

08

42



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney

FROM: Lynn Vouis, Assistant County Attorney

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
Kathleen Myer, Principal Engineer/Major Projects

DATE: December 20, 2004

RE: Purchase Agreement Authorization
CR 46 A; Phase III
Parcel No. 123
Owner: CSX Railroad

This memorandum requests authorization by the Seminole County Board of County Commissioners (BCC) and execution by the Chairman of the attached correspondence to effectuate the transfer of Parcel No. 123 owned by CSX, at the binding written offer amount of \$14,375.00, with no fees or costs incurred. The BCC approved a binding written offer on October 23, 2001, as part of the CR 46A, Phase III road improvement project.

I THE PROPERTY

A. Location Data

The subject property is located at the SW corner of CR 46A and the CSX Railroad, in unincorporated Seminole County.

1. Location Map (Exhibit A);
2. Sketch (Exhibit B); and
3. Correspondence from CSX (Exhibit C)

B. Address

N/A

C. Description

The parcel contains 2,554 square feet and is unimproved. It was appraised as part of an abbreviated parent tract which abuts the CSX mainline of 44,000 square feet.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2001-R-30 on February 13, 2001 for the CR 46A Phase III improvement project authorizing the acquisition of the referenced property, and finding that the construction of the CR 46 Phase III road improvement project is necessary and serves a county and public purpose and is in the best interests of the citizens of Seminole County.

III ACQUISITION/REMAINDER

The proposed acquisition is 2,554 square feet. The taking is a strip take along CR 46A frontage. The depth of the take varies, from 7.23 feet on the east end, to 14.00 feet on the west end.

IV APPRAISED VALUES

The County's appraised value amount was \$11,500.00 as of June 13, 2001. The County's appraisal was prepared by Richard C. Allen, MAI, of Pomeroy Appraisal Associates, and was approved by the County's MAI designated staff appraiser.

V BINDING OFFERS/NEGOTIATIONS

On October 23, 2001, the BCC authorized a binding written offer in the amount of \$14,375.00. The owner accepted the binding written offer on February 7, 2002. A copy of the acceptance letter is attached to this memorandum.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

The acquisition of this parcel was delayed because CSX refused to proceed with the transaction until the construction agreement between Seminole County and CSX regarding the railroad crossing was completed. The negotiations concerning the agreement between CSX and the County's Engineering Division were recently completed.

CSX will not execute the standard Purchase Agreement for this transaction and has requested instead that the County execute and return the attached correspondence.

VII RECOMMENDATION

County staff recommends that the BCC authorize and sign the attached correspondence to effectuate the transfer of property at the binding written offer amount of \$14,375.00, with no fees or costs incurred.

LV/kc

Location Map (Exhibit A); Sketch (Exhibit B) and
Correspondence from CSX (Exhibit C)

Acceptance letter

P:\USERS\ILVOUIS\SETTLEMENT MEMOS\46A III\BCC AGENDA ITEM CSX 123 .DOC

Seminole County, Florida

Property Appraiser Services

Your Source for Property Information... Quick, Convenient, Accurate

H. W. "Bill" Suber CFA, ASA

Seminole County

Property Appraiser Services

1101 E. First St.
Sanford, FL 32771
407-665-7506

Legend

- Selected Features
- County Boundary
- Streets
- Hydrology
- Subdivision Lines
- Parcels
- Facilities
- Golf Course
- Parks

Seminole County Property Appraiser - Copyright (C) 2000-2003

Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	02203030002200000	CSX TRANSPORTATION INC	500 WATER ST	JACKSONVILLE	FL	32202

EXHIBIT A

RONALD S. CROUSE, ASA
APPRAISER

AREA OF WHOLE 44,000 sq.Ft.

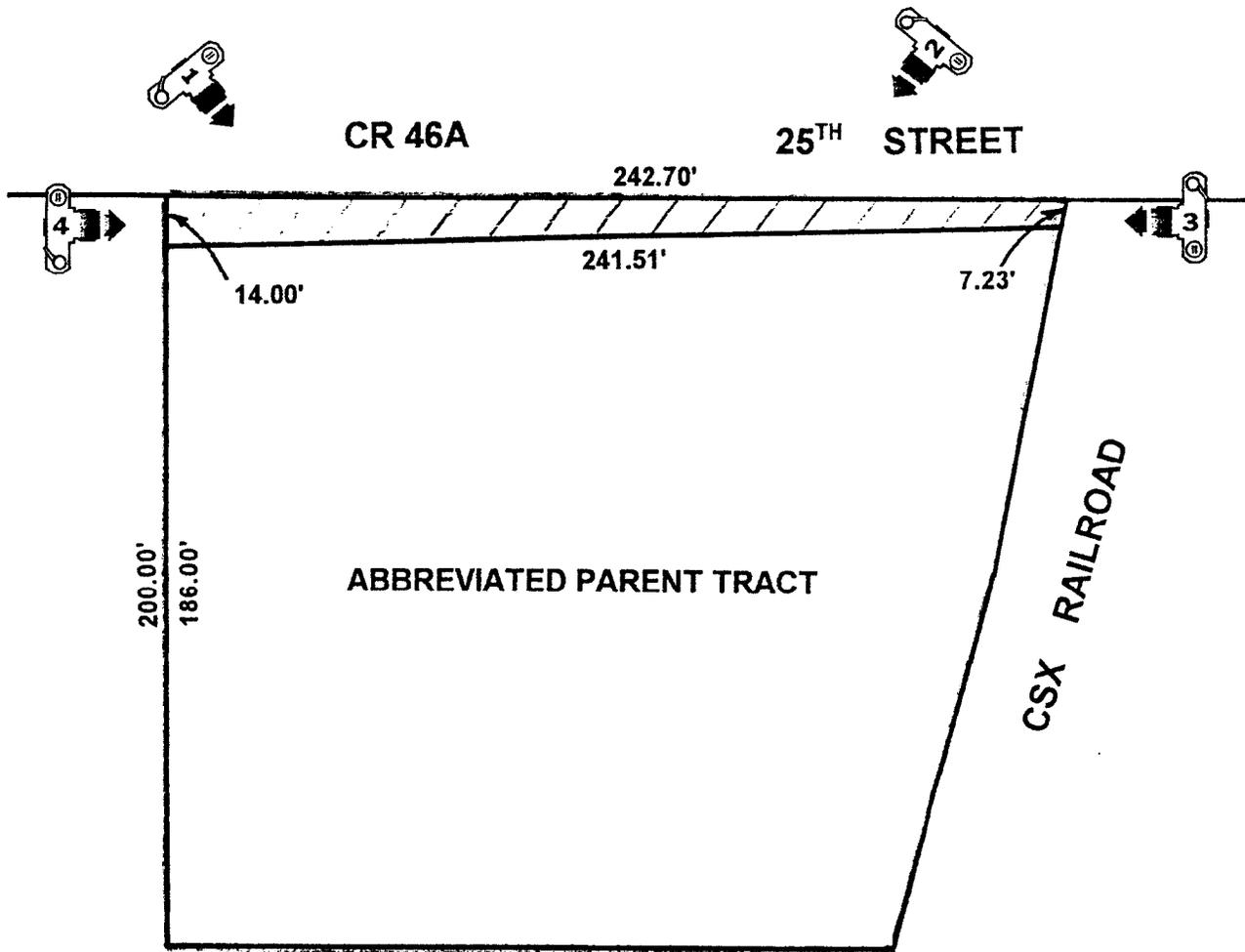
PARCEL NO.: 123

AREA OF TAKING 2,554 sq.ft.

R.F.P. NO. 489

AREA OF REMAINDER 41,446 sq.ft.

COUNTY: SEMINOLE



NOT TO SCALE



301 West Bay Street
Suite 800, S/C J915
Jacksonville, FL 32202
Ph. (904) 633-4597
Fax (904) 633-4581
Jim_Shireliff@CSX.com

James L. Shireliff
Highway Sales Specialist
September 29, 2004

Mr. Peter Johnston
Right of Way Agent
P.A.R.A.R.A. Services, Inc.
230 North Woodland Blvd., Suite 305
DeLand, FL 32720

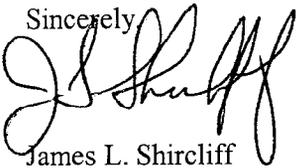
RE: Sanford, Seminole County, FL - CR 46A, West 25th Street, Parcel 123;
M.P. A 767.65, CSX OP# FL0718, PIN 12117-0048

Dear Mr. Johnston,

In connection with the above-cited highway project, this is to advise we are willing to recommend to our Management a sale price of \$ 14,375 for the transfer of the approximate 0.06 acre of land owned by CSX Transportation, Inc. ("CSXT"), as shown on Exhibit A attached hereto. Conveyance shall be by quitclaim deed prepared by CSXT, at its expense, with the County responsible for survey, title insurance (if desired), recordation costs and any incidental closing costs.

Under the circumstances we are willing to forego our standard Purchase Sale Agreement with the appropriate signature accepting this letter as confirmation of the conveyance and the terms outlined above. Therefore, upon your return of the executed letter agreement, we will present to our Management for formal approval and thereafter forward a draft of deed for your legal review prior to conveyance.

Please have the duplicate copies of this letter executed by the appropriate official in the space provided below and return them to my attention in order to expedite the closing of the transaction. We appreciate your cooperation.

Sincerely

James L. Shireliff

~~ACKNOWLEDGED AND ACCEPTED
this _____ day of _____, 2004.~~

~~SEMINOLE COUNTY, FLORIDA~~

~~By: _____
Its: _____~~

cc: Les Scherr, J-350
Nikki Escow, CSX RPI
David Krafft, HDR

*Signature
Page Attached*

ACKNOWLEDGED AND ACCEPTED
This _____ day of _____, 2004.

CSX TRANSPORTATION, INC.

By: _____
Its: _____

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON D. HENLEY, Chairman

Date: _____

For the use and reliance of
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board of
County Commissioners at its _____,
2005, regular meeting.

County Attorney

LV/kc
12/22/04

P:\USERS\LV\VOUIS\SETTLEMENT MEMOS\CSX SIGNATURE PAGE.DOC

SEMINOLE COUNTY ATTORNEY'S OFFICE

1101 EAST FIRST STREET • SANFORD • FLORIDA 32771-1468 • TELEPHONE (407) 665-7254 • FAX (407) 665-7259

October 25, 2001

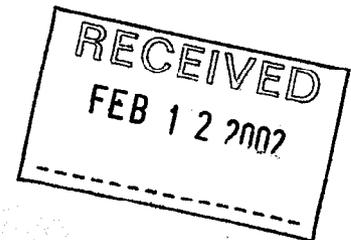
CERTIFIED MAIL:

7001-0360-0000-1389-3214

RETURN RECEIPT REQUESTED

CSX Transportation, Inc.
500 Water Street
Tax Dept. (J910)
Jacksonville, FL 32202
Attention: Michael J. Ward, President

Re: CR 46A, Phase III
Parcel No. 123
Board Approved Purchase or Settlement Offer



Dear Mr. Ward:

Seminole County Staff (County) has reviewed the County's appraisal report on the above referenced parcel, performed site visits and secured the Board of County Commissioners approval to make this firm purchase offer or settlement offer. The appraised value includes compensation for the land and improvements acquired and any severance damage to the remainder of your parent tract.

Any actions requested of you in this offer letter should, of course, be made with the advice of and through your attorney. We remind you of your rights under Sections 73.091 and 73.092, *Florida Statutes*. Florida law provides that the County:

"shall pay attorney's fees as provided in s. 73.092 as well as all reasonable costs incurred in the defense of the proceedings in the circuit court, including, but not limited to, reasonable appraisal fees and when business damages are compensable, a reasonable accountant's fee, to be assessed by that court."

Reimbursements for attorney's fees and costs incurred by you may be impacted by the effect of the offer made in this correspondence or by offers of judgment. The amount of this offer is before (exclusive of) the calculation of your attorney's fees and reasonable costs. Since there is no statutory "benefit" of your attorney's services if you accept this offer, the court would determine that your attorney would receive no payment from the County.

The firm purchase/settlement offer in this correspondence is subject to all apportionment claims of co-owners, tenants or other persons or entities claiming an apportioned share of the proceeds. Also, the firm purchase/settlement offer in this letter

sets a benchmark for a later computation of reimbursable attorney's fees if this offer is not accepted by you.

The County offers the total sum of \$14,375.00, subject to all apportionment claims for Parcel No. 123. The sum is greater than or equal to the appraised value of \$11,500.00 as determined by Hastings & Spivey, Inc. an independent fee appraiser employed by the County.

Under the above offer, the County compensates you as follows:

- A. \$14,375.00, for total compensation for the land, improvements acquired, and severance damages;
- B. \$0.00, attorney's fee reimbursement under *Section 73.092 (1)(a), Florida Statutes*; and

Acceptance of the above offer provides advantages to you that cannot be achieved if you elect to proceed to litigation. These advantages include:

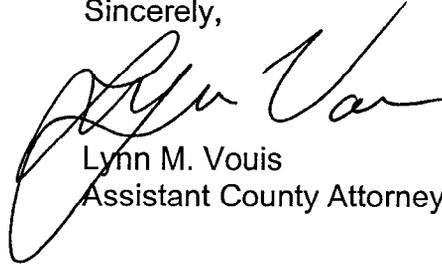
- (1) The offer provides cash flow to you with future uncertainties eliminated;
- (2) The offer provides you present control of all of your attorney's fees [and cost expenditures through the present receipt of your reimbursables, if any] if you wish to pay your attorney's fees from the total compensation payable to you; and
- (3) The offer provides a present resolution of all risks of litigation.

The above offer is good and may be accepted within thirty (30) days of your receipt of this offer letter. If you accept the above offer, please show your agreement by signing where shown below and return this correspondence to us. Your acceptance must be sent to us, as shown by your postmark or third party carrier's receipt, within the said 30-day period. We will then send you the necessary stipulation and final judgment to be presented to the Court if litigation is filed, or close under the terms and conditions of the enclosed proposed Purchase Agreement.

If you have determined to reject this offer and have an appraisal report in your possession relating to the property, a request is hereby made for a copy of any reports and summaries of any claims that you may have. We believe that we have made an offer that provides you with full and just compensation, but if you have any information in your possession to indicate otherwise, we are more than willing to assess and evaluate your information.

The County desires to cooperate with you to the fullest possible extent and to reach amicable settlement if possible. Please feel free to contact me, or have your attorney contact me with any questions relating to this matter at (407) 665-5736.

Sincerely,


Lynn M. Vouis
Assistant County Attorney

LV/la
Enclosure
Purchase Agreement

F:\CA\USERS\ICALA01\LTR\CR46A\11 123 CSX WOFFER.DOC

ACCEPTANCE:

 X CSX TRANSPORTATION, INC. accepts the sum of \$14,375.00 in full settlement for the above parcels, exclusive of attorney's fees and cost reimbursements.

REJECTIONS:

 CSX TRANSPORTATION, INC. rejects the sum of \$14,375.00 exclusive of attorney's fees and cost reimbursements.

ACCEPTED BY:

ATTEST:

CSX TRANSPORTATION, INC.

Nicholas S. Yovanovic
Assistant Secretary
Nicholas S. Yovanovic

By: J. Randall Evans
J. Randall Evans

(CORPORATE SEAL)

Date: FEBRUARY 7, 2002