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**M E M O R A N D U M**

**TO: Central Florida Expressway Authority Board Members**

**FROM: Robert L. Simon, Jr., Right of Way Counsel  
Winderweedle, Haines, Ward & Woodman, P.A.**



**DATE: July 24, 2014**

**RE: S.R. 429 Wekiva Parkway, Project 429-202; Parcel 134 (Parts A, B & C)  
Recommendation of Approval for Settlement**

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Winderweedle, Haines, Ward & Woodman, P.A., right of way counsel, seeks the Board's approval of a settlement with Mary L. Harvey and Donald Churaman (the "Owners"), for the acquisition of Parcel 134 (Parts A, B & C) (the "Taking" or "Property") for the construction of the S.R. 429 Wekiva Parkway, Project 429-202.

**DESCRIPTION and BACKGROUND:**

The Taking consists of approximately 1.55 acres of land within a 3.69 acre parent tract located along the north side of Yothers Road and west of its intersection with Plymouth Sorrento Road in unincorporated Orange County. The Property is zoned A-1, Citrus Rural District, by Orange County. The future land use designation is rural/agricultural. The Property is currently improved with a single-family residence constructed in 1930 containing approximately 1,814 square feet of heated living area, a carport containing approximately 500 square feet, a storage barn containing approximately 500 square feet, a screened porch containing approximately 300 square feet, a greenhouse containing approximately 140 square feet, landscaping consisting of grass and trees, hog wire fencing and one metal gate. See attached Exhibit "A."

CFX's appraisal of the property was prepared by Mr. Stephen J. Matonis of Integra Realty Resources-Orlando, with a date of value of September 11, 2013. Mr. Matonis estimated the value of the Taking to be \$92,600.00. Mr. Matonis concluded that the Property's highest and best use as vacant is to hold the property for future residential development. The Owners were provided with a copy of CFX's appraisal.

CFX filed its eminent domain action on April 24, 2014.

The parties have been participating in settlement negotiations and have reached a proposed agreement on the purchase price for the acquisition of Parcel 134 (Parts A, B & C). The parties

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have conditionally agreed to the following settlement terms, subject to Right of Way Committee recommendation and final CFX Board approval:

CFX would pay the Owners, Mary Harvey and Donald Churaman, the sum of \$113,200.00 for the Taking and the sum of \$85,600.00 for the approximate 2.14 acre remainder tract. CFX would also pay statutory attorneys' fees and expert fees in the amount of \$40,046.00 in accordance with Florida Statutes §73.092(1)(a) and §73.091(1).

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 landowners' compensation as provided by Florida Statutes §73.091 and §73.092. 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 owners' attorneys fees and expert costs.

**RECOMMENDATION:**

The proposed settlement was recommended for Board approval by the Right of Way Committee at the July 15, 2014 meeting. We respectfully request the Board's approval of the proposed settlement in the amount of \$238,846.00 in full settlement of all claims for compensation for the acquisition of Parcel 134 (Parts A, B & C).

**ATTACHMENT:**

Exhibit A-Sketch of Subject Property

## Parcel 134 Sketch

