



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]* HMB
Ext. 5736

CONCUR: Pam Hastings *[Signature]* Administrative Manager/Public Works Department
David V. Nichols, P.E./Engineering Division *[Signature]* DVI

DATE: September 1, 2005

SUBJECT: Settlement Authorization
Seminola Boulevard road improvement project
Parcel Nos.: 118.3/718.3
Motiva Enterprises, LLC (f/k/a Star Enterprises)
Seminole County v. Pinter, et al.
Case No.: 93-CA-2429-13-L

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel Nos. 118.3/718.3 on the Seminola Boulevard project. The recommended settlement is at the total sum of \$650,000.00 inclusive of land value, severance damage, statutory interest, fixtures, business damages, attorney fees, and cost reimbursements.

I PROPERTY

A. Location Data

Parcel Nos. 118.3/718.3 are located at the intersection of U.S. Highway 17-92 and Seminola Boulevard. In 1993, the property was improved with a Texaco gas station and food market. A parcel sketch is attached as Exhibit A and location map as Exhibit B.

B. Street Address

The street address of the property is 2575 South U.S. Highway 17-92, Casselberry, Florida.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 93-R-245 on September 28, 1993, authorizing the acquisition of Parcel Nos. 118.3/718.3, and finding that the Seminola Boulevard project was necessary and served a public purpose and was in the best interests of the citizens of Seminole County. The Order of Take occurred on January 28, 1994, with title vesting in Seminole County on February 2, 1994, the date of the good faith deposit.

III ACQUISITIONS AND REMAINDER

Parcel No. 118.3 was the fee simple acquisition of 3,146 square feet of the Seminola Boulevard side of the property. Parcel No. 718.3 was a temporary construction easement of 60 square feet at a drive entrance.

The fee simple acquisition was at a depth of 20 feet. The taking consumed one gasoline pump island and a portion of the underground gasoline storage tanks. The Texaco station was demolished with the underground tanks removed and a smaller Citgo station is presently on site.

IV APPRAISED VALUES

The County's appraisal report was prepared by Clayton, Roper & Marshall, Inc., and reported land value and severance damage to be \$289,000.00. No fixtures report was prepared by the County.

The owner has a preliminary report prepared by William P. Pardue, Jr., MAI, which opined land value, severance damage, and fixture damage to be \$487,000.00. The Pardue report contained an estimate of fixtures between \$150,000.00 to \$160,000.00.

V BUSINESS DAMAGE

The Texaco station qualified for business damages. The business damages are the value of the business where as here the acquisition causes the business improvements to be demolished.

The County did not have a business valuation report prepared.

The owner prepared a preliminary report opining the value of the business to be \$275,000.00.

VI NEGOTIATIONS

The owner's total claim was \$762,000.00 plus statutory interest, attorney fees, and costs reimbursements.

The County's position was \$289,000.00 plus a non-quantified sum for fixtures and the value of the business.

Negotiation centered on attacking the capitalization rate used by the owner to compute business damages and the out of county comparable sales utilized in the appraisal report.

VII ANALYSIS

No fixtures or business reports were prepared prior to demolition of the gas station. At this time, the preparation of reports would be costly with the values speculative.

The fixture, land value, and severance damage would be subject to statutory interest.

The proposed inclusive settlement was obtained at \$650,000.00 to cut off costs, and speculative valuations.

VIII ATTORNEY FEES

This is an old statute case where attorney fees would be computed based on reasonable hours and rates. The proposed settlement is inclusive without specific allocation.

IX COSTS

Expert costs presently consist of the cost of preliminary reports. Full reports would be more costly. Costs are inclusive without specific allocation.

X RECOMMENDATION

County staff recommends that the BCC approve this settlement at the total sum of \$650,000.00.

HMB/dre

Attachments:

Exhibit A - Sketch

Exhibit B - Location map

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EXHIBIT A

070.2 SKETCH(S):

Area of Whole 19,125 SF

Area of Taking 3,146 SF

Area of Remainder 15,979 SF

PARENT TRACT SKETCH



