



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Robert A. McMillan, County Attorney

FROM: Al Schwarz, Assistant County Attorney *AS*
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E./Principal Engineer/Major Projects *DVN* 2/3/06

DATE: February 2, 2006

SUBJECT: Settlement Authorization
Bunnell Road improvement project
Parcel No.: 151
Owners: W. L. Kirk, individually and as Co-Trustee and
J. Scott Kirk, individually and as Co-Trustee of the Geraldine C. Kirk
Revocable Trust
Seminole County v. Allen, et al.
Case No.: 05-CA-2194-13-G

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel No. 151 on the Bunnell Road improvement project. The recommended settlement is at the total sum of \$96,000.00 inclusive of all land value, severance damage, statutory interest, attorney's fees, expert fees and cost reimbursements.

I PROPERTY

- A. Location Data. Parcel No. 151 is located south of Bunnell Road, on the west side of the former CSX railroad, and east of the Seventh Day Adventists Sanctuary/elementary school (which is located at 1238 Bunnell Road in Altamonte Springs, Florida). See Location Map attached as Exhibit A.
- B. Street Address. Parcel No. 151 is vacant property and no physical address has been assigned. See parcel sketch attached as Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution Nos. 2004-R-72 on April 13, 2004, 2005-R-124 on July 26, 2005, and 2005-R-163 on September 13, 2005, authorizing the acquisition of Parcel No. 151 and finding that the Bunnell Road improvement project is necessary and serves a public purpose and is in the best interests of the citizens of Seminole County.

The Order of Take occurred on December 8, 2005, with title vesting in Seminole County on December 21, 2005, the date of the good faith deposit for this parcel in the amount of \$60,000.00.

III ACQUISITIONS AND REMAINDER

Parcel No. 151 represents a total taking of 48,563 SF of land area for use as a retention pond. The taking represents a whole taking of the 48,563 SF parent tract.

IV APPRAISED VALUES

The County's original report dated August 24, 2005, with a date of value as of August 18, 2005, was prepared by Clayton, Roper & Marshall, Inc., reported a full compensation for Parcel No. 151 to be \$54,000.00. The updated appraisal report with date of value as of December 6, 2005, reported a full compensation for Parcel No. 151 to be \$60,000.00. The property owner contacted an appraiser and arrived at a preliminary value of the taking of \$146,422.00, exclusive of attorneys' fees and costs.

V BINDING OFFER/NEGOTIATION/ISSUES

On September 13, 2005, the BCC authorized a binding written offer in the amount of \$54,000.00. Subsequent to that date, the County's updated appraisal opined a value of \$60,000.00. The property owner responded with a value of \$146,422.00, exclusive of all fees and costs.

This case involved multiple amendments to the legal description of the property as well as the issue of the ability of this particular parcel to gain the necessary access for ingress and egress as it impacts the value of the subject property. As a result of the negotiation, the parties reached an inclusive settlement of \$96,000.00.

VI ATTORNEY'S FEES AND COSTS

The negotiated settlement at \$96,000.00 is inclusive of all attorney's fees and cost reimbursements.

VII COST AVOIDANCE

By this settlement, the County avoids all additional costs associated with litigation including escalating expert fees and costs.

VIII RECOMMENDATION

County staff recommends that the BCC approve this negotiated settlement at \$96,000.00 inclusive of all land value, severance damage, interest and statutory attorney's fee.

AHS/krc

Attachments:

Exhibit A - Location Map

Exhibit B – Parcel Sketch

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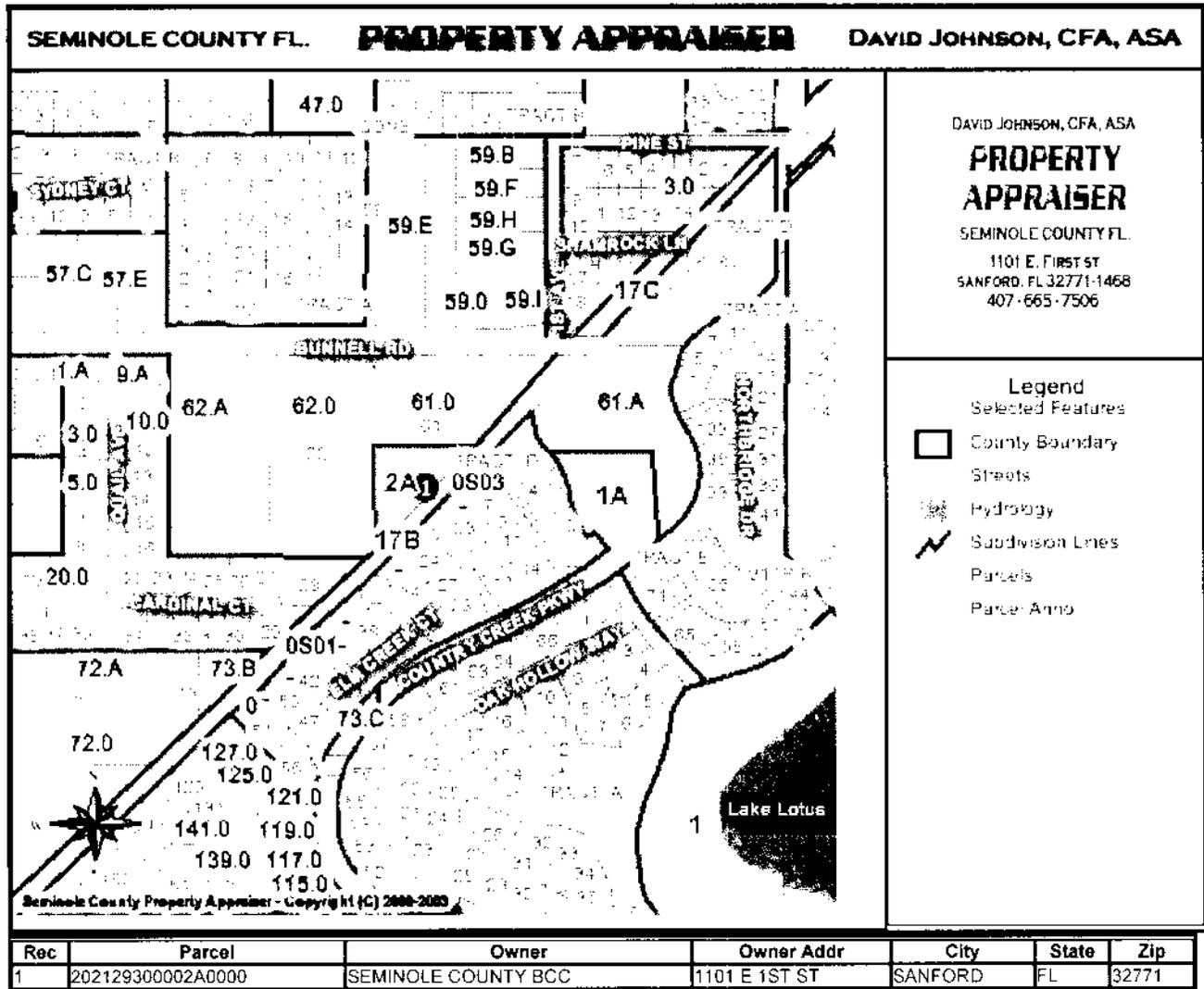


EXHIBIT A

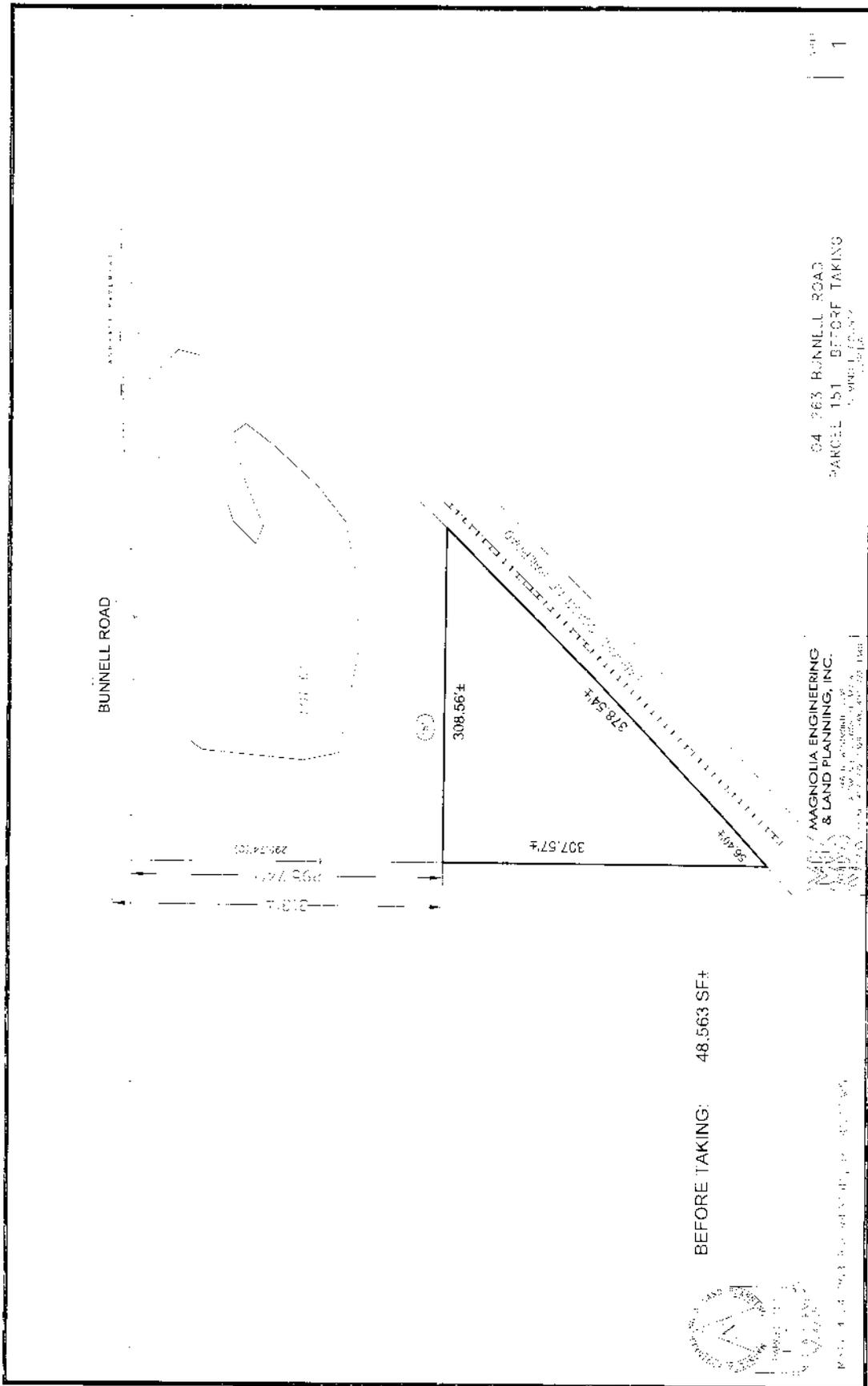


EXHIBIT B