CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: Central Florida Expressway Authority Board Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel Junda Def

DATE: September 26, 2016

RE: Central Florida Expressway Authority v. Cecil and Frankie Benton et al.,

Case No. 2015-CA-001237, Parcels 322 and 822

Location: 22521 Coronado Somerset Drive, Sorrento, Lake County, Florida Parent: 5.11 acres; Taking: 1.322 acres and 0.18 acres; Remainder: 3.607 acres

DESCRIPTION OF PROPERTY AND TAKING

Cecil and Frankie Benton are the owners of a 5.11-acre tract of property off of Coronado Somerset Drive, which is south of Wolf Branch Road and west of County Road 437 in Lake County, Florida. The property has a zoning designation of Agriculture District and a future land use designation of Regional Office. The property is improved with a 1,674-square-foot residence built in 1973. It has 3 bedrooms, 2 bathrooms, kitchen, family room, living room, dining room, office, and laundry room. The property is encumbered with a non-exclusive right-of-way easement for Coronado Somerset Drive. The easement is improved with a two-lane asphalt paved road and is 60 feet wide.

The taking consists of two parcels. Parcel 322 is a 1.322-acre fee simple taking in the southwest corner of the property. Parcel 822 is a 0.181-acre easement along Coronado Somerset Drive. The remainder is 3.607 acres. In the after condition, the property will be adjacent to an elevated expressway and the home will be close to the limited access boundary line.

CFX'S APPRAISAL REPORT

Christopher D. Starkey, MAI, appraised the property for CFX. He concluded that the highest and best use of the property is as improved. Applying the sales comparison approach, Mr. Starkey estimated the value at \$27,300 per acre with sales ranging from roughly \$23,946 to \$29,040 per acre. He valued the parent tract's land at \$139,000.

Mr. Starkey then applied the sales comparison approach to value the property as improved. The improvements included the 1,674-square-foot home, detached garage, unfinished barn, private septic, well, barb wire fencing, wood fencing, metal gate, and hog wire fencing. The sales ranged in price from \$83.87 to \$121.36 per sq. ft. or \$94.54 to \$122.61 per sq. ft after adjustments. Applying \$122 per sq. ft., the value of the property as improved was \$204,000. Mr. Starkey also analyzed the value of the improvements on the property with the cost approach and estimated the depreciated replacement cost of the improvements at \$51,000.

www.cfxway.com

Reconciling the various approaches, Mr. Starkey concluded that the value of the parent tract as improved totaled **\$200,000**.

Regarding severance damages and cost to cure, Mr. Starkey opined that after the taking, the value of the remainder would be diminished by 50%. There was a cost to cure to replace 450 linear feet of fencing and the septic system in the amount of \$13,000.

In sum, Mr. Starkey estimated the value of the part taken along with severance damages as follows:

*	Starkey	
Land Taken (at \$27,300 per acre) Part A: 1.322 acres	\$ 41,000	
Part B: 0.181 acres		
Improvements Taken	\$ 8,350	
Severance Damages (at 50%)	\$ 60,650	
Cost to Cure	\$ 13,000	
(450 linear feet of fencing, Septic		
System)		
Total for Owners	\$123,000	

OWNERS' APPRAISAL REPORT

The owners retained Richard C. Dreggors, GAA, state-certified general real estate appraiser, to value the property. He concluded that full compensation as of the date of the taking, September 9, 2015, should be \$292,500. He valued the land at \$45,000 per acre, relying upon sales ranging from \$39,063 to \$49,342 per acre for the land. He valued the parent tract's land at \$230,000.

Regarding the single-family residence, Mr. Dreggors relied upon sales ranging in price from \$107 to 125 per square foot, settling on a value of \$110 per square foot or \$184,100 for the residence. Mr. Dreggors also analyzed the value of the home by examining the reproduction cost of the improvements subject to depreciation. He concluded that the reproduction cost of the 40-year old home would be \$466,743 subject to 60% depreciation based upon an effective age of 30 years and an economic life of 50 years, yielding a depreciated value of \$186,700. After combining the value of the land and improvements and then reconciling the two approaches, Mr. Dreggors opined that the value of the parent tract before the taking was \$415,000.

Mr. Dreggors concluded that severance damages would be 60%, just 10% higher than Mr. Starkey's percentage estimate of severance damages. Nevertheless, because Mr. Dreggors placed a higher value on the parent tract as improved, less the part taken, the actual severance damage component value was significantly higher than Mr. Starkey's estimate. A table summarizing Mr. Dreggors' opinion of value is below.

	Dreggors
Land Taken (at \$45,00 per acre)	\$ 59,400
Part A: 1.322 acres	
Part B: 0.181 acres	
Improvements Taken	\$ 8,400
Severance Damages	\$ 213,600
Cost to Cure	\$ 11,100
(450 lft. of fencing, septic system)	
Total for Owners	\$292,500

EXPERT FEES AND COSTS

Counsel for the owners submitted invoices from two experts totaling \$35,093, copies of which are attached. The invoices consist of the following:

Expert	Invoice	
Calhoun, Dreggors & Associates	\$19,893	
MEI Civil, LLC	\$15,200	
Total	\$35,093	

NEGOTIATIONS AND PROPOSED SETTLEMENT

The parties mediated on September 12, 2016, and reached a proposed compromise consisting of an all-inclusive settlement of \$279,000. The exact breakdown of the all-inclusive settlement amount is unknown. Assuming the experts received \$30,000, the sum of \$249,000 would be allocated to the owners and their attorneys. Applying a statutory attorney's fee of 33% of the benefit and a first offer of roughly \$109,100, the owners would theoretically receive \$214,000 and the statutory attorney's fee would be just under \$35,000.

	Starkey	Dreggors	Proposed Settlement
Total for Owners	\$123,000	\$292,500	\$214,000*
Expert Fees		\$ 35,093	\$ 35,000*
Statutory Attorney's Fees		\$ 60,522	\$ 30,000*
		\$388,115	\$279,000

*Hypothetical Breakdown

This proposed settlement should neither be construed nor interpreted to be CFX's position at trial or in any other case, nor should the proposed settlement be construed or interpreted to be an agreement with the owners' factual or legal positions.

CFX v. Cecil and Frankie Benton et al., Case No. 2015-CA-001237, Parcels 322 and 822 Page 4 of 9

REQUESTED ACTION

Board approval is requested to accept the proposed Settlement Agreement in the amount of \$279,000, resolving all claims for compensation for the taking of Parcels 322 and 822, including severance damages, tort damages, business damages, interest, attorney's fees, attorney's costs, expert fees, expert costs, and any other claim, subject to apportionment, if any.

The Right of Way Committee recommended approval on September 28, 2016.

Attachments: Aerials and Photographs

Mediated Settlement Agreement Invoices from Counsel for the Owners

cc: Sidney Calloway, Esq., Shutts & Bowen

Reviewed by: Joseph Hassistone

SITE LOCATION MAP



TAX MAP

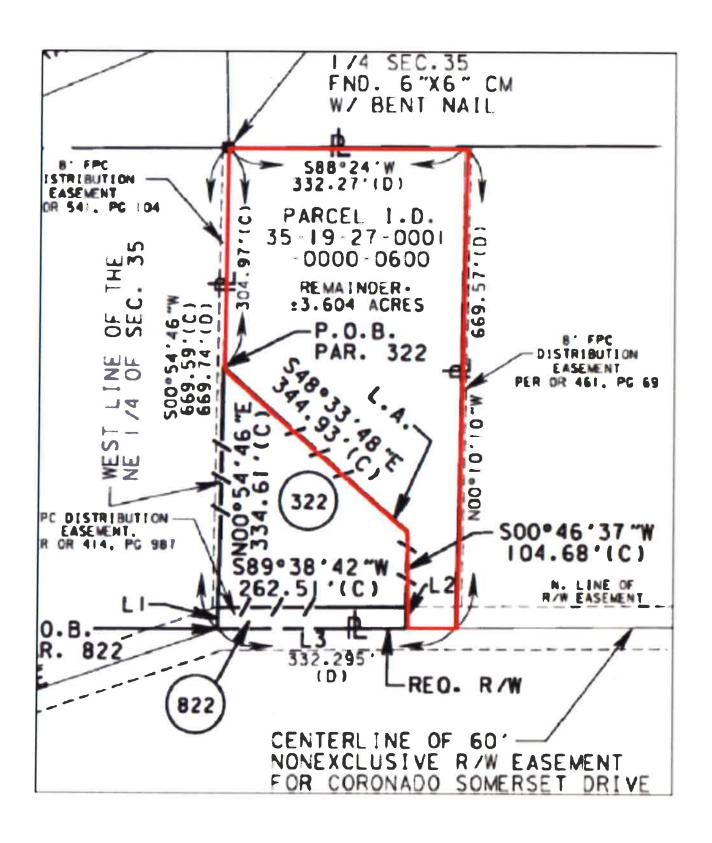


AERIAL PHOTOGRAPH





Wekiva Parkway - Section 429-206, Parcel 322 & Parcel 822 22521 Coronado Somerset Drive Sorrento, Florida



FIFTH

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND FOR ORANGE COUNTY, FLORIDA

LAKE	
CENTRAL FLORIDA EXPRESSWAY AUTHORITY, body politic and corporate, and an agency of the state	CASE NO: 2015 - CA -00 1237
under the laws of the State of Florida,	Subdivision
Petitioner,	Parcel 322 822
CULTIS WAYNE MONEIL, et. al.	
Respondent(s).	
SETTLEMENT AGREE	MENT
Respondent(s), CECIL A. BENTON and representatives of the Central Florida Expresswa Settlement Agreement:	and FRANKIE C BENTON ay Authority reached the following
1. Petitioner will pay to Respondent(s), CE FRANKIE C. BENTON	
(referred to as "Respondent") the sum of Two HUND THOUS AND DOLLARS EXACTLY	RED SEVENTY - NINE Dollars
exactly (\$ 279,000,00), in full settlement of all cl	aims for compensation from Petitioner
whatsoever for the taking of Parcel 322/822	, including statutory interest and all
claims related to real estate and business damages, severa	nce damages, tort damages, attorney's
fees and litigation costs, expert witness fees, and costs.	The settlement sum may be subject to
claims of apportionment by any party in this case having subject property. Petitioner previously deposited in the R	a property interest in or a lien on the
faith estimate in	the amount of
	JE HUNDRED
Dollars (\$ 109,100,00). Within thirty days (3	(0) days from the date of receipt by
Petitioner's counsel of a conformed copy of the Stipulated	Final Judgment, Petitioner will pay to
Respondent, by deposit in the Registry of the Court the sun	a of ONE HUNDRED
SIXTY-NINE THOUSAND NINE HUNDRED	Dollars
exactly (\$169,900,09), representing the difference	e between the total settlement sum
referenced above and the Petitioner's previous deposit in th	us case.

2. This Settlement Agreement will be placed on the agenda for the Right of Way ("ROW") Committee and Central Florida Expressway Authority ("CFX") Board and is conditioned upon final approval by the ROW Committee and then the CFX Board.

- 3. The parties agree to continue the trial of this matter pending review by the CFX ROW Committee and CFX Board.
- 4. The parties agree to waive any confidentiality provisions set forth in Chapter 44 of Florida Statutes, the Florida Rules of Civil Procedure, and the Florida Rules of Evidence, if applicable, for the limited purpose of consideration of this proposed Settlement Agreement by the ROW Committee and the CFX Board.
- 5. Counsel for Petitioner will submit to the Court a standard Motion for Stipulated Final Judgment containing the terms and conditions of this Settlement Agreement within fifteen (15) days from the date of approval of this Settlement Agreement by the CFX Board.
- 6. This Agreement resolves all claims whatsoever, including claims of compensation arising from the taking of Parcel 322 822, severance damages, business damages, tort damages, interest, attorney's fees, attorney's costs, expert fees, expert costs, and any other claim.
- 7. This Settlement Agreement, executed by the parties and their counsel on this day of September, 2016, contains all the agreements of the parties.

1	
Linda S. B. Lanton	Grancie C. Leston
Print Name: Linda S. Brehmer Lanes	Print Name: Frankie (Benton
Central Florida Expressway Authority	Owner
Print Name: SIDNEY C. CAllow w	Exil a Bent
	Print Name: CeeIL A Benton
Counsel for CFX	Owner
Print Name: Caurana M Walton Mediator	Print Name: Edgas Lopez
Mediator	Attorney for Owner

Calhoun, Dreggors & Associates, Inc.

Real Estate Appraisers & Consultants

August 29, 2016

Edgar Lopez, Esq. c/o Harris Harris Bauerle Ziegler Lopez 1201 East Robinson Street Orlando, FL 32801

RE:

Owner:

Benton

Project:

Wekiva Parkway

Parcel No.: 322/822

County:

Lake

INVOICE

Review CFX documents and appraisal report, review subject information, conferences with owner's representative, meeting with owners, review right-of-way plans, land sales research/analysis, meeting with contractor to review RCN analysis, improved sales research/analysis, inspection of sales, preparation of appraisal, meeting with owners to review.

LaBarre:

37.50 Hrs. x \$150/Hr. =

\$ 5,625

Abrams Schmidt:

36.75 Hrs. x \$175/Hr. =

6,431

Dreggors:

28.50 Hrs. x \$275/Hr. =

7,837

Total

\$19,893

Thank you,

Richard C. Dreggors, GAA President

RCD/ddp

OWNER	BENTON	KIMBERLY LABARRE
PROJECT	WEKIVA PARKWAY	
PARCEL(S)	322/822	
COUNTY	LAKE	

DATE	TYPE OF SERVICE	HOURS
05/14/15	MEETING WITH RICK TO REVIEW OUR ASSIGNMENT,	0.75
07/08/15	BEGIN SALES RESEARCH.	4.25
07/13/15	CONTINUE SALES RESEARCH.	2.75
07/14/15	PREPARE FOR SITE INSPECTION.	0.50
07/15/15	INSPECT SUBJECT PROPERTY.	1.75
07/17/15	MET WITH RICK TO DISCUSS APPRAISAL ISSUES; CALLED CFX AND EXPRESSWAY AUTHORITY; RESEARCHING MAPS AND CONSTRUCTION PLANS.	0.75
08/01/15	SPOKE TO CONTRACTOR REGARDING SUBJECT IMPROVEMENTS.	0.25
09/03/15	PREPARE FOR AND ATTEND CONFERENCE CALL WITH OWNER'S REPRESENTATIVE; RESEARCH FOR NEW UPDATED SALES; MET WITH RICK TO DISCUSS.	1.25
09/08/15	SPOKE TO SURVEYOR AND PREPARE DOCUMENTS TO OBTAIN FEE QUOTE; SENT INFORMATION TO OWNER'S REPRESENTATIVE.	0.25
09/22/15	MET WITH CONTRACTOR TO DISCUSS SUBJECT PROPERTY.	0.25
10/22/15	CONTINUE SALES RESEARCH; MEETING WITH RICK TO DISCUSS SCOPE OF WORK.	3.00
10/23/15	MEETING WITH RICK REVIEW SALES ANALYSIS; CONTINUE TO RESEARCH SALES RESEARCH.	1.75
10/27/15	VERIFY SALES; PREPARE SALE WRITE-UPS.	4.75
10/28/15	PREPARE TAKING ANALYSIS AND ANALYZING DAMAGES TO THE REMAINDER; CONTINUE TO VERIFY SALES.	3,50
10/29/15	PREPARE DIFFERENCES CHART; MEETING WITH RICK.	1.25
11/02/15	SPOKE TO OWNER REGARDING REMAINDER ISSUES; CALLED AND SPOKE TO LAKE COUNTY PLANNING AND ZONING REGARDING AFTER SITUATION; REVIEW PLANS AND CFX REPORTS.	3.25

OWNER	BENTON	KIMBERLY LABARRE
PROJECT	WEKIVA PARKWAY	
PARCEL(S)	322/822	
COUNTY	LAKE	

COUNTY	LANE	
DATE	TYPE OF SERVICE	HOURS
11/04/15	SPOKE TO ENGINEER REGARDING SEPTIC TANK ISSUE.	0.25
11/17/15	SENT E-MAIL TO ENGINEER REGARDING SEPTIC TANK AND SURVEY ISSUES.	0.50
11/30/15	SPOKE TO ENGINEER REGARDING LACK OF RIGHOF-WAY PLANS; REVIEW MAPS AND LAYOUT OF PROPOSED ROADWAY.	HT- 0.75
12/08/15	SPOKE TO ENGINEER REGARDING SEPTIC SYSTE LOCATION.	EM 0.25
01/25/16	SPOKE WITH ENGINEER REGARDING SEPTIC TAN CONFERENCE CALL WITH OWNER'S REPRESENTATIVE; MET WITH RICK TO DISCUSS APPRAISAL ISSUES.	K; 1.75
07/06/16	INSPECT SALES.	3.75
	TOTAL HOURS	37.50

OWNER	BENTON	COURTNEY ABRAMS
PROJECT	WEKIVA PARKWAY	
PARCEL(S)	322/822	
COUNTY	LAKE	

DATE	TYPE OF SERVICE	HOURS
03/09/15	REVIEW FILE/SUBJECT MATERIAL; REVIEW OF EXPRESSWAY'S APPRAISAL.	3.25
03/11/15	ANALYSIS OF EXPRESSWAY'S SALES.	2.25
03/12/15	REVIEW/ANALYSIS OF CONDEMNOR'S APPRAISAL AND SUBJECT MATERIAL.	1.50
03/13/15	RESEARCH/ANALYSIS OF CONDEMNOR'S SALES.	2.00
06/23/15	MEETING WITH RICK TO REVIEW SCOPE OF WORK; PREPARE FOR MEETING; RESEARCH CITY OF MOUNT DORA DOCUMENTS.	1.75
07/06/16	ANALYSIS OF SALES; ASSISTED WITH APPRAISAL; REVIEW OF UPDATED CONDEMNOR APPRAISAL.	4.50
07/07/16	ASSISTED WITH APPRAISAL; ANALYSIS OF SALES.	6.25
07/08/16	ASSISTED WITH APPRAISAL; MEETING WITH RICK TO DISCUSS SALES AND DAMAGES.	4.00
07/11/16	ASSISTED WITH APPRAISAL.	3.25
07/12/16	REVIEW OF ENGINEERING REPORT; ASSISTED WITH APPRAISAL.	3.00
07/13/16	MEETING WITH RICK TO REVIEW ANALYSIS; FINALIZE ADDENDA; CONFERENCE CALL WITH ENGINEER.	2.75
08/18/16	PREPARE FOR AND ATTEND MEETING WITH OWNERS AND EXPERTS.	2.25
	TOTAL HOURS	36.7 5

OWNER	BENTON	RICHARD C. DREGGORS,
PROJECT	WEKIVA PARKWAY	
PARCEL(S)	322/822	
COUNTY	LAKE	

DATE	TYPE OF SERVICE	HOURS
03/04/15	REVIEW CFX DOCUMENTS AND APPRAISAL REPORT.	2.75
03/27/15	REVIEW INFORMATION FROM OWNER'S REPRESENTATIVE.	2.00
05/14/15	REVIEW INFORMATION ON SUBJECT; MEET WITH ASSOCIATE TO PREPARE FOR UPCOMING MEETING WITH OWNERS.	1.00
05/29/15	PREPARE FOR AND REVIEW DOCUMENTS; CONFERENCE WITH OWNER'S REPRESENTATIVE.	1.50
06/24/15	PREPARE FOR MEETING; REVIEW EXAMPLES OF CONVERTED HOMES ALONG STATE ROAD 46.	0.75
07/17/15	MEETING WITH ASSOCIATE TO REVIEW INFORMATION NEEDED.	0.25
09/02/15	ASSIST WITH SALES RESEARCH; ANALYSIS OF DATA.	1.00
09/03/15	PREPARE FOR AND CONFERENCE WITH OWNER'S REPRESENTATIVE TO REVIEW SCOPE OF REMAINING WORK; REVIEW WITH ASSOCIATE.	0.75
09/22/15	MEETING WITH CONTRACTOR TO REVIEW THE RCN ANALYSIS.	0.50
10/22/15	ASSIST WITH LAND SALES RESEARCH AND ANALYSIS; ASSIST WITH IMPROVED SALES RESEARCH OF HOMES; ANALYSIS OF SALES; REVIEW WITH ASSOCIATE.	4.25
10/23/15	MEETING WITH ASSOCIATE TO REVIEW SALES DATA AND VALUATION OF REMAINDER.	0.75
10/29/15	MEETING WITH ASSOCIATE TO REVIEW SUMMARY OF THE PROPERTY.	0.50
01/25/16	REVIEW VALUES WITH ASSOCIATE.	0.75
07/06/16	MEETING WITH ASSOCIATE TO REVIEW SALES; CONFERENCE WITH ENGINEER REGARDING ACCESS TO REMAINDER AND DEADLINES.	1.25
07/08/16	REVIEW/WRITE REPORT.	4.25
07/13/16	REVIEW/WRITE REPORT.	4.50

OWNER PROJECT PARCEL(S) COUNTY	BENTON RICHA WEKIVA PARKWAY 322/822 LAKE	ARD C. DREGGORS, GAA
DATE	TYPE OF SERVICE	HOURS
08/18/16	ATTEND MEETING WITH OWNERS TO REVI ANALYSIS.	EW OUR <u>1.75</u>
	TOTAL HOURS	28.50

please make checks payable to:

m e i civil, LLC

964 Lake Baldwin Lane, Suite 200 Orlando, FL 32814 407-893-6894 fax 407-893-6851 www.meicivil.com

bill to:

Edgar Lopez, Esquire

Harris, Harris, Bauerle, Zeigler and Lopez
1201 E. Robinson Street
Orlando, FL 32801

Invoice Date:

9/9/2016

Invoice Number:

47045H-1REV

Invoice Amount Due:

\$15,960.00

JOB: SR 429, Parcel 322 / 822 Cecil & Frankie Benton

Engineering Analysis

Description	Hours	Rate	Fee	Total
Principal (DLM) Senior Project Manager (KSH) Senior Designer (JRR) Designer (MP)	31.0 4.5 39.5 12.5	\$265.00 \$205.00 \$125.00 \$90.00	\$8,215.00 \$922.50 \$4,937.50 \$1,125.00	\$8,215.00 \$922.50 \$4,937.50 \$1,125.00
			Subtotal	\$15,200.00
			Expense (5%)	\$760.00
			Total Fee Due	\$15,960.00

F

Payment Due Upon Settlement of Fees and Costs

Work Descriptions for Daniel L. Morris, P.E.

-47045h

Job Name

SR429, 322/822, Cecil and Frankie Benton

Date	Hours	Task	Work Description
11/16/2015	2.0		review appraisal report and roadway construction plans
1/25/2016	3.0		review Health Department codes and estimated septic system cost
7/8/2016	5.5		review appraisal report and roadway construction plans
7/10/2016	4.5		coordinate exhibit preparation, analysis of impacts, preliminary engineering report
7/11/2016	6.5		coordinate exhibit preparation, analysis of impacts preliminary engineering report
7/12/2016	5.5		finalize preliminary engineering report
7/13/2016	1,5		review CFX cost to cure estimates
8/18/2016	2.5		prepare for and attend meeting with property owners, experts and attorneys
Hours:	31.0		

Work Descriptions for Kevin S. Hebert, PE

-47045H

Job Name

SR 429 Sect 206, P322/822, Benton, Cecil & Frankie

Date Hours Work Description

12/2/2015

4.5 Prep and attend site visit, improvement locates, photographs

Total Hours:

4.5

Work Descriptions for John R. Russell

047045

Job Name

Wekiya Parkway P322 Cecil Benton

Date	Hours	Task	Work Description
7/7/2016	2.0		Download & Review FDOT Roadway Plans
7/7/2016	4.0		Draft FDOT Roadway Plans - R/W; Edge of Pvmt's & Retaining Walls
7/7/2016	2.0		Download & Review Appraisal Report
7/8/2016	5.0		Proposed Right of Way & Roadway BaseLine
7/8/2016	2.0		USGS, Site Aerial, FEMA & Location Map Exhibits
7/8/2016	2.0		Existing Conditions & Boundary
7/9/2016	6.0		Draft Proposed Roadway Plans - Road & Bridge
7/10/2016	3.0		UnCured Remainder Exhibit
7/10/2016	6.0		Draft Proposed Roadway Plans - Road & Bridge
7/11/2016	3.0		Area of Take Exhibit
7/11/2016	1.0		SetUp & Print Exhibits
7/11/2016	2.0		Before Conditions Exhibit
7/11/2016	1.5		Update & Plot Final Exhibits per Engineer Comments
Hours:	39.5		,

Work Descriptions for Mitchell Pentecost

-47045H

Job Name

SR429, P322/822, Benton, Cecil. & Frankie

Date	Hours	Work Description
11/16/2015	0.5	Setup physical job folder
11/17/2015	1.0	Begin work on before conditions/AOT to locate septic system
11/19/2015	4.0	Begin work on before conditions/AOT to locate septic system
12/2/2015	4.0	Site visit, layout taking and probe for septic tank/drain field. Take measurements of tank/df and locate to fixed points
12/3/2015	2.0	Sketch points taken yesterday to show septic/drainfield on aerial in taking.
12/8/2015	1.0	Tweak sketches for plot.
Hours:	12.5	