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**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *[Signature]*

FROM: Henry M. Brown, Assistant County Attorney *[Signature]*
Ext. 5736 *HMB*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *[Signature]*
Kathleen Myer, Principal Engineer/Engineering Division *[Signature]*

DATE: March 5, 2003

SUBJECT: Settlement Authorization
Airport Boulevard, Phase III
Parcel No.: 161
Owner(s): Patrick A. Talley and Cynthia J. Talley
Seminole County vs. Talley, et al.
Case No.: 2002-CA-3156-13-K

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel No. 161 (whole take) on the Airport Boulevard, Phase III road improvement project. The recommended settlement is for a whole take of the Talley property inclusive of Parcel No. 161 (11,304 s.f.) and the remainder (32,953 s.f.) for a total acquisition of 44,257 s.f. The recommended settlement is at the total sum of ONE HUNDRED NINETY-TWO THOUSAND AND NO/100 DOLLARS (\$192,000.00) inclusive of the whole take land value, statutory interest, attorney's fee and cost reimbursements.

I PROPERTY

Parcel No. 161 is a fee simple acquisition of the whole Talley property consisting of 44,257 s.f. and all improvements including the single family residence, a small barn and horse paddock. The portion of the property which is actually needed for construction is 11,304 s.f. and includes the entire residential structure. The street address is 707 Bevier Road, Sanford, Florida 32771-9528. A sketch depicting the whole take, limits of construction, and impacts on improvements is attached as Exhibit A. A location map is attached as Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Second Amended Resolution No. 2002-R-107 on July 9, 2002, finding that the widening of Airport Boulevard, Phase III is necessary and serves a County and public purpose and is in the best interest of the citizens of Seminole County.

III ACQUISITIONS AND REMAINDER

The acquisition is a whole take of 44,257 s.f. which includes 11,304 s.f. within the limits of construction and the remainder of the Talley property which totals 32,953 s.f. The single family residence is entirely consumed by the roadway construction leaving the water well, barn and horse paddock on the remainder.

IV APPRAISED VALUES

The County had a whole take appraisal performed by Diversified Property Specialists, Inc. in November, 2001 in the amount of \$141,000.00. The whole take appraisal was not updated.

The owners had only an appraisal review performed.

V NEGOTIATION

The County's whole take appraised value was \$141,000.00. On March 12, 2002, the BCC's approved whole take offer was \$155,000.00 exclusive of attorney's fees and cost reimbursements. Under the negotiated settlement at \$192,000.00, the attorneys fee and cost reimbursement are included. The owner receives a ninety day continued possession through July 15, 2003, and the right to salvage personal property and fixtures from the residential structure.

VI COST AVOIDANCE

By this settlement for a whole take, the County avoids the following additional costs beyond those for which it is already liable by law:

- a. A potential jury verdict in excess of the land value;
- b. Statutory interest applicable to a larger jury verdict; and,
- c. Attorney fees and costs to proceed further.

Additionally, under the voluntary whole take, the County acquires the remainder of 32,953 s.f. which can be assembled with four adjoining whole take remainder acquisitions on parcels 162, 163, 164 and 165.

VII ANALYSIS

The settlement for a whole take acquisition which includes the remainder of 32,953 s.f. completes the whole take of the remainders of five contiguous parcels

(Parcels No. 161, 162, 163, 164, and 165). This avoids the payment of significant severance damage to the remainders for which the County obtains nothing tangible. Under the voluntary whole take the County acquires the remainders which can be assembled for surplus to recover some funds or used for other County purposes.

The negotiated settlement at \$192,000.00 is higher than the appraised value; however, it includes attorney's fees, costs and acquires the remainder for assemblage to the other parcels.

The owners receive continued possession until July 15, 2003 and salvage rights. This should not impact the County adversely because other parcels need to be acquired and the bid package would take time before construction could start.

VIII RECOMMENDATION

This Office recommends that the BCC approve this negotiated settlement in the total sum of \$192,000.00 inclusive of the whole take land value, statutory interest, attorney's fees, and cost reimbursements.

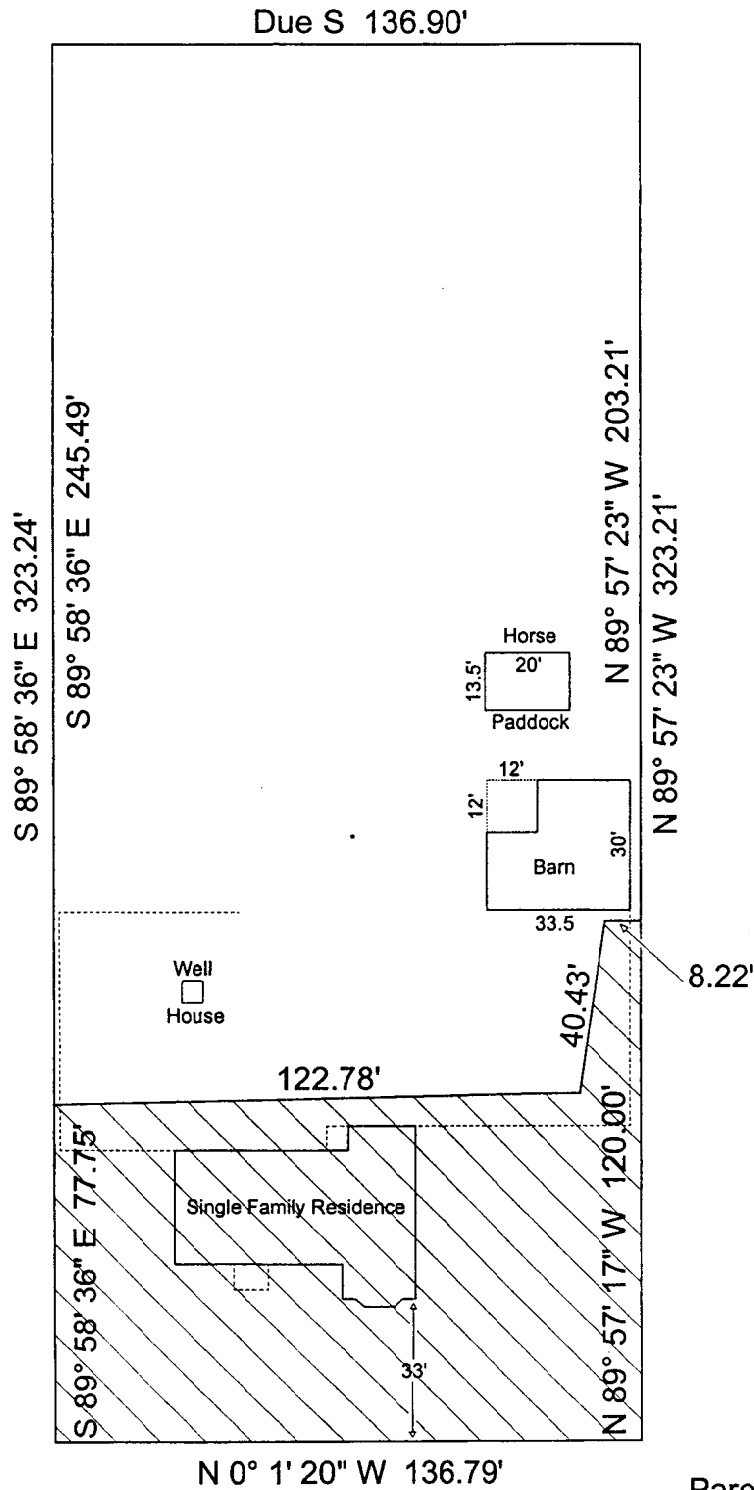
HMB/sb
Attachments
Exhibit A
Exhibit B

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Exhibit A



Sketch Not To Scale
For Visual Aid Only



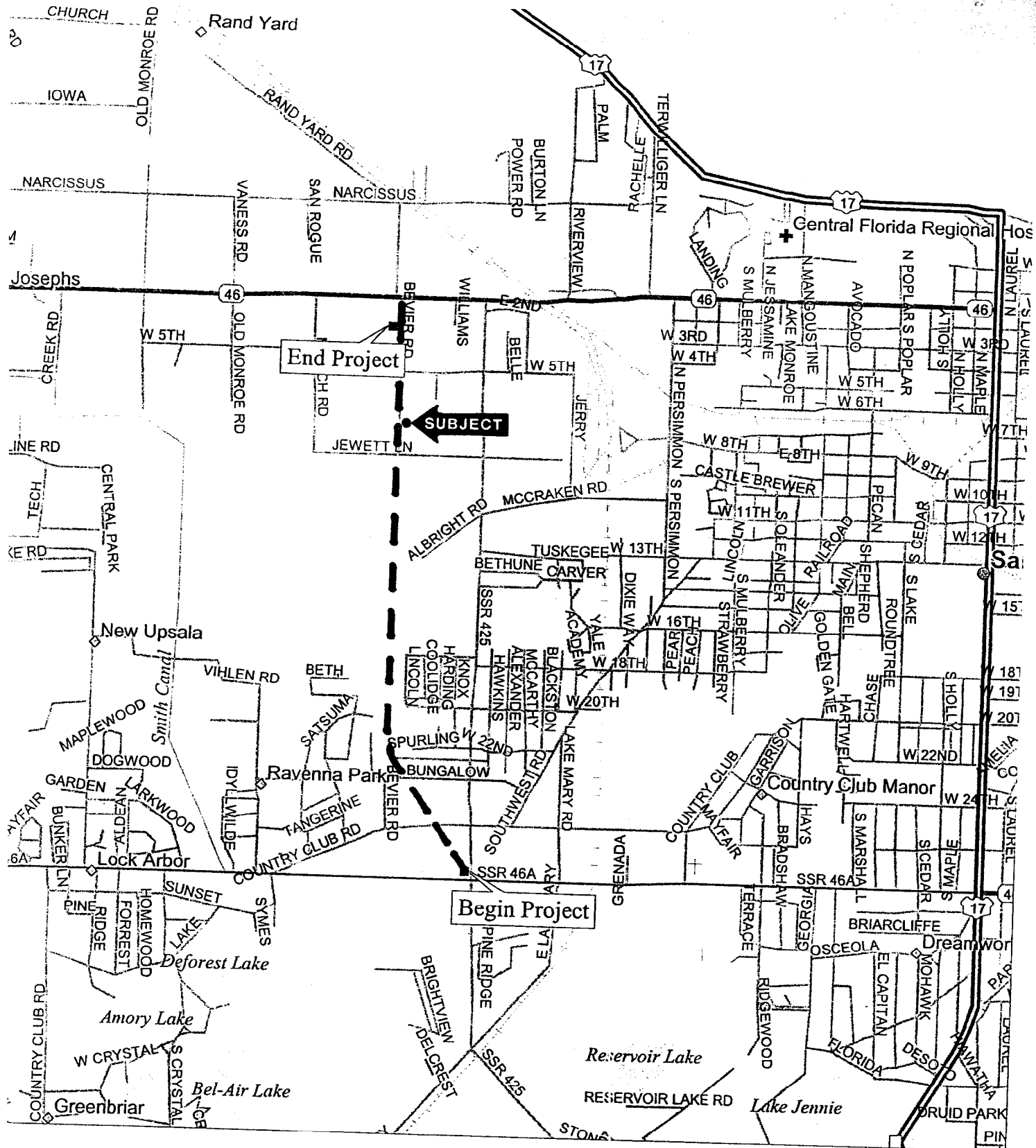
Parent Tract: 44,257 sf
 Taking: 11,304 sf
 Remainder: 32,953 sf

SKETCH WITH TAKING

Scale: 1" = 45'

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Exhibit B



LOCATION MAP