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COUNTY ATTORNEY'S OFFICE
MEMORANDUM

To: Board of County Commissioners

Through: Robert A. McMillan, County Attorney

From: Henry M. Brown, Assistant County Attorney *HMB*
Ext. 5736

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

Date: October 18, 2005

Subject: Settlement Authorization
East Lake Mary Boulevard Phase IIB
Parcel Nos. 213A/713/813, 213B and 213C
Owners: S. Theodore Takvorian and Ann Takvorian
Seminole County v. Fernandez, et al.
Case No. 2003-CA-2040-13-W

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel Nos. 213A/713/813, 213B and 213C on the East Lake Mary Boulevard, Phase IIB project. The proposed mediated settlement aggregates the three Takvorian ownerships and the five parcels acquired from the three ownerships at the total recommended settlement sum of \$320,238.51 inclusive of all land value, severance damage, statutory interest, statutory attorney's fees, and cost reimbursements. The total sum is allocated as follows:

\$199,500.00	land value, severance damage, and statutory interest
\$ 29,172.00	statutory attorney's fee; and
\$ 91,566.51	cost reimbursements

I PROPERTY

A. Location Data. Parcel Nos. 213A/713/813, and 213B are located along the new alignment of East Lake Mary Boulevard. Parcel No. 213C is located with frontage on State Road 415 and State Road 46. 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. Parcel sketches are attached as Exhibits B, C, and D. The hatched area depicts the property acquired.

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. 2003-R-47 on February 11, 2003, authorizing the acquisition of Parcel Nos. 213A/713/813, 213B, and 213C. 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 September 4, 2003, with title vesting in Seminole County on September 9, 2003, the date of the good faith deposit.

III ACQUISITIONS AND REMAINDER

The fee acquisition of Parcel No. 213A totaled 1.578 acres from a parent tract of 14.1339 acres leaving a remainder of 12.559 acres. This remainder will be encumbered by Parcel No. 813, a permanent drainage easement that totals 2,229.7 square feet. Parcel No. 713 is a temporary construction easement totaling 598.1 square feet.

Parcel No. 213B is a fee acquisition totaling 1.8109 acres from a parent tract of 4.8682 acres leaving a split remainder of 3.0574 acres. The split leaves 2.6 acres east of the new roadway alignment and 0.4574 acres west of the new roadway. See, Exhibit C.

Parcel No. 213C is a fee acquisition of 2,673.0 square feet from a parent tract of 6.5711 acres leaving a remainder of 6.5098 acres.

IV APPRAISED VALUES

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

Parcel Nos. 213A/713/813. The initial appraisal reported full compensation as of January 20, 2003, at \$45,600.00. The update appraisal opined the value as of September 13, 2003, to be \$53,400.00.

Parcel No. 213B. The initial appraisal reported full compensation as of January 16, 2003, to be \$56,100.00. The update opined the value as of September 13, 2003, at \$67,700.00

Parcel No. 213C. The initial appraisal reported full compensation as of December 30, 2002, to be \$9,400.00. The update as of September 30, 2003, reported the same value as the initial appraisal.

B. Owners' Reports. The owners' reports were prepared by Calhoun, Dreggors and Associates, Inc., as of September 9, 2003, to report full compensation as follows:

Parcel Nos. 213A/713/813	\$109,700.00
Parcel No. 213B	\$183,500.00; and
Parcel No. 213C	\$ 13,400.00.

V BINDING OFFERS/NEGOTIATION

The first written offers were:

Parcel Nos. 213A/713/813	\$ 45,600.00
Parcel No. 213B	\$ 56,100.00; and
Parcel No. 213C	\$ 9,400.00.

At mediation, the owners' position was the aggregate total of \$333,600.00 inclusive of statutory interest and exclusive of attorney's fees and cost reimbursements.

The County's position was aggregated at \$136,750.00. This sum was exclusive of statutory interest, attorney's fees and cost reimbursements.

The proposed mediated settlement is at \$199,500.00 aggregated for all land value, severance damages, and statutory interest.

The spread between the positions of the parties totaled \$196,850.00 with a split between positions at \$235,175.00. Typically, juries tend to split the difference. This proposed settlement is at \$199,500.00 or 31.87% of the spread.

VI ATTORNEY'S FEES AND COSTS

A. Attorney's Fees. The aggregated statutory attorney's fee reimbursement totals \$29,172.00 for the three ownerships. The sum is statutorily computed based upon a settlement sum of \$199,500.00 less an aggregated written offer of \$111,100.00 to produce a benefit of \$88,400.00.

B. Cost Reimbursements. The owners' claimed aggregated costs at \$115,845.62 is allocated:

(1) Surveys	\$ 11,687.50
(2) Appraisal	\$ 46,146.00
(3) Civil Engineering	\$ 14,715.33
(4) Planners	\$ 20,523.99
(5) Geotechnical Engineers	\$ 19,456.67
(6) Court Reporters	\$ 1,431.55
(7) Exhibit Preparation	\$ 958.46
(8) Miscellaneous	\$ 926.12

TOTAL: \$115,845.62

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	\$11,687.50
(2)	Appraisal	\$36,830.00
(3)	Civil Engineering	\$13,240.00
(4)	Planners	\$16,419.00
(5)	Geotechnical Engineers	\$11,000.00
(6)	Court Reporters	\$ 1,431.55
(7)	Exhibit Preparation	\$ 958.46
(8)	Miscellaneous	<u>\$ 00.00</u>
TOTAL:		<u>\$91,566.51</u>

The negotiated cost reimbursement represents a reduction of 21% 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 \$320,238.51 inclusive of land value, severance damage, statutory interest, statutory attorney's fees and cost reimbursements.

HMB/dre

Attachments

Exhibit A - Location map

Exhibit B - Parcel sketch

Exhibit C - Parcel sketch

Exhibit D - Parcel sketch

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EXHIBIT A

SITE LOCATION MAP

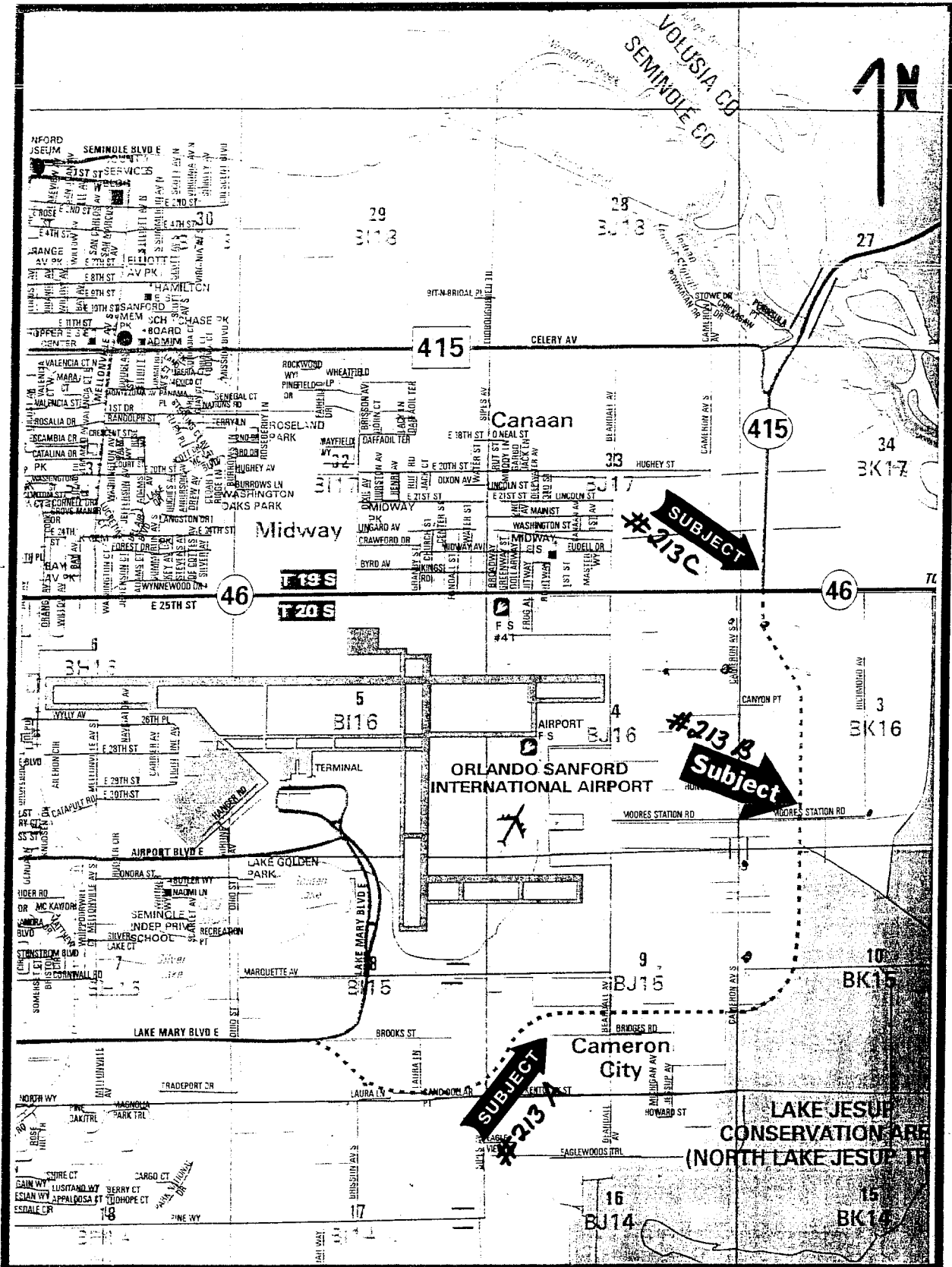
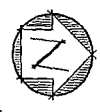
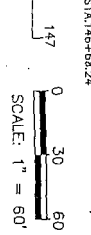
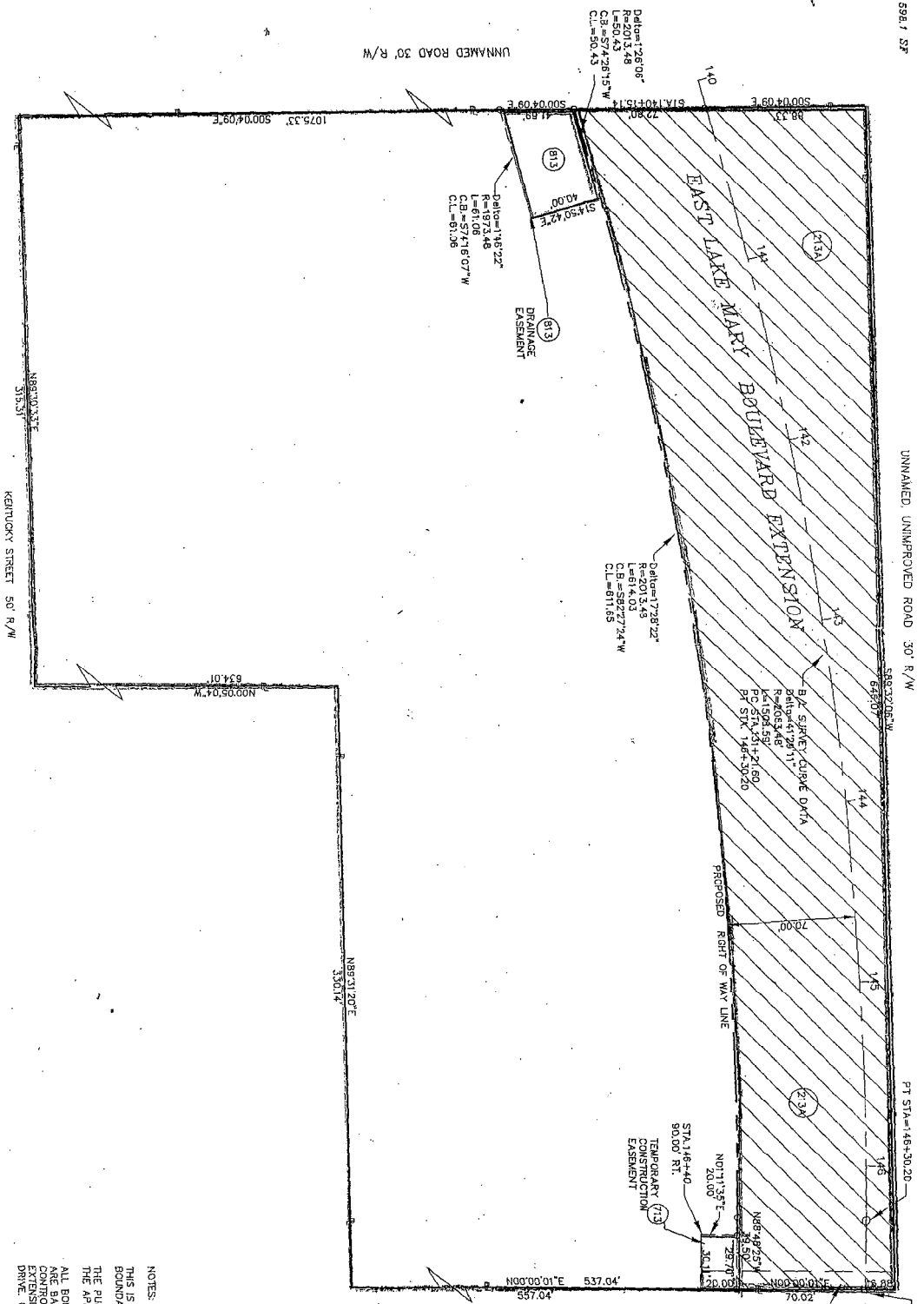


EXHIBIT B

EAST LAKE MARY BOULEVARD EXT. (100'
 SEMINOLE COUNTY, FLORIDA
 PARCELS 213A, 813, & TCE 713 - SKETCH OF PARCELS
 AREA OF TAKING = 1,379 ACRES
 AREA OF RECONSTRUCTION EASEMENT 713 = 598.1 SF
 DRAINAGE EASEMENT 813 = 2239.7 SF

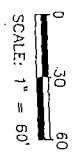
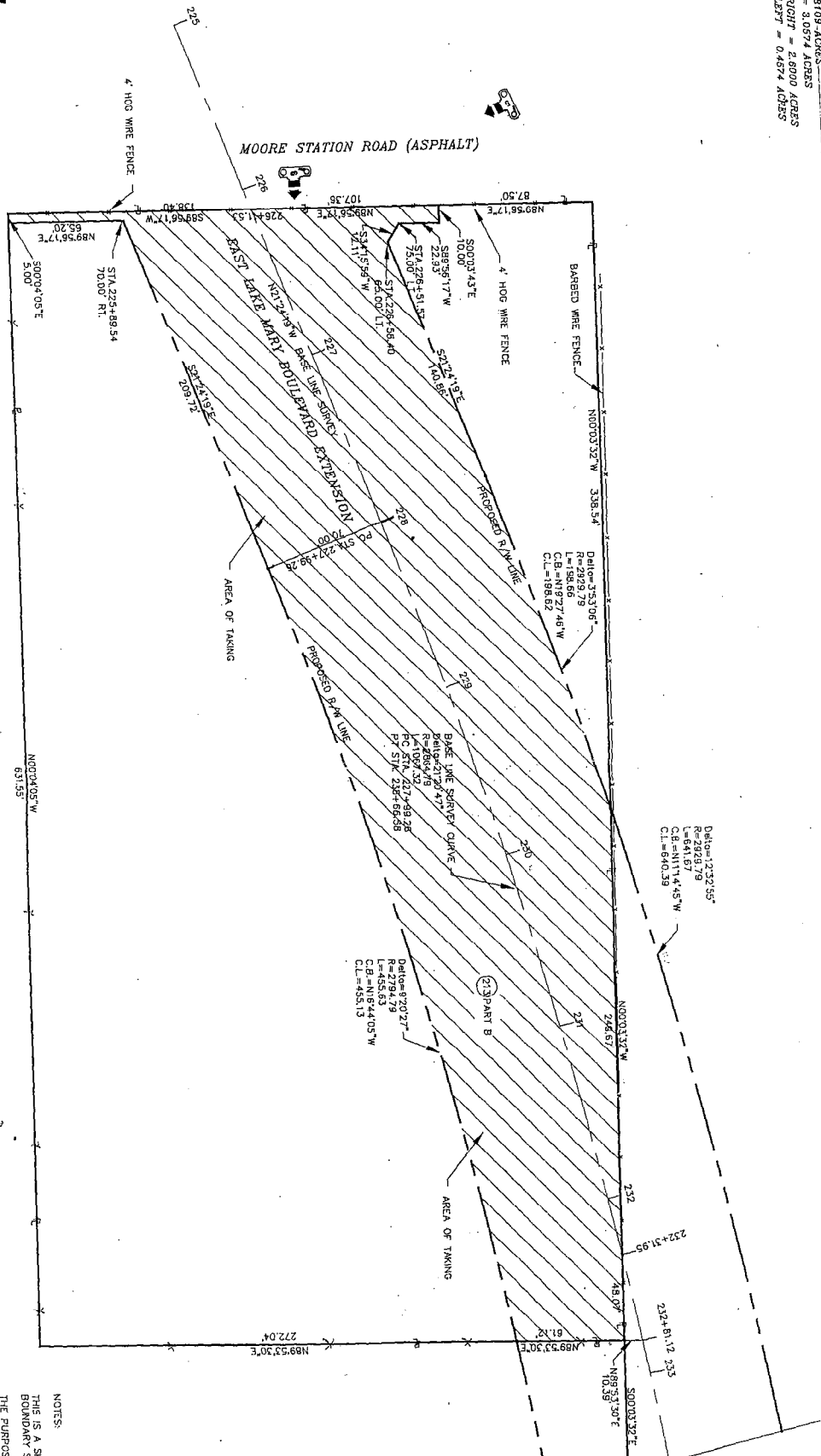


NOTES:
 THIS IS A SKETCH ONLY. THIS IS NOT A
 BOUNDARY SURVEY
 THE PURPOSE OF THIS SKETCH IS TO AID IN
 THE APPRAISAL OF THE SUBJECT PARCEL.
 ALL BOUNDARY INFORMATION AND CALCULATIONS
 ARE BASED ON A SPECIFIC PARENT PARCEL
 EXTENSION FROM OHIO AVENUE TO SILVER LAKE
 DRIVE. COUNTY PROJECT: PS-3137.

DATE	REVISIONS	SKETCH DATE	FIELD BOOK/PAGE	OFFICE ADDRESS TALAMON SURVEYING, INC. 700 N. W. 10th St., Suite 100 Tallahassee, Florida 32303		PHONE: (904) 668-7330 MOBILE: (904) 333-7715 FAX: (904) 884-8933	PRODUCT	CLIENT	JOB NO.	SHEET NO.
		10/20/02	NA			EAST LAKE MARY BOULEVARD EXTENSION SEMINOLE COUNTY - PARCEL 213A, TCE 713, & 813 SKETCH OF PARCEL PARENT TRACT AND AREA OF TAKING	THE SPIVEY GROUP, INC.	TS002213A	2 of 3	

ST. LAKE MARY BOULEVARD EXTEN. ON
 SEMINOLE COUNTY, FLORIDA PARCEL
 213B - SKETCH OF PARCEL
 AREA OF PARENT TRACT = 4.8682 ACRES
 AREA OF REMAINDER LEFT = 0.4574 ACRES
 AREA OF REMAINDER RIGHT = 2.6900 ACRES
 AREA OF REMAINDER LEFT = 0.4574 ACRES

EXHIBIT C



NOTES:
 THIS IS A SKETCH ONLY. THIS IS NOT A
 BOUNDARY SURVEY
 THE PURPOSE OF THIS SKETCH IS TO AID IN
 THE APPROVAL OF THE SUBJECT PARCEL.
 ALL BOUNDARY INFORMATION AND CALCULATIONS
 ARE BASED ON A SURVEY MAP AND
 CONDUIT FROM OHIO AVENUE TO SILVER LAKE
 DRIVE. COUNTY PROJECT: PS-0137

DATE	12/19/02	REVISIONS	CHANGES PER BOB SIMMONS	SKETCH DATE	10/25/02	FIELD BOOK/PAGE	NA	OFFICE ADDRESS	7000 W. UNIVERSITY BLVD., SUITE 100 TALAMONVILLE, FLORIDA 32003	PHONE	(407) 668-7300 (407) 631-2415 (407) 668-2400	PROJECT	EAST LAKE MARY BOULEVARD EXTENSION - SEMINOLE COUNTY - PARCEL 213B	SHEET TITLE	SKETCH OF PARCEL PARENT TRACT AND AREA OF TAKING	CLIENT	THE SPANEY GROUP, INC.

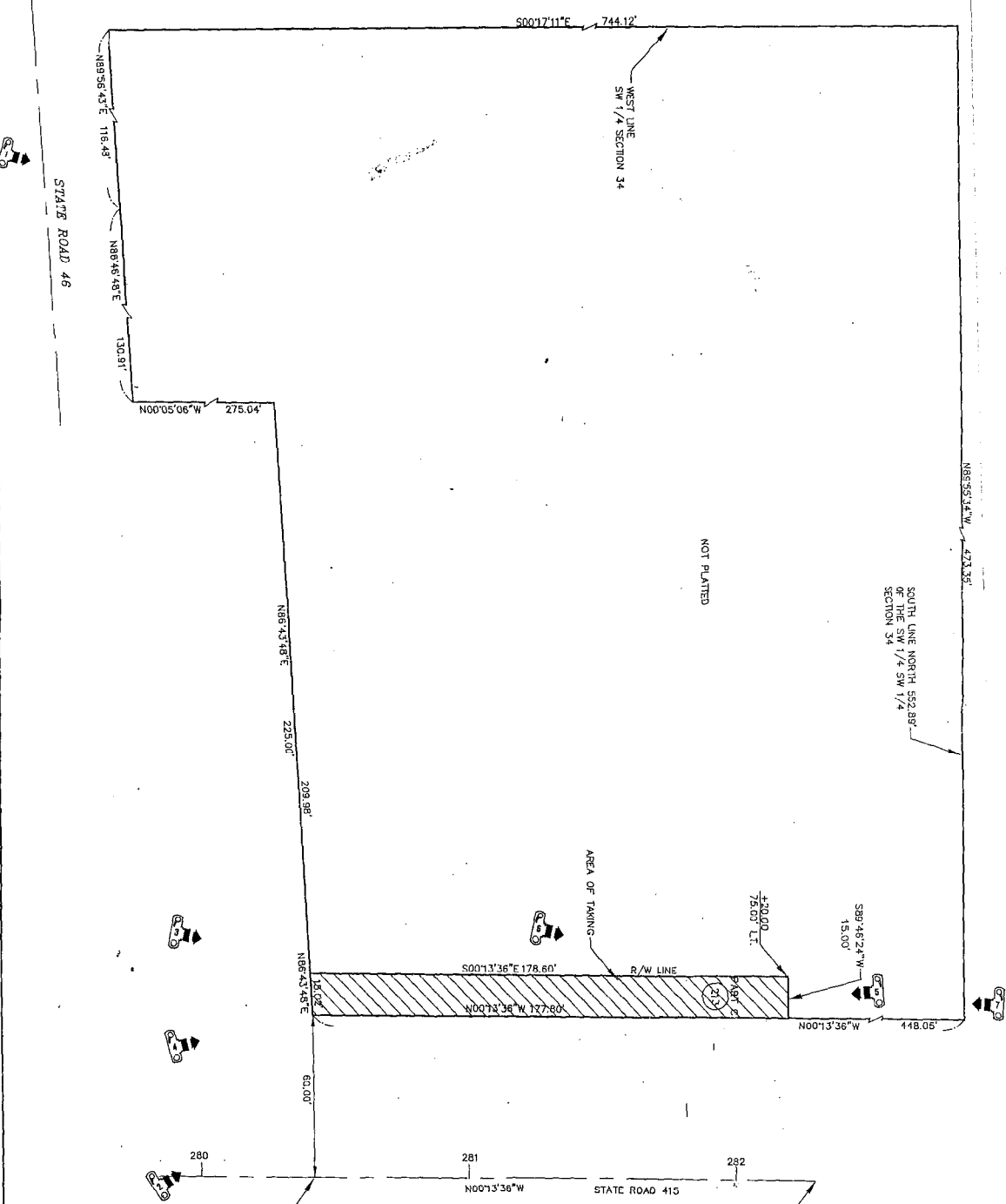


EAST LAKE MARY BOULEVARD EXTENSION
 BREVARD COUNTY, FLORIDA
 PARCEL 2133 - SKETCH OF PARCEL
 AREA OF PRESENT TRACT - 6,571.1 ACRES
 AREA OF TAKING - 2,672.8 ACRES
 AREA OF REMAINDER - 3,898.3 ACRES

LEGEND

- UTILITY POLE AND GUY ANCHOR
- PP — POWER POLE
- SIGN
- W.M. WATER METER
- R/W RIGHT OF WAY
- ✓ BROCKET SCALE
- ✓ EDGE OF PAVEMENT
- FNAC FOUND NAIL AND CAP
- BRP BACKFLOW PREVENTER
- WATER VALVE
- D/W DRIVEWAY
- WATERED END SECTION
- MES LANDSCAPED AREA
- SV SEWER FORGEMAN VALVE
- SEWER CLEAN OUT
- CO FIRE HOSE
- LP LIGHT POLE
- PA PULL BOX
- 3M SIGNAL SPAN POLE
- 2M TELEPHONE POLE
- OT OVERHEAD TELEPHONE
- TRAFIC SERVICE CABINET
- AND DRAINAGE MANHOLE
- HIS SANITARY SEWER MANHOLE
- IW MONITORING WELL
- SPRINKLER HEAD
- LEO ELECTRIC OUTLET
- HP SHARED UTILITY POLE

EXHIBIT D



NOTES:
 THIS IS A SKETCH ONLY. THIS IS NOT A BOUNDARY SURVEY. THE PURPOSE OF THIS SKETCH IS TO AID IN THE APPRAISAL OF THE SUBJECT PARCEL. ALL BOUNDARY INFORMATION AND CALCULATIONS ARE BASED ON A SPECIFIC PURPOSE MAP AND CONTROL SURVEY, EAST LAKE MARY BOULEVARD EXTENSION, FROM KING AVENUE TO SEVEN LANE DRIVE, COUNTY PROJECT: 75-013.



DATE	REVISIONS	DATE	FIELD BOOK/PAGE	OFFICE ADDRESS TALLAHASSEE, FLORIDA 32303		PHONE (850) 844-3470	PROJECT	EAST LAKE MARY BOULEVARD EXTENSION-SEMIWOLE COUNTY - PARCEL 2133 SKETCH OF AREA OF TAKING	DATE	THE SURVEY GROUP, INC.
		10/18/02	N/A	1000 S. GULF BLVD. SUITE 100		FAX (850) 824-3953	SHEET NO.		2 of 3	