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M E M O R A N D U M

TO: Central Florida Expressway Authority Board Members

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

DATE: March 24, 2015

**RE: S.R. 429 Wekiva Parkway, Project 429-202; Parcel 144 (Hiatus Parcel) - Approval
for Settlement**

Winderweedle, Haines, Ward & Woodman, P.A., right of way counsel, seeks the Board's recommendation of approval of a settlement with Reinco, Inc., (the "Owner"), for the acquisition of Parcel 144 (the "Taking" or "Property") for the construction of the S.R. 429 Wekiva Parkway, Project 429-202. The Central Florida Expressway Authority ("CFX") took Parcel 144 on July 23, 2014 through a Stipulated Order of Taking.

DESCRIPTION and BACKGROUND:

Parcel 144 is a total taking of a narrow strip of land that is considered to be a "hiatus parcel," located within the existing right-of-way of Yothers Road, in Orange County, Florida. Reinco, Inc., a dissolved Florida corporation, is the owner of record. The property contains an area of 0.069 acres, or 3,000 square feet. It is contiguous to property zoned A-1, Citrus Rural District, which provides for agricultural uses. The future land use designation is rural/agricultural.

CFX's appraisal of the property was prepared by Stephen J. Matonis of Integra Realty Resources-Orlando, with a date of value of September 12, 2013. Since the adjoining property is improved with three single-family residences, the reasonable use of the subject property was considered to be similar. Therefore, Mr. Matonis used the "across the fence" valuation technique to appraise this property. This methodology assumes that the subject property is typical to the adjoining property use. Based on this assumption, the appraiser developed a unit of value for the adjoining property, and then applied this unit of value to the subject property.

Mr. Matonis used the sales comparison approach to consider the price of other low density residential homes in close proximity to the subject. After considering four (4) comparable sales that ranged in an adjusted sales price of \$28,800 per acre to \$37,505 per acre, Mr. Matonis reconciled on a value of \$30,000 per acre for the subject property.

Mr. Matonis further opined that the existing use of the land as a public right-of-way for Yothers Road already encumbered 95% of the fee owner's "bundle of rights." Legally, the property could not be assembled because the remaining contiguous lots would not have an alternative access. Therefore, the owner would only be entitled to 5% of the per acre value of the property. Mr. Matonis concluded that the amount of compensation owed for the subject property was \$100, calculated as follows: .069 acres x \$30,000 per acre x 5% = \$103 (\$100 rounded).

As stated previously, the subject property is owned by Reinco, Inc., a Florida corporation that was voluntarily dissolved as of June 25, 1982. Although a diligent search and inquiry was conducted, the principals, directors, officers, agents or other persons claiming by, through, or under Reinco, Inc. could not be located. Accordingly, Reinco, Inc. was served with notice of the eminent domain action by publication pursuant to §73.031, *Florida Statutes*. Given the dissolution of the corporation and that a representative could not be located, the Court, pursuant to §607.1405(5), *Florida Statutes*, appointed Prineet Sharma as the attorney ad litem to represent the landowner's interest in this matter.

EXPERT AND ATTORNEY FEES:

CFX retained the services of Stephen J. Matonis of Integra Realty Resources-Orlando. CFX compensated Mr. Matonis a total of \$3,500.00 to appraise the subject property. Payment was based on a negotiated flat-fee rate whereby Mr. Matonis also appraised several other properties in the same vicinity, and could spread out certain costs over several parcels. The landowner did not have a corresponding expert invoice for this service.

Lastly, as described above, Mr. Prineet Sharma was appointed as the landowner's attorney ad litem. Mr. Sharma is entitled to recover attorney's fees and has agreed to be paid a negotiated fee of \$2,000.00.

Counsel has reviewed the rates, hours and amount sought by the owner's experts and paid to CFX's experts and believes them to be reasonable.

PROPOSED SETTLEMENT:

The parties have reached a proposed settlement in the amount of \$3,000, inclusive of attorney's fees and costs, for the acquisition of Parcel 144. The proposed settlement requires CFX to pay \$1,000 for the landowner's interest and \$2,000 to Mr. Sharma for attorney's fees, less the good faith amount of \$200 that was previously deposited into the Registry of the Court pursuant to the Stipulated Order of Taking, leaving a remaining balance of \$2,800. There are no appraisal fees or other expert fees for the landowner in this case. As part of the settlement, CFX will be required to deposit the remaining balance of \$2,800 into the Registry of the Court within thirty (30) days of the entry of a Stipulated Final Judgment.

Acceptance of the proposed settlement is recommended and is in CFX's best interest. Prolonging litigation will subject CFX to additional attorney's fees and costs as well as additional expert fees and costs, which CFX would ultimately be responsible for as part of the landowner's compensation as provided by §73.091 and §73.092, *Florida Statutes*. Acceptance of the proposal

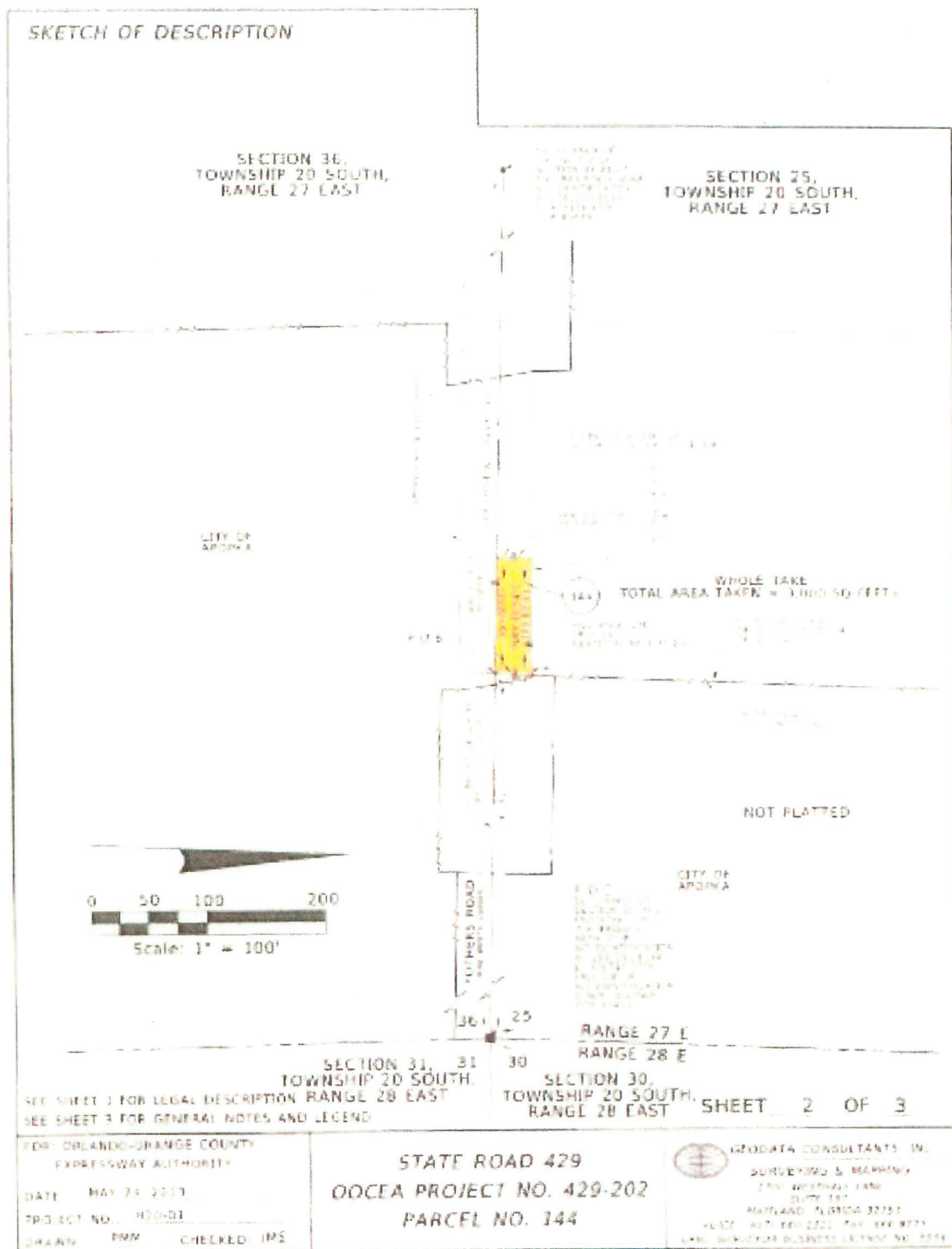
will eliminate further risk and unnecessary expenses for CFX in this case. The proposed settlement will resolve all pending matters in this case, including the property owner's attorneys fees and expert costs.

RECOMMENDATION:

The proposed settlement was recommended for Board approval by the Right of Way Committee at the March 27, 2015 meeting. We respectfully request the Board's approval of the proposed settlement in the amount of \$3,000.00 in full settlement of all claims for compensation for the acquisition of Parcel 144.

ATTACHMENT:

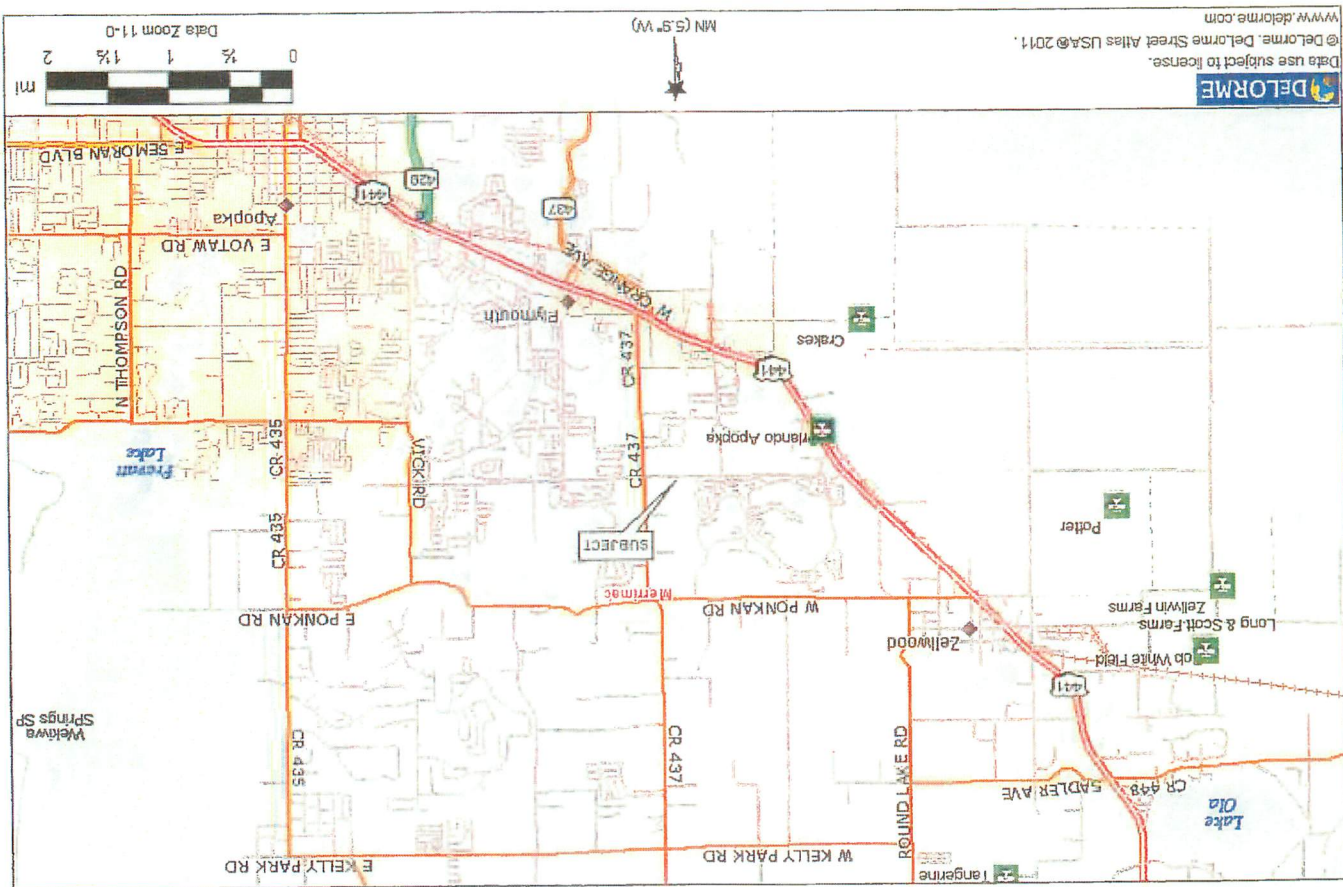
Exhibit A-Sketch of Subject Property
Exhibit B-Map Depicting Location of Property



Wekiva Parkway - Section 429-202(1A) Parcel 144
Yothers Rd. Hiatus Parcel
Apopka, Florida

EXHIBIT "A"

Market Area Map



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Wekiwa Parkway - Section 429-202(1A) Parcel 144

EXHIBIT "B"

