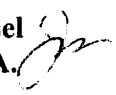


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MEMORANDUM

TO: Central Florida Expressway Authority Board Members

FROM: James Edward Cheek, III, Right of Way Counsel
Winderweeidle, Haines, Ward & Woodman, P.A. 

DATE: October 26, 2015

RE: S.R. 429 Wekiva Parkway, Project 429-204: Parcel 275
Approval of Partial Settlement of Residential Portion of Property

Winderweeidle, Haines, Ward & Woodman, P.A., right of way counsel, seeks this Board's approval of a partial settlement involving the residential portion of Parcel 275 of the Wekiva Parkway Project 429-204. A Petition in Eminent Domain was filed on October 14, 2014, and the Court entered an Order of Taking on January 13, 2015.

DESCRIPTION and BACKGROUND:

This case involves the taking of 17.888 acres through the middle of Parcel 275, which originally contained 52.737 acres, leaving in a bisected northern remainder of 6.92 acres and southern remainder of 27.93 acres. This parcel is owned by Thomas J. Holder, Sr., as Trustee of the Sally R. Holder Credit Shelter Trust and the Thomas J. Holder, Sr. Family Trust.

The property has joint residential and business uses. Improvements within the area of taking include a 105 year old two-story single family residence, which contains 3,124 square feet of living area with five bedrooms and two baths. Thomas J. Holder, Sr., age 80, and his daughter, Beth Ann Arnold, reside in the dwelling. The remainder of the property is used primarily for farming operations, and contains numerous agricultural improvements.

CFX retained the services of Richard MacMillan, who estimated the value of the parent tract to be \$1,633,500.00, and the value of the taking to be \$1,163,600.00. This value has been determined as follows:

Land Value	\$1,318,500
Single Family Residence Value	\$ 161,000
Site Improvement Value	\$ 154,000
Total Value of Parent Tract	\$1,633,500

Land Taken (17.888 acres x \$25,000)	\$ 447,200
Improvements Taken	\$ 228,700
<u>Damages / Cost to Cure</u>	<u>\$ 487,700</u>
Total Compensation	\$1,163,600

The landowners have not yet submitted an appraisal report for their real estate claims, and are not required to submit these reports under the Case Management Order until November 18, 2015.

For the purpose of determining relocation benefits, the property has been analyzed separately with regards to its residential and non-residential components. CFX's relocation agents determined that the residential component of the property is 2.88 acres in size, and contains the home as well as several other residential improvements. The value of the residential component of the property is as follows:

Land (2.88 acres)	\$ 72,000
<u>Residential Improvements</u>	<u>\$177,964</u>
Total Residential Component	\$249,964

PROPOSAL FOR SETTLEMENT OF THE RESIDENTIAL PROPERTY:

Negotiations with landowners' counsel have resulted in a proposal for a partial resolution of this case. Under the Uniform Relocation Act (URA) guidelines, the Holders would qualify for a purchase additive of \$209,036.00 related to this residence, based on available comparable sales. The Holders are willing to accept CFX's appraised value for the residential land and improvements, and accept the purchase additive amount. Landowners' counsel, Raymer Maguire, has also agreed that since there is no "betterment" for the residential component of the real estate, he would not recover attorney fees for this portion of the settlement. In exchange, CFX would agree that it would not attempt to adjust or recoup the amount of the purchase additive, regardless of the outcome of the litigation for the other portions of this case.

Resolution of the residential component is beneficial to CFX in that (1) the landowner is agreeing to accept CFX's appraised value for approximately 20% of the taking, (2) the landowner is agreeing to accept CFX's appraised value of the residential improvements, including a 105-year old house that could potentially be very difficult to appraise, (3) expert fees would be reduced considerably by eliminating the residential component of the case, (4) landowner attorney fees would be reduced because there is no betterment for this portion of the case, and (5) a potentially complex trial will be greatly simplified by reducing the number of issues presented. Furthermore, it is questionable how much, if any, of the purchase additive would qualify for adjustment or recoupment. This settlement proposal creates certainty for the landowners so that they can move forward with acquiring replacement housing, and certainty for CFX by resolving a portion of this case at its own value.

RECOMMENDATION:

We respectfully request this Board's approval of the proposed partial settlement in the amount of \$249,964.00 to resolve the residential component of Parcel 275.

ATTACHMENT:

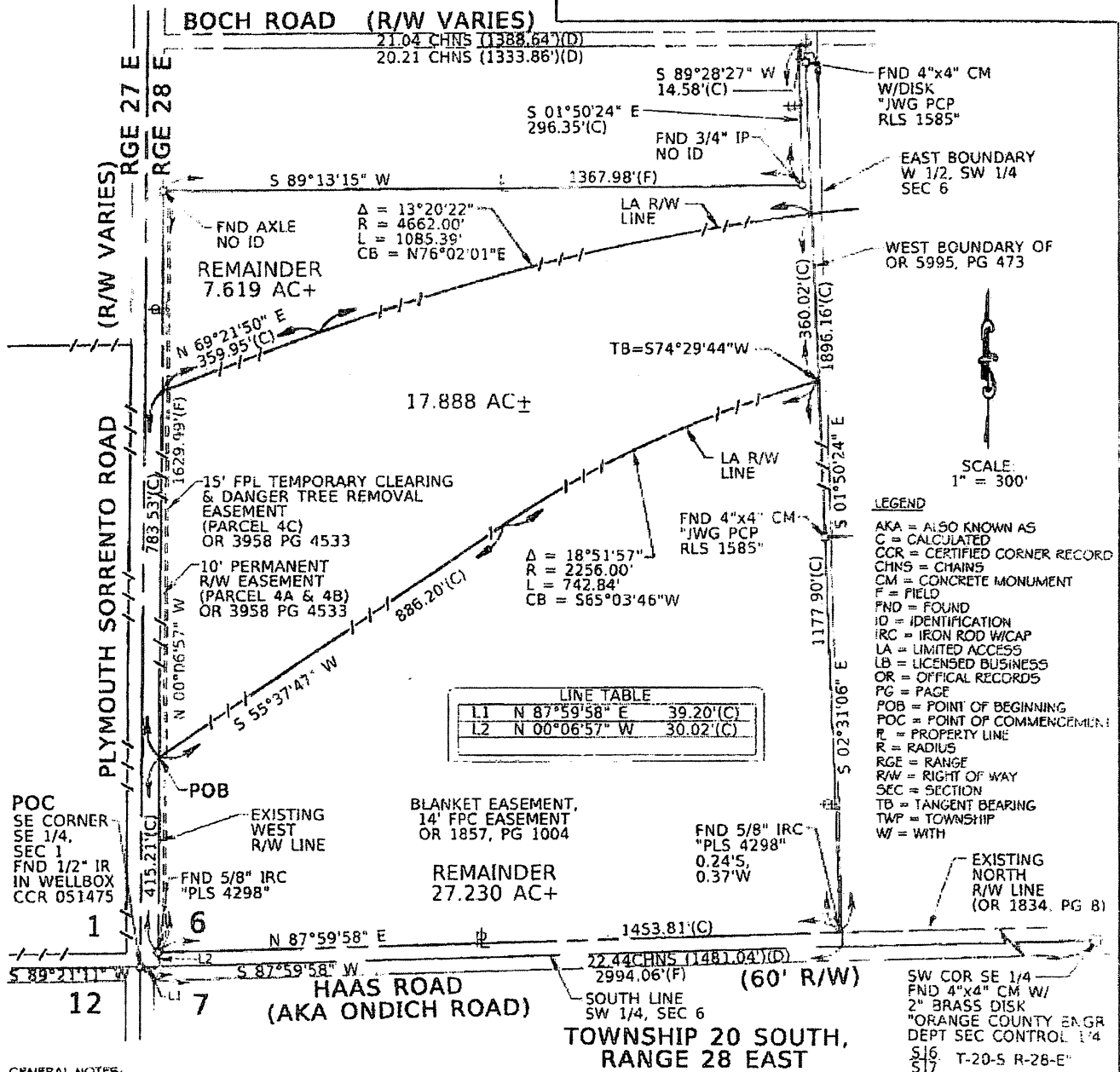
Parcel Sketch

SKETCH OF DESCRIPTION

PARCEL: 275

PURPOSE: LIMITED ACCESS RIGHT OF WAY

ESTATE: FEE SIMPLE



GENERAL NOTES:

1. THE BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, 1983 NORTH AMERICAN DATUM, 2007 ADJUSTMENT, WITH THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, HAVING A BEARING OF SOUTH 89°21'11" WEST.
2. THERE MAY BE OTHER RECORDED DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY THAT ARE NOT SHOWN ON THIS SKETCH OF DESCRIPTION.
3. ATTENTION IS DIRECTED TO THE FACT THESE MAPS MAY HAVE BEEN ALTERED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALE DATA.
4. A CERTIFICATE OF TITLE INFORMATION PREPARED BY "FIRST AMERICAN TITLE INSURANCE COMPANY" DATED NOVEMBER 29, 2012, FILE NO. 2037-2864232 WAS REVIEWED BY THE SURVEYOR AND EXCEPTIONS (IF ANY) NOTED ON SAID CERTIFICATE ARE SHOWN HEREON.

FOR: ORLANDO ORANGE COUNTY EXPRESSWAY AUTHORITY

STATE ROAD 429

DESIGNED BY: RJM

DATE: 3/18/14

DRAWN BY: DJK

JOB NO:

APPROVED BY: RJM

OOCEA PROJECT NO: 429-204

URS

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REVISIONS:

SHEET: 2 OF 2