







**COUNTY ATTORNEY'S OFFICE  
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney 

FROM: Herbert S. Zischkau III, Assistant County Attorney Ext. 5736 

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

DATE: November 5, 2003

SUBJECT: Settlement Authorization  
East Lake Mary Boulevard, Phase IIB  
Parcel Nos.: 227/827  
Owner: Fertakis International Construction Co.  
*Seminole County vs. Hewitt Olson, et al.*  
Case No.: 2003-CA-2335-13-L

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This Memorandum requests settlement authorization by the Board of County Commissioners ("BCC") for Parcel Nos. 227/827 on the East Lake Mary Boulevard, Phase IIB project (the "Project"). The recommended settlement is at the total sum of \$100,000.00, inclusive of all land value, severance damages, statutory interest, and attorney's fees and costs.

**I PROPERTY**

**A. Location Data**

Parcel No. 227 is a fee simple acquisition of approximately two acres. Parcel No. 827 is a permanent drainage easement of 17,688 square feet. The property is located at the southeast corner of paved Cameron Avenue and unpaved Canyon Point Road.

**B. Street Address**

The 15.3 acre parent tract is unimproved, and has no street address. A location map is attached as Exhibit A and a parcel sketch as Exhibit B. The Tax Appraiser's Parcel I.D. Numbers are: 03-20-31-5AY-0000-26A2, 03-20-31-5AY-0000-27A0 and 03-20-31-5AY-0000-27A1.

**II AUTHORITY TO ACQUIRE**

The BCC adopted Resolution No. 2003-R-47 on February 11, 2003, authorizing the acquisition of Parcel Nos. 227/827, and finding that the East Lake Mary Boulevard Project was necessary and served a public purpose and was in the best interest of the citizens of Seminole County.

**III ACQUISITIONS AND REMAINDER**

The fee simple acquisition consists of 2.0551 acres, acquired from the 15.2855 parent tract leaving a remainder of 13.2304 acres. The permanent drainage easement is 17,688 square feet.

**IV APPRAISED VALUES**

The County's appraisal report was prepared by Ted Hastings, III, MAI of the Spivey Group, Inc., and opined the value of the fee acquisition to be \$58,400.00, and the value of the permanent drainage easement to be \$8,200.00, for a total of \$66,600.00.

The owners did not have an appraisal performed; however, the owners used John Houff & Associates for consultation on appraisal and engineering issues.

**V NEGOTIATION**

The County extended a binding written offer to the property owner in the amount of \$73,000.00. The property owner rejected that offer and responded with a counteroffer of \$100,000.00, inclusive of all fees and costs. This offer was contingent upon the County installing a culvert under Canyon Point Road, the paving of Canyon Point Road (which is private), various curb cuts and utility connections, and providing fill dirt and a fill permit. The County rejected all of these demands as excessive or impossible to perform, but did agree to allow right in, right out connection to the new roadway and allowing discharge into the County's drainage system. The County agreed to recommend settlement in the amount of \$100,000.00, inclusive of all fees and costs.

**VI ATTORNEY FEE AND COST REIMBURSEMENTS**

The settlement sum includes all attorney’s fees and cost reimbursements. The owner was represented by John Houff, who is not an attorney but rather a “condemnation consultant”. The inclusive settlement payment to the owner gives her control over the allocation of compensation to her consultants.

**VII COST AVOIDANCE**

By this settlement, 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 settlement sum;
- B. All statutory interest; and,
- C. Attorney’s fees and costs.

**VIII ANALYSIS**

This is a cost avoidance settlement. The settlement sum of \$100,000.00 includes all attorney fees and cost reimbursements. The settlement sum is \$27,000.00 more than the County’s offer to settle. A full appraisal alone would approximate the sum over the County’s written offer.

Settlement now for cost avoidance is advised.

**IX RECOMMENDATION**

County staff recommends that the BCC approve this settlement in the amount of \$100,000.00 inclusive of land value, severance damages, statutory interest and attorney’s fees and costs.

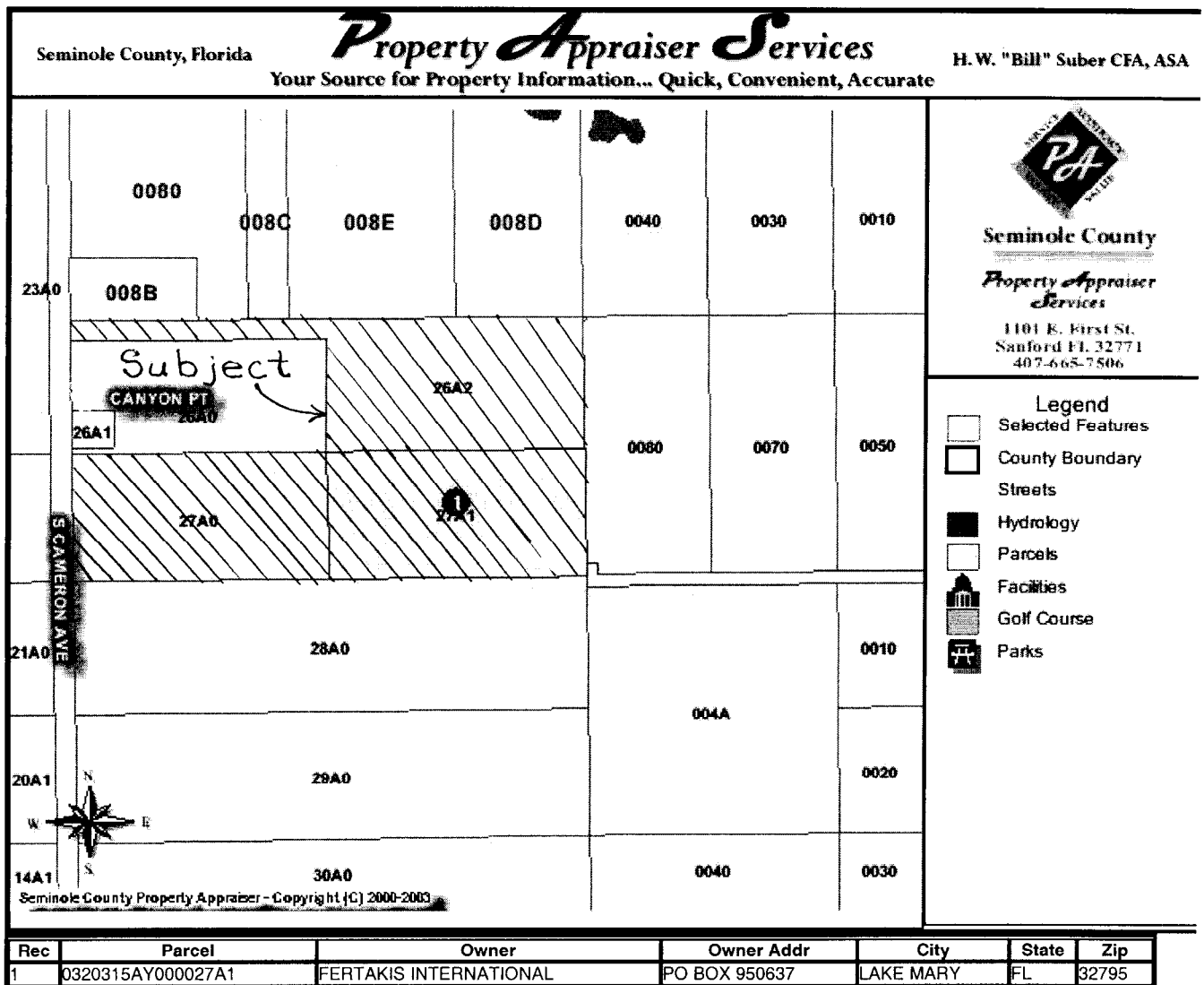
HZ/LV/dre

Attachments:

Exhibit A - Location Map

Exhibit B - Parcel Sketch

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## EXHIBIT A

