



## MEMORANDUM

TO: Central Florida Expressway Authority,      CLIENT-MATTER NO.: 19125.0120  
Governing Board

FROM: Sidney C. Calloway, Esquire, Right-of-Way Counsel

DATE: October 26, 2016

RE: Wekiva Parkway, Project 429-202, Parcel 219  
Recommendation for Service of an Offer of Judgment

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Shutts & Bowen LLP, Right-of-Way Counsel, submits the following recommendation for service of an Offer of Judgment, pursuant to Fla. R. Civ. P. 1.442 upon Respondents, Charles R. Chapman, Kim Chapman Sr., Chapman Orchid's, Inc. ("Respondents") as full compensation and complete settlement of all Respondents' claims for compensation and damages associated with CFX's acquisition of Parcel 219.

### DESCRIPTION AND BACKGROUND

Parcel 219 is approximately 3.54 acres of real property owned by Respondents. It was in its entirety and will be used for the extension of the Wekiva Parkway a/k/a S.R. 429, under Project No. 429-203. The acquisition was effectuated pursuant to a Stipulated Order of Taking entered on July 21, 2014. The OT was subsequently ratified by CFX's deposit of **\$643,500.00** into the Court Registry on July 31, 2014. July 31, 2014 is the date of valuation.

Parcel 219 is located along the north side of West Kelly Park Road, a two-lane local street and lies just west of Plymouth Sorrento Road. The parent tract which constitutes Parcel 219 includes two adjacent land parcels with a total land area of 3.45 gross and net developable acres (150, 456 s.f.). All areas of the property are considered to be uplands and to be usable. The first parcel is identified as Orange County Parcel ID No. 12-20-27-000-00-089 is improved with a 3813 square foot single-family residence. It was built in 1959 and includes a pool and a well and septic system. The second parcel is identified as Orange County Parcel No. 12-20-27-0000-00-022, is improved with a shade house, 3 greenhouses, and a wooden structure barn/office area that were constructed between 1976 and 2008 and which serve the

Respondents' commercial nursery business. Chapman Orchids, Inc. operated the nursery on the site since 2005, growing and selling a variety of orchids and other exotic plants. On the date of valuation, the land was zoned A-1 (Citrus Rural District) by Orange County, with a Rural Agricultural (R) future land use category (FLU).

The CFX's current appraisal of the property was prepared by Michael McElveen, of Urban Economic, Incorporated. Mr. McElveen has concluded that the highest and best use of the property is commercial vehicle related, office or retail and the interim use is agricultural and single family residential. Mr. McElveen used four (4) comparable land sales with prices ranging from \$1.97 per s.f. to \$6.48 per s.f. *McElveen opines that the subject property has a market value of \$3.25 per s.f., which thus provides a land value conclusion of \$488,983 or \$489,000 rounded (\$3.25 X 150,456).*

In order to determine the market value of Respondents' residential and agricultural improvements, Mr. McElveen used three (3) improved sales to determine an interim rental value of the residential improvements to be \$5.50 per s.f. and the greenhouse and shade house improvements to have an interim rental value of \$.60 per s.f. McElveen concluded that the estimated present market value of the improvements was \$88,144 for the residential improvements and \$55,364 for greenhouse and shade house (collectively *143,508 or \$143,500 rounded*). ***The total market value of both land and improvements, as of July 31, 2014 is thus concluded to be \$632,500.***

Respondents are represented by Andrew Brigham, Esquire. Discovery thus far revealed that Respondents are asserting \$2.9 million as full compensation for the taking of Parcel 219. The parties participated in mediation on August 14, 2015. Neither mediation, nor informal settlement discussions were successful. This matter is scheduled for a jury trial on April 10, 2017. A jury trial is likely to require seven business days to complete. Additionally, the parties will likely engage in significant pretrial discovery, including depositions. It is also certain that the parties will also prepare for, prosecute and defend several pre-trial motions in limine.

In an effort to resolve this case, minimize CFX's litigation expenses and costs and potentially cap the expenses and costs that are likely to be incurred by Respondents (which are recoverable against the CFX) it is recommended that CFX serve Respondents with an Offer of Judgment (OJ), which if accepted, would completely resolve the case, excepting attorney's fees and costs (experts). On the other hand, if the OJ is either rejected or not accepted by Respondents within 30 days from receipt of the OJ, and a jury subsequently renders a verdict equal to or less than the Offer of Judgment, then the property owner shall not recover any expenses or costs (including their expert witness fees), incurred after the expiration date of the OJ.

At this time we have extensive knowledge of property owners' market valuation approach for numerous parcels on this project. This especially includes the owners of Parcels 209/221 ("Kelly"), both of which abuts Parcel 219 and was the subject of a 7-day jury trial. We are also familiar with the positions taken by Respondents' legal counsel and experts, as well as prior court rulings, settlements and jury trial verdicts. ***Given such, I recommend that CFX serve***

**Respondents with an Offer of Judgment to fully settle Respondents' claims as to Parcel 219 in the amount of \$1,375,000.** The recommended Offer of Judgment reflects a valuation of the Respondents property in keeping with the previous jury trial verdict in the *Kelly* case, which found that property to be worth roughly \$5.14 per s.f. Applied to this case a value of Respondents' land is estimated at \$773,344, which when added to the value of improvements (\$143,500) is totaled to be about \$916,844. As an incentive to Respondents, but also leverage its intended effectiveness, the recommended Offer of Judgment also includes a 50% increase in the \$916,844, or \$458,422.

The Right-of-Way Committee recommended approval of service of an Offer of Judgment to Respondents, consistent with this request, at its October 26, 2016 meeting.

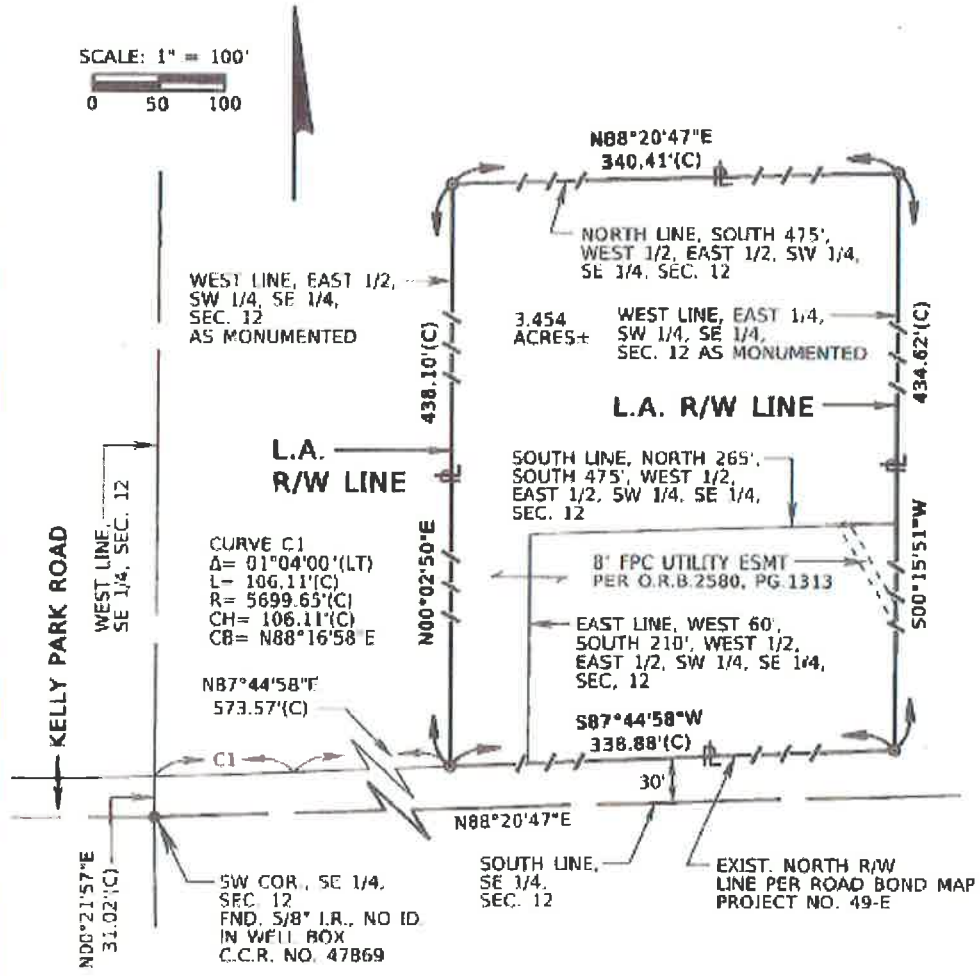
### **RECOMMENDATION**

For the reasons set forth in this Memorandum, Right-of-Way counsel respectfully request that the Governing Board approve of the Offer of Judgment in the amount of \$1,375,000, in full settlement of all Respondents' for full compensation for the taking of Parcel 219. The recommended offer of Judgment does not include Respondents' statutory attorney's fees or costs under section 73.092 and 73.091, Florida Statutes.

Reviewed by: Joseph Hassiatore

BEARING STRUCTURE BASED ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SEC. 12-20-27, BEING N88°20'47"E, FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, 1983/2007 ADJUSTMENT.

SCALE: 1" = 100'  
0 50 100



SECTION 12, TOWNSHIP 20 SOUTH, RANGE 27 EAST

PROJECT NO. 429-203

I HEREBY CERTIFY THAT THIS SKETCH OF DESCRIPTION IS IN ACCORDANCE WITH THE "MAPPING TECHNIQUE STANDARDS" AS REQUIRED BY CHAPTER 31.17, FLORIDA ADMINISTRATIVE CODE, PARAGRAPH 10.04(3)(C) AND 10.04(3)(D), FLORIDA STATUTES.

*William J. Rowler*  
 WILLIAM J. ROWLER  
 12224251-0000 04/13  
 DATE

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL MAILED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

CERTIFICATION OF AUTHORIZATION No. 18-0211

**ROWLER**  
 (PROFESSIONAL)

370 SOUTH WASHINGTON AVENUE  
 ORLANDO, FLORIDA 32801  
 (407) 244-5125  
 FAX: (407) 244-5068

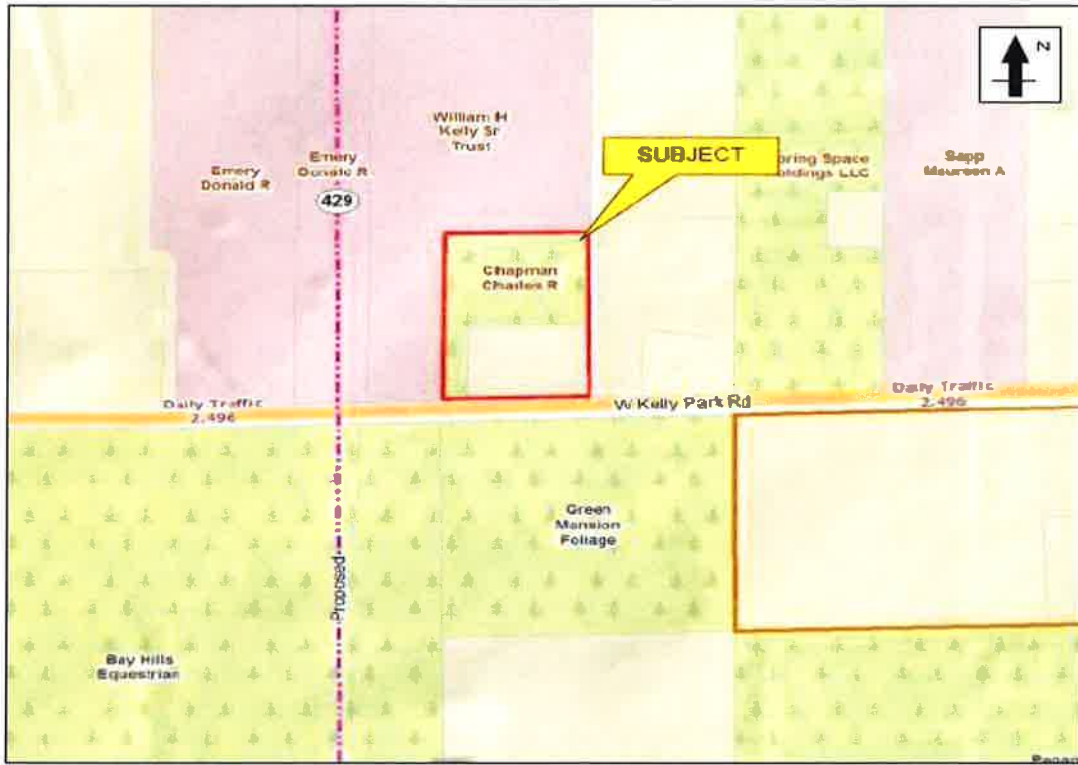
SKETCH OF DESCRIPTION.  
 THIS IS NOT A BOUNDARY SURVEY.

S.R. 429 (WEKIVA PARKWAY)  
 ORLANDO-ORANGE COUNTY  
 EXPRESSWAY AUTHORITY  
 ORANGE COUNTY, FLORIDA

PARCEL  
 219

SCALE: 1"=100'

SHEET 2 OF 2



Approximate Representation  
 Source: Orange County Property Appraiser





*Approximate Representation  
Source: Orange County Property Appraiser*

