



Leon County

Board of County Commissioners

301 South Monroe Street, Tallahassee, Florida 32301
(850) 606-5302 www.leoncountyfl.gov

Division of Facilities Management,
Real Estate
1907 South Monroe Street
Tallahassee, Florida 32301
(850) 606-5000

Commissioners

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County Administrator

HERBERT W.A. THIELE
County Attorney

LETTER OF NOTIFICATION TO FEE OWNER AND STATEMENT OF OFFER

January 20, 2016

Via Certified Mail 7010 0290 0000 4807 2387

Tanglewood Apartments of Tallahassee, LLC
20283 State Road 7, Suite 300
Attn: Jonathan J. Lichtman, P.A.
Boca Raton, FL 33498

RE: Old Bainbridge Road/Pullen Road Improvements Project
1600 Pullen Road
Parcel ID No. 21-15-20-412-0000 (Parcel 103)

Dear Mr. Lichtman:

As you may know, Leon County (the "County") is in the process of acquiring the property needed for its Old Bainbridge at Pullen Road Intersection Improvement Project (the "Project"). A search of the Leon County public records indicates that Tanglewood Apartments of Tallahassee, LLC is the owner of the above-referenced property (the "Subject Property"). In order to construct the Project, it will be necessary for the County to acquire certain property interests from a portion of the Subject Property. Those property interests consist of a fee simple interest in the southwestern portion of the Subject Property along the frontage of Pullen Road (Parcel 103). Parcel 103 will be referred to as the "Subject Parcel." The Subject Parcel will be acquired by the County under its power of eminent domain, if necessary, and, therefore, we are required by law to notify you of certain information regarding the eminent domain process. For your convenience, we have provided the required notification as a separate enclosure to this letter entitled Notification Requirements in Presuit Negotiation for Eminent Domain Acquisitions.

In exchange for the conveying the Subject Parcel to the County, the County will pay you full compensation as provided for by law. The County's offer of full compensation is based on an appraisal of the fair market value of the property being acquired, and is not less than the value reflected in the appraisal. Based on the approved appraisal, the County's offer for the acquisition of the Subject Parcel, comprising land and any improvements, is as follows (the "Statement of Offer"):

Parcel 103	
Land:	\$70,500.00
Improvements:	\$17,000.00
Minor Cost to Cure:	\$30,000.00
STATEMENT OF OFFER PARCEL 103	\$117,500.00

This Statement of Offer is not a contract. If you wish to accept this offer, please do so by signing the enclosed Agreement for Acquisition and Full Compensation, the entirety of which is hereby incorporated as a part of this offer. If, however, you wish to reject this offer and we are unable to reach an agreement for the acquisition, the County will be forced to proceed with an eminent domain lawsuit seeking title to the Subject Parcel through a Court Order. You can be assured, however, that the Court will not transfer to the County any portion of the Subject Property until the County has deposited in the registry of the Court a good faith estimate of full compensation for the property to be acquired. Depending on the amount of mortgages, liens, and any other encumbrances against the Subject Property, you may be entitled to all or a portion of the good faith estimate of full compensation as determined by the Court. We will not file an eminent domain lawsuit until at least thirty (30) days after your receipt of this Statement of Offer (or thirty (30) days after this offer has been returned as undeliverable by the postal authorities).

Any additional information you may require can be obtained through Leon County Real Estate, Mitzi McGhin, Real Estate Specialist, at (850) 606-5042. It is our hope that we can make this Project yet another example of the partnership and cooperation between the County and property owners in making significant improvements for your neighborhood.

Sincerely,



Maggie Theriot
Assistant to the County Administrator for
Organization & Citizen Solutions

Enclosures:

1. Notification Requirements in Presuit Negotiation for Eminent Domain Acquisitions
2. §§73.015, 73.091 and 73.092, Florida Statutes
3. Agreement for Acquisition and Full Compensation
4. Appraisal

cc: Daniel J. Rigo, Esquire

_____(sign)	_____
Delivered by: Mitzi McGhin, Real Estate Specialist	date delivered

_____(sign)	_____
Receipt of Offer Acknowledged by	date acknowledged

NOTIFICATION REQUIREMENTS IN PRESUIT NEGOTIATION
FOR EMINENT DOMAIN ACQUISITIONS

Leon County Old Bainbridge at Pullen Road Intersection Improvement Project

You are hereby notified, in accordance with Section 73.015, Florida Statutes, that a portion of your property located at 1600 Pullen Road and identified by the Leon County Property Appraiser as Parcel ID No. 21-15-20-412-0000 (the "Subject Property") is necessary for the construction of Leon County's Old Bainbridge at Pullen Road Intersection Improvement Project (the "Project"). The property interests in the Subject Property being acquired for the Project consist of a fee simple interest in the southwestern portion of the Subject Property along the frontage of Pullen Road, along with various improvements within that area. The nature of the Project for which the property interests are necessary involves the improvement of the intersection of Old Bainbridge Road at Pullen Road. The improvements include, but are not limited to, the construction of a new roundabout configuration and associated drainage improvements and landscaping. The improvements are designed to improve all traffic movements through the Old Bainbridge at Pullen Road intersection, enhance the safety for vehicles and pedestrians, and reduce the number of traffic crashes at the intersection. The parcel designation for the area of property interests to be acquired will be Parcel 103. Parcel 103 will be referred to as the "Subject Parcel." A legal description and sketch of the Subject Parcel sought to be acquired from you is included in the Agreement for Acquisition and Full Compensation enclosed herewith.

Enclosed with this notification is a copy of the appraisal report upon which the County's offer of compensation for the Subject Parcel is based. Furthermore, you are notified that within 15 business days after the County's receipt of a request by you, the County will provide to you copies, to the extent prepared, of the right-of-way maps or other documents that depict the interest in the Subject Parcel to be acquired, and copies, to the extent prepared, of the construction plans that depict the Project improvements to be constructed on the Subject Parcel and adjacent to the Subject Property, including, but not limited to, plan, profile, cross-section, drainage, and pavement marking sheets, and driveway connection detail. The County will provide any additional plan sheets within 15 business days of your request.

Your rights and responsibilities with regard to the proposed acquisition of the interest in the Subject Property are included in Sections 73.015, 73.091 and 73.092 of the Florida Statutes, copies of which are enclosed for your use and convenience. With regard to the negotiation process, please pay particular attention to paragraphs (1)(b), (1)(c) and (4) of Section 73.015. You should also note that pursuant to Sections 73.015, 73.091 and 73.092, the County is required to pay certain attorney's fees and costs incurred by you in this matter if a settlement is reached or an eminent domain lawsuit is filed.

Any additional information can be obtained through Leon County Real Estate, Mitzi McGhin, Real Estate Specialist, at (850) 606-5042.

Please be advised that, in the event of any discrepancy between the discussion of statutes concerning Florida eminent domain law in this notification and the actual statutes enclosed or any other Florida Statutes sections dealing with eminent domain, the actual statutes will govern and control your rights and responsibilities and those of the County in connection with the acquisition of the interests in your Property.

If you are represented by an attorney, please have your attorney forward an attorney authorization form to Daniel J. Rigo, Esq., Leon County Attorney's Office, 301 South Monroe St., Suite 202, Tallahassee, FL 32301.

AGREEMENT FOR ACQUISITION AND FULL COMPENSATION

Old Bainbridge at Pullen Road Intersection Improvements Project (1600 Pullen Road; Parcel 103)

THIS AGREEMENT (the "Agreement") is made and entered into this ____ day of _____ 2016, by and between fee-simple owner, **TANGLEWOOD APARTMENTS OF TALLAHASSEE, LLC**, a Florida limited liability company, at 20283 State Road 7, Suite 300, Boca Raton, Florida 33498, (whom is party of the first part and hereinafter referred to as the "Owner"), and **LEON COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida (party of the second part and hereinafter referred to as the "County"), for and in consideration of the mutual promises, covenants, and agreements contained herein, as follows:

1. The Owner and the County understand and agree as follows:
 - a. That Owner has a fee simple ownership interest in the property located at 1600 Pullen Road, Tallahassee, Leon County, Florida, and identified by the Leon County Property Appraiser as Parcel ID: 21-15-20-412-0000 (hereinafter the "Subject Property");
 - b. that, in order for the County to construct its Old Bainbridge at Pullen Road Intersection Improvements Project (hereinafter the "Project"), it is necessary that the County acquire certain property interests from a portion of the Subject Property. The property interests consist of a fee simple interest in the southwestern portion of the Subject Property along the frontage of Pullen Road, which interest is legally described and depicted in the attached Exhibit "A" (hereinafter referred to as "Parcel 103"), which parcel is hereinafter referred to as the "Subject Parcel";
 - c. that the County is acquiring the Subject Parcel under the threat of condemnation pursuant to Chapters 73, 74, and 127, Florida Statutes;
 - d. that the amounts paid by the County to the Owner pursuant to this Agreement represent any and all full compensation to which the Owner is entitled by law for the County's acquisition of the Subject Parcel and construction of the Project including, but not limited to, full compensation for the interests in the land comprising the Subject Parcel, for any damages to any of the Owner's remaining Subject Property not acquired, for any damages to any business operated by the Owner on any remaining Subject Property not acquired, for any expenses incurred for moving or relocation, and for any and all attorney's fees and costs incurred by the Owner in reaching this Agreement; and
 - e. that this paragraph shall survive closing.
2. The Owner agrees to accept from the County as full compensation for the acquisition of the Subject Parcel, including attorney's fees and costs, the total sum of **ONE HUNDRED SEVENTEEN THOUSAND FIVE HUNDRED and 00/100 DOLLARS (\$117,500.00)**. This total sum, reduced by any amounts deemed necessary to convey good and marketable title for the Property in accordance with paragraph 4 below, shall be paid by the County to the Owner

and delivered in cash at closing to the Owner or, if applicable, to an Escrow Agent. In the event any liens or encumbrances, other than any mortgages, remain outstanding at the time of closing, the sum payable to the Owner at closing shall be delivered to an Escrow Agent and held in accordance with a separate written Escrow Agreement. This paragraph shall survive closing.

3. Conveyance of the Subject Parcel from Tanglewood Apartments of Tallahassee, LLC to the County shall be by a Warranty Deed. This paragraph shall survive closing.

4. Except as provided in sub paragraph 4.b below regarding mortgages, the Owner shall provide to the County good and marketable title for the Subject Parcel, free and clear of liens or encumbrances which materially affect the value of the Subject Parcel, including, but not limited to, any delinquent taxes on the Subject Property for the years preceding this Agreement. If material liens or encumbrances are found, other than any mortgages, the Owner shall cure said defects no later than five (5) business days after being notified thereof, unless otherwise agreed upon by the County. If such liens or encumbrances remain outstanding at the time of closing, the sum payable to the Owner at closing in accordance with paragraph 2 above shall be delivered to an Escrow Agent and held in accordance with a separate written Escrow Agreement.

a. Mortgagee's Requirement for Consent. The Owner acknowledges and understands that, with regard to any mortgages that encumber the Subject Property, the written agreements associated with any such mortgages may include a requirement that the Owner obtain the written consent of the mortgagee before conveying an interest in any portion of the Subject Property and, furthermore, that the Owner have been given the opportunity to review their mortgage documentation to determine if such consent is required.

b. Acceptance of Subject Parcel without Mortgagee's Consent. Notwithstanding the fact that the written agreements associated with any mortgages that encumber the Subject Property may contain a requirement for the Owner to obtain written consent before conveying any portion of the Subject Property, the County and the Owner acknowledge and agree that, at the Owner's discretion, the County will accept the Subject Parcel subject to any such mortgages and without the mortgagees' written consent as may be required; provided, however, that the Owner hereby releases and waives any claims for damages against the County that may arise as a result of the Owner's failure to obtain such written consent from its mortgagees.

5. All closing costs including title insurance charges, closing fees, document preparation fees, documentary stamps, and recording fees, if required, shall be paid by the County. The Owner shall be responsible for payment of any liens or encumbrances against the Subject Property as may be agreed upon with the County, and for any commissions due to realtors or real estate brokers for representation of the Owners.

6. This Agreement shall be binding upon the parties hereto, their heirs, successors and assigns.

7. Time is of the essence in this Agreement.

IN WITNESS WHEREOF, the parties have set their hands the date above first written.

**TANGLEWOOD APARTMENTS OF
TALLAHASSEE, LLC**

By: _____

Its: _____
(print title)

Date: _____

Witness: _____

(print name)

Witness: _____

(print name)

LEON COUNTY, FLORIDA

By: _____

Maggie Theriot,
Assistant to the County Administrator for
Organization & Citizen Solutions

Date: 1/22/16

Approved as to Form:
LEON COUNTY
ATTORNEY'S OFFICE

By: _____

Herbert W. A. Thiele, Esq.
County Attorney

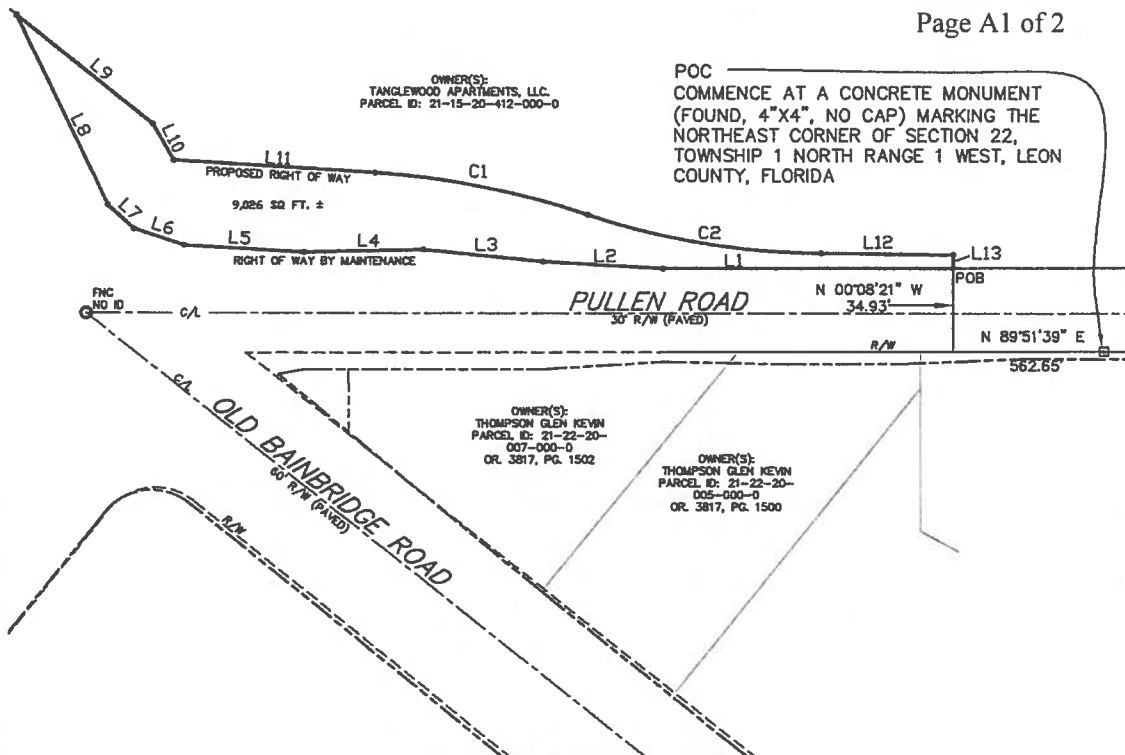
SKETCH OF DESCRIPTION PARCEL 103

Exhibit "A"



NOT TO SCALE

Page A1 of 2



LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°52'18"W	121.41'
L2	N86°41'41"W	50.09'
L3	N84°25'04"W	50.25'
L4	S88°43'33"W	50.01'
L5	N86°41'41"W	50.09'
L6	N71°41'08"W	22.13'
L7	N47°36'59"W	14.58'
L8	N25°58'45"W	87.92'
L9	S51°30'33"E	73.00'
L10	S30°01'57"E	17.22'
L11	S86°28'41"E	84.35'
L12	S89°26'24"E	55.44'
L13	S00°33'36"W	5.57'

CURVE TABLE					
CURVE	RADIUS	DELTA	LENGTH	BEARING	CHORD
C1	348.04'	Δ=14°59'16"	81.04'	S78°58'24"E	90.78'
C2	311.02'	Δ=18°14'29"	99.02'	S80°36'01"E	98.60'

SEE SHEET 2 OF 2
FOR LEGAL DESCRIPTION

LEGEND

AC. - ACRES
ASPH. - ASPHALT
AVE. - AVENUE
BLDG. - BUILDING
BLVD. - BOULEVARD
B.M. - BENCHMARK
BRG. - BEARING
C.G. - CURB and GUTTER
C.H. - CONCRETE MONUMENT
CO. - COUNTY
CONC. - CONCRETE
(C.D.) - DEED / DESIGN INFORMATION
E - EAST
ELEC. - ELECTRIC
ELEV. - ELEVATION
F.F.E. - FINISHED FLOOR ELEVATION
F.HYD. - FIRE HYDRANT
Fnd. - FOUND
FT. - FEET

HVY. - HIGHWAY
I.P. - IRON PIPE
I.R. - IRON ROD
M.H. - MANHOLE
MON. - MONUMENT
N - NORTH
NE - NORTHEAST
NGS - NATIONAL GEODETIC SURVEY
NGVD - NATIONAL GEODETIC VERTICAL DATUM
NO. - NUMBER
NAC - NAIL and CAP
NW - NORTHWEST
OHU - OVERHEAD UTILITY LINE
(P) - PLAT INFORMATION
P.C. - POINT OF CURVATURE
P.C.C. - POINT OF COMPOUND CURVATURE
P.C.P. - PERMANENT CONTROL POINT
P.I. - POINT OF INTERSECTION
P.O.B. - POINT OF BEGINNING
PRM - PERMANENT REFERENCE MONUMENT

P.O.C. - POINT OF COMMENCEMENT
P.T. - POINT OF TANGENCY
R - RADIUS
RNG. - RANGE
RD. - ROAD
REF. - REFERENCE
R/R - RAILROAD
R/W - RIGHT OF WAY
(S) - SURVEY INFORMATION
SEC. - SECTION
S.R. - STATE ROAD
S.S. - SANITARY SEWER
ST. - STREET
STA. - STATION
TWN. - TOWNSHIP
TBM. - TEMPORARY BENCHMARK
T.C. - TERRA COTTA
TELE. - TELEPHONE
USGS - U.S. GEOLOGICAL SURVEY
V - WEST

CERTIFY TO:
CITY OF TALLAHASSEE
GENESIS GROUP

I hereby certify that this survey meets the minimum technical standards as set forth by the Florida Board of Surveyors and Mappers in Chapter 5J-17.050 Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

NOTES

1. THIS IS NOT A BOUNDARY SURVEY.
2. NO TITLE OPINION OR ABSTRACT OF MATTERS CONCERNING THIS PROPERTY WAS FURNISHED AT THE TIME OF THIS SURVEY.
3. THE BOUNDARIES SHOWN HEREON ARE BASED ON LEGAL DESCRIPTIONS.
4. NO UNDERGROUND UTILITIES WERE LOCATED EXCEPT AS SHOWN.
5. NO OTHER IMPROVEMENTS WERE LOCATED EXCEPT AS SHOWN.
6. THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

STEVEN W. STINSON
FLORIDA PROFESSIONAL LAND SURVEYOR No. 5457
FLORIDA LICENSED BUSINESS No. 7834

Meridian
SURVEYING and MAPPING INC.
3201 Shamrock Street South, Suite #101
Tallahassee, Florida 32309
Office: (850) 668-7841 Fax: (850) 668-7848

DRAWN BY: S. BROWN
CHECKED BY: S. STINSON
DATE: MARCH 25, 2015
REVISED: 11/19/2015
NOT TO SCALE
FIELD BOOK N/A PAGE N/A
DATE OF SURVEY N/A

SHEET NO.
1
OF 2
JOB NO.
20833.07

DESCRIPTION
PARCEL 103
PROPOSED RIGHT-OF-WAY

Page A2 of 2



COMMENCE AT A CONCRETE MONUMENT (FOUND, 4"x4", NO CAP) MARKING THE NORTHEAST CORNER OF SECTION 22, TOWNSHIP 1 NORTH RANGE 1 WEST, LEON COUNTY, FLORIDA AND RUN N 89°51'39" E ALONG THE SOUTH RIGHT OF WAY LINE OF PULLEN ROAD A DISTANCE OF 562.65 FEET; THENCE LEAVING SAID SOUTH RIGHT OF WAY RUN N 00°08'21" W A DISTANCE OF 34.93 FEET TO THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING RUN THENCE S 89°52'18" W, A DISTANCE OF 121.41 FEET; THENCE N 86°41'41" W, A DISTANCE OF 50.09 FEET; THENCE N 84°25'04" W, A DISTANCE OF 50.25 FEET; THENCE S 88°43'33" W, A DISTANCE OF 50.01 FEET; THENCE N 86°41'41" W, A DISTANCE OF 50.09 FEET; THENCE N 71°41'08" W, A DISTANCE OF 22.13 FEET; THENCE N 47°36'59" W, A DISTANCE OF 14.58 FEET; THENCE N 25°58'45" W, A DISTANCE OF 87.92 FEET; THENCE S 51°30'33" E, A DISTANCE OF 73.00 FEET; THENCE S 30°01'57" E, A DISTANCE OF 17.22 FEET; THENCE S 86°28'41" E, A DISTANCE OF 84.35 FEET; TO A POINT OF CURVATURE TO THE RIGHT; THENCE ALONG SAID CURVE, WITH A RADIUS OF 348.04 FEET, THROUGH A CENTRAL ANGLE OF 14°59'16" FOR AN ARC LENGTH OF 91.04 FEET (HAVING A CHORD BEARING AND DISTANCE OF N 78°58'24" W, 90.78 FEET) TO A POINT OF REVERSE CURVATURE; THENCE ALONG SAID CURVE WITH A RADIUS OF 311.02 FEET, THROUGH A CENTRAL ANGLE OF 18°14'29" FOR AN ARC LENGTH OF 99.02 FEET (HAVING A CHORD BEARING AND DISTANCE OF S 80°36'01" E, 98.60 FEET); THENCE S 89°26'24" E, A DISTANCE OF 55.44 FEET; THENCE S 00°33'36" W, A DISTANCE OF 5.57 FEET TO THE POINT OF BEGINNING. CONTAINING 9,026 SQ. FT. ±.

SEE SHEET 1 OF 2
FOR SKETCH OF DESCRIPTION

LEGEND

AC.	- ACRES	HVY.	- HIGHWAY	P. D. C.	- POINT OF COMMENCEMENT
ASPH.	- ASPHALT	I. P.	- IRON PIPE	P. T.	- POINT OF TANGENCY
AVE.	- AVENUE	I. R.	- IRON ROD	R.	- RADIUS
BLDG.	- BUILDING	M. H.	- MANHOLE	RNG.	- RANGE
BLVD.	- BOULEVARD	MON.	- MONUMENT	RD.	- ROAD
B.M.	- BENCHMARK	N.	- NORTH	REF.	- REFERENCE
BRG.	- BEARING	NE.	- NORTHEAST	R/R.	- RAILROAD
C. G.	- CURB and GUTTER	NGS.	- NATIONAL GEODETIC SURVEY	R/W.	- RIGHT OF WAY
C. H.	- CONCRETE MONUMENT	NGVD.	- NATIONAL GEODETIC VERTICAL DATUM	S.	- SURVEY INFORMATION
CL.	- COUNTY	NL.	- NUMBER	SEC.	- SECTION
CONC.	- CONCRETE	NAC.	- NAIL and CAP	S. R.	- STATE ROAD
(C.D.)	- DEED / DESIGN INFORMATION	NW.	- NORTHWEST	S. S.	- SANITARY SEWER
E.	- EAST	OHJ.	- OVERHEAD UTILITY LINE	ST.	- STREET
ELEC.	- ELECTRIC	(P)	- PLAT INFORMATION	STA.	- STATION
ELEV.	- ELEVATION	P. C.	- POINT OF CURVATURE	TWN.	- TOWNSHIP
F. F. E.	- FINISHED FLOOR ELEVATION	P. C. C.	- POINT OF COMPOUND CURVATURE	TBM.	- TEMPORARY BENCHMARK
F. HYD.	- FIRE HYDRANT	P. C. P.	- PERMANENT CONTROL POINT	T.C.	- TERRA COTTA
Find.	- FOUND	P. I.	- POINT OF INTERSECTION	TELE.	- TELEPHONE
FT.	- FEET	P. O. B.	- POINT OF BEGINNING	USGS.	- U. S. GEOLOGICAL SURVEY
		PRM.	- PERMANENT REFERENCE MONUMENT	V.	- WEST

CERTIFY TO:
CITY OF TALLAHASSEE
GENESIS GROUP

I hereby certify that this survey meets the minimum technical standards as set forth by the Florida Board of Surveyors and Mappers in Chapter 5J-17.050 Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.


STEVEN W. STINSON
FLORIDA PROFESSIONAL LAND SURVEYOR No. 5457
FLORIDA LICENSED BUSINESS No. 7834

NOTES

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3. THE BOUNDARIES SHOWN HEREIN ARE BASED ON LEGAL DESCRIPTIONS.
4. NO UNDERGROUND UTILITIES WERE LOCATED EXCEPT AS SHOWN.
5. NO OTHER IMPROVEMENTS WERE LOCATED EXCEPT AS SHOWN.
6. THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.


SURVEYING and MAPPING INC.

3201 Shamrock Street South, Suite #101
Tallahassee, Florida 32309
Office: (904) 668-7841 Fax: (904) 668-7848

DRAWN BY: S. BROWN SHEET NO.

CHECKED BY: S. STINSON

DATE: FEBRUARY 23, 2015

REVISED: 11/19/2015

SCALE 1" = 50'

FIELD BOOK N/A PAGE N/A

DATE OF SURVEY N/A

2
OF 2

JOB NO.

20833.07

Select Year: 2015 ▾ Go

The 2015 Florida Statutes

Title VI
CIVIL PRACTICE AND PROCEDURE

Chapter 73
EMINENT DOMAIN

[View Entire Chapter](#)

73.015 Presuit negotiation.—

(1) Effective July 1, 2000, before an eminent domain proceeding is brought under this chapter or chapter 74, the condemning authority must attempt to negotiate in good faith with the fee owner of the parcel to be acquired, must provide the fee owner with a written offer and, if requested, a copy of the appraisal upon which the offer is based, and must attempt to reach an agreement regarding the amount of compensation to be paid for the parcel.

(a) No later than the time the initial written or oral offer of compensation for acquisition is made to the fee owner, the condemning authority must notify the fee owner of the following:

1. That all or a portion of his or her property is necessary for a project.
2. The nature of the project for which the parcel is considered necessary, and the parcel designation of the property to be acquired.
3. That, within 15 business days after receipt of a request by the fee owner, the condemning authority will provide a copy of the appraisal report upon which the offer to the fee owner is based; copies, to the extent prepared, of the right-of-way maps or other documents that depict the proposed taking; and copies, to the extent prepared, of the construction plans that depict project improvements to be constructed on the property taken and improvements to be constructed adjacent to the remaining property, including, but not limited to, plan, profile, cross-section, drainage, and pavement marking sheets, and driveway connection detail. The condemning authority shall provide any additional plan sheets within 15 days of request.
4. The fee owner's statutory rights under ss. [73.091](#) and [73.092](#), or alternatively provide copies of these provisions of law.
5. The fee owner's rights and responsibilities under paragraphs (b) and (c) and subsection (4), or alternatively provide copies of these provisions of law.

(b) The condemning authority must provide a written offer of compensation to the fee owner as to the value of the property sought to be appropriated and, where less than the entire property is sought to be appropriated, any damages to the remainder caused by the taking. The owner must be given at least 30 days after either receipt of the notice or the date the notice is returned as undeliverable by the postal authorities to respond to the offer, before the condemning authority files a condemnation proceeding for the parcel identified in the offer.

(c) The notice and written offer must be sent by certified mail, return receipt requested, to the fee owner's last known address listed on the county ad valorem tax roll. Alternatively, the notice and written offer may be personally delivered to the fee owner of the property. If there is more than one owner of a property, notice to one owner constitutes notice to all owners of the property. The return of the notice as undeliverable by the postal authorities constitutes compliance with this provision. The condemning authority is not required to give notice or a written offer to a person who acquires title to the property after the notice required by this section has been given.

(d) Notwithstanding this subsection, with respect to lands acquired under s. 259.041, the condemning authority is not required to give the fee owner the current appraisal before executing an option contract.

(2) Effective July 1, 2000, before an eminent domain proceeding is brought under this chapter or chapter 74 by the Department of Transportation or by a county, municipality, board, district, or other public body for the condemnation of right-of-way, the condemning authority must make a good faith effort to notify the business owners, including lessees, who operate a business located on the property to be acquired.

(a) The condemning authority must notify the business owner of the following:

1. That all or a portion of his or her property is necessary for a project.
2. The nature of the project for which the parcel is considered necessary, and the parcel designation of the property to be acquired.
3. That, within 15 business days after receipt of a request by the business owner, the condemning authority will provide a copy of the appraisal report upon which the offer to the fee owner is based; copies, to the extent prepared, of the right-of-way maps or other documents that depict the proposed taking; and copies, to the extent prepared, of the construction plans that depict project improvements to be constructed on the property taken and improvements to be constructed adjacent to the remaining property, including, but not limited to, plan, profile, cross-section, drainage, pavement marking sheets, and driveway connection detail. The condemning authority shall provide any additional plan sheets within 15 days of request.
4. The business owner's statutory rights under ss. 73.071, 73.091, and 73.092.
5. The business owner's rights and responsibilities under paragraphs (b) and (c) and subsection (4).

(b) The notice must be made subsequent to or concurrent with the condemning authority's making the written offer of compensation to the fee owner pursuant to subsection (1). The notice must be sent by certified mail, return receipt requested, to the address of the registered agent for the business located on the property to be acquired, or if no agent is registered, by certified mail or personal delivery to the address of the business located on the property to be acquired. Notice to one owner of a multiple ownership business constitutes notice to all business owners of that business. The return of the notice as undeliverable by the postal authorities constitutes compliance with these provisions. The condemning authority is not required to give notice to a person who acquires an interest in the business after the notice required by this section has been given. Once notice has been made to business owners under this subsection, the condemning authority may file a condemnation proceeding pursuant to chapter 73 or chapter 74 for the property identified in the notice.

(c) If the business qualifies for business damages pursuant to s. 73.071(3)(b) and the business intends to claim business damages, the business owner must, within 180 days after either receipt of the notice or the date the notice is returned as undeliverable by the postal authorities, or at a later time mutually agreed to by the condemning authority and the business owner, submit to the condemning authority a good faith written offer to settle any claims of business damage. The written offer must be sent to the condemning authority by certified mail, return receipt requested. Absent a showing of a good faith justification for the failure to submit a business damage offer within 180 days, the court must strike the business owner's claim for business damages in any condemnation proceeding. If the court finds that the business owner has made a showing of a good faith justification for the failure to timely submit a business damage offer, the court shall grant the business owner up to 180 days within which to submit a business damage offer, which the condemning authority must respond to within 120 days.

1. The business damage offer must include an explanation of the nature, extent, and monetary amount of such damage and must be prepared by the owner, a certified public accountant, or a business damage expert familiar with the nature of the operations of the owner's business. The business owner shall also provide to the condemning authority copies of the owner's business records that substantiate the good faith offer to

settle the business damage claim. If additional information is needed beyond data that may be obtained from business records existing at the time of the offer, the business owner and condemning authority may agree on a schedule for the submission of such information.

2. As used in this paragraph, the term "business records" includes, but is not limited to, copies of federal income tax returns, federal income tax withholding statements, federal miscellaneous income tax statements, state sales tax returns, balance sheets, profit and loss statements, and state corporate income tax returns for the 5 years preceding notification which are attributable to the business operation on the property to be acquired, and other records relied upon by the business owner that substantiate the business damage claim.

(d) Within 120 days after receipt of the good faith business damage offer and accompanying business records, the condemning authority must, by certified mail, accept or reject the business owner's offer or make a counteroffer. Failure of the condemning authority to respond to the business damage offer, or rejection thereof pursuant to this section, must be deemed to be a counteroffer of zero dollars for purposes of subsequent application of s. 73.092(1).

(3) At any time in the presuit negotiation process, the parties may agree to submit the compensation or business damage claims to nonbinding mediation. The parties shall agree upon a mediator certified under s. 44.102. In the event that there is a settlement reached as a result of mediation or other mutually acceptable dispute resolution procedure, the agreement reached shall be in writing. The written agreement provided for in this section shall incorporate by reference the right-of-way maps, construction plans, or other documents related to the taking upon which the settlement is based. In the event of a settlement, both parties shall have the same legal rights that would have been available under law if the matter had been resolved through eminent domain proceedings in circuit court with the maps, plans, or other documents having been made a part of the record.

(4) If a settlement is reached between the condemning authority and a property or business owner prior to a lawsuit being filed, the property or business owner who settles compensation claims in lieu of condemnation shall be entitled to recover costs in the same manner as provided in s. 73.091 and attorney's fees in the same manner as provided in s. 73.092, more specifically as follows:

(a) Attorney's fees for presuit negotiations under this section regarding the amount of compensation to be paid for the land, severance damages, and improvements must be calculated in the same manner as provided in s. 73.092(1) unless the parties otherwise agree.

(b) If business damages are recovered by the business owner based on the condemning authority accepting the business owner's initial offer or the business owner accepting the condemning authority's initial counteroffer, attorney's fees must be calculated in accordance with s. 73.092(2), (3), (4), and (5) for the attorney's time incurred in presentation of the business owner's good faith offer under paragraph (2)(c). Otherwise, attorney's fees for the award of business damages must be calculated as provided in s. 73.092(1), based on the difference between the final judgment or settlement of business damages and the counteroffer to the business owner's offer by the condemning authority.

(c) Presuit costs must be presented, calculated, and awarded in the same manner as provided in s. 73.091, after submission by the business or property owner to the condemning authority of all appraisal reports, business damage reports, or other work products for which recovery is sought, and upon transfer of title of the real property by closing, upon payment of any amounts due for business damages, or upon final judgment.

(d) If the parties cannot agree on the amount of costs and attorney's fees to be paid by the condemning authority, the business or property owner may file a complaint in the circuit court in the county in which the property is located to recover attorney's fees and costs.

This shall only apply when the action is by the Department of Transportation, county, municipality, board, district, or other public body for the condemnation of a road right-of-way.

(5) Evidence of negotiations or of any written or oral statements used in mediation or negotiations between the parties under this section is inadmissible in any condemnation proceeding, except in a proceeding to determine reasonable costs and attorney's fees.

History.—s. 57, ch. 99-385; s. 8, ch. 2001-256.

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73.091 Costs of the proceedings.—

(1) The petitioner shall pay attorney's fees as provided in s. 73.092 as well as all reasonable costs incurred in the defense of the proceedings in the circuit court, including, but not limited to, reasonable appraisal fees and, when business damages are compensable, a reasonable accountant's fee, to be assessed by that court. No prejudgment interest shall be paid on costs or attorney's fees.

(2) At least 30 days prior to a hearing to assess costs under this section, the condemnee's attorney shall submit to the condemning authority for each expert witness complete time records and a detailed statement of services rendered by date, nature of services performed, time spent performing such services, and costs incurred, and a copy of any fee agreement which may exist between the expert and the condemnee or the condemnee's attorney.

(3) In assessing costs, the court shall consider all factors relevant to the reasonableness of the costs, including, but not limited to, the fees paid to similar experts retained in the case by the condemning authority or other parties and the reasonable costs of similar services by similarly qualified persons.

(4) In assessing costs to be paid by the petitioner, the court shall be guided by the amount the defendant would ordinarily have been expected to pay for the services rendered if the petitioner were not responsible for the costs.

(5) The court shall make specific findings that justify each sum awarded as an expert witness fee.

History.—s. 1, ch. 65-369; s. 2, ch. 87-148; s. 52, ch. 90-136; s. 1, ch. 90-303; s. 2, ch. 94-162; s. 60, ch. 99-385.

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73.092 Attorney's fees.—

(1) Except as otherwise provided in this section and s. 73.015, the court, in eminent domain proceedings, shall award attorney's fees based solely on the benefits achieved for the client.

(a) As used in this section, the term "benefits" means the difference, exclusive of interest, between the final judgment or settlement and the last written offer made by the condemning authority before the defendant hires an attorney. If no written offer is made by the condemning authority before the defendant hires an attorney, benefits must be measured from the first written offer after the attorney is hired.

1. In determining attorney's fees, if business records as defined in s. 73.015(2)(c)2. and kept by the owner in the ordinary course of business were provided to the condemning authority to substantiate the business damage offer in s. 73.015(2)(c), benefits for amounts awarded for business damages must be based on the difference between the final judgment or settlement and the written counteroffer made by the condemning authority provided in s. 73.015(2)(d).

2. In determining attorney's fees, if existing business records as defined in s. 73.015(2)(c)2. and kept by the owner in the ordinary course of business were not provided to the condemning authority to substantiate the business damage offer in s. 73.015(2)(c) and those records which were not provided are later deemed material to the determination of business damages, benefits for amounts awarded for business damages must be based upon the difference between the final judgment or settlement and the first written counteroffer made by the condemning authority within 90 days from the condemning authority's receipt of the business records previously not provided.

(b) The court may also consider nonmonetary benefits obtained for the client through the efforts of the attorney, to the extent such nonmonetary benefits are specifically identified by the court and can, within a reasonable degree of certainty, be quantified.

(c) Attorney's fees based on benefits achieved shall be awarded in accordance with the following schedule:

1. Thirty-three percent of any benefit up to \$250,000; plus
2. Twenty-five percent of any portion of the benefit between \$250,000 and \$1 million; plus
3. Twenty percent of any portion of the benefit exceeding \$1 million.

(2) In assessing attorney's fees incurred in defeating an order of taking, or for apportionment, or other supplemental proceedings, when not otherwise provided for, the court shall consider:

- (a) The novelty, difficulty, and importance of the questions involved.
- (b) The skill employed by the attorney in conducting the cause.
- (c) The amount of money involved.
- (d) The responsibility incurred and fulfilled by the attorney.

(e) The attorney's time and labor reasonably required adequately to represent the client in relation to the benefits resulting to the client.

(f) The fee, or rate of fee, customarily charged for legal services of a comparable or similar nature.

(g) Any attorney's fee award made under subsection (1).

(3) In determining the amount of attorney's fees to be paid by the petitioner under subsection (2), the court shall be guided by the fees the defendant would ordinarily be expected to pay for these services if the petitioner were not responsible for the payment of those fees.

(4) At least 30 days prior to a hearing to assess attorney's fees under subsection (2), the condemnee's attorney shall submit to the condemning authority and to the court complete time records and a detailed statement of services rendered by date, nature of services performed, time spent performing such services, and costs incurred.

(5) The defendant shall provide to the court a copy of any fee agreement that may exist between the defendant and his or her attorney, and the court must reduce the amount of attorney's fees to be paid by the defendant by the amount of any attorney's fees awarded by the court.

History.—s. 1, ch. 76-158; s. 37, ch. 85-180; s. 3, ch. 87-148; s. 54, ch. 90-136; s. 3, ch. 90-303; s. 3, ch. 94-162; s. 1370, ch. 95-147; s. 61, ch. 99-385.