



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

To: Board of County Commissioners

Through: Robert A. McMillan, County Attorney

From: Henry M. Brown, Assistant County Attorney *HMB*
Ext. 5736

Concur: Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E., Principal Engineer/Engineering Division *DVN*

Date: December 6, 2005

Subject: Settlement Authorization
East Lake Mary Boulevard Phase IIB
Parcel Nos. 210/810, 211, and 235
Owners: Sipes Development LLC
Seminole County v. Helen Howland Holdings, Inc., et al.
Case No. 2003-CA-2087-13-G

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel Nos. 210/810, 211, and 235 on the East Lake Mary Boulevard, Phase IIB project. Parcel Nos. 210/810, 211, and 235 were under separate ownership on the order of take date; however, they were consolidated by quit claim deeds to Sipes Development LLC prior to the date of deposit. The settlement is a consolidated settlement as to all four parcels. The recommended mediated settlement is at the total sum of \$276,000.00 inclusive of all land value, severance damage, statutory interest, attorney fees and cost reimbursements. The total settlement sum is not specifically allocated as between land, attorney fees, and costs.

I PROPERTY

A. Location Data. The Sipes Development LLC property is located with frontage on Sipes and Kentucky Avenues. A location map is attached as Exhibit A.

B. Street Address. None. The property is vacant. A parcel sketch is attached as Exhibit B. The hatched area depicts the part taken.

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. 2003-R-47 on February 11, 2003, authorizing the acquisition of Parcel Nos. 210/810, 211, and 235. The East Lake Mary Boulevard Phase IIB road improvement project was found to be necessary and serving a public purpose and in the best interests of the citizens of Seminole County.

Based on the consolidation of the parcels, the parties agreed to use the Order of Take date of November 5, 2003, and that November 12, 2003, is the good faith deposit date, the date title vested in Seminole County.

III ACQUISITIONS AND REMAINDER

After consolidation, the fee acquisition from Parcel Nos. 210, 211, and 235 totaled 3.4579 acres from a parent tract of 18.7368 acres leaving split remainders totaling 15.2789 acres. See, Exhibit B. The Northwest remainder is .58888 acres in size and will be encumbered by the drainage easement of 6,840.2 square feet. (Parcel No. 810). The Southeast remainder totals 14.6901 acres.

IV APPRAISED VALUES

A. County Reports.

The County's consolidated appraisal report was prepared by the Spivey Group and reported full compensation as of November 12, 2003 to be \$108,740.00. The trial appraisal update opined \$111,800.00.

B. Owners' Reports.

Ward Valuation Services LLC performed the owner's consolidated appraisal report and it opined full compensation to be \$446,000.00.

V BINDING OFFERS/NEGOTIATION

The BCC approved written offer was \$95,000.00 (the aggregate total of the written offers for all four (4) parcels).

The proposed mediated settlement was negotiated inclusive of all attorney fees and cost reimbursements. The negotiated settlement is at \$276,000.00 inclusive of all land value, severance damage, attorney fees, and cost reimbursements.

VI ATTORNEY'S FEES AND COSTS

A. The attorney fee reimbursement is included within the total settlement sum. The inclusive settlement does not allocate the specific amount. The County's exposure on attorney fees was higher than usual due to the consolidation of the parcels.

B. Cost reimbursements – The owners claimed costs totaling \$66,091.18 allocated:

(1)	Appraiser	\$14,805.00
(2)	Planners	\$27,000.00
(3)	Engineering	\$23,575.00
(4)	Exhibit Costs	<u>\$ 711.18</u>

TOTAL COST CLAIM **\$66,091.18**

The cost claim was negotiated inclusive with the land value, severance damage, and attorney fees reimbursement. No specific allocations are made.

VII COST AVOIDANCE

By this settlement, the County avoids all additional costs associated with litigation.

VIII RATIONALS

The County's exposure at trial was \$446,000.00 plus statutory interest, trial costs, expert costs above the \$66,091.18 invoices produced and a higher statutory benefit attorney's fee based upon the consolidation of the four (4) parcels.

The total inclusive settlement at \$276,000.00 makes sense in light of the exposure at trial.

IX RECOMMENDATION

County staff recommends that the BCC approve this mediated settlement in the total amount of \$276,000.00 inclusive of land value, severance damage, attorney fees, and cost reimbursements.

HMB/sb

Attachments

Exhibit A - Location map

Exhibit B - Parcel sketch

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