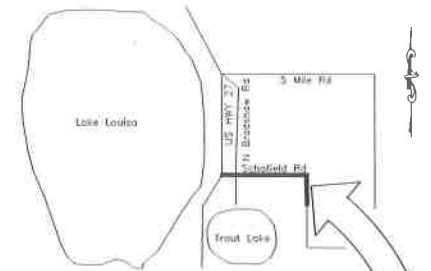
Commence at the Southeast corner of Section 25, Township 23 South, Range 26 East, Lake County, Florida; thence Northerly along the east boundary thereof to the intersection with Southerly right-of-way for Scholfield Road (aka Shell Pond Road) as described in OR. Book 225, Page 518, public records of Lake County, Florida also the Point of Beginning for the description; thence Westerly, as described in said OR. Book 225, Pages 516 and 518 of Public Records of Lake County, Florida to the right-of-way for Cook Road; thence continue Westerly, along the North boundary of lands described in OR Book 3318, Page 725, also being the North boundary of Section 35, Township 23 South, Range 26 East, Lake County, Florida to the East boundary of Section 34, Township 23 South, Range 26 East, Lake County, Florida; thence Westerly as described in OR. Book 225, Page 510 and 514 of Public records for Lake County Florida to the West boundary of Section 34, Township South, Range 26 East also being the East boundary of Section 33, Township 23 South, Range 26 East, Lake County, Florida; thence Northerly, along Section 21 and 28, Township 23 South, Range 26 East as described in OR. Book 225, Page 510 of public records of Lake County, Florida to the approximate South Right-of-way boundary of Scholfield Road per maintenance; thence Westerly, along said maintenance Right-of-way to the intersection with the South Right-of-way of Scholfield Road per OR. Book 225, Page 510 as recorded in public records of Lake County, Florida; Continue Westerly, along said South Right-of-way to the intersection with U.S Highway 27 (State Road 25) as recorded in OR. Book 411, Page 456 in 1969 and 1970, respectively. In 2005 new right-of-way maps were created per Final Project Id #238422 and a new centerline of survey was established. The Right-of-way described appears to be 33 feet in width more or less.

Legend & Abbreviations

- Found Iron Rod or Pipe
- Found Concrete Monument
- Found P.K. Nail & Disk
- P.S.M. Professional Surveyor and Mapper
- F.D.O.T. Florida Department of Transportation
- ID Identification
- ⊕ Temporary Benchmark
- TBM Temporary Benchmark
- Spot Elevation
- Spot Elevation on Hard Surface
- (F) Field Measurement
- (D) Deed Reference
- (P) Plat Reference
- RCP Reinforced Concrete Pipe
- INVT Invert
- Unknown Manhole
- ⊖ Backflow Preventer
- Cleanout
- ⊖ Fiber Optic Vault
- ⊖ Square Post
- ⊖ Power Pole
- ⊖ Gas Valve
- ⊖ Sign
- ⊖ Water Well
- ⊖ Telephone Pull Box
- Oak
- Unknown Vault
- Water Meter
- ⊖ Catch Basin
- ⊖ Water Valve
- Round Post

Route Survey
Sections 21 & 22, Township 23 South, Range 26 East
Lake County, Florida

Vicinity Map



Project Site



Detail "A"
Scale: 1" = 80'

Benchmark Information: NAVD 1988

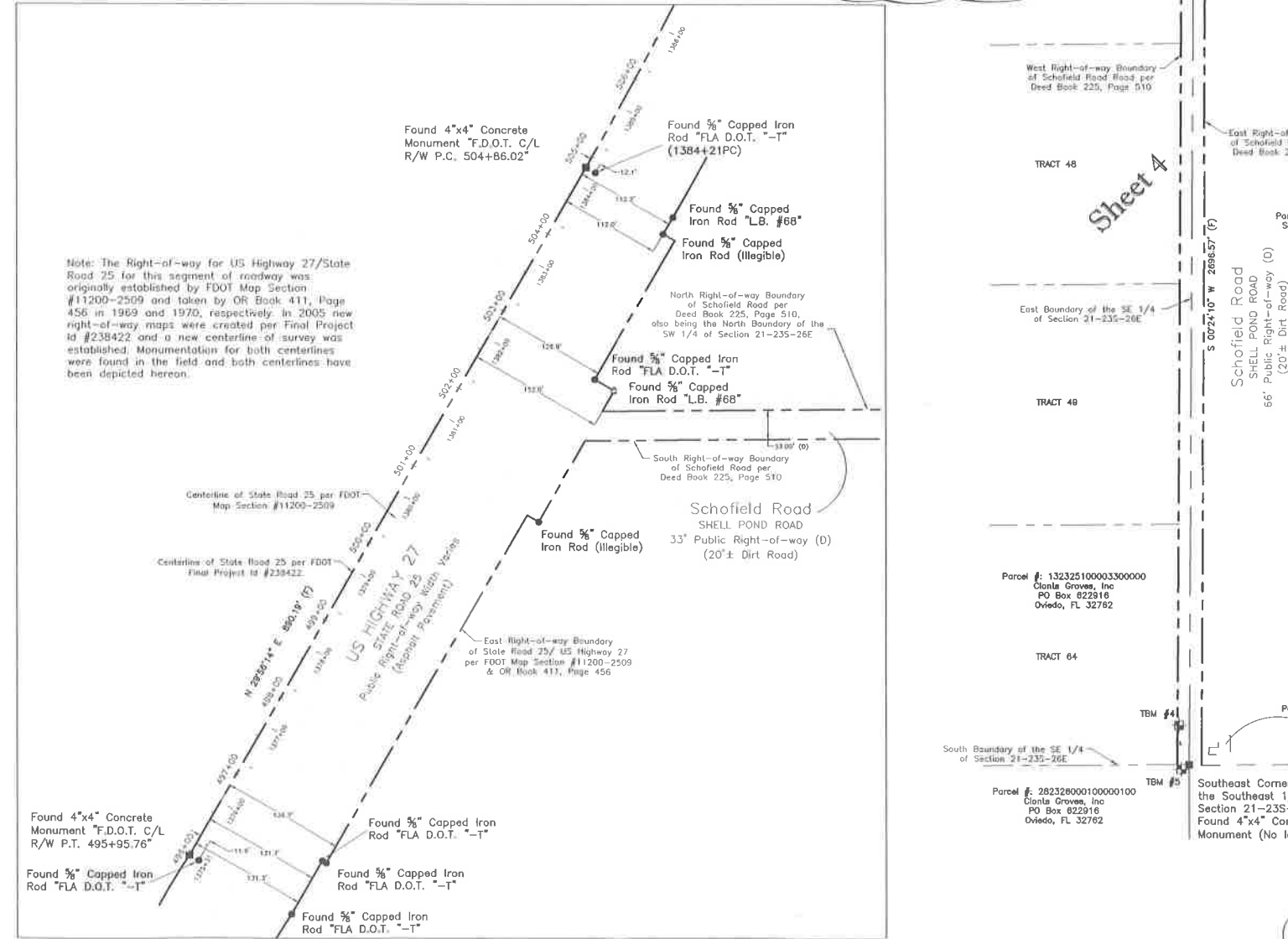
- TBM #1**
 Northing = 1504501.15
 Easting = 425840.60
 Elevation = 114.70'
 Set 3/4" capped iron rod "SurvTech Trav Pin" at the Northeast intersection of US Highway 27 & Schofield Road.
- TBM #2**
 Northing = 1504507.44
 Easting = 427399.26
 Elevation = 140.89'
 Set 3/4" capped iron rod "SurvTech Trav Pin" 1600'± East of the intersection of US Highway 27 & Schofield Road.
- TBM #3**
 Northing = 1504523.92
 Easting = 425004.26
 Elevation = 128.81'
 Found 1" iron pipe (no id.) 3200'± East of the intersection of US Highway 27 & Schofield Road, also being the East 1/4 corner of Section 21-23S-26E.
- TBM #4**
 Elevation = 141.72'
 Set box cut in concrete slab located on West side of Schofield Road near Southern limits of survey.
- TBM #5**
 Northing = 1501814.98
 Easting = 428964.08
 Elevation = 138.93'
 Found SURMAD disk stamped "00-12-002-0" on concrete slab located on West side of Schofield Road near Southern limits of survey.
- TBM #6**
 Northing = 1504363.44
 Easting = 425763.58
 Elevation = 115.20'
 Found SURMAD disk stamped "00-12-001-0" on masonry headwall 144'± Southwest of the intersection of US Highway 27 & Schofield Road.

Certifications:
 CEMEX, USA
 Kinley Ham & Associates

Flood Zone Information:
 Subject property is located in Flood Zone "X" according to:
 Flood Insurance Rate Map: 12069C
 Panel No: 0650 D
 Community Name/No: Lake County/120421
 Effective Date: July 03, 2002

Surveyor's Notes

- 1.) Not valid without the signature and original raised seal of a Florida Licensed Surveyor and Mapper.
- 2.) The bearing structure for this survey is based on a Florida East State Plane grid bearing of N 29°56'14" E for the centerline of US Highway 27/State Road 25 per FDOT Final Project Id #238422.
- 3.) The vertical datum utilized for this project is NAVD 1988, U.S. Survey Feet. The benchmark utilized was St. Johns River Water Management District Benchmark "00-12-001-0" with an elevation of 115.20 feet.
- 4.) No underground foundations or footers were excavated or located for this survey.
- 5.) Surveyor makes no guarantees as to the species of trees or to the health of each tree depicted hereon, if this information is necessary a certified arborist should be contacted.
- 6.) Utilities depicted hereon are from visible evidence as well as markouts obtained from Florida Sunshine One Call, reference to Ticket Numbers 223203727, 223203521, 223203495 & 223203703.
- 7.) THIS IS NOT A BOUNDARY SURVEY.



Schofield Road Right-of-way Note

SurfTech believes that there are conflicts with the right-of-way width for Schofield Road and that the width of the right-of-way should be 33 feet and not 48 feet as depicted on the right-of-way maps per F.D.O.T. Project Id. 238422. SurfTech has come to this conclusion based on the following:

First, SurfTech is fully confident that the said right-of-way maps depict the right-of-way as 48 feet wide because Deed Book 225, Page 510 calls for the East 33 feet of Tracts 33, 34, 35 and 36 of the Plat of Monte Vista Park Farms as recorded in Plat Book 2, Page 27. Said deed also calls for the north 33 feet of that part of Tract 37 lying east of US Highway 27. And that the Plat of Monte Vista Park Farms depicts a 15 foot strip along the North side of Tracts 33, 34, 35, 36 and 37 and along the east side of Tracts 33, 34, 35, 36, 37, 38, 39, and 40. At first glance, said 15 foot wide strips appear to be public right-of-way. So, assuming that the Plat dedicated 15 feet of right-of-way and assuming that the boundaries of said Tracts about said 15 foot wide strips, taking an additional 33 feet from the north and east of said Tracts per said Deed makes the right-of-way of Schofield Road 48 feet wide.

However, SurfTech believes that the boundaries of said Tracts actually extend to the section and quarter section lines adjacent thereto. The reasons being are that said Plat specifically states that "The fee in the Streets or Roads shown on this plat is hereby reserved to the record owners of the lands there in contained and their assigns and only an easement for the benefit of the public, and purchasers, for travel and necessary drainage of said roads, by reference to this plat is hereby granted". After reading this statement, SurfTech scaled the size of the lots and found that the width of Tracts 33 and 48 is less than the interior Tracts 34 and 35. This and the above Plat statement lead the Surveyor to believe that the original intent of the Plat was for the 15 foot wide strips to be included in the ownership of the Tracts lying adjacent thereto, thereby, making the Tracts equal in size.

Furthermore, within said Deed Book 225, Page 510 there is another paragraph that takes the "East 33 feet of Section 28, Township 23 South, Range 26 East". With said Section 28 lying directly south of said Plat of Monte Vista Park Farms, if the right-of-way was to be as said F.D.O.T. maps depicts than there would be a jog in the right-of-way of the road where it transitions from said Plat to said Section 28. SurfTech does not believe that said Deed intended to create a jog in the right-of-way. Instead, it is SurfTech's belief that the originator of said Deed was under the same impression as SurfTech, in that the 15 foot wide strips were owned by the owner's of the adjacent Tracts and only an easement was dedicated across the 15 foot wide strip. Therefore, when said Deed takes 33 feet from the east and north of said Tracts the 33 feet should be taken from the section and quarter section lines and not from the easement lines of the tracts as depicted on said Plat. In doing so, this eliminates any jogs in the right-of-way and makes the width of the right-of-way 33 feet instead of the 48 feet as depicted on said F.D.O.T. maps.

****Not Valid Without The Signature And The Original Raised Seal Of A Florida Licensed Surveyor And Mapper****

REVISION	DATE	INITIALS

SURVEYING TODAY WITH TOMORROW'S TECHNOLOGY

Drafted By: B. Stinson
 Date Drafted: 8/29/12
 Approved By: S. Brown
 Date Approved: 9/04/12
 Field Date: 8/24/12

Phase: 2
 Revision Date:
 Drawing Name: 20110166.2R
 Scale: 1" = 200'
 Field Book/Page: 12-11/50

Project Name: **Route Survey for Schofield Road**
 Address: **US Highway 27 & Schofield Road**
 City: **Clermont**
 State: **Florida**

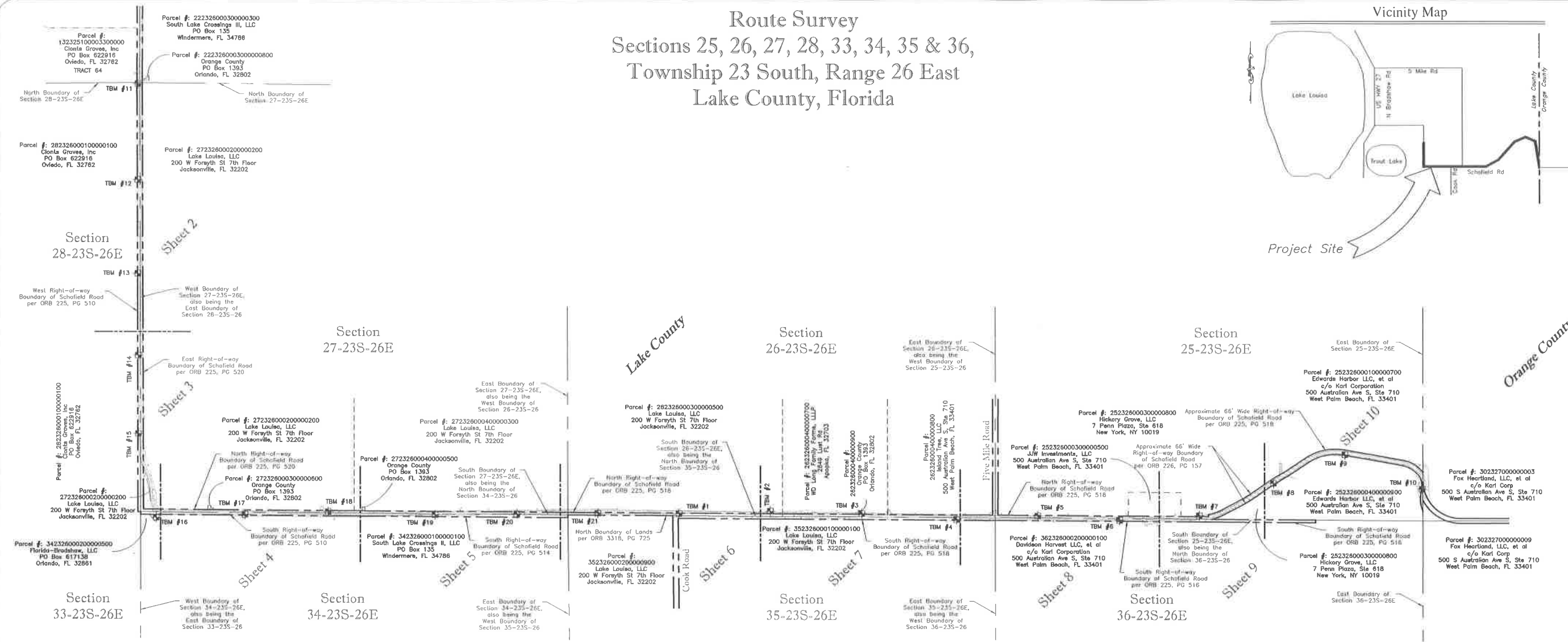
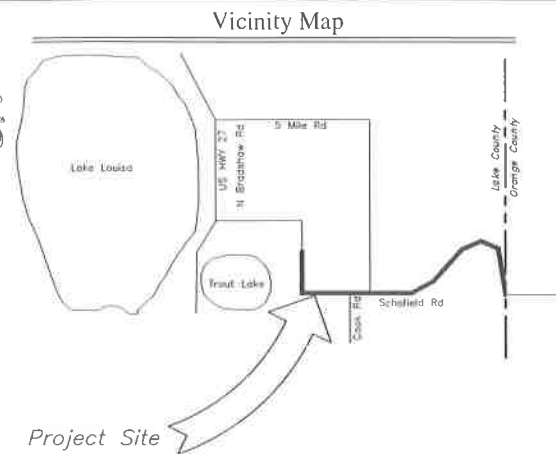
PROJECT NO.: **20110166**

Surveyed by: **STACY L. BROWN**
 Date: **8/29/12**

SURVTECH SOLUTIONS, INC.
 10220 U.S. Highway 92 East
 Tampa, FL 33610
 phone: (813)-821-4929
 fax: (813)-821-7194
 Licensed Business #7340
 email: stbrown@survtechsolutions.com
 http://www.survtechsolutions.com

Route Survey

Sections 25, 26, 27, 28, 33, 34, 35 & 36, Township 23 South, Range 26 East Lake County, Florida



Legend & Abbreviations

P.S.M.	Professional Surveyor and Mapper	—x—x—	Guy Wire
TBM	Temporary Benchmark	—o—o—	Power Pole
—	Temporary Benchmark	—c—c—	Cable Television Pedestal
•	Spot Elevation	—t—t—	Telephone Pull Box
•	Spot Elevation on Hard Surface	—l—l—	Lift Station
SJRWMD	St. Johns River Water Management District	—c—	Cleanout
NAVD88	North American Vertical Datum 1988	—v—	Control Valve
NGVD29	National Geodetic Vertical Datum 1929	—m—	Catch Basin
ORB	Official Records Book	—w—	Water Meter
PG	Page	—v—	Water Valve
DIP	Ductile Iron Pipe	—r—	Reclaimed Water Valve
()	Diameter	—p—	Backflow Preventer
—x—x—	Sign	—o—o—	Fence
—o—o—	Miscellaneous Feature	—t—t—	Overhead Utility Lines
—	Unknown Manhole	—w—w—	Underground Reclaimed Water Line
—	Monitoring Well/Piezometer	—fo—fo—	Underground Fiber Optic Line
—	Oak	—fo—fo—	Underground Fiber Optic Marker
—	Unknown Tree	—	Underground Reclaimed Water Marker
—	Square Post		
—	Round Post		
—	Test Well		

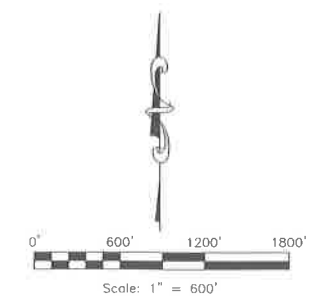
Surveyor's Right-of-way Notes

Portions of Schofield Road are subject to maintained right-of-way per Florida Statute 95.361. According to Lake County Right-of-way Department Schofield Road is County Maintained Road #0558. Surveyor did not delineate any maintained right-of-way as a part of this survey because Lake County has not made a field visit to verify limits of maintenance. Surveyor was told by the Right-of-way Department that the County locally holds the edge of the road for maintenance limits.

Certification:
CEMEX, USA
The Colinas Group, Inc.

Surveyor's Notes

- Not valid without the signature and original raised seal of a Florida Licensed Surveyor and Mapper.
- Utilities depicted hereon are from visible evidence as well as mark outs that were present at the time of the field survey.
- No underground foundations or footers were excavated or located for this survey.
- Surveyor makes no guarantee as to the species of trees or to the health of each tree depicted hereon, if this information is necessary a certified arborist should be contacted.
- The bearing structure for this survey is based on a Florida East State Plane grid bearing of N 00°01'29" W for the West Boundary of the NW 1/4 of Section 27-23S-26E.
- The vertical datum utilized for this project is NAVD 1988, U.S. Survey Feet. The benchmark utilized was St. Johns River Water Management District Benchmark "00-12-001-0" with an elevation of 115.20 feet. NGVD 1929 = NAVD 1988 + 0.905'.
- THIS IS NOT A BOUNDARY SURVEY.



Stacy L. Brown P.S.M. No. 6516
SurvTech Solutions, Inc. L.B. No. 7340

Project Name: **Route Survey for Schofield Road** Project No.: **20110166**
Address: **US Highway 27 & Schofield Road** City: **Clermont** State: **Florida**

DIVISION	DATE	INITIALS

SURVEYING TODAY WITH TOMORROW'S TECHNOLOGY

Drafted By: **D. Hubbard** Drawing Name: **20110166-9R**
Date Drafted: **9/17/14** Phase: **9**
Approved By: **S. Brown** Field Date: **9/28/14**
Date Approved: **9/30/14** Field Book Page: **Varies**

SURVTECH SOLUTIONS, INC.
10220 U.S. Highway 92 East
Tampa, FL 33610
Phone: (813)-621-4929
Fax: (813)-621-7194
Licensed Business #7340
email: stbrown@survtechsolutions.com
http://www.survtechsolutions.com