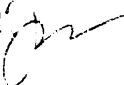


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MEMORANDUM

TO: Central Florida Expressway Authority Board Members

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

DATE: October 26, 2015

RE: S.R. 429 Wekiva Parkway, Project 429-202; Parcel 130 Part A and B
Approval of Offer of Judgment

Winderweedle, Haines, Ward & Woodman, P.A., right of way counsel, seeks this Board's approval to serve an Offer of Judgment for Parcel 130. CFX filed its eminent domain action on June 16, 2014. The Court entered an Order of Taking on August 12, 2014.

DESCRIPTION and BACKGROUND:

Parcel 130 involves a relatively small strip take for the purpose of improving Yothers Road. The subject property is located along the north side of Yothers Road, approximately 1,000 feet west of its intersection with Plymouth Sorrento Road, in unincorporated Orange County, Florida. The parent tract contains 4.4548 acres of land area. The Parcel 130 acquisition is a rectangular shaped taking of approximately .1928 acres of land. The taking is located in the southwest portions of the subject property and is comprised of approximately .0773 acres of unencumbered land area and approximately .1155 acres of land area located within the Yothers Road right-of-way.

CFX retained the services of Mr. Stephen J. Matonis, MAI, MRICS with Integra Realty Resources to appraise the property. The subject property is improved with a 1,626 square foot single family residence that was built in 1976, two manufactured homes containing 720 and 672 square feet of heated area, a warehouse, and other supporting site improvements. Mr. Matonis notes that the subject property is zoned ZIP (Zoning-In-Progress) by the City of Apopka. Mr. Matonis concludes that the highest and best use, as improved, is for interim rental of the improvements until the demand for residential development of the site is warranted.

The comparable land sales reflect a range of value of \$28,800 to \$39,849 per acre of land area. Mr. Matonis concluded to a fee simple market value estimate of \$32,000 per acre, or \$135,225 for the total parent tract land value. The contributory value of the improvements was estimated to be \$51,800. This resulted in an estimated market value conclusion for the parent tract of \$193,025. The value of the land taken was estimated to be \$2,659, and the contributory

value of the improvements in the taking were estimated to be \$6,000. Minor site improvements in the taking included an access drive to the subject residences and chain link fencing with three-strand barbed wire. Mr. Matonis developed a minor net cost to cure at \$4,900.

The subject taking does not directly impact any of the building improvements. However, due to the remainder's adjacency to the limited access right of way line in the after condition, Mr. Matonis opined that the land and improvements were damaged by 10%, or \$27,301. These valuation conclusions are summarized as follows:

Value of Part Taken (land and improvements)	\$ 8,659
Damages to Remainder (10%)	\$27,301
<u>Cost to Cure</u>	<u>\$ 4,900</u>
Total Compensation	\$40,860

OFFER OF JUDGMENT

It is requested that this Board approve service of an Offer of Judgment in this case. Offers of Judgment are authorized in eminent domain actions under §73.032, Florida Statutes, which provides that if a defendant rejects an Offer of Judgment and the verdict or judgment is less than the amount of that offer, the court shall not award any costs incurred by the defendant after the date the Offer was rejected. A defendant has up to 30 days after an Offer of Judgment is served to reject the offer. A defendant is also entitled to serve an Offer of Judgment on the Petitioner for an amount that is under \$100,000.00. If the judgment or verdict is equal to or more than the amount of the Offer, landowner's counsel can recover attorneys fees based on the factors set forth in §73.092(2) and (3) (which considers attorney time and labor, difficulty of the case, etc.), rather than on statutory betterment.

The undersigned counsel seeks the Board's approval to serve an Offer of Judgment in the amount of **\$49,032.00**. This amount is derived by applying a 20% incentive over-and-above the appraised value in order to induce an early settlement of this case. CFX has already deposited \$40,860 as its good faith estimate of value. Therefore, if the offer of judgment is accepted, CFX will have to pay an additional \$8,172.00 to resolve this case. As it does not appear that the landowner has yet retained counsel, resolution at this stage would minimize or eliminate landowner attorneys fees and expert fees.

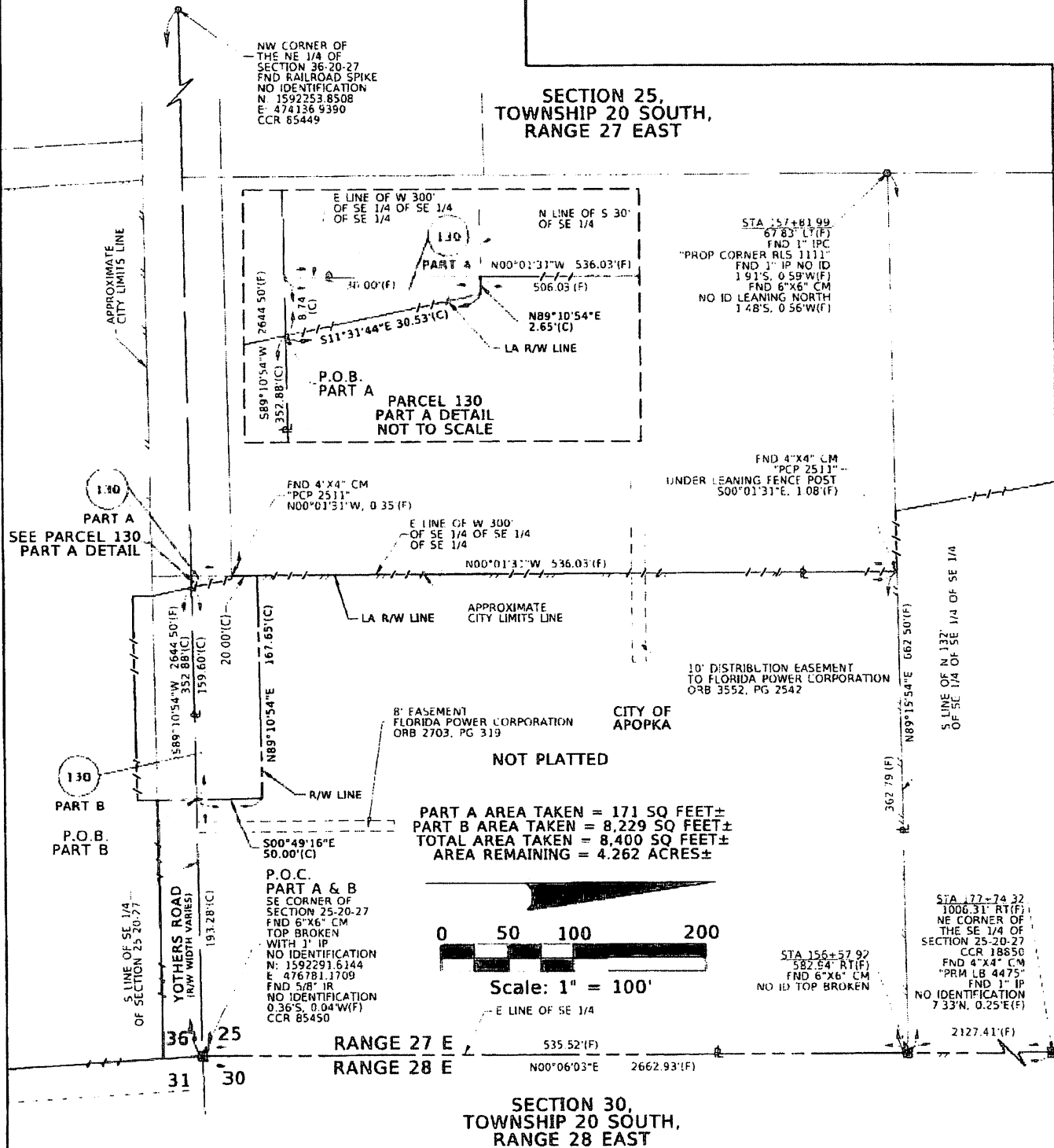
RECOMMENDATION:

The undersigned counsel respectfully requests that this Board approve service of an Offer of Judgment in the amount of \$49,032.00 to fully resolve the landowner's interest in this case.

ATTACHMENTS:

Sketch of Subject Property
Map Depicting Location of Property

SKETCH OF DESCRIPTION



SEE SHEET 1 FOR LEGAL DESCRIPTION
SEE SHEET 3 FOR GENERAL NOTES AND LEGEND

SHEET 2 OF 3

FOR: ORLANDO-ORANGE COUNTY
EXPRESSWAY AUTHORITY

DATE: MAY 23, 2013

PROJECT NO.: H20-01

DRAWN: PMM CHECKED: JMS

STATE ROAD 429
OOCEA PROJECT NO. 429-202
PARCEL NO. 130



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