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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: November 4, 2004

SUBJECT: Settlement Authorization
East Lake Mary Boulevard, Segment I
Parcel No.: 103
Owners: Silver Lake Realty Company
Seminole County vs. Silver Lake Realty Company, et al.
Case No.: 2000-CA-1886-13-G

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for attorney fees for non-monetary benefits, apportionment and cost reimbursements related to Parcel No. 103 on the East Lake Mary Boulevard, Segment I Project. The recommended mediated settlement is at the total sum of \$253,858.08.

I PROPERTY

A. Location data

Parcel No. 103 is located on the north side of East Lake Mary Boulevard just west of the railroad crossing. A location map is attached as Exhibit A.

B. Street Address

The street address is 1770 East Lake Mary Boulevard. A parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 96-R-187, on September 10, 1996, authorizing the acquisition of Parcel No. 103, and finding that East Lake Mary Boulevard, Segment 1 Project was necessary and served a public purpose and was in the best interests of the citizens of Seminole County.

III BACKGROUND

The fee simple acquisition consisted of 2.3 acres. The acquisition (as shown on Exhibit B) consisted of a thirty foot strip across the frontage and a 2± acre retention pond. The acquisition had a significant impact on the property: (1) the thirty foot strip reduced the front building set back from 100 feet to 70 feet impacting truck access to the front four overhead loading doors; (2) the raised septic tank drain field was consumed and hook-up to the City of Sanford's force main was not available; (3) a new septic tank had to be installed to assure continuing operation by the three businesses occupying the building; and, (4) 85 paved parking spaces were consumed by the acquisition.

In August, 2003, the case in chief was settled cost effectively at \$570,000.00 and benefit obtained attorney fees were set at \$29,576.25. At that time we advised that all three types of attorney fees would be available including non-monetary benefit and apportionment fees due to the three tenant claims. We also advised that costs would be significant due to the removal and installation of the new septic system to continuously serve the tenants and access issues.

IV NON-MONETARY BENEFIT AND APPORTIONMENT ATTORNEY FEES CLAIM

The owner claimed:

(1) Non-monetary benefit fees	\$386,200.00
(2) Apportionment attorney fees	<u>\$ 4,732.50</u>
Total Attorney Fee Claims	<u>\$390,932.50</u>

V COST CLAIM

The owner claimed the following costs:

(1) Appraisal Costs	\$107,099.50
(2) Construction Cure Costs	\$ 3,772.50
(3) Planning Costs	\$ 32,991.05
(4) Engineering Costs	\$105,158.94
(5) Survey Costs	\$ 3,050.00
(6) Architectural Costs	\$ 4,766.25
(7) Exhibit Costs	<u>\$ 3,884.30</u>
Total Costs Claim	<u>\$260,722.54</u>

VI PROPOSED MEDIATED SETTLEMENT

Due to the number of claims and dollar amount of the claims, a mediation on reimbursable attorney fees and costs was held.

A. Non-Monetary Benefit and Apportionment Fees

The apportionment fees were settled at \$4,732.50, which presented little room for negotiation at \$300.00 per hour for 29.85 hours.

Negotiation on non-monetary fees occurred since the method of valuing non-monetary benefits and calculating fees is not set forth clearly in the statute or case law. The owner claimed maximum sums totaling \$386,200.00. The County had obtained the time slips and invoices of the owner's attorneys. The law firms' invoices to the owner totaled 611.05 hours with the total of the invoices being \$124,048.50 for all three types of reimbursable attorney fees.

One statutory standard that a Court must consider as to the attorneys fees is the amount that a client might expect to pay if the County were not liable. Here, for all three types of fees, the total was \$124,048.50. If the matter went to hearing, this number would be available to the Court.

The proposed mediated settlement is at:

(1)	Non-monetary benefit fees	\$77,000.00
(2)	Apportionment attorney fees	\$ 4,732.50

When the monetary benefit fee of \$29,576.25 is added to the above numbers, the total of the three types of fees is \$111,308.75. The negotiated result for the non-monetary and apportionment fees is reduced 71.5% downward from the maximum exposure of \$390,932.50 at a fee hearing.

B. Costs Claim

The total costs claim was \$260,722.54. In negotiation, several non-reimbursable office overhead costs were taken out and several expert claims reduced.

Negotiations resulted in a cost claim reduction of 34% from \$260,722.54 to \$172,125.08. The amounts are allocated as follows:

(1)	Appraisal Costs	\$ 77,000.00
(2)	Construction Cure Costs	\$ 3,600.00
(3)	Planning Costs	\$ 28,000.00
(4)	Engineering Costs	\$ 55,000.00
(5)	Survey Costs	\$ 3,050.00
(6)	Architectural Costs	\$ 4,671.75
(7)	Exhibit Costs	\$ 803.33

Total Costs Claim \$172,125.08

VII SETTLEMENT ANALYSIS/COST AVOIDANCE

If this matter were taken to hearing, the County would need to acknowledge that all three types of attorneys' fees should be awarded. The invoice total of \$124,048.50 would be in evidence. The mediated sum for all three types totals \$111,308.75. The maximum exposure at a hearing would be \$390,932.50 plus the monetary fee of \$29,576.25 that has already been awarded.

As to costs, the County would need to pay its own experts to additionally review the cost claims and testify. Under the circumstances, it is not expected that a hearing would reduce costs any greater than the negotiated 34%.

When calculating the figures you will note a difference of 50¢ from the recommended settlement amount, due to an error contained in the mediated settlement agreement signed by the parties.

VIII RECOMMENDATION

This Office recommends settlement at \$253,858.08 for non-monetary benefit attorney fees, apportionment fees, and expert costs.

HMB/dre

Attachments:

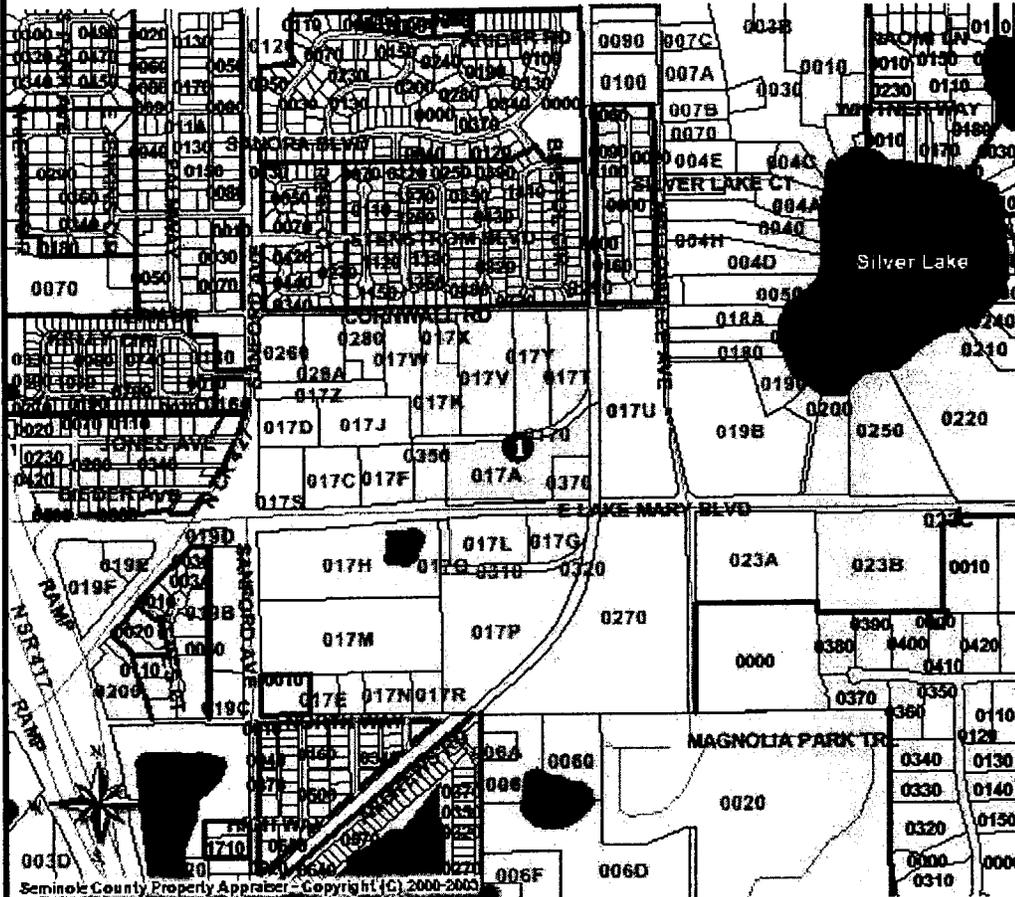
Exhibit A - Location Map

Exhibit B - Parcel Sketch



Seminole County
Property Appraiser Services

1101 E. First St.
Sanford FL 32771
407-665-7506



- Legend**
- Selected Features
 - County Boundary
 - Streets
 - Hydrology
 - Subdivision Lines
 - Parcels
 - Govt. Facilities
 - Golf Course
 - Parks
 - Shelters

Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	072031300017A0000	SILVER LAKE REALTY CO	PO BOX 1248	MADISON	CT	06443

