



COUNTY ATTORNEY'S OFFICE
JEFFREY J. NEWTON, County Attorney

201 South Rosalind Avenue ■ 3rd Floor
Reply To: Post Office Box 1393
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407-836-7320 ■ Fax 407-836-5888
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AGENDA ITEM

MEMORANDUM

Deputy County Attorney
Joel D. Prinsell

Senior Assistant County Attorneys

Katherine W. Latorre
Elaine M. Asad

Assistant County Attorneys

Roberta Alfonso
Cristina T. Berrios
Linda Brehmer-Lanosa
Joy Carmichael
Whitney E. Evers
Georgiana Holmes
Aleas Koos
Scott McHenry
Sawsan Mohiuddin
Dylan Schott
Scott Shevenell
Stephanie Stone

Legal Administrative Supervisor

Anna M. Caban

Senior Paralegal
Melessia Lofgren

Paralegals
Maria Vargas, ACP
Gail Stanford

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Jeffrey J. Newton, County Attorney *JJN*
Elaine M. Asad, Senior Assistant County Attorney *meef*
Contact: (407) 836-7320

DATE: September 27, 2021

SUBJECT: Consent Agenda Item for October 12, 2021
Eminent Domain Settlement Authorization
Orange County v. Valencia Trace of Orlando, Ltd., et al.
Case No. 2018-CA-001262-O
Parcel 1002
Project: Econlockhatchee Trail RCA (Lake Underhill Rd to S.R. 50)

This Consent Agenda item requests settlement authorization by the Board of County Commissioners for the *Orange County v. Valencia Trace of Orlando, Ltd., et al.* eminent domain case brought by Orange County on behalf of Public Works for the improvement of Econlockhatchee Trail.

A confidential memorandum, Settlement Analysis, and Stipulated Final Judgment have been provided to the Board under a separate cover memorandum. These documents will become public records at the conclusion of the litigation pursuant to Section 119.071(1)(d), Florida Statutes.

ACTION REQUESTED: Approval of the Negotiated Settlement Agreement in the case *Orange County v. Valencia Trace of Orlando, Ltd., et al.*, Case No. 2018-CA-001262-O, Parcel 1002, Project: Econlockhatchee Trail and authorization for County Attorney's Office to execute the proposed Stipulated Final Judgment as to Parcel 1002 on behalf of Orange County.

EMA/gs

Copy: Byron W. Brooks, AICP, County Administrator
Mindy Cummings, Manager, Real Estate Management Division
Damian Czapka, P.E., Chief Engineer, Public Works Engineering Division
Anne Kulikowski, Director, Administrative Services Department




COUNTY ATTORNEY'S OFFICE
JEFFREY J. NEWTON, *County Attorney*

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407-836-7320 ■ Fax 407-836-5888
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MEMORANDUM

TO: Katie Smith, Deputy Clerk
Comptroller Clerk of BCC

FROM: Elaine M. Asad, Senior Assistant County Attorney 

DATE: November 3, 2021

SUBJECT: October 12, 2021, County Attorney Consent Agenda Item 1
Orange County v. Valencia Trace of Orlando, Ltd., et al.
Case No. 2018-CA-001262-O
Parcel 1002
Project: Econlockhatchee Trail RCA (Lake Underhill Rd to S.R. 50)
Document: Stipulated Final Judgment
Date of BCC Approval: October 12, 2021

Enclosed is a fully executed copy of the Stipulated Final Judgment entered by Judge Paetra Brownlee on October 18, 2021. The Clerk of Court will have the final judgment recorded.

Also enclosed is a copy of the Confidential Memorandum with attachments to Mayor Jerry Demings and County Commissioners, dated September 27, 2021, for the consent agenda item that was approved by the Board on October 12, 2021.

Please be advised that litigation in this case is concluded and the attached documents may be made part of the public record, notwithstanding the notation on the document stating that it was exempt under Section 119.07, Florida Statutes.

Should you need additional information, please do not hesitate to contact my office.

EMA/gs
Enclosures

Deputy County Attorney
Joel D. Prinsell

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Assistant County Attorneys

Roberta Alfonso
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Maria Vargas, ACP
Gail Stanford

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO.: 2018-CA-001262-O
DIVISION: 34
Parcel 1002

ORANGE COUNTY, FLORIDA,
a political subdivision of the State of Florida,

Petitioner,

v.

VALENCIA TRACE OF ORLANDO LTD., a
Florida limited partnership corporation;
GREYSTONE FUNDING CORPORATION, a
Virginia corporation; UNITED STATES
DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT; FLORIDA HOUSING
FINANCE CORPORATION, a public
corporation and a public body corporate and
politic duly created and existing under the laws
of the state of Florida; BRIGHT HOUSE
NETWORKS, LLC, doing business as Bright
House Networks, through its Florida Division,
f/k/a Time Warner Entertainment-Advance/
Newhouse Partnership, d/b/a Time Warner
Cable; DUKE ENERGY FLORIDA, LLC, a
Florida limited liability company, d/b/a Duke
Energy, f/k/a Duke Energy Florida, Inc., f/k/a
Florida Power Corporation, a Florida
corporation, d/b/a Progress Energy Florida, Inc.;
and SCOTT RANDOLPH, Orange County Tax
Collector,

Respondents.

/

STIPULATED FINAL JUDGMENT

THIS CAUSE having come before the Court on the Joint Motion for Entry of Stipulated
Final Judgment by the Petitioner, ORANGE COUNTY, FLORIDA, a political subdivision of

the State of Florida (“Petitioner” or sometimes “Orange County”), and the Respondent, VALENCIA TRACE OF ORLANDO LTD (hereinafter “VALENCIA”), and it appearing to the Court that such parties were authorized to enter into such Motion, and the Court finding that the compensation to be paid by the Petitioner is full, just and reasonable for all parties concerned, and the Court being fully advised in the premises, it is hereby,

ORDERED AND ADJUDGED as follows:

1. VALENCIA does have and recover of and from the Petitioner the total sum of **FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00)**, subject to any apportionment claims, subject to credit to Petitioner for its Order of Taking deposit of \$332,500.00 previously paid, and subject to payment to the Orange County Tax Collector from said total sum for taxes calculated from January 1 to the date of deposit on August 31, 2018, pursuant to the Order of Taking; and in full payment for the property taken (designated as Parcel 1002 herein); for damages resulting to the remainder if less than the entire property was taken; for all other damages of any nature or kind including, but not limited to, for any improvements, severance damages, cost of cures, business damages, if any; and attorney’s fees based upon any claim for non-monetary benefits.

2. Within thirty (30) days from the rendition of this Stipulated Final Judgment the Petitioner shall pay the sum of **ONE HUNDRED SIXTY-SEVEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$167,500.00)** into the Registry of the Court, that amount being the difference between the full payment required by this Stipulated Final Judgment pursuant to Paragraph 1 and the amount of \$332,500.00 deposited pursuant to the Order of Taking. Said amount of \$167,500.00 is subject to any apportionment claims by, including, but not limited to, Greystone Funding Corporation, United States Department of

Housing and Urban Development, and Florida Housing Finance Corporation, or any other persons or entities claiming an apportionment, and will be subsequently determined by this Court at a hearing to be set upon proper motion by any such person or entity claiming an apportionment. Petitioner shall not be responsible for the separate payment of any such apportionment claims.

3. The Court awards VALENCIA the sum of **SIXTY-THREE THOUSAND NINE HUNDRED TWENTY-ONE AND NO/100 DOLLARS (\$63,921.00)** in full and complete satisfaction of all attorneys' fees (including any attorney's fees based upon non-monetary benefits), pursuant to Section 73.092, Florida Statutes.

4. The Court awards VALENCIA the sum of **SIXTY-FIVE THOUSAND EIGHT HUNDRED FIFTY-NINE AND 82/100 DOLLARS (\$65,859.82)** in full and complete satisfaction of all of VALENCIA's expert fees and costs, pursuant to Section 73.091, Florida Statutes.

5. Within thirty (30) days from the rendition of this Stipulated Final Judgment, the Petitioner shall pay to the Trust Account of Harris, Harris Bauerle Ziegler Lopez, 1201 E. Robinson Street, Orlando, Florida 32801, as attorneys for VALENCIA, the sum of **ONE HUNDRED TWENTY-NINE THOUSAND SEVEN HUNDRED EIGHTY AND 82/100 DOLLARS (\$129,780.82)** that amount representing the total of attorneys' fees, costs and expenses, pursuant to Paragraph 3 above, and experts' fees and costs, pursuant to Paragraph 4 above.

6. The title to Parcel 1002, as more fully described in the Order of Taking, dated August 22, 2018, attached hereto as **Exhibit A**, which vested in the Petitioner pursuant to the

Order of Taking, and the deposit of money previously made, is approved, ratified and confirmed.

7. The parties agree to the relocation of the backflow preventer, as shown on **Exhibit B**, attached hereto; and to the placement of a Tee and Valve in lieu of the 90° Bend, as shown on **Exhibit C**, attached hereto, which is not subject to any claims under *Central and Southern Florida Control District v. Wye River Farms, Inc.*, 297 So.2d 323 (Fla. 4th DCA 1974) cert. denied 310 So2d 745 (Fla. 1975), and its progeny.

8. On April 28, 2021, pursuant to Orange County Code of Ordinances Section 30-637 of Article XIII, Eminent Domain Waivers, Exceptions and Variances, Orange County department managers or their designee, granted the following waivers to county land development, and engineering codes and regulations to prevent any adverse impact upon the remainder of VALENCIA's property as a result of this condemnation process and to allow the continued use of their property in a manner similar to its pre-condemnation condition: (1) for the tennis court landscape buffer requirement; and (2) the setback requirement for the storage building located along the easterly property line.

9. Immediately after payment by Petitioner of the amount set forth in Paragraph 2 into the Registry of the Court, the Respondent may file a proper motion to withdraw said monies.

10. This Court retains jurisdiction to enforce the terms and conditions contained herein of this Stipulated Final Judgment.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida this 18th day of October, 2021.


Paetra Brownlee, Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of October, 2021, a copy of the foregoing
Stipulated Final Judgment has been furnished by electronic mail to the following:

Elaine M. Asad, Esq.
Orange County Attorney's Office
P.O. Box 1393, Orlando, FL 32806-1393
elaine.asad@ocfl.net
Counsel for Petitioner, Orange County, Florida

Bruce M. Harris, Esq.
Harris, Harris Bauerle Ziegler Lopez,
1201 E. Robinson Street, Orlando, FL 32801
bruce@hbzlfllorida.com
*Attorney for Respondents, Valencia Trace of Orlando, Ltd., and
Greystone Funding Corporation*

John Rudy, Esq.
Assistant United States Attorney
400 N. Tampa Avenue, Suite 3200, Tampa, FL 33602
John.rudy@usdoj.gov
*Attorney for Respondent, United States Department of Housing and Urban
Development*

Patricia R. McConnell, Esq.
Latham Shuker Eden & Beaudine, LLP
111 N. Magnolia Avenue, Suite 1400, Orlando, FL 32801
pmcconnell@lseblaw.com
Attorney for Respondent, Florida Housing Finance Corporation



Judicial Assistant/Attorney

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO.: 2018-CA-001262-O
DIVISION: 34

ORANGE COUNTY, FLORIDA,
a political subdivision of the State of Florida,

PARCEL: 1002

Petitioner,

v.

VALENCIA TRACE OF ORLANDO LTD., a
Florida limited partnership corporation;
GREYSTONE FUNDING CORPORATION, a
Virginia corporation; UNITED STATES
DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT; FLORIDA HOUSING
FINANCE CORPORATION, a public corporation
and a public body corporate and politic duly created
and existing under the laws of the state of Florida;
BRIGHT HOUSE NETWORKS, LLC, doing
business as Bright House Networks, through its
Florida Division, f/k/a Time Warner Entertainment-
Advance/ Newhouse Partnership, d/b/a Time
Warner Cable; DUKE ENERGY FLORIDA,
LLC, a Florida limited liability company, d/b/a
Duke Energy, f/k/a Duke Energy Florida, Inc., f/k/a
Florida Power Corporation, a Florida corporation,
d/b/a Progress Energy Florida, Inc.; and SCOTT
RANDOLPH, Orange County Tax Collector,

Respondents.

STIPULATED ORDER OF TAKING

THIS CAUSE coming before the Court on the joint motion of Petitioner, ORANGE
COUNTY, FLORIDA, ("Petitioner"), and Respondent, VALENCIA TRACE OF ORLANDO
LTD., ("Respondent"), and it appearing that proper notice was first given to all persons having or

Stipulated Order of Taking; Case No 2018-CA-001262-O; Page 1 of 5

EXHIBIT A

1 of 9

claiming any equity, lien, title, or other interest in or to the real property described in the Petition, and it appearing to the Court that the parties were authorized to enter into such motion, and that the Petitioner would apply to this Court for an Order of Taking, and the Court being fully advised in the premises, upon consideration, it is, therefore,

ADJUDGED:

1. That the Court has jurisdiction of this action, of the subject matter and of the parties to this cause.
2. That the pleadings in this cause are sufficient and the Petitioner is properly exercising its delegated authority.
3. That the estimate of value filed in this cause by the Petitioner was made in good faith and based upon a valid appraisal.
4. That upon payment of the deposit of the money hereinafter specified into the Registry of this Court, the right, title or interest specified in the Petition as described herein shall vest in the Petitioner.
5. That the deposit of monies will secure the persons lawfully entitled to the compensation which will be ultimately determined by final judgment of this Court. The determination of full compensation is reserved and shall be determined later by negotiation, mediation, or jury trial.
6. That the total sum of money to be deposited into the Registry of the Court within twenty (20) days of the entry of this Order shall be in the amount of **THREE HUNDRED THIRTY-TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$332,500.00)**, and shall be allocated to each parcel as follows:

<u>PARCEL</u>	<u>AMOUNT</u>
1002	\$ 332,500
TOTAL	\$ 332,500

7. That the disbursement of the funds in the total amount of \$332,500 deposited into the Registry of the Court is subject to any apportionment claims by, including, but not limited to, Greystone Funding Corporation, United States Department of Housing and Urban Development, Florida Housing Finance Corporation, Bright House Networks, LLC, Duke Energy Florida, LLC, and Scott Randolph, Orange County Tax Collector, or any other persons or entities claiming an apportionment, and will be subsequently determined by this Court at a hearing to be set upon proper motion by any such person or entity claiming an apportionment. Petitioner shall not be responsible for the separate payment of any such apportionment claims.

8. That upon deposit of the monies set forth above, and without further notice or Order of this Court, the Petitioner shall be entitled to possession of the property described in the Petition. Respondent, Valencia Trace of Orlando Ltd., may, however, at Respondent's own risk, continue to use the driveway, fencing, backflow preventer, and other items in the area of taking until the later of six (6) months after the effective date of this Order of Taking, or until Petitioner sends written notice to Respondent, Valencia Trace of Orlando Ltd., of Petitioner's intent to commence construction of Petitioner's project. Respondent shall maintain all necessary insurance to insure the area of taking (Parcel 1002) for, but not limited to, liability for injury or damages arising out of Respondent and/or its guests use of Parcel 1002. By agreement of the parties there is no basis for the computation of attorneys' fees for non-monetary benefits to the Respondent arising out of Respondent's extended use of the property and Respondent, Valencia Trace of Orlando Ltd. and its attorneys hereby waive any claim for non-monetary benefit

attorney's fees associated with the extended possession.

9. That legal title to the following described property, to-wit:

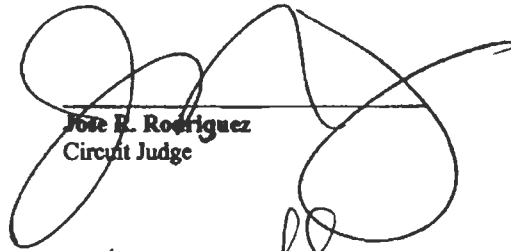
SEE EXHIBIT "A"

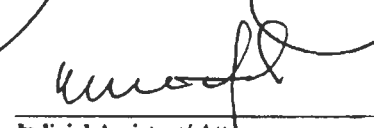
shall vest in Petitioner, ORANGE COUNTY, FLORIDA, a political subdivision of the State of Florida, upon deposit of the aforesaid sums into the Registry of the Court.

10. That any party subject to the public disclosure requirements of Section 286.23, Florida Statutes, is notified that it is required to make a public disclosure in writing, under oath and subject to the penalties prescribed for perjury. Such person or entity making the disclosure shall state his name and address and the name and address of every person having a beneficial interest in the real property, however small or minimal. The written disclosure shall be made to Orange County Attorney's Office, 201 S. Rosalind Avenue, Third Floor, P.O. Box 1393, Orlando, FL 32802-1393, Attention: Elaine M. Asad, Senior Assistant County Attorney.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida this 22nd day of August, 2018.

Copies furnished to:
all parties on the attached
Service/Mailing List.


Jose E. Rodriguez
Circuit Judge


Judicial Assistant/ Attorney

SERVICE/MAILING LIST

Orange County v. Valencia Trace of Orlando, Ltd., et al.
Case No. 2018-CA-001262-O
Parcel 1002

Elaine M. Asad, Esq.
Senior Assistant County Attorney
County Attorney's Office
201 S. Rosalind Avenue, Third Floor
P.O. Box 1393
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Elaine.asad@ocfl.net
*Attorney for Petitioner
Orange County, Florida*

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Edgar Lopez, Esq.**
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bruce@hhbzflorida.com
edgar@hhbzflorida.com
*Attorneys for Respondents
Valencia Trace of Orlando Ltd., and
Greystone Funding Corporation*

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Colleen Murphy Davis, Esq.
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*Attorney for Respondent
United States Department of
Housing and Urban Development*

**Jan Albanese Carpenter, Esq. and
Patricia R. McConnell, Esq.**
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*Attorneys for Respondent
Florida Housing Finance
Corporation*

Scott Randolph
Orange County Tax Collector
200 S. Orange Avenue, Suite 1600
Orlando, Florida 32801

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO.: 2018-CA-001262-O
DIVISION: 34

ORANGE COUNTY, FLORIDA,
a political subdivision of the State of Florida,

PARCEL: 1002

Petitioner,

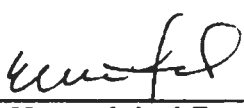
v.

VALENCIA TRACE OF ORLANDO LTD.,
et al.,


Respondents.

JOINT MOTION FOR ENTRY OF STIPULATED ORDER OF TAKING

The parties by and through the undersigned, respectfully move for the entry of the
attached Stipulated Order of Taking.


Elaine Marquardt Asad, Esq.
Florida Bar No. 109630
Orange County Attorney's Office
201 S. Rosalind Avenue, Third Floor
P. O. Box 1393
Orlando, Florida 32802-1393
Telephone: 407-836-7320
Elaine.Asad@ocfl.net
Attorney for Petitioner
Orange County, Florida

Date: 8-16-18


Bruce M. Harris, Esq.
Florida Bar No. 003697
Harris Harris Bauerle Ziegler Lopez
1201 E. Robinson Street
Orlando, Florida 32801
Telephone: 407-843-0404
bruce@hhbzflorida.com
Attorney for Respondent
Valencia Trace of Orlando, Ltd.

Date: 8/15/18

Joint Motion for Entry of Stipulated Order of Taking; Case No 2018-CA-001262-O

LEGAL DESCRIPTION


SCHEDULE "A"
PARCEL: 1002

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 22 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SOUTHWEST 1/4 OF SAID SECTION 30 (A 3/16" IRON ROD WITHOUT IDENTIFICATION IN WELL BOX AS NOW EXIST); THENCE NORTH 00°24'07" WEST, ALONG THE EAST LINE THEREOF, A DISTANCE OF 1339.31 FEET; THENCE, DEPARTING SAID EAST LINE, SOUTH 89°13'25" WEST A DISTANCE OF 30.00 FEET TO THE WEST RIGHT OF WAY LINE OF ECONLOCKHATCHEE TRAIL AND THE POINT OF BEGINNING; THENCE, ALONG SAID RIGHT OF WAY LINE, SOUTH 89°13'25" WEST A DISTANCE OF 20.00 FEET TO THE EXISTING LIMITED ACCESS RIGHT OF WAY LINE OF STATE ROAD 417 AS SHOWN ON ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY MAPS OF EASTERN BELTWAY PROJECTS 75300-6440-403 & 404; THENCE NORTH 00°24'07" WEST, ALONG SAID LIMITED ACCESS RIGHT OF WAY LINE, A DISTANCE OF 12.81 FEET TO A POINT ON A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 3969.72 FEET; THENCE, FROM A TANGENT BEARING OF NORTH 35°20'56" WEST, ALONG THE ARC OF SAID CURVE NORTHWESTERLY 45.03 FEET, THROUGH A CENTRAL ANGLE OF 00°38'59"; THENCE, DEPARTING SAID LIMITED ACCESS RIGHT OF WAY LINE, NORTH 00°24'07" WEST A DISTANCE OF 101.44 FEET; THENCE NORTH 89°35'53" EAST, A DISTANCE OF 6.00 FEET; THENCE NORTH 00°24'07" WEST, A DISTANCE OF 303.75 FEET TO THE WEST RIGHT OF WAY LINE OF SAID ECONLOCKHATCHEE TRAIL; THENCE SOUTH 45°24'07" EAST, ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 56.57 FEET; THENCE SOUTH 00°24'07" EAST, ALONG SAID EXISTING WEST RIGHT OF WAY LINE, A DISTANCE OF 414.63 FEET, TO THE POINT OF BEGINNING.

CONTAINING 17,482 SQUARE FEET, MORE OR LESS.

THIS IS NOT A BOUNDARY SURVEY, NOR HAS ANY FIELD WORK BEEN PERFORMED IN ACCORDANCE WITH S.J. 17, FLORIDA ADMINISTRATIVE CODE FOR PREPARATION OF THIS DRAWING.


RUSSELL J. MARKS
PROFESSIONAL SURVEYOR AND MAPPER
STATE OF FLORIDA LICENSE NO. 5623


PREPARED FOR: ORANGE COUNTY, FLORIDA		ECONLOCKHATCHEE TRAIL	
DESIGNED BY: RJM	DATE: 2/07/17	 URS CORPORATION 315 E. ROBINSON STREET SUITE 848 ORLANDO, FL 32801-1949 PH (407) 422-0833 LICENSED SURVEYOR NO. 6689	REVISIONS:
DRAWN BY: CLK	JOB NO:		
APPROVED BY: RJM	COUNTY PROJECT NO: C.I.P. 5024		SHEET: 1 OF 2

EXHIBIT A
Page 1 of 3

EXHIBIT A
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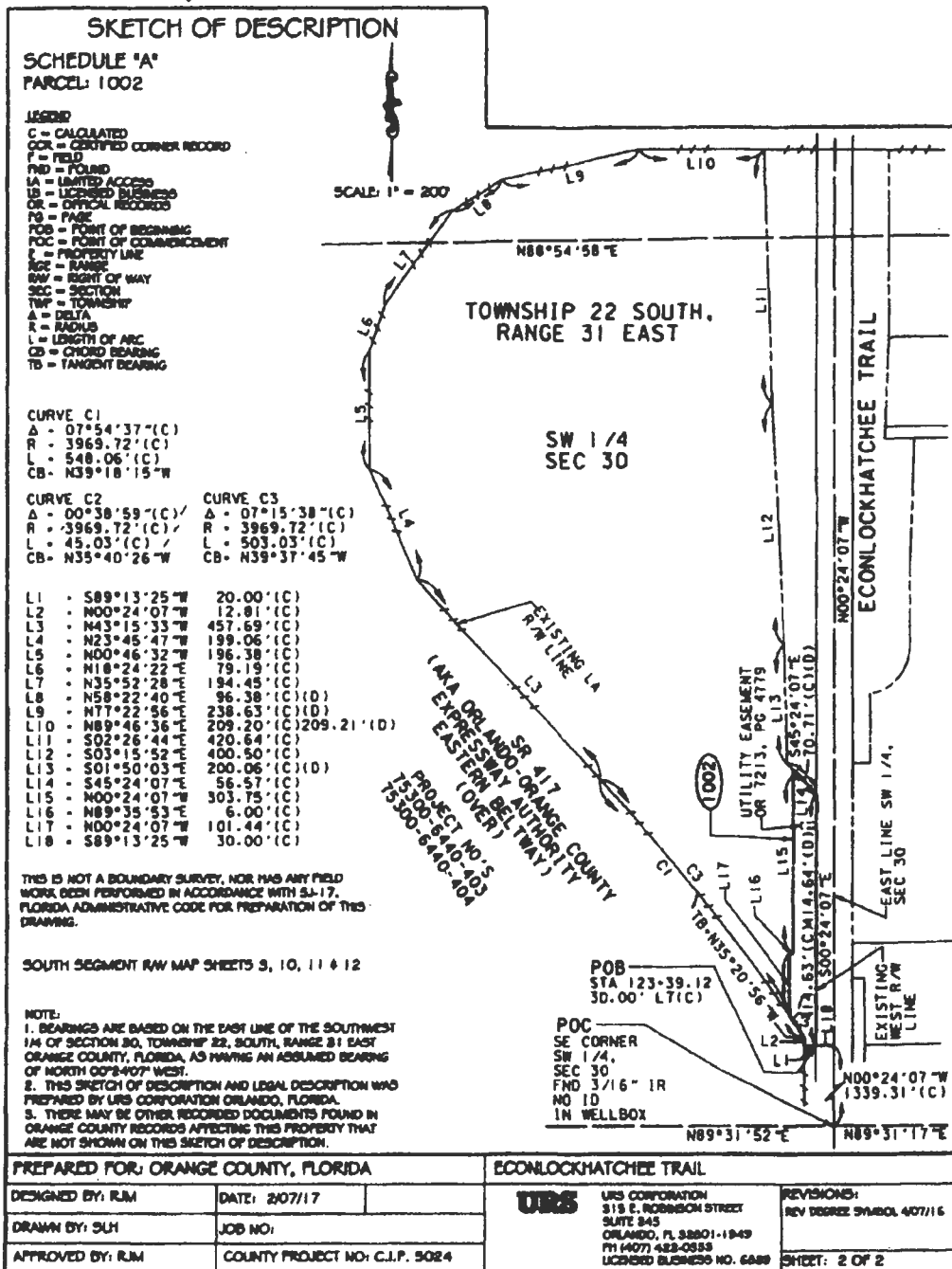


EXHIBIT A
Page 2 of 3

SCHEDULE "B"

5024 ECONLOCKHATCHEE TRAIL PARCEL 1002

FEE SIMPLE

Parcel 1002: the interest being acquired is fee simple.

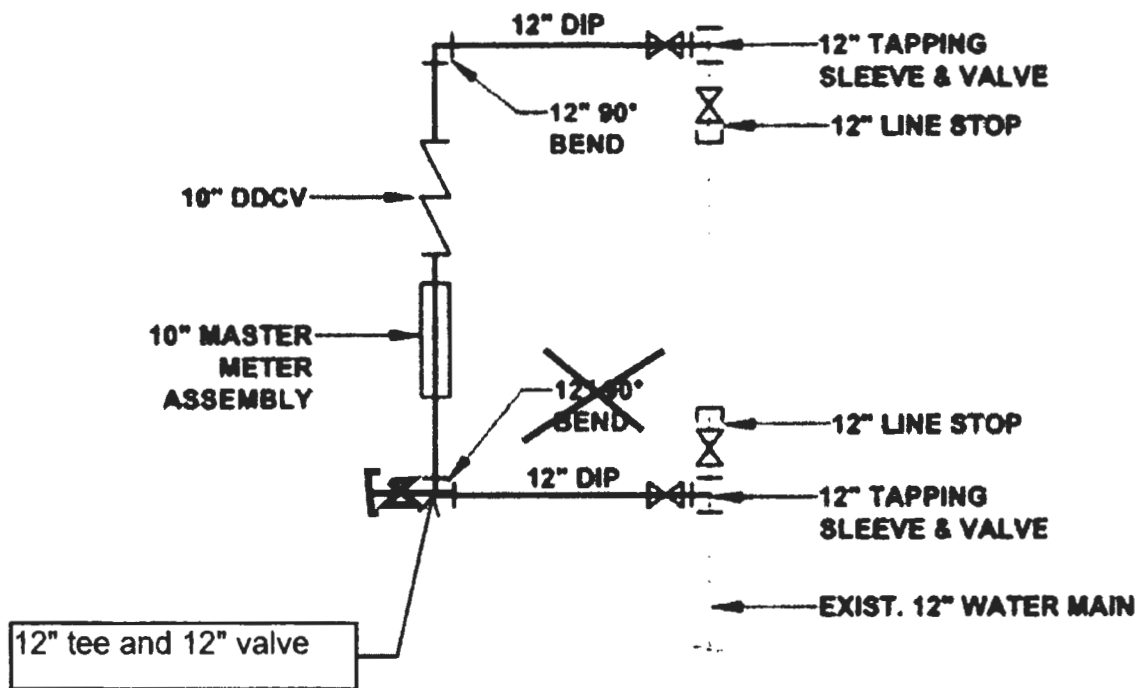
3/29/2016

Page 1 of 1

EXHIBIT A
Page 3 of 3

EXHIBIT A
9 of 9

**New 10'x15' UE
To be dedicated
to OCU**



WATER LINE DETAIL

NTS



COUNTY ATTORNEY'S OFFICE
JEFFREY J. NEWTON, County Attorney

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for copying or distribution.**

Deputy County Attorney
Joel D. Prinsell

*Senior Assistant County
Attorneys*

Katherine W. Latorre
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*Assistant County
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Maria Vargas, ACP
Gail Stanford

MEMORANDUM

TO: Mayor Jerry L. Demings
and
Board of County Commissioners

FROM: Jeffrey J. Newton, County Attorney *JJN*
Elaine M. Asad, Senior Assistant County Attorney *Elaine*
Contact: (407) 836-7320

DATE: October 4, 2021

SUBJECT: Consent Agenda Item for October 12, 2021
Orange County v. Valencia Trace of Orlando, Ltd., et al.,
Case No. 2018-CA-001262-O
Parcels 1002
Project: Econlockhatchee Trail (Lake Underhill Rd to SR50)

This item requests settlement authorization and approval of the negotiated Settlement Agreement by the Orange County Board of County Commissioners (BCC) in the Eminent Domain case, *Orange County v. Valencia Trace of Orlando, Ltd., et al.*, Case No. 2018-CA-001262-O. The case was brought on behalf of Public Works for the Econlockhatchee Project (Lake Underhill Road to SR50). The County staff recommended settlement of this case in the amount of \$500,000 for Parcel 1002, plus statutory attorney fees in the amount of \$63,921 and expert fees and costs in the amount of \$65,859.82, for a total amount of \$629,780.82. There are no non-monetary benefits. The County will receive a credit of \$332,500, which was previously deposited for the Order of Taking, leaving a balance due of \$297,280.82.

I. The Project

The project consists of the widening of Econlockhatchee Trail from 2-lanes to 4-lanes, widening of Lake Underhill Road from 2-lanes to 4-lanes, and intersection improvements at Econlockhatchee Trail / Lake Underhill Road. Econlockhatchee trail will be reconstructed as a 4-lane urban road section with concrete curb and gutter, 5 ft. pedestrian sidewalk, and closed drainage system.

II. The Lawsuit

This is an Eminent Domain lawsuit seeking fee simple title to parcel 1002. The subject property is located at 101 Grande Valencia Drive, Orlando, Florida 32825. More specifically, it is a 228-unit multi-family residential apartment complex located at the southwest quadrant of Econlockhatchee Trail and the East / West Expressway (SR-408) in unincorporated Orange County, Florida.

The parent tract in the before condition is 15.379 acre tract and the lawsuit seeks Parcel 1002 – 0.401 acres (17,482 SF) in Fee Simple with the Remainder – 14.978 acres.

III. The Negotiated Settlement

Court-ordered mediation was scheduled for March 25, 2020. But due to the pandemic, mediation was cancelled. The spread in valuation was \$442,200 with the midpoint being \$553,600. The parties negotiated a settlement of \$500,000 based on the County's initial position of \$422,500 representing full compensation and the owner's initial position of \$598,600 representing full compensation.

The agreed upon compensation, which included the fee, value of improvements, costs to cure was \$500,000. The statutory attorney fees was in the amount of \$63,921, and expert fees and costs in the amount of \$65,859.82. The County will receive credit of \$332,500 for the deposit from the Order of Taking. There are no non-monetary benefits.

IV. Staff Recommendation

The County's staff included: Elaine Asad, Senior Assistant County Attorney; Raymond Williams, P.E. Manager, Public Works Engineering; and Mindy Cummings, Manager, Real Estate Management. County staff recommends that the BCC approve the Negotiated Settlement Agreement. If a briefing is desired, please have the Administrative Aide contact Gail Stanford, at Extension 6-7364 to arrange a time.

Attached is a copy of the Settlement Analysis with the proposed Stipulated Final Judgment as to Parcel 1002.

Confidential Memorandum
October 4, 2021
Page 3 of 3

ACTION REQUESTED: Approval of the Negotiated Settlement Agreement in the case *Orange County v. Valencia Trace of Orlando, Ltd, et al.*, Case No. 2018-CA-001262-O, Parcel 1002, Project: Econlockhatchee Trail and authorization for County Attorney's Office to execute the proposed Stipulated Final Judgment as to Parcel 1002 on behalf of Orange County.

Attachments

Copy: Byron W. Brooks, County Administrator
Mindy T. Cummings, Manager, Real Estate Management Division
Raymond L. A. Williams, P.E., Manager, Public Works Engineering
Anne Kulikowski, Director, Administrative Services Department

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO.: 2018-CA-001262-O
DIVISION: 34
Parcel 1002

ORANGE COUNTY, FLORIDA,
a political subdivision of the State of Florida,

Petitioner,

v.

VALENCIA TRACE OF ORLANDO LTD., a
Florida limited partnership corporation;
GREYSTONE FUNDING CORPORATION, a
Virginia corporation; UNITED STATES
DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT; FLORIDA HOUSING
FINANCE CORPORATION, a public
corporation and a public body corporate and
politic duly created and existing under the laws
of the state of Florida; BRIGHT HOUSE
NETWORKS, LLC, doing business as Bright
House Networks, through its Florida Division,
f/k/a Time Warner Entertainment-Advance/
Newhouse Partnership, d/b/a Time Warner
Cable; DUKE ENERGY FLORIDA, LLC, a
Florida limited liability company, d/b/a Duke
Energy, f/k/a Duke Energy Florida, Inc., f/k/a
Florida Power Corporation, a Florida
corporation, d/b/a Progress Energy Florida, Inc.;
and SCOTT RANDOLPH, Orange County Tax
Collector,

Respondents.

— — — /

STIPULATED FINAL JUDGMENT

THIS CAUSE having come before the Court on the Joint Motion for Entry of Stipulated
Final Judgment by the Petitioner, ORANGE COUNTY, FLORIDA, a political subdivision of

the State of Florida ("Petitioner" or sometimes "Orange County"), and the Respondent, VALENCIA TRACE OF ORLANDO LTD (hereinafter "VALENCIA"), and it appearing to the Court that such parties were authorized to enter into such Motion, and the Court finding that the compensation to be paid by the Petitioner is full, just and reasonable for all parties concerned, and the Court being fully advised in the premises, it is hereby,

ORDERED AND ADJUDGED as follows:

1. VALENCIA does have and recover of and from the Petitioner the total sum of **FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00)**, subject to any apportionment claims, subject to credit to Petitioner for its Order of Taking deposit of \$332,500.00 previously paid, and subject to payment to the Orange County Tax Collector from said total sum for taxes calculated from January 1 to the date of deposit on August 31, 2018, pursuant to the Order of Taking; and in full payment for the property taken (designated as Parcel 1002 herein); for damages resulting to the remainder if less than the entire property was taken; for all other damages of any nature or kind including, but not limited to, for any improvements, severance damages, cost of cures, business damages, if any; and attorney's fees based upon any claim for non-monetary benefits.

2. Within thirty (30) days from the rendition of this Stipulated Final Judgment the Petitioner shall pay the sum of **ONE HUNDRED SIXTY-SEVEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$167,500.00)** into the Registry of the Court, that amount being the difference between the full payment required by this Stipulated Final Judgment pursuant to Paragraph 1 and the amount of \$332,500.00 deposited pursuant to the Order of Taking. Said amount of \$167,500.00 is subject to any apportionment claims by, including, but not limited to, Greystone Funding Corporation, United States Department of

Housing and Urban Development, and Florida Housing Finance Corporation, or any other persons or entities claiming an apportionment, and will be subsequently determined by this Court at a hearing to be set upon proper motion by any such person or entity claiming an apportionment. Petitioner shall not be responsible for the separate payment of any such apportionment claims.

3. The Court awards VALENCIA the sum of **SIXTY-THREE THOUSAND NINE HUNDRED TWENTY-ONE AND NO/100 DOLLARS (\$63,921.00)** in full and complete satisfaction of all attorneys' fees (including any attorney's fees based upon non-monetary benefits), pursuant to Section 73.092, Florida Statutes.

4. The Court awards VALENCIA the sum of **SIXTY-FIVE THOUSAND EIGHT HUNDRED FIFTY-NINE AND 82/100 DOLLARS (\$65,859.82)** in full and complete satisfaction of all of VALENCIA's expert fees and costs, pursuant to Section 73.091, Florida Statutes.

5. Within thirty (30) days from the rendition of this Stipulated Final Judgment, the Petitioner shall pay to the Trust Account of Harris, Harris Bauerle Ziegler Lopez, 1201 E. Robinson Street, Orlando, Florida 32801, as attorneys for VALENCIA, the sum of **ONE HUNDRED TWENTY-NINE THOUSAND SEVEN HUNDRED EIGHTY AND 82/100 DOLLARS (\$129,780.82)** that amount representing the total of attorneys' fees, costs and expenses, pursuant to Paragraph 3 above, and experts' fees and costs, pursuant to Paragraph 4 above.

6. The title to Parcel 1002, as more fully described in the Order of Taking, dated August 22, 2018, attached hereto as **Exhibit A**, which vested in the Petitioner pursuant to the

Order of Taking, and the deposit of money previously made, is approved, ratified and confirmed.

7. The parties agree to the relocation of the backflow preventer, as shown on **Exhibit B**, attached hereto; and to the placement of a Tee and Valve in lieu of the 90° Bend, as shown on **Exhibit C**, attached hereto.

8. On April 28, 2021, pursuant to Orange County Code of Ordinances Section 30-637 of Article XIII, Eminent Domain Waivers, Exceptions and Variances, Orange County department managers or their designee, granted the following waivers to county land development, and engineering codes and regulations to prevent any adverse impact upon the remainder of VALENCIA's property as a result of this condemnation process and to allow the continued use of their property in a manner similar to its pre-condemnation condition: (1) for the tennis court landscape buffer requirement; and (2) the setback requirement for the storage building located along the easterly property line.

9. Immediately after payment by Petitioner of the amount set forth in Paragraph 2 into the Registry of the Court, the Respondent may file a proper motion to withdraw said monies.

10. This Court retains jurisdiction to enforce the terms and conditions contained herein of this Stipulated Final Judgment.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida this _____ day of _____, 2021.

Paetra Brownlee
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of _____, 2021, a copy of the foregoing Stipulated Final Judgment has been furnished by electronic mail to the following:

Elaine M. Asad, Esq.

Orange County Attorney's Office
P.O. Box 1393, Orlando, FL 32806-1393
elaine.asad@ocfl.net
Counsel for Petitioner, Orange County, Florida

Bruce M. Harris, Esq.

Harris, Harris Bauerle Ziegler Lopez,
1201 E. Robinson Street, Orlando, FL 32801
bruce@hbzlflorida.com
*Attorney for Respondents, Valencia Trace of Orlando, Ltd., and
Greystone Funding Corporation*

John Rudy, Esq.

Assistant United States Attorney
400 N. Tampa Avenue, Suite 3200, Tampa, FL 33602
John.rudy@usdoj.gov
*Attorney for Respondent, United States Department of Housing and Urban
Development*

Patricia R. McConnell, Esq.

Latham Shuker Eden & Beaudine, LLP
111 N. Magnolia Avenue, Suite 1400, Orlando, FL 32801
pmcconnell@lseblaw.com
Attorney for Respondent, Florida Housing Finance Corporation

Judicial Assistant/Attorney

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO.: 2018-CA-001262-O
DIVISION: 34

ORANGE COUNTY, FLORIDA,
a political subdivision of the State of Florida,

PARCEL: 1002

Petitioner,

v.

VALENCIA TRACE OF ORLANDO LTD., a
Florida limited partnership corporation;
GREYSTONE FUNDING CORPORATION, a
Virginia corporation; **UNITED STATES
DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT; FLORIDA HOUSING
FINANCE CORPORATION,** a public corporation
and a public body corporate and politic duly created
and existing under the laws of the state of Florida;
BRIGHT HOUSE NETWORKS, LLC, doing
business as Bright House Networks, through its
Florida Division, f/k/a Time Warner Entertainment-
Advance/ Newhouse Partnership, d/b/a Time
Warner Cable; **DUKE ENERGY FLORIDA,
LLC,** a Florida limited liability company, d/b/a
Duke Energy, f/k/a Duke Energy Florida, Inc., f/k/a
Florida Power Corporation, a Florida corporation,
d/b/a Progress Energy Florida, Inc.; and **SCOTT
RANDOLPH,** Orange County Tax Collector,

Respondents.

STIPULATED ORDER OF TAKING

THIS CAUSE coming before the Court on the joint motion of Petitioner, **ORANGE COUNTY, FLORIDA,** ("Petitioner"), and Respondent, **VALENCIA TRACE OF ORLANDO LTD.,** ("Respondent"), and it appearing that proper notice was first given to all persons having or

Stipulated Order of Taking; Case No 2018-CA-001262-O; Page 1 of 5

claiming any equity, lien, title, or other interest in or to the real property described in the Petition, and it appearing to the Court that the parties were authorized to enter into such motion, and that the Petitioner would apply to this Court for an Order of Taking, and the Court being fully advised in the premises, upon consideration, it is, therefore,

ADJUDGED:

1. That the Court has jurisdiction of this action, of the subject matter and of the parties to this cause.

2. That the pleadings in this cause are sufficient and the Petitioner is properly exercising its delegated authority.

3. That the estimate of value filed in this cause by the Petitioner was made in good faith and based upon a valid appraisal.

4. That upon payment of the deposit of the money hereinafter specified into the Registry of this Court, the right, title or interest specified in the Petition as described herein shall vest in the Petitioner.

5. That the deposit of monies will secure the persons lawfully entitled to the compensation which will be ultimately determined by final judgment of this Court. The determination of full compensation is reserved and shall be determined later by negotiation, mediation, or jury trial.

6. That the total sum of money to be deposited into the Registry of the Court within twenty (20) days of the entry of this Order shall be in the amount of **THREE HUNDRED THIRTY-TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$332,500.00)**, and shall be allocated to each parcel as follows:

<u>PARCEL</u>	<u>AMOUNT</u>
1002	\$ 332,500
TOTAL	\$ 332,500

7. That the disbursement of the funds in the total amount of \$332,500 deposited into the Registry of the Court is subject to any apportionment claims by, including, but not limited to, Greystone Funding Corporation, United States Department of Housing and Urban Development, Florida Housing Finance Corporation, Bright House Networks, LLC, Duke Energy Florida, LLC, and Scott Randolph, Orange County Tax Collector, or any other persons or entities claiming an apportionment, and will be subsequently determined by this Court at a hearing to be set upon proper motion by any such person or entity claiming an apportionment. Petitioner shall not be responsible for the separate payment of any such apportionment claims.

8. That upon deposit of the monies set forth above, and without further notice or Order of this Court, the Petitioner shall be entitled to possession of the property described in the Petition. Respondent, Valencia Trace of Orlando Ltd., may, however, at Respondent's own risk, continue to use the driveway, fencing, backflow preventer, and other items in the area of taking until the later of six (6) months after the effective date of this Order of Taking, or until Petitioner sends written notice to Respondent, Valencia Trace of Orlando Ltd., of Petitioner's intent to commence construction of Petitioner's project. Respondent shall maintain all necessary insurance to insure the area of taking (Parcel 1002) for, but not limited to, liability for injury or damages arising out of Respondent and/or its guests use of Parcel 1002. By agreement of the parties there is no basis for the computation of attorneys' fees for non-monetary benefits to the Respondent arising out of Respondent's extended use of the property and Respondent, Valencia Trace of Orlando Ltd. and its attorneys hereby waive any claim for non-monetary benefit

attorney's fees associated with the extended possession.

9. That legal title to the following described property, to-wit:

SEE EXHIBIT "A"

shall vest in Petitioner, ORANGE COUNTY, FLORIDA, a political subdivision of the State of Florida, upon deposit of the aforesaid sums into the Registry of the Court.

10. That any party subject to the public disclosure requirements of Section 286.23, Florida Statutes, is notified that it is required to make a public disclosure in writing, under oath and subject to the penalties prescribed for perjury. Such person or entity making the disclosure shall state his name and address and the name and address of every person having a beneficial interest in the real property, however small or minimal. The written disclosure shall be made to Orange County Attorney's Office, 201 S. Rosalind Avenue, Third Floor, P.O. Box 1393, Orlando, FL 32802-1393, Attention: Elaine M. Asad, Senior Assistant County Attorney.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida this 22nd day of August, 2018.

Copies furnished to:
all parties on the attached
Service/Mailing List.



Jose E. Rodriguez
Circuit Judge



Judicial Assistant/ Attorney

SERVICE/MAILING LIST

Orange County v. Valencia Trace of Orlando, Ltd., et al.

Case No. 2018-CA-001262-O

Parcel 1002

Elaine M. Asad, Esq.

Senior Assistant County Attorney

County Attorney's Office

201 S. Rosalind Avenue, Third Floor

P.O. Box 1393

Orlando, Florida 32802-1393

Elaine.asad@ocfl.net

Attorney for Petitioner

Orange County, Florida

Bruce M. Harris, Esq. and

Edgar Lopez, Esq.

Harris Harris Bauerle Ziegler Lopez

1201 E. Robinson Street

Orlando, Florida 32801

bruce@hbbzlflorida.com

edgar@hbbzlflorida.com

Attorneys for Respondents

Valencia Trace of Orlando Ltd., and

Greystone Funding Corporation

John Rudy, Esq.

Colleen Murphy Davis, Esq.

Assistant United States Attorney

400 N. Tampa Avenue, Suite 3200

Tampa, Florida 33602

john.rudy@usdoj.gov

Attorney for Respondent

United States Department of

Housing and Urban Development

Jan Albanese Carpenter, Esq. and

Patricia R. McConnell, Esq.

Latham, Shuker, Eden & Beaudine

LLP

111 N. Magnolia Avenue, Suite 1400

Orlando, Florida 32801

jcarpenter@lschlaw.com

pmcconnell@lschlaw.com

Attorneys for Respondent

Florida Housing Finance

Corporation

Scott Randolph

Orange County Tax Collector

200 S. Orange Avenue, Suite 1600

Orlando, Florida 32801

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO.: 2018-CA-001262-O
DIVISION: 34

ORANGE COUNTY, FLORIDA,
a political subdivision of the State of Florida,

PARCEL: 1002

Petitioner,

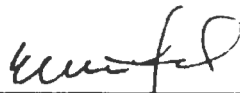
v.

VALENCIA TRACE OF ORLANDO LTD.,
et al.,

Respondents.

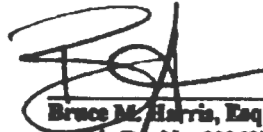
JOINT MOTION FOR ENTRY OF STIPULATED ORDER OF TAKING

The parties by and through the undersigned, respectfully move for the entry of the
attached Stipulated Order of Taking.



Elaine Marquardt Asad, Esq.
Florida Bar No. 109630
Orange County Attorney's Office
201 S. Rosalind Avenue, Third Floor
P. O. Box 1393
Orlando, Florida 32802-1393
Telephone: 407-836-7320
Elaine.Asad@ocfl.net
Attorney for Petitioner
Orange County, Florida

Date: 8-16-18



Bruce M. Harris, Esq.
Florida Bar No. 003697
Harris Harris Bauerle Ziegler Lopez
1201 E. Robinson Street
Orlando, Florida 32801
Telephone: 407-843-0404
bruce@hbbzlflorida.com
Attorney for Respondent
Valencia Trace of Orlando, Ltd.

Date: 8/15/18

Joint Motion for Entry of Stipulated Order of Taking; Case No 2018-CA-001262-O

LEGAL DESCRIPTION

SCHEDULE "A"
PARCEL: 1002

A TRACT OR PARCEL OF LAND BEING A PORTION OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 22 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SOUTHWEST 1/4 OF SAID SECTION 30 (A 3/16" IRON ROD WITHOUT IDENTIFICATION IN WELL BOX AS NOW EXISTS); THENCE NORTH 00°24'07" WEST, ALONG THE EAST LINE THEREOF, A DISTANCE OF 1339.31 FEET; THENCE, DEPARTING SAID EAST LINE, SOUTH 89°13'25" WEST A DISTANCE OF 30.00 FEET TO THE WEST RIGHT OF WAY LINE OF ECONLOCKHATCHEE TRAIL AND THE POINT OF BEGINNING; THENCE, ALONG SAID RIGHT OF WAY LINE, SOUTH 89°13'25" WEST A DISTANCE OF 20.00 FEET TO THE EXISTING LIMITED ACCESS RIGHT OF WAY LINE OF STATE ROAD 417 AS SHOWN ON ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY MAPS OF EASTERN BELTWAY PROJECTS 75300-6440-403 & 404; THENCE NORTH 00°24'07" WEST, ALONG SAID LIMITED ACCESS RIGHT OF WAY LINE, A DISTANCE OF 12.81 FEET TO A POINT ON A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 3969.72 FEET; THENCE, FROM A TANGENT BEARING OF NORTH 35°20'56" WEST, ALONG THE ARC OF SAID CURVE NORTHWESTERLY 45.03 FEET, THROUGH A CENTRAL ANGLE OF 00°36'59"; THENCE, DEPARTING SAID LIMITED ACCESS RIGHT OF WAY LINE, NORTH 00°24'07" WEST A DISTANCE OF 101.44 FEET; THENCE NORTH 89°35'53" EAST, A DISTANCE OF 6.00 FEET; THENCE NORTH 00°24'07" WEST, A DISTANCE OF 303.75 FEET TO THE WEST RIGHT OF WAY LINE OF SAID ECONLOCKHATCHEE TRAIL; THENCE SOUTH 45°24'07" EAST, ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 56.57 FEET; THENCE SOUTH 00°24'07" EAST, ALONG SAID EXISTING WEST RIGHT OF WAY LINE, A DISTANCE OF 414.63 FEET, TO THE POINT OF BEGINNING.

CONTAINING 17,482 SQUARE FEET, MORE OR LESS.

THIS IS NOT A BOUNDARY SURVEY, NOR HAS ANY FIELD WORK BEEN PERFORMED IN ACCORDANCE WITH SJ-17, FLORIDA ADMINISTRATIVE CODE FOR PREPARATION OF THIS DRAWING.


RUSSELL J. MARKS
PROFESSIONAL SURVEYOR AND MAPPER
STATE OF FLORIDA LICENSE NO. 5628


PREPARED FOR: ORANGE COUNTY, FLORIDA		ECONLOCKHATCHEE TRAIL	
DESIGNED BY: RJM	DATE: 2/07/17	 URS URS CORPORATION 315 E. ROBINSON STREET SUITE 245 ORLANDO, FL 32801-1949 PH (407) 482-0853 LICENSED BUSINESS NO. 6839	REVISIONS:
DRAWN BY: DJR	JOB NO:		
APPROVED BY: RJM	COUNTY PROJECT NO: C.I.P. 5024		SHEET: 1 OF 2

EXHIBIT A
Page 1 of 3

EXHIBIT A
7 of 9

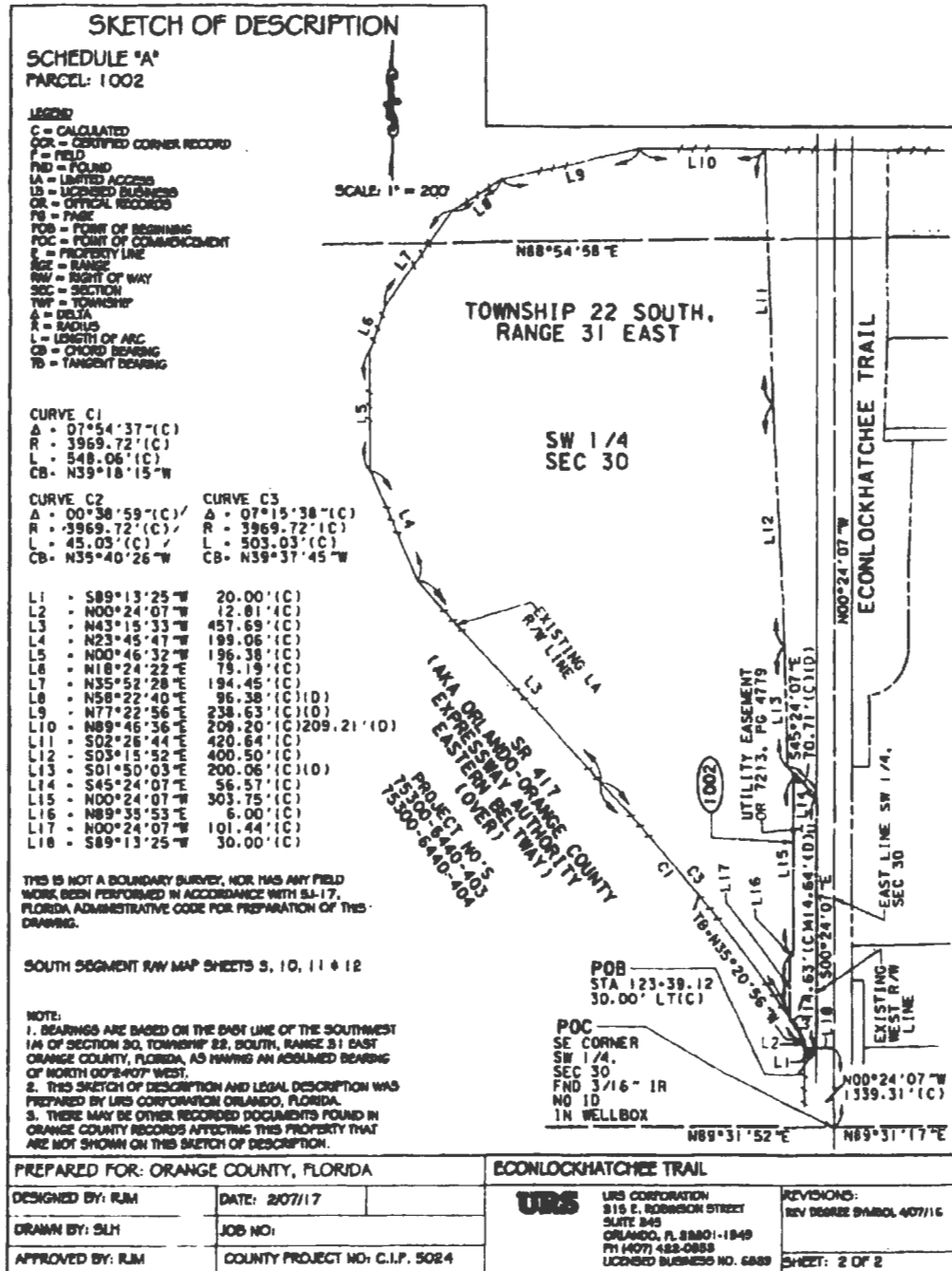


EXHIBIT A
Page 2 of 3

SCHEDULE "B"

5024 ECONLOCKHATCHER TRAIL PARCEL 1002

FEE SIMPLE

Parcel 1002: the interest being acquired is fee simple.

3/28/2016

Page 1 of 1

EXHIBIT A
Page 3 of 3

EXHIBIT A
9 of 9

New 10'x15' UE
To be dedicated
to OCU

THE DETAIL

**- CURB AND GUTTER
TYPE F**

CONST 22 LF OF

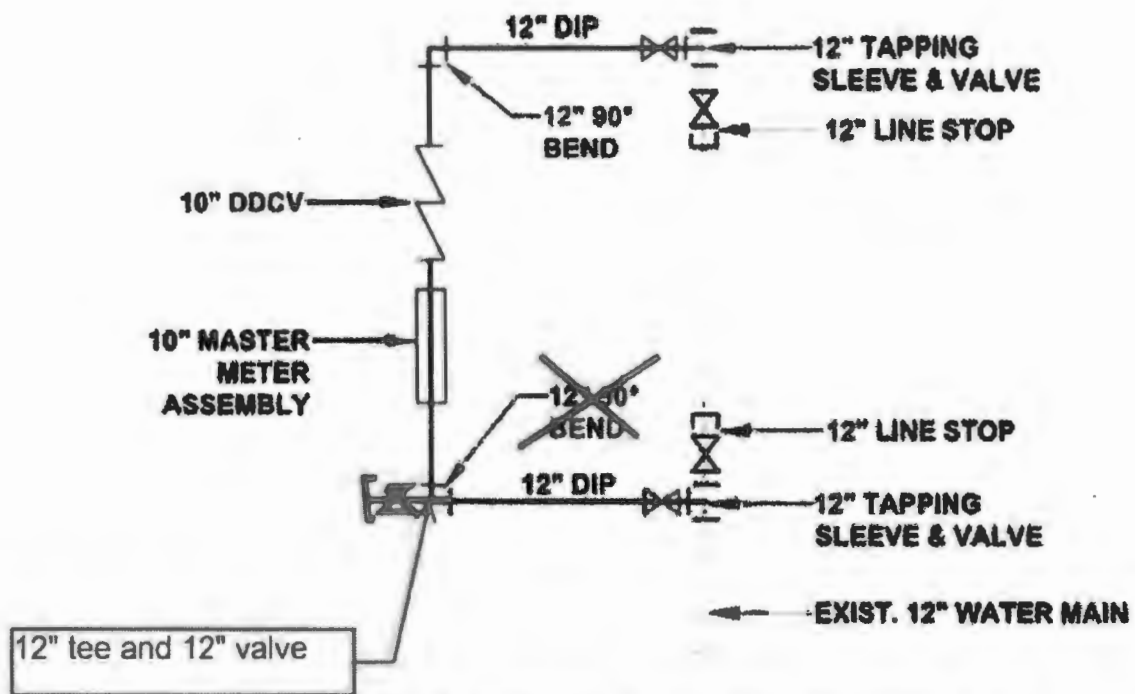
5' CONC S/W

DUST, WATER LINE
- EXISTING -
BACKFLOW PREVENTER
AND GATE VALVE

FF TRACK ON LOCKHEAT CHEE TRAIL

**CURB AND GUTTER
TYPE E**

CONST 28 LF OF 2



WATER LINE DETAIL

NTS

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO.: 2018-CA-001262-O

DIVISION: 34

Parcel 1002

ORANGE COUNTY, FLORIDA,

Petitioner,

v.

VALENCIA TRACE OF ORLANDO LTD., et al.,

Respondents.

JOINT MOTION FOR ENTRY OF STIPULATED FINAL JUDGMENT

Petitioner, ORANGE COUNTY, FLORIDA, ("Petitioner"), a political subdivision of the State of Florida, and Respondent, VALENCIA TRACE OF ORLANDO LTD, ("VALENCIA"), by and through their undersigned attorneys, respectfully move for the entry of the attached Stipulated Final Judgment.

Elaine M. Asad, Esq.
Florida Bar No. 0109630
Orange County Attorney's Office
201 S. Rosalind Avenue, Third Floor
P. O. Box 1393
Orlando, Florida 32802-1393
Telephone: 407-836-7320
Elaine.Asad@ocfl.net
*Attorney for Petitioner,
Orange County, Florida*

Date: _____

Bruce M. Harris, Esq.
Florida Bar No. 003697
Harris Harris Bauerle Ziegler Lopez,
1201 E. Robinson Street
Orlando, Florida 32801
Telephone: 407-843-0404
bruce@hbzlflorida.com
*Attorney for Respondents
Valencia Trace of Orlando Ltd., and
Greystone Funding Corporation*

Date: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on _____, 2021, the foregoing was electronically filed with the Clerk of the Court using the Florida Courts eFiling Portal, which will send notice of filing and a service copy of the foregoing to the following: **Bruce M. Harris, Esq. and Edgar Lopez, Esq.**, Harris Harris Bauerle Ziegler Lopez, 1201 E. Robinson Street, Orlando, Florida 32801, bruce@hbbzlflorida.com, edgar@hbbzlflorida.com, Ashley@hbbzlflorida.com, Rebecca@hbbzlflorida.com; **Patricia R. McConnell, Esq.**, Latham, Shuker, Eden & Beaudine, LLP, 111 N. Magnolia Avenue, Suite 1400, Orlando, Florida 32801, smarshall@lseblaw.com, pmcconnell@lseblaw.com, and sharrisoncarera@lseblaw.com, and **John Rudy, Esq.**, Assistant United States Attorney, 400 N. Tampa Avenue, Suite 3200, Tampa, Florida 33602, john.rudy@usdoj.gov.

ELAINE MARQUARDT ASAD
Senior Assistant County Attorney
Florida Bar No. 109630
Primary Email: Elaine.Asad@ocfl.net
Secondary Email: Judith.Catt@ocfl.net

JEFFREY J. NEWTON
County Attorney
ORANGE COUNTY ATTORNEY'S OFFICE
Orange County Administration Center
201 S. Rosalind Avenue, Third Floor
P.O. Box 1393
Orlando, Florida 32802-1393
Telephone: (407) 836-7320
Counsel for Petitioner
Orange County, Florida

Project: Econlockhatchee Trail (Lake Underhill Road to SR 50)
 Parcel No(s).: 1002
 Name of Owner: Valencia Trace of Orlando LTD
 Page No.: Page 1 of 4

SETTLEMENT ANALYSIS

This Settlement Analysis is prepared for the acquisition of Parcel 1002 Econlockhatchee Trail, Orlando, Florida, owned in fee simple by Valencia Trace of Orlando, Ltd, for the purpose of the road widening project for Econlockhatchee Trail (Lake Underhill Road to SR 50) ("Project"). The Orange County Board of County Commissioners approved the Project and by Resolution dated December 19, 2017, authorized the exercise of the power of eminent domain as provided for and granted to it by the Constitution and Laws of Florida, including but not limited to the Florida Transportation Code, codified in Chapters 334 through 339, Florida Statutes; and Chapters 73, 74, 125 and 127, Florida Statutes

County's Appraised Value

<u>Parcel 1002</u>		
Land:	17,482 SF (0.401 acres)	\$ 118,900.00
Improvements:	Asphalt pavement, concrete sidewalk, concrete curbing, six foot wrought iron fencing, traffic sign, backflow preventer, wall signs, landscaping, irrigation and lighting – No building improvements, existing parking or residential units affected.	\$ 151,400.00
Cost-to-Cure:	Re-establishment of improvements taken; minor modifications, including corner clips to tennis courts	\$ 62,200.00
Other Damages:	N/A	<u>\$ 0.00</u>
Total Appraisal Value – Parcel 1002		\$ 332,500.00

OWNER'S APPRAISED VALUE **Calhoun, Dreggors & Associates, Inc.**

<u>Parcel 1002</u>		
Land:	17,482 SF (0.401 acres)	\$ 118,900.00
Improvements:	Asphalt pavement, concrete sidewalk, concrete curbing, six foot wrought iron fencing, traffic sign, backflow preventer, wall signs, landscaping, drainage improvements, irrigation and lighting – No building improvements or residential units affected.	\$ 282,500.00
Partial Cost-to-Cure:	Re-establishment of improvements taken; new tennis court and new parking area	\$ 373,300.00
Other Damages:	N/A	<u>\$ 0.00</u>
Total Appraisal Value – Parcel 1002		\$ 774,700.00

Project: Econlockhatchee Trail (Lake Underhill Road to SR 50)
 Parcel No(s): 1002
 Name of Owner: Valencia Trace of Orlando LTD
 Page No.: Page 2 of 4

Probable Range of Testimony/Compensation at Trial

County:	\$375,000
Owner:	\$ 800,000

Potential Additional Costs of Condemnation, if Case goes to Trial

Appraisal Update Fees (County):	\$ 20,000.00
Attorney Fees (Owner):	\$ 143,425.00
Business Damages (Owner):	\$ 0.00
Expert Witness Fees, Trial Preparation and Trial (Owner):	\$ 200,000.00
Expert Witness Fees, Trial Preparation and Trial (County) (Appraisal):	\$ 35,000.00
Expert Witness Fees, Trial Preparation and Trial (County) (Engineering & Other):	\$ 120,000.00
Other: (Explain) Jury view	\$ 6,000.00
Total Additional Potential Costs of Acquisition if case goes to trial	\$ 524,425.00

Recommended Settlement Amount	
(Land, improvements, cure)	\$500,000.00
Plus attorney fees, expert fees and costs	<u>\$129,780.82</u>
Total Settlement	\$629,780.82

EXPLANATION OF RECOMMENDED SETTLEMENT

The subject property parent tract contains a total of 15.379 acres and is a multi-family zoned tract with a tear-drop configuration. The subject property is zoned R-3, Multi-Family Dwelling District. Referencing the FEMA Flood Map 12095C0270F, the subject property is located in Zone X, an area outside the 100 year flood plain. The subject property is an apartment complex consisting of 228 units located within 10 residential buildings and a separate building which houses the leasing office, manager's apartment and recreation room. There are several site improvements on the property, including a tennis court.

The subject property is irregularly shaped and triangulated. It has 1,506.54 feet of frontage along Econlockhatchee Trail. The north, west and south property lines are irregular and have limited access frontage along the East/West Expressway (SR-408) and the Central Florida Greenway (SR-417). Ingress/egress is by one drive from Econlockhatchee Trail.

The subject property was constructed in 2003. The building improvements and numerous common area site improvements, including the pool, are not adversely affected by the acquisition. Only the land and the following improvements are affected by the acquisition, including asphalt pavement, concrete sidewalk, concrete curbing, drainage improvements, a traffic sign, a backflow preventer, six-foot wrought iron fencing, two wall signs, landscaping, irrigation, and lighting.

Project: Econlockhatchee Trail (Lake Underhill Road to SR 50)
Parcel No(s).: 1002
Name of Owner: Valencia Trace of Orlando LTD
Page No.: Page 3 of 4

The proposed cure includes reestablishment of the wrought iron fence, masonry columns and wall signs which also requires removal and demolition of a portion of the existing wrought iron fence, masonry columns and wall signs. Also included are minor modifications to the tennis court (California corners), fence modification and sod/landscaping of the disturbed areas. Other items in the cure include reestablishment of column lights, reestablishment of wall sign lights, reestablishment of a pole light, reestablishment of the 10-inch backflow preventer assembly and reestablishment of landscaping including shrubs, trees, cypress mulch and irrigation. Also the southeast corner of the tennis court is very close to the new right of way line. The corner of the court will be removed to allow access around the court for maintenance of the area to the south. This does not affect the functional utility of the court.

The effect of the acquisition will be to reduce the overall size of the parent tract from 15.379 acres to 14.978 acres. This reduction in size does not adversely affect the overall unit value of the site.

In the after condition, there are two nonconformities – the landscape buffer for the tennis court will be reduced to 2.5' wide from the required 7' and the setback for a storage building located along the easterly property will be reduced to 13.75' from the required 20'. The County has granted an eminent domain waiver for each nonconformity based on the cure.

Additionally, Valencia Trace will provide a utility easement to the County for the backflow preventer that is being relocated because of the taking.

MEDIATION

Court-ordered mediation was scheduled for March 25, 2020. But due to the pandemic, mediation was cancelled. The spread in valuation was \$442,200 with the midpoint being \$553,600. The parties negotiated a settlement of \$500,000 based on the County's initial position of \$422,500 representing full compensation and the owner's initial position of \$598,600 representing full compensation.

Negotiations were impacted by the difference in how each appraiser treated the tennis courts and parking spaces. The County's position was that the tennis court was not in the taking, did not need to be relocated, and no parking spaces would be affected. The owner's appraiser determined that the tennis court would be too close to the improved roadway in the after condition, thus a safety issue. As a result, the court would have to be shifted to the northwest to allow enough space for a new landscape buffer that will satisfy the landscape buffer requirements, as well as address the safety concerns. In shifting the court, two parking spaces would be impacted; however, those spaces could be replaced on the remainder.

Finally, there was a significant different between the two appraisers determination of the cost to cure. The County's appraised net cost to cure was \$62,200 and the owner's appraised net cost to cure was \$282,500.

Project: Econlockhatchee Trail (Lake Underhill Road to SR 50)
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Benefit based on Statutory Attorney's Fee Calculation:

The settlement is \$500,000. The County's first written offer was \$306,300, producing a benefit of \$193,700. Eminent Domain attorney fees are governed by Section 73.092, Florida Statutes, and are computed at 33% of the first \$250,000 of the benefit achieved and 25% of any balance of the benefit achieved up to \$1 million. In this case, the statutory attorney fees are \$63,921. No attorney fees were reimbursed for non-monetary benefits as the Owner specifically waived any claim to non-monetary benefits.

Costs Reimbursements:

The owner asserted a cost claim totaling \$65,859.82, allocated \$19,762 for Calhoun, Dreggors & Associates, Inc., the appraiser; \$28,161 for MEI Civil, LLC, the engineer; and \$17,936.82 for Rahenkamp Design Group, Inc. landscape architect. After Orange County experts from its Real Estate Management division and its Engineering division reviewed the billing, the costs were approved.

Settlement Rationale

The County's exposure at trial is \$800,000 plus a potentially greater benefit-based attorney's fees, increased expert fees and costs (both County experts and owner experts), depositions, court reporters, trial preparation, trial exhibits, and possible jury view of the subject site. The differences in the two appraisers' approach to the tennis court safety issue and associated cure cost issues were taken into consideration.

Recommended by: **Elaine Asad** Digitally signed by Elaine Asad
Date: 2021.09.21 11:41:45
-04'00'

Elaine M. Asad
Senior Assistant County Attorney, Orange County Attorney's Office

Approved by: **Mindy T. Cummings** Digitally signed by Mindy T.
Cummings
Date: 2021.09.21 12:15:47 -04'00'

Mindy T. Cummings
Manager, Real Estate Management Division

Approved by: **Raymond L.A. Williams** Digitally signed by Raymond L.A.
Williams
Date: 2021.09.21 13:02:29 -04'00'

Raymond L.A. Williams, P.E.
Manager, Public Works Engineering Division