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**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

To: Board of County Commissioners

Through: Robert A. McMillan, County Attorney

From: A. Herbert Schwarz, Assistant County Attorney Ext. 5736 *AHS for*

Concur: Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E., Principal Engineer/Engineering Division *DVN 4/14/06*

Date: April 14, 2006

Subject: Settlement Authorization
East Lake Mary Boulevard Phase IIB
Parcel Nos. 200C/800
Owners: Helen Howland Holdings, Inc.
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. 200C/800 on the East Lake Mary Boulevard, Phase IIB project. The proposed mediated settlement is at \$172,588.60. The total sum is allocated as follows:

\$127,000.00	land value, severance damage, and statutory interest
\$ 18,216.00	statutory attorney's fee; and
\$ 27,372.60	cost reimbursements

I PROPERTY

A. Location Data. Parcel Nos. 200/800C are located near the northwest corner of paved Sipes Avenue and unpaved Sand Dollar Road. A location map depicting the location of the parcels is attached as Exhibit A.

B. Street Address. The properties are vacant and, therefore do not have addresses assigned to them. A Parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. 2003-R-91 on May 13, 2003, authorizing the acquisition of Parcel Nos. 200C/800. 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. The Order of Take occurred on November 5, 2003, with title vesting in Seminole County on November 12, 2003, the date of the good faith deposit.

III ACQUISITIONS AND REMAINDER

The fee acquisition of Parcel No. 200C totaled 2.0522 acres from a parent tract of 28.1617 acres leaving a severed remainder of two pieces of land, one on the left (25.1194 acres) and one on the right (.99 acres) for a total remainder of 26.1094 acres. Parcel No. 800, is a permanent drainage easement that totals 7,372 square feet and will abut the 200C at the new right-of-way line.

IV APPRAISED VALUES

A. County Reports. The Spivey Group, Inc., performed the County reports.

Parcel Nos. 200C/800. The initial appraisal reported full compensation as of January 16, 2003, at \$71,800.00. The update appraisal opined the value as of September 25, 2003, to be \$79,800.00. The trial appraisal shows the value as of November 12, 2003, the date of the good faith estimate, at \$82,000.00.

B. Owner's Report. The owner's report was prepared by Calhoun, Dreggors and Associates, Inc., as of November 12, 2003, and reported full compensation at \$174,200.00.

V BINDING OFFERS/NEGOTIATION

The Board approved a first written offer of \$71,800.00. As stated previously, the owner's appraised value was \$174,200.00 and the County's appraisal value for trial purposes was \$82,000.00.

At mediation, the parties agreed to compensation of \$127,000.00 for all land value, severance damages, and statutory interest.

The difference between the County's \$82,000.00 appraisal value and the owner's \$174,000.00 appraisal value was \$92,200.00. The midpoint between the two appraisal values was \$128,100.00. Typically, juries tend to split the difference. On a scale of zero to 100, zero meaning total capitulation to the County's appraisal value and 100 meaning total capitulation to the owner's appraisal value, the settlement amount ranks at 48 or slightly tilted in favor of the County.

VI ATTORNEY'S FEES AND COSTS

A. Attorney's Fees. The statutory attorney's fee reimbursement totals \$18,216.00. The sum is statutorily computed based upon a settlement sum of \$127,000.00 less the written offer of \$71,800.00 to produce a benefit of \$55,200.00.

B. Cost Reimbursements. The owner's claimed costs at \$31,805.26 is allocated:

(1)	Surveys	\$ 6,162.50
(2)	Appraisal	\$ 9,940.00
(3)	Civil Engineering	\$ 4,295.60
(4)	Planners	\$10,719.61
(5)	Court Reporters	\$ 159.75
(7)	Exhibit Preparation	\$ 350.53
(8)	Miscellaneous	\$ 177.45

TOTAL: **\$31,805.26**

In negotiation, several non-reimbursable office overhead costs were taken out and several expert claims were reduced as unnecessary and excessive. The negotiated cost settlement is allocated as follows:

(1)	Surveys	\$ 6,162.50
(2)	Appraisal	\$ 8,100.00
(3)	Civil Engineering	\$ 4,000.00
(4)	Planners	\$ 8,600.00
(5)	Court Reporters	\$ 159.75
(7)	Exhibit Preparation	\$ 350.53
(8)	Miscellaneous	\$ 0.00

TOTAL: **\$27,372.60**

The negotiated cost reimbursement represents a reduction of 14% from the total requested costs.

VII COST AVOIDANCE

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

VIII RECOMMENDATION

County staff recommends that the BCC approve this mediated settlement in the total aggregate sum of \$172,588.60 inclusive of land value, improvements, cost to cure, severance damage, statutory interest, and total statutory attorney's fees and expert fees and cost reimbursements.

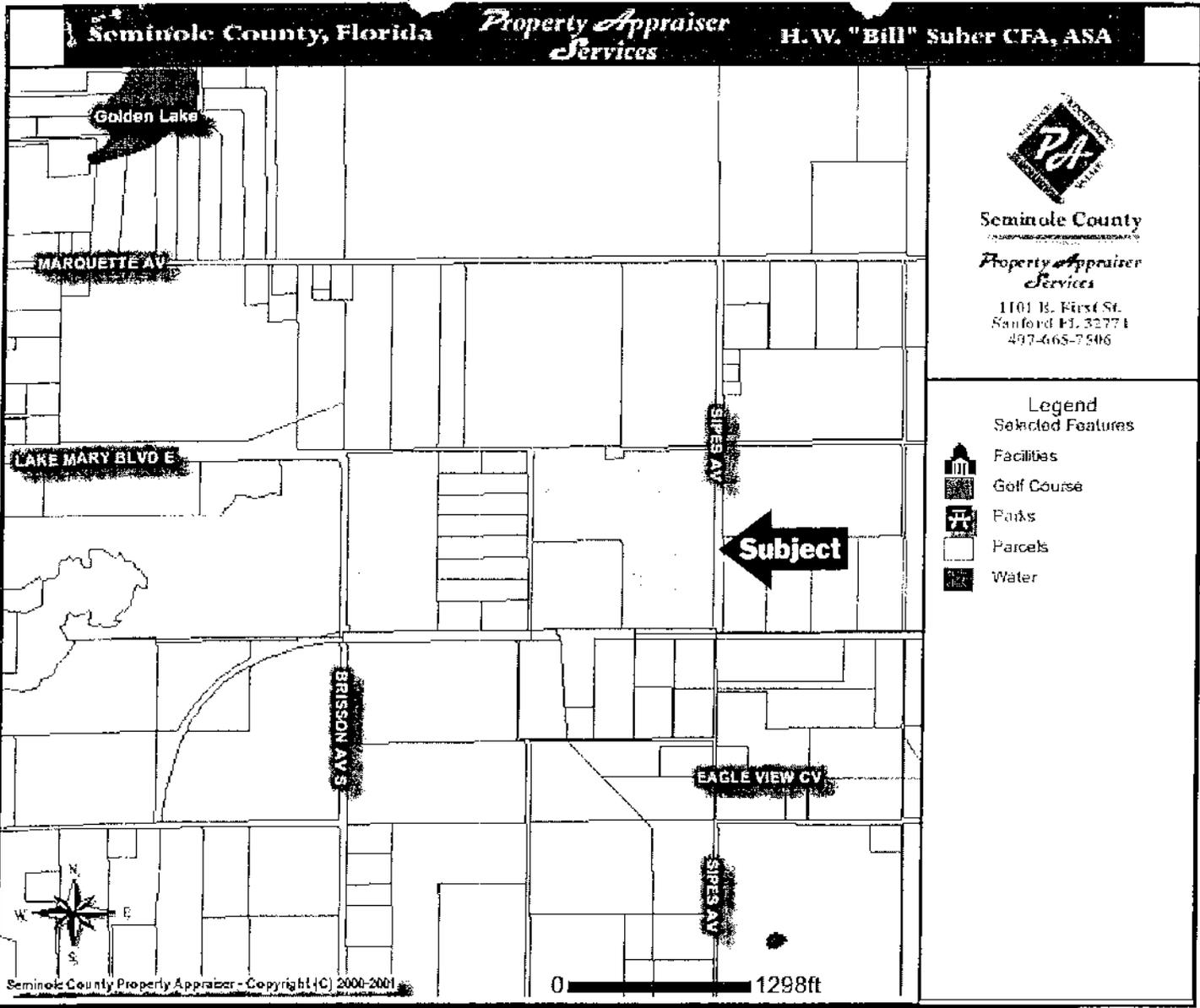
AHS/dre

Attachments

Exhibit A - Location map

Exhibit B - Parcel sketch

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Rec	Parcel	Owner	Street Address
1	08203130003800000	ELEN HOWLAND HOLDINGS INC	SIPPS AVE

EXHIBIT A

