




## MEMORANDUM

TO: Central Florida Expressway Authority, CLIENT-MATTER NO.: 19125.0197  
Board Members

FROM: David A. Shontz, Esq., Right-of-Way Counsel 

DATE: April 25, 2017

RE: Wekiva Parkway, Project 429-205, Parcel 288  
Recommendation for Offer of Judgment

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Shutts & Bowen LLP, Right-of-Way Counsel, seeks the approval of the CFX Board for an Offer of Judgment in full settlement of Parcel 288 owned by Thomas Olin Mahaffey, Jr. and Julie Mahaffey for State Road 429 Wekiva Parkway, Project 429-205.

### DESCRIPTION AND BACKGROUND

Parcel 288 is a fee simple partial taking consisting of .690 acres which is the homestead of Mr. and Mrs. Mahaffey. The property is located at 2219 Haas Rd., Apopka, Florida. The subject property is improved with a 5,065 s.f., 4 bedroom, 3 ½ bath single family residence, detached auxiliary building and storage shed built in 1987. The parent tract consists of three contiguous parcels with a combined area of 27.029± acres.<sup>1</sup>

The parent tract is located in the City of Apopka and is zoned AG (Agricultural), which provides for residential and agricultural uses. The future land use designation is Agricultural.

The CFX's appraisal of the property was prepared by Chris Starkey of Integra Realty Resources. Mr. Starkey opined the highest and best use of the property is for residential use. Mr. Starkey used three (3) land sales with prices ranging from \$19,656 per acre to \$24,145 per acre to arrive at the valuation of \$24,000 per acre or \$16,600 for the land taken. Additionally, Mr. Starkey concluded \$580 for improvements within the taking (200 linear feet of hog wire fencing) and a 5% severance damage in the after condition due to proximity of the property to

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<sup>1</sup> On February 9, 2015, Thomas Olin Mahaffey, Jr. purchased parcel 06-20-28-0000-00-072 (0.690± acres) from Kenneth W. and Harvey Morris (Grantors) for \$41,400, or \$60,000 per acre. This parcel was not offered or listed on the open market prior to this purchase nor were the motivations of the seller and buyer disclosed. Overall, this sale has not been concluded to be an arm's length transaction and therefore CFX's appraisers did not rely upon it in their appraisal analysis or opinion of the market value of the Parcel as of the date of valuation.

the Wekiva Parkway, including loss of privacy, noise, visual impact and the diminishment of the rural country appeal or \$52,820. Accordingly, the total valuation by Mr. Starkey is as follows:

**Summary of Compensation.**

Parcel 288

Land	\$16,600
Improvements	\$580
Severance Damages	\$52,820
Cost to Cure	\$692
<b>Total compensation</b>	<b>\$70,692, or \$71,000</b>

Mr. and Mrs. Mahaffey are represented by Raymer F. Maguire, III. This matter is scheduled for a jury trial on the court's five (5) day jury trial docket beginning October 23, 2017. The case management deadlines are upcoming in the next 30 days through trial, however to date, Mr. Maguire has not prepared an appraisal report or provided a proposed settlement offer.

Accordingly, in an effort to potentially cap the costs to be incurred by the property owner (which are recoverable against the CFX), we are proposing an Offer of Judgment. If the Offer of Judgment is accepted by the property owner, then the case would be concluded. If the Offer of Judgment is not accepted within 30 days, then it expires. If a jury subsequently renders a verdict equal to or less than the Offer of Judgment, the property owner shall not recover any costs (including expert fees) incurred from the expiration of the Offer of Judgment through trial.

Based upon our extensive knowledge and review of numerous parcels on the project, positions taken by opposing counsel and experts, prior settlements and prior jury verdicts, I would propose an Offer of Judgment for Parcel 288 in the amount of \$225,000.00, plus statutory attorney's fees and experts costs. The Offer of Judgment reflects an increase in the land value, additional monies for the improvements and an increase in severance damages.

For the above-cited reasons, Right-of-Way counsel requests a recommendation for approval of an Offer of Judgment in the amount of \$225,000.00, plus statutory attorney's fees and experts costs, which is in the CFX's best interest.

**RECOMMENDATION**

We respectfully request that the CFX Board approve the Offer of Judgment in the amount of \$225,000.00, plus statutory attorney's fees and experts costs in full settlement of all claims for compensation in the acquisition of Parcel 288, subject to apportionment (if any). The Right of Way Committee recommended the settlement at its April 26, 2017 meeting.

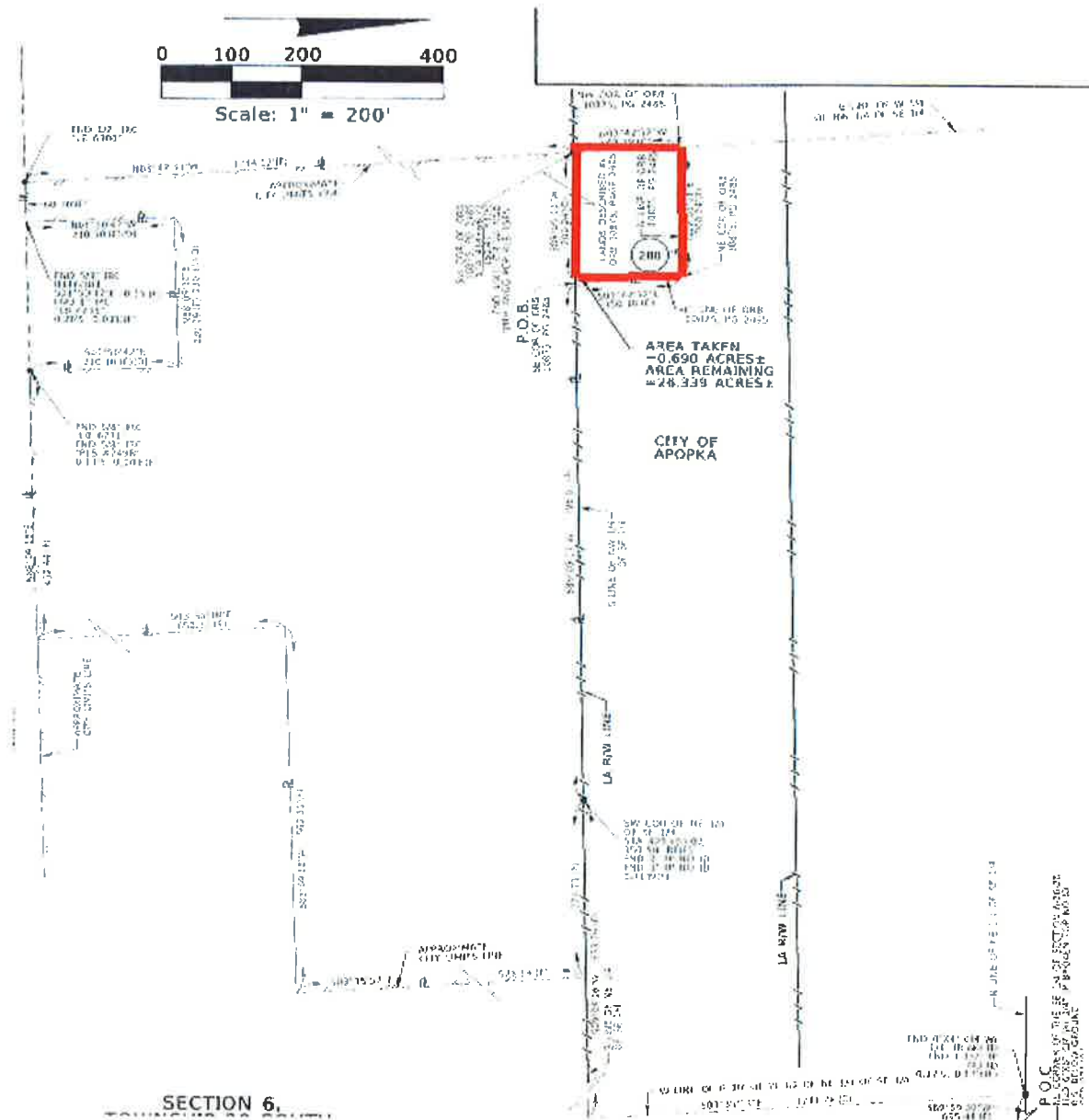
**ATTACHMENTS**

Exhibit "A" – Sketch of the Subject Property

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

Reviewed by: Joseph Thasmatore

**EXHIBIT "A"**





## EXHIBIT "B"

