



MEMORANDUM

TO: CFX Board Members CLIENT-MATTER NO.: 19125.0187
FROM: Sidney C. Calloway, Esq., Right-of-Way Counsel
DATE: April 25, 2017
RE: CFX v. Anthony Carter, et al.
Parcel 252
Case No.: 2015-CA-003555

Shutts & Bowen LLP, Right-of-Way Counsel, submits this Memorandum in support of its request to the CFX Board for approval to serve an offer of judgment, pursuant to Section 73.032 upon Respondent Anthony Randall Carter ("Owner") as full compensation and complete settlement of all the Owner's claims for compensation and damages associated with CFX's acquisition of Parcel 252.

DESCRIPTION, CFX MARKET VALUE CONCLUSIONS AND RECOMMENDATION

The Subject Property is located at 3245 Ondich Road in Apopka, Orange County, Florida. Parcel 252 is a fee simple partial taking consisting of .734 acres. Prior to the CFX's acquisition of Parcel 252, the parent tract encompassed 10.554 acres. After the taking of Parcel 252, the Owner's remainder property is 9.820 acres in size. As of the date of taking (June 18, 2015) the Subject Property was improved with a five-bedroom, two and one-half-bath single family residence containing about 2,371 square feet of living area that was built in 2006. Additional improvements included an attached two-car garage and an above ground swimming pool. The subject property is zoned A-1, Citrus Rural District by Orange County.

The CFX's appraisal of the Subject Property was prepared by David Hall of Bullard, Hall & Adams, Inc. Mr. Hall has concluded that, as of June 18, 2015, the highest and best use of the property was for continued residential use. Mr. Hall used six (6) comparable land sales with prices ranging from \$25,416 per acre to \$30,021 per acre to arrive at an estimate of the fair market value of the Subject's land value, which he concluded to be \$28,000 per acre, thus equating to a value of \$20,600 for the part taken or (\$28,999 X .734 acres). Mr. Hall then used three (3) improved single family home sales with prices ranging from \$94.26 s.f to \$111.52 s.f.

to derive an estimate of value of \$95.00 s.f. or \$225,300 for the single family residence and its associated improvements located on the Subject Property.

After the taking, access from the public right of way to the subject remainder property can be restored by virtue of a 40 foot ingress/egress and utility easement (Parcel 852) from Ondich Road which will effectively and legally allow the Owner to construct a driveway in the easement area. Speer Construction, LLC ("Speer") was retained by CFX to provide an estimate of the amount of the costs to construct the new stabilized driveway. Speer estimates that such costs will be \$22,100. After the construction of the Project, the single family residence will be situated within 325 feet of the new right-of-way line for the SR 429 ROW. Better stated, in this area, the interchange of SR 46 and SR 453 where Ramp J is located will range from 3.5 feet to 14 feet above the Subject Property and Ramp K will also be elevated 20 to 25 feet above the ground. Because of the proximity of the new roadway, interchange as well as the change in character of the neighborhood, Mr. Hall concluded that the Owner's remainder land would suffer a 40% reduction in market value and the single family residence would suffer a 30% reduction in market value. Mr. Hall's total valuation for Parcel 252 is \$220,300, which includes \$20,600 for land value, \$177,600 for damages to the Owner's remainder land and single family residence, and \$22,100 for the cost to cure.

As of the date of this Memorandum, CFX has not received any expert reports from the Owner, who is represented by Maguire Lassman PA. This case is currently set on the Court's January 8, 2018 jury trial docket. However, the parties will participate in court ordered mediation in June 2017. In an effort to move this case forward and to provide the Owner with a good faith settlement offer, as well as to attempt to cap the expert costs to be incurred by the property owner (which are recoverable against the CFX), we recommend that an offer of judgment be served on the Owner, which if accepted would conclude the case. The Owner may choose to reject CFX's offer of judgment or simply allow it to expire within the 30-day time prescription. Should the offer be rejected or allowed to expire and a jury later renders a verdict in an amount equal to or less than CFX's offer of judgment, the Owner would be legally barred from recovering any costs (including expert fees) that were incurred after the date the offer of judgment was rejected or expired.

RECOMMENDATION

For the reasons set forth in this Memorandum, Right-of-Way counsel respectfully requests the CFX Board to approve counsel's recommendation that the Owner be served with an offer of judgment in the amount of \$338,150, as full settlement of all Owner's claims for full compensation associated with the taking of Parcel 252. The recommended offer of judgment does not include the Owner's right to statutory attorney's fees or costs under section 73.092 and 73.091, Florida Statutes.

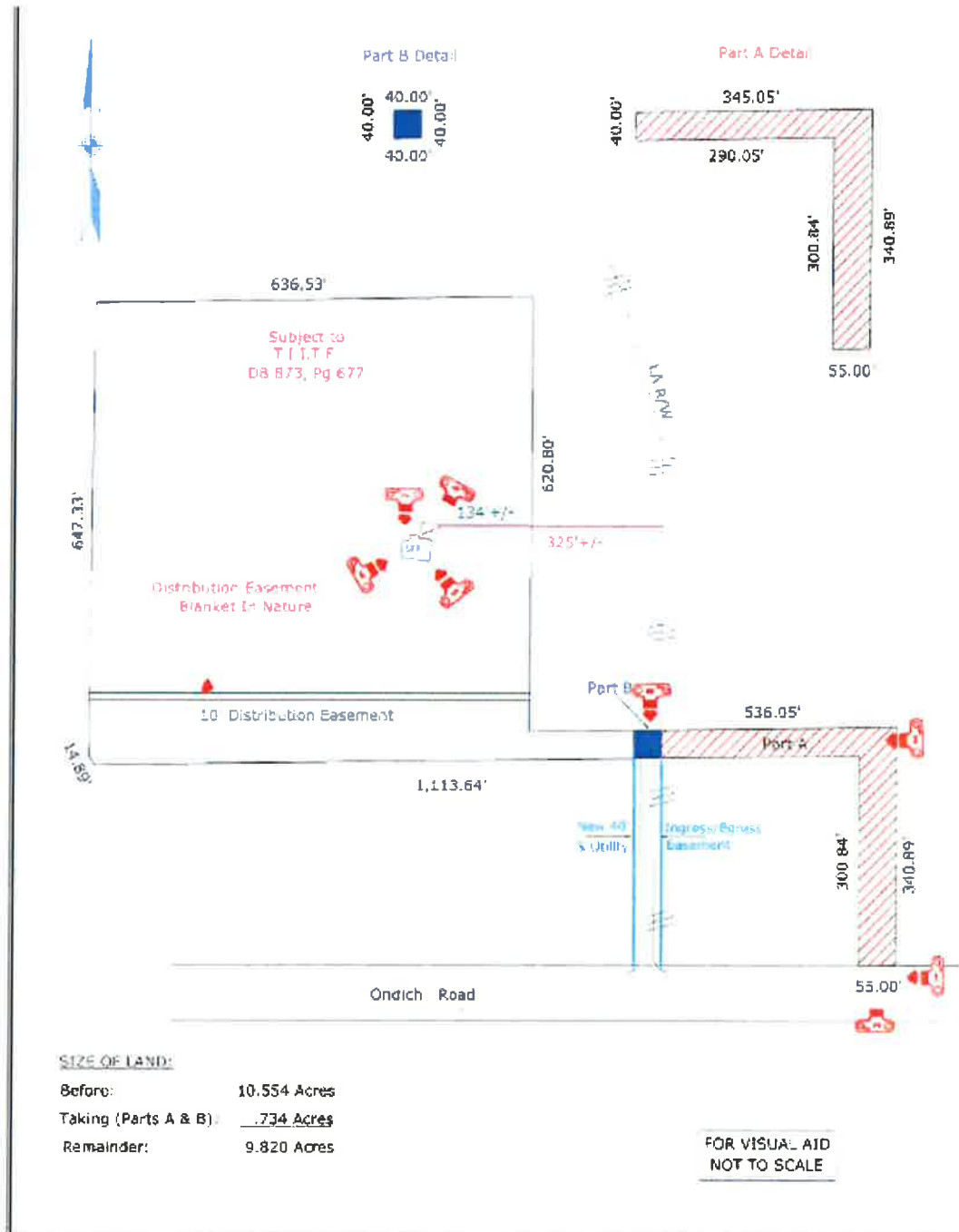
ATTACHMENTS

Exhibit "A" – Sketch of the Subject Property

Exhibit "B" – Photographs of the Subject Property and Area

Reviewed by: Joseph Hassiature

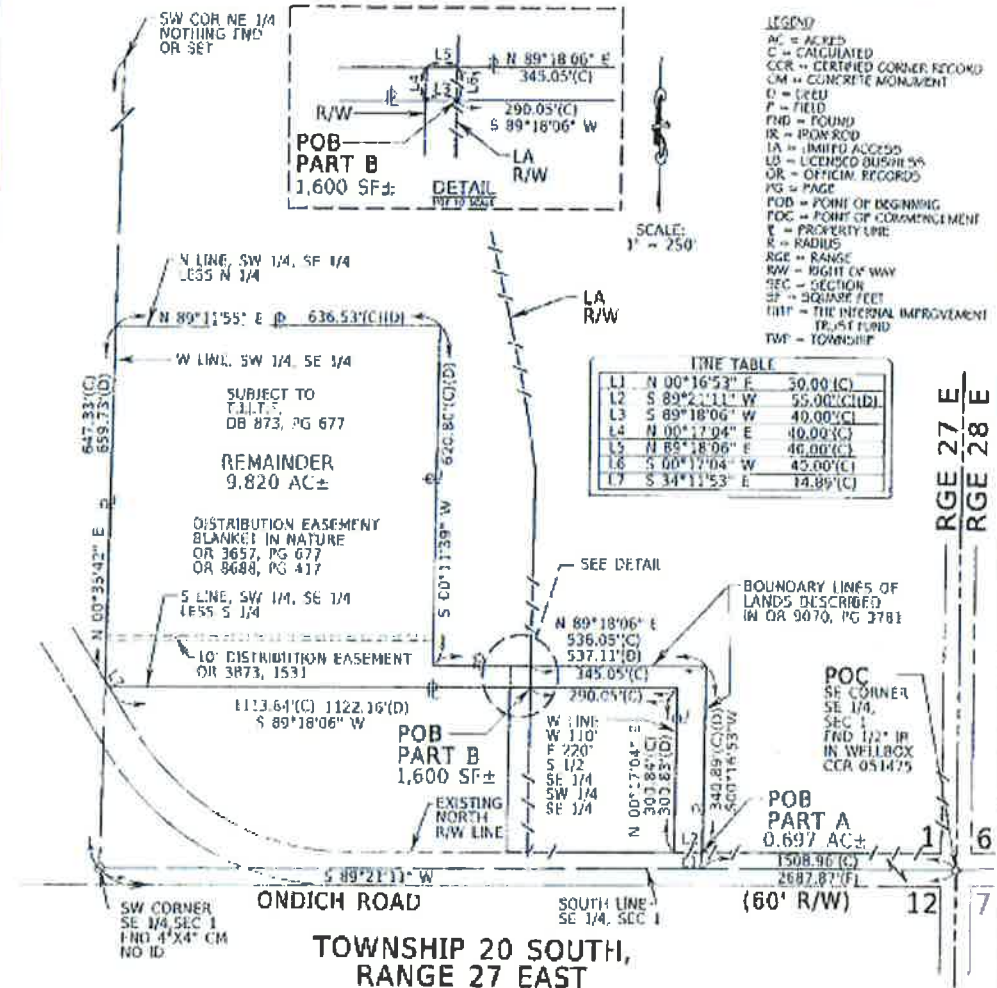




**PARCEL SKETCH
PARCEL 252**

SKETCH OF DESCRIPTION

PARCEL: 252
PURPOSE: LIMITED ACCESS RIGHT OF WAY
± RIGHT OF WAY
ESTATE: FEE SIMPLE



GENERAL NOTES:

- THE BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, 1983 NORTH AMERICAN DATUM, 2007 ADJUSTMENT, WITH THE SOUTH LINE OF THE SOUTH-EAST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, HAVING A BEARING OF SOUTH 89°21'11" WEST.
- THERE MAY BE OTHER RECORDED DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY THAT ARE NOT SHOWN ON THIS SKETCH OF DESCRIPTION.
- ATTENTION IS DIRECTED TO THE FACT THESE MAPS MAY HAVE BEEN ALTERED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALE DATA.
- A CERTIFICATE OF TITLE INFORMATION PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY DATED JANUARY 23, 2013, FILE NO. 2037-2934327 WAS REVIEWED BY THE SURVEYOR AND EXCEPTIONS (IF ANY) NOTED ON SAID CERTIFICATE ARE SHOWN HEREON.

FOR: ORLANDO ORANGE COUNTY EXPRESSWAY AUTHORITY

STATE ROAD 429

DESIGNED BY: RJM

DATE: 2/11/14

URS

URS CORPORATION
315 E. ROBINSON STREET
SUITE 245
ORLANDO, FL 32801-1949
PH (407) 452-0453
LICENSED BUSINESS NO. 6839

REVISIONS:

DRAWN BY: SMP

JOB NO:

APPROVED BY: RJM

OCCEA PROJECT NO. 429-204

SHEET 3 OF 3



1. LOOKING WEST AT THE FRONTAGE ALONG ONDICH ROAD



4. LOOKING NORTHEAST AT THE RESIDENCE

Taken By:

Photograph 4 Taken By:
David K. Hall
September 15, 2014

**PHOTOGRAPHS OF SUBJECT
PARCEL 252**



7. LOOKING SOUTH AT THE REAR OF THE RESIDENCE AND POOL



8. LOOKING SOUTH AT THE PART B TAKING