

PROJECT # 335-6071160
PARCEL # 700
ID # 15451.1440/9

CONTRACT FOR PURCHASE
TEMPORARY CONSTRUCTION EASEMENT

THIS AGREEMENT, entered into by and between, **STEVEN G. GASPER AND SHARON L. GASPER**, husband and wife, as owner of the following described property, whose mailing address is 4228 34th Street East, Bradenton, FL 34208-7391, hereinafter "Seller," and **MANATEE COUNTY**, by and through its **Board of County Commissioners**, a political subdivision of the State of Florida, whose mailing address is P.O. Box 1000, Bradenton, Florida 34206, hereinafter "Buyer":

W I T N E S S E T H:

That in consideration of the mutual covenants herein contained and other good and valuable consideration, the parties hereto agree that the Seller shall sell and the Buyer shall buy, upon the following terms and conditions, the following real property which is located in Manatee County, State of Florida, more particularly described on **Exhibit "A"** attached hereto and incorporated herein by this reference.

It is further agreed by and between the parties as follows:

1. The **PURCHASE PRICE** shall be four thousand dollars and no cents (**\$4,000**). The full amount of the purchase price, subject to adjustment upon closing as hereinafter provided, shall be paid at the time of closing this transaction, same being the time at which Seller shall deliver to the Buyer a **Temporary Construction Easement** as required by this contract.
2. **TITLE EVIDENCE:** Due to the nature of this conveyance, Seller will not be required to furnish an Abstract of Title or Title Insurance. Buyer may conduct whatever title search Buyer deems necessary. Prior to or during closing, Seller shall deliver to Buyer an Affidavit of Ownership and Encumbrance. If Buyer notifies Seller of existing title defects other than those to which the conveyance is to be made subject by the terms of this Agreement and other than those for which recordable discharges are, in accordance with local custom, to be furnished at the closing, then Seller shall promptly make a diligent effort to perfect the title to the extent called for by this contract.
3. **RECORDING:** Buyer shall pay for the cost of recording the Temporary Construction Easement.
4. **SALE AND PURCHASE:** **This sale and purchase is made under threat of and in lieu of eminent domain proceedings.**
5. **TAXES:** N/A
6. **CLOSING:** This transaction shall be closed on or before _____. Closing shall be held in the county where property is located, at the following location **1112 Manatee Avenue West, Bradenton, Florida 34205** or other location agreeable to both parties.
7. **BROKER'S FEE:** Buyer will pay no commission to any broker in connection with the purchase and sale of the above-described property, and Seller warrants that it has assumed no obligation to pay any such commission in connection therewith.

Contract for Purchase
Temporary Construction Easement continued:

8. **TEMPORARY CONSTRUCTION EASEMENT:** Seller shall deliver to the Buyer a Temporary Construction Easement for the area described in the exhibit attached hereto as a requirement of this Contract.

9. **SPECIAL PROVISIONS:** The above quoted purchase price is a negotiated figure representing a litigation avoidance settlement which eliminates additional costs for litigation, including fees for attorneys, property appraisers, land planners, engineers and surveyors.

IN WITNESS WHEREOF, the parties hereto have executed this Contract for Purchase, this 13 day of August, 2013.

Signed, sealed, and delivered in the presence of:

SELLER:
STEVEN G. GASPER and SHARON L. GASPER

Amanda R. Kinney
Witness
Amanda Kinney
Printed Name

[Signature]
Seller
STEVEN G. GASPER
Printed Name

[Signature]
Witness
Chad Gasper
Printed Name

Amanda R. Kinney
Witness
Amanda Kinney
Printed Name

[Signature]
Seller
SHARON L. GASPER
Printed Name

[Signature]
Witness
Chad Gasper
Printed Name

BUYER:
MANATEE COUNTY, FLORIDA,
by and through its BOARD OF
COUNTY COMMISSIONERS:

By: [Signature]
Chairman

Date: 8/13/13

ATTEST: R. B. SHORE
Clerk of the Circuit Court

By: [Signature]
Deputy Clerk



LEGAL DESCRIPTION AND SKETCH

TEMPORARY CONSTRUCTION EASEMENT

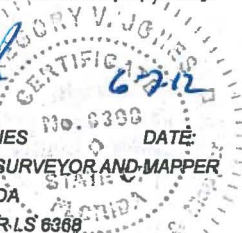
PARCEL 700

That part of Lot 53 of Oak Trace subdivision, as recorded in Plat Book 41, Page 122, Public Records of Manatee County, Florida, being in Section 8, Township 35 South, Range 18 East more particularly described as follows:



Commence at the north quarter corner of said Section 8, thence along the east line of Highland Ridge subdivision as recorded in Plat Book 39, Page 55, Public Records of Manatee County, Florida, S 00° 13' 03" W a distance of 107.91 feet to the southeast corner of Tract "F"; thence continue S 00° 13' 03" W a distance of 60.01 feet to a point on the survey base line of 44th Avenue East per Manatee County Public Works Project 6071160; thence along said survey base line S 88° 48' 04" E a distance of 125.02 feet; thence departing said survey base line, N 00° 13' 03" E a distance of 60.01 feet to the southeast corner of said Lot 53, being the POINT OF BEGINNING; thence along the south line of said Lot 53, N 88° 48' 04" W a distance of 28.35 feet; thence departing said south line N 46° 11' 56" E a distance of 39.42 feet to the east line of said Lot 53; thence along said east line S 00° 13' 03" W a distance of 27.88 feet to the POINT OF BEGINNING.

Containing 395 square feet, more or less.

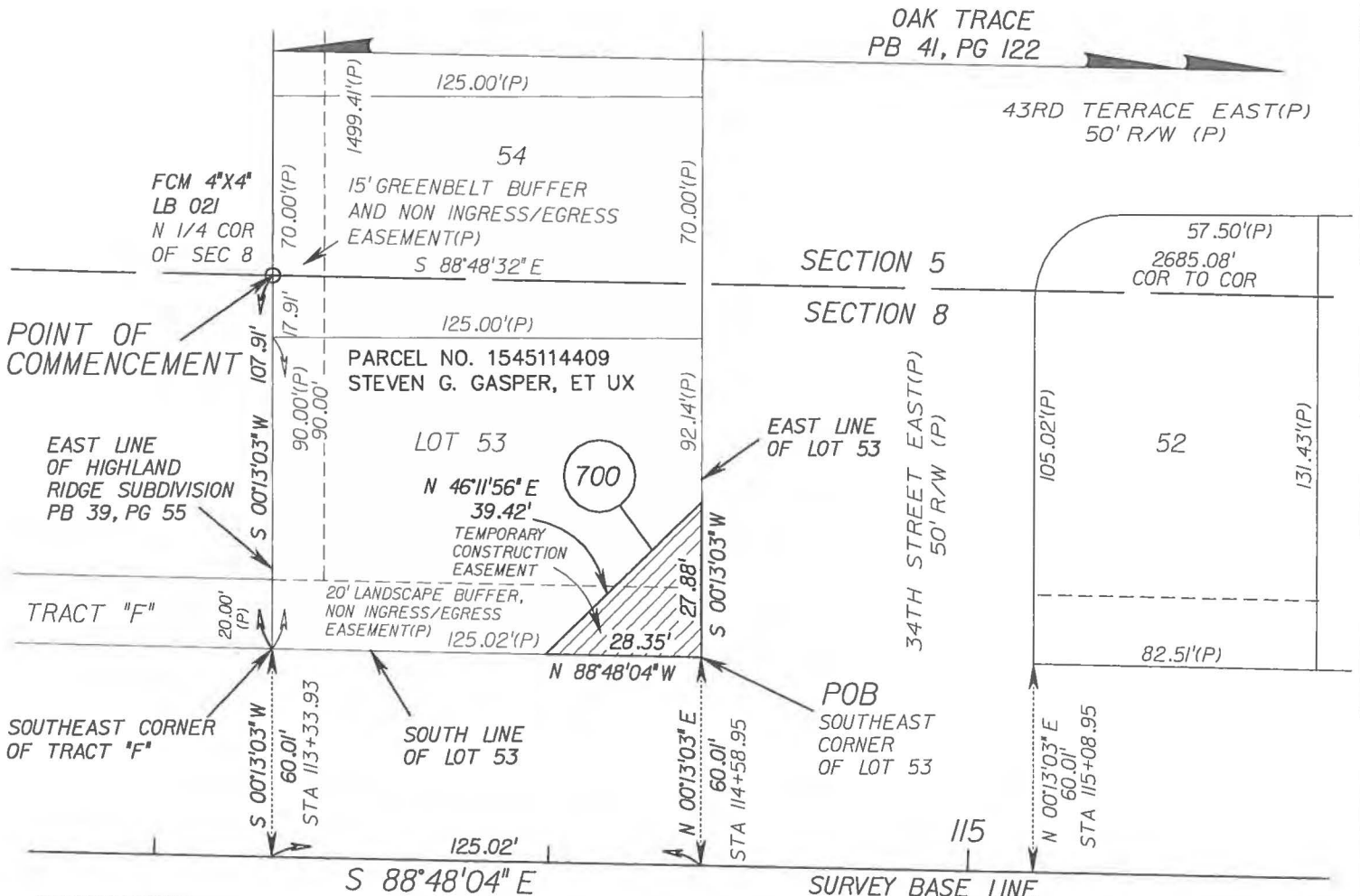
This legal description and sketch prepared by:

G. Jones

 GREGORY V. JONES
 PROFESSIONAL SURVEYOR AND MAPPER
 STATE OF FLORIDA
 LICENSE NUMBER LS 6368

Note: Not Valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.

			 MANATEE COUNTY PUBLIC WORKS		PREPARED BY:  MKIM & CREED 378 INTERSTATE COURT SARASOTA, FL 34240 941-379-3404 LB 7917	
PARCEL SKETCH - THIS IS NOT A SURVEY						
			BY	DATE	Parcel Number 700	
			DRAWN	G. JONES	6/05/12	
REVISION	BY	DATE	CHECKED	R ABERNATHY	6/05/12	Project Number: 6071160 44th Avenue East SHEET 1 OF 2

SECTION 8, TOWNSHIP 35 SOUTH, RANGE 18 EAST



ABBREVIATIONS

- B - BASE LINE
- CD - CHORD DISTANCE
- CB - CHORD BEARING
- COR - CORNER
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- RR - RAILROAD
- RT - RIGHT
- R/W - RIGHT OF WAY
- SEC - SECTION
- STA - STATION
- T - TANGENT



This legal description and sketch is incomplete without the signed and sealed legal description.

SURVEY BASE LINE
44TH AVENUE EAST
MANATEE COUNTY
PUBLIC WORKS
PROJECT 6071160

PARCEL 700 CONTAINS
395 SQUARE FEET,
MORE OR LESS

THE BEARINGS SHOWN ON THIS SKETCH ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, 1983 NORTH AMERICAN DATUM, 1999 ADJUSTMENT, AS ESTABLISHED FROM THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 35 SOUTH, RANGE 18 EAST BEING A FCIR^{5/8}" - "FDOT" AND A FOUND 80d NAIL WITH DISK "ILLEGIBLE" DERIVING A BEARING OF N 01°12'25" W.

NOT TO SCALE

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PARCEL SKETCH - THIS IS NOT A SURVEY		
	BY	DATE
	DRAWN	DATE
REVISION	BY	DATE
	CHECKED	DATE
Project Number: 6071160 44th Avenue East		Parcel Number 700 SHEET 2 OF 2

August 13, 2013 - Regular Meeting
Agenda Item #12

Approved in Open Session 8/13/13.
Manatee Board of County Commissioners

Subject

44th Avenue East (30th Street East to 45th Street East) Road Right of Way Improvement Project Parcel 700
property owner Steven G. Gasper and Sharon L. Gasper

Briefings

None

Contact and/or Presenter Information

Lynn Willis, Property Management, x 6287
Joaquin Servia, Division Manager, Property Acquisition, x 3021

Action Requested

Execution for a Contract for Purchase for a Temporary Construction Easement from Steven G. Gasper and Sharon L. Gasper in the total amount of \$4,000.00.

Enabling/Regulating Authority

Chapters 125 and 127, Florida Statutes Comprehensive Plan Goal 5.1 addresses the safety and efficiency of forecasted vehicular demands.

Background Discussion

The capital improvement plan for the 44th Avenue East Road Right of Way Improvement Project was originally approved during the fiscal year of 1994/1995 on February 25, 1994. This project was re-approved during the fiscal year of 2009/2010 on September 15, 2009 with Resolution R-09-219.

On August 15, 2012, Appraiser Shawn Wilson, MAI, of Compass Real Estate Consulting, Inc. determined the total appraised value of the parcel to be \$900. Specifically, the total consists of the following; \$100.00 for 395 square feet of vacant land, and \$800.00 for improvements.

A negotiated settlement was agreed upon for a total amount of \$4,000.00 for a partial take of the property including all fees and costs on May 16, 2013. A cost avoidance analysis is attached marked as exhibit "B".

County Attorney Review

Not Reviewed (Utilizes exact document or procedure approved within the last 18 months)

Explanation of Other

Reviewing Attorney

N/A

Instructions to Board Records

Please return a copy of the executed contract to

Sandra Murphy, Legal Assistant, County Attorney's Office, sandra.murphy@mymanatee.org,

Lynn Willis, Property Management, lynn.willis@mymanatee.org,

Johnnie Yetter, Project Management, johnnie.yetter@mymanatee.org,

and Tracie Dill, Finance, tracie.dill@manateeclerk.com

Emailed all parties 8/14/13, RLL

Cost and Funds Source Account Number and Name

Code the settlement cost of \$4,000.00 to 335-6071160, 44th Avenue East, 30th Street East to 45th Street East, Road Right of Way Improvement Project

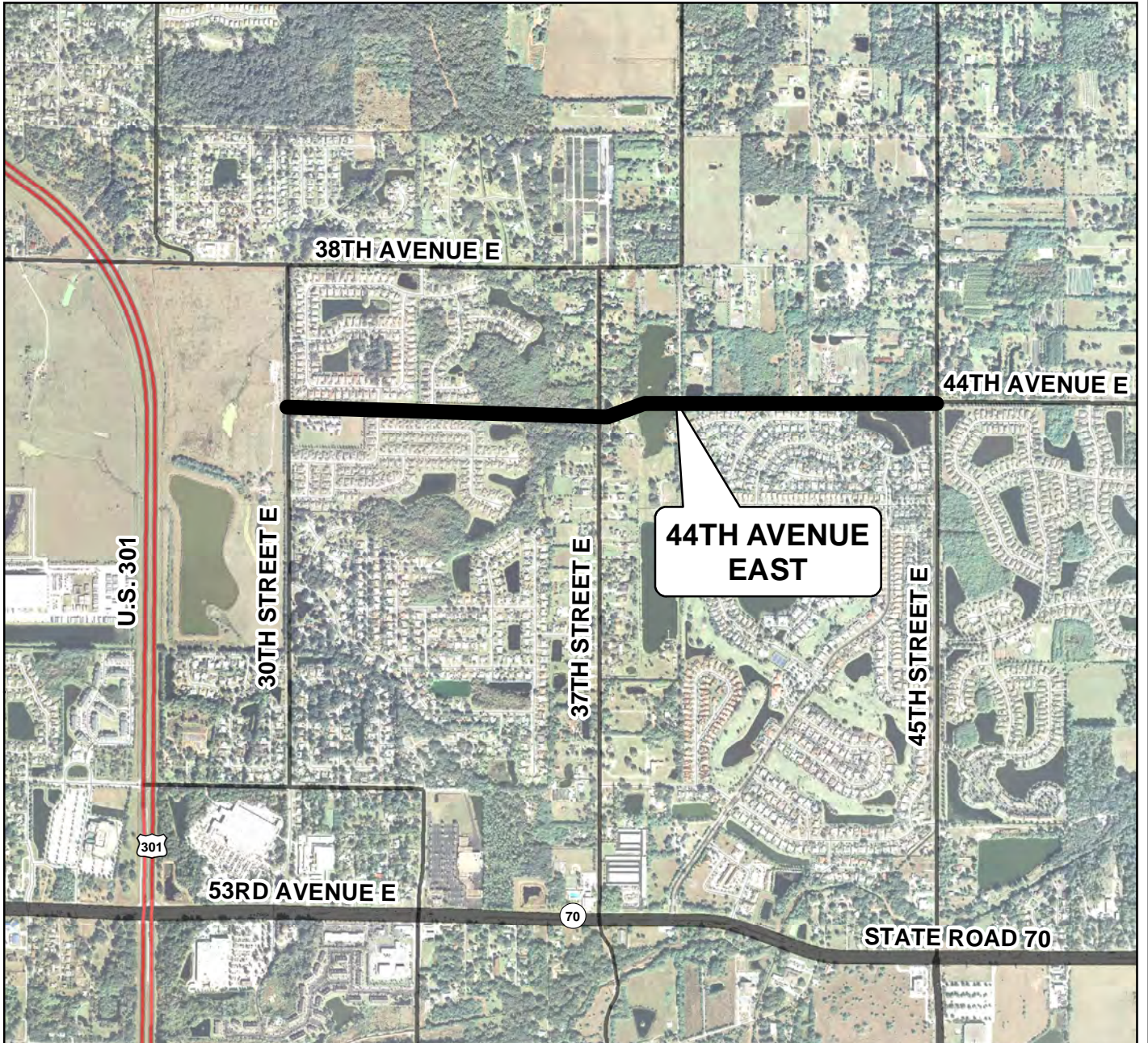
Amount and Frequency of Recurring Costs

None

Attachment: [contract tce gasper.pdf](#)

Attachment: [44th Ave E 30th-45th St Loc Map.pdf](#)

Attachment: [Admin adjustment gasper.pdf](#)



44TH AVENUE EAST

**44TH AVENUE EAST
RIGHT-OF-WAY**
From 30th Street East to 45th Street East

Site Location:
North of 53rd Avenue East, State Road 70
East of U.S. 301

Sections 4&5/35/18

**District 4
COMMISSIONER ROBIN DISABATINO
and
District 5
COMMISSIONER VANESSA BAUGH**

Legend: 44th Avenue East Right-of-way

1 inch equals 0.3 miles

ADMINISTRATIVE ADJUSTMENT CONDEMNATION REVIEW FORM

PARCEL: Gasper PARCEL #: 700
 PROJECT DESCRIPTION: 44th Avenue East (30th - 45th Street East) COUNTY: Manatee
 AGENT: Riggs OFFER DATE: 10/6/12

NUMBER OF NEGOTIATING CONTACTS: >10 DATE OF LAST CONTACT 07/18/13

TOTAL LAND AREA: .261 AC. DUE: AC. TCE 395 SF AC.
 FEE TAKE: AC. PUE: AC. TDE AC.
 REMAINDER: .261 AC. AUE: AC. PDE AC.

IMPROVEMENTS IN RIGHT OF WAY: 128 SF asphalt paving and 50 feet curb and gutter, 2 SF of concrete driveway.

ALLOCATION OF PART TAKEN: LAND: \$ 100 AMOUNT OF RHP: \$ 0 %
 IMPROVEMENTS: \$ 800 TYPE OF ZONING: RSF-4.5
 DAMAGES: \$ 0 HIGHEST AND BEST USE Residential
 BENEFITS: \$ 0
 AMOUNT OF APPROVED APPRAISAL: \$ 900 RESIDUE VALUE, IF ANY n/a

LIST OF ALL APPRAISALS, INCLUDING RED-LINE, ADJUSTMENT LETTER, AND PROPERTY OWNER APPRAISALS'

NAME OF APPRAISER	DATE OF APPRAISAL	STAFF, FEE, AGENT, REVIEWER	TYPE OF APPRAISAL	BEFORE VALUE \$	AFTER VALUE \$	DIFFERENCE \$
Wilson	8/15/12	Fee	Summary	\$11,400	\$11,400	\$0

TYPE OF ACCESS CONTROL: FULL PARTIAL NONE x ACRES ISOLATED BY PROJECT: 0

HIGHEST AMT. NEGOTIATED \$: 900 COUNTER-OFFER BY PROPERTY OWNER: \$ 10,000

ARE THERE LEASES INVOLVED? n/a WAS OFFER MADE TO LESSEE? n/a

IF OWNER REPRESENTED BY ATTORNEY, GIVE NAME OF ATTORNEY (OR N/A) N/A

DOES OWNER HAVE A COPY OF AGENCY'S APPRAISAL YES NO ANY OTHER CLAIMS ON THIS PROJECT WITH THIS OWNER? YES NO
 ARE YOU AWARE OF PREVIOUS CLAIMS WITH THIS OWNER? YES NO

CONDEMNATION SUIT PACK DUE: Tbd ORDER OF TAKING DATE: Tbd R/W COMP. DATE: Tbd

REMARKS/COMMENTS: Indicate counteroffers and negotiations efforts and owner's justification of counteroffers, and any and all unusual aspects of the claim; Explain damages (proximity, cost to cure, isolation, partial control of access, etc.); Explain proximity damages (how much, distance of R/W from structure before and after, % of damages.); Indicate current and/or previous claims with owner and results if known;

The subject property is located in the southwest corner of the intersection of 43rd Terrace East and 34th Street East and at the south end of 34th Street East there is a cul-de-sac that extends into the dedicated right of way of undeveloped 44th Avenue East. The physical address is 4228 34th Street East, Bradenton, Florida. Property is improved with a 1,823 square foot single family residence and it is not affected by the right of way acquisition. Highest and Best Use according to appraiser Wilson is residential.

Proposed acquisition is for the new section of 44th Avenue East. The proposed acquisition is for the removal of asphalt pavement and curb and gutter in the cul-de-sac and contains 395 square feet. Appraiser Wilson opines to \$1.00/sf using comparable land sales (range of \$.61/sf to \$.94/sf unadjusted) and active listings (range from \$1.17/sf and \$1.72/sf unadjusted).

Property owner has made a counter offer of \$10,000 with no expert fees and costs. The counter offer includes damages to the real estate as a result of the widening of the proposed 44th Avenue project.

The owners, Steven and Sharon Gasper, agreed to the County's proposed negotiated settlement amount on May 24, 2013 in the amount of \$4,000. This offer was forwarded to the County and subsequently a contract in the amount of \$4,000 has been prepared and executed by the owner. There are no attorney fees or other expert fees associated with this agreement.

This settlement represents an increase of \$3,100 above the Board's approved offer of \$900. This administrative increase is justified by the following:

1. Potential Cost of Litigation: please see attached Exhibit B Analysis that illustrates total potential exposure avoidance from continued litigation of approximately \$29,000.00 to the County with acceptance of this settlement.

RECOMMENDATION APPROVAL OF ADMINISTRATIVE ADJUSTMENT

R. Matthew Pugh

CONSULTANT PROJECT MANAGER

Date: 7/22/13

REQUESTED ACTION FOR CONDEMNATION:

- NEGOTIATE UP TO \$ 4,000.00 BEFORE FILING
 FILE CONDEMNATION IF REASONABLE COUNTEROFFER NOT RECEIVED
 OTHER ACTION/REMARKS: _____

ADMINISTRATIVE ADJUSTMENT/CONDEMNATION REVIEWED AND APPROVED:

AGENCY ADMINISTRATOR / PROJECT MANAGER

Date: _____

LEGAL DESCRIPTION AND SKETCH

TEMPORARY CONSTRUCTION EASEMENT

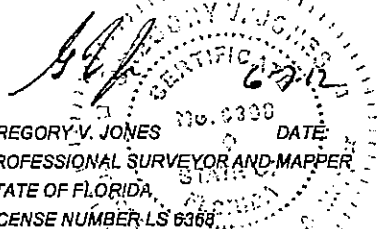
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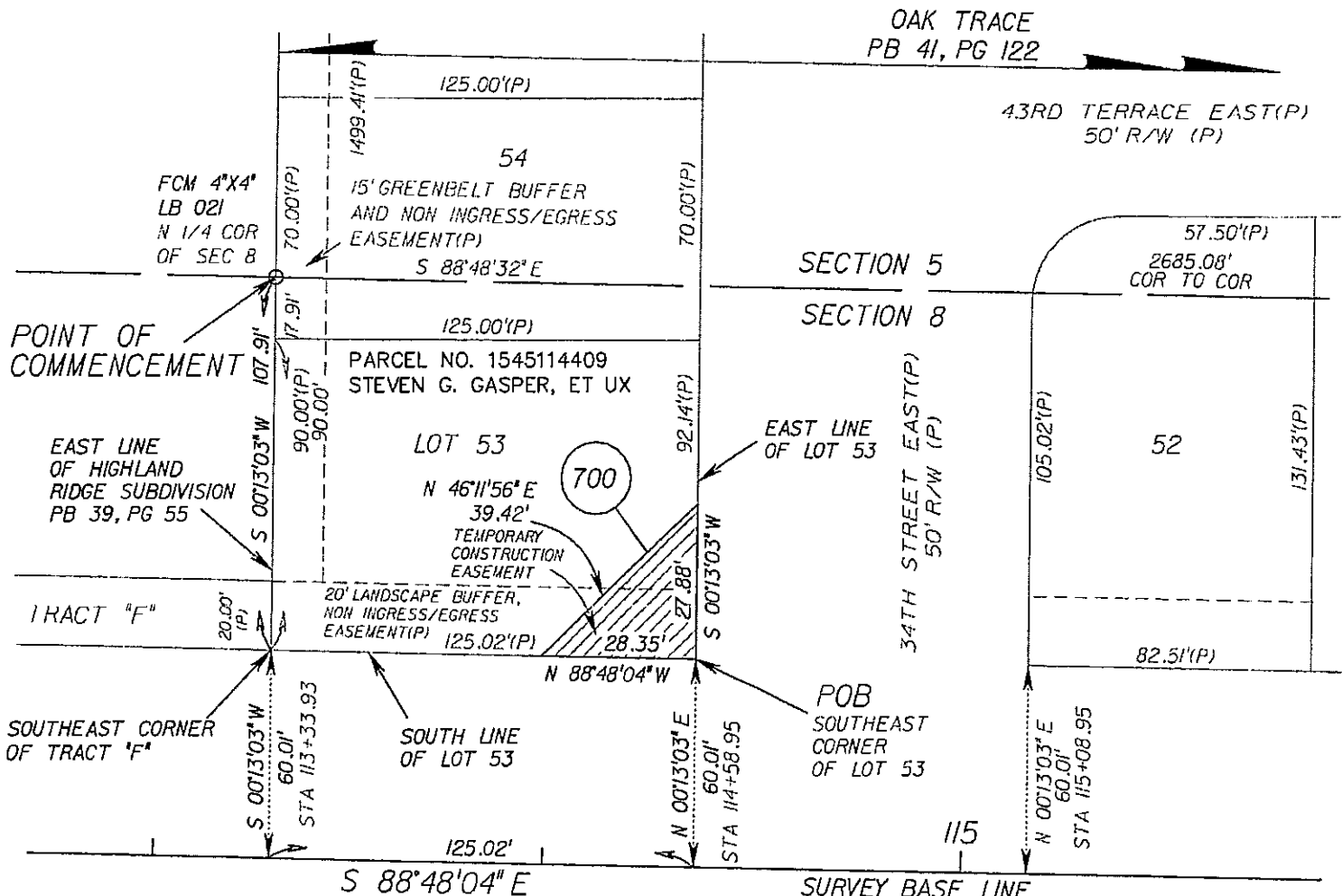
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G. Jones

 GREGORY V. JONES No. 6368 DATE:
 PROFESSIONAL SURVEYOR AND MAPPER
 STATE OF FLORIDA
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			BY	DATE	Parcel Number 700	
			DRAWN	G. JONES	6/05/12	
			CHECKED	R ABERNATHY	6/05/12	
REVISION	BY	DATE	Project Number: 6071160		44th Avenue East	SHEET 1 OF 2

SECTION 8, TOWNSHIP 35 SOUTH, RANGE 18 EAST



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REVISION	BY	DATE				

COST AVOIDANCE ANALYSIS

Exhibit "B"

COUNTY COSTS		County Appraisal Report			
- COUNTY Appraisal for DOD		\$2,000.00	÷	2	\$ 1,000.00
- COUNTY Survey				\$0.00	\$ 0.00
COUNTY Expert Witnesses		Hours		Rate	
- Appraiser		8	x	\$190.00	\$ 1,520.00
- Engineer		8	x	\$200.00	\$ 1,600.00
- Planner		0	x	\$150.00	\$ 0.00
- Mediator		0	x	\$225.00	\$ 0.00
- Fee Counsel		0	x	\$190.00	\$ 0.00
Land and Improvements		Owner's Counter		County Appraisal / Offer	
Potential Jury Award	\$10,000.00	\$900.00		\$9,100.00 x 70.00%	\$ 6,370.00
Potential Jury Award Interest				\$6,370.00 x 9.00%	\$ 573.30
Court Costs (Days)				3 x \$1,000.00	\$ 3,000.00
Business Damages		Owner's Report		County Report / Offer	
Potential Jury Award	\$0.00	\$0.00		\$0.00 x 100.00%	\$ 0.00
Court Costs (Days) + \$100.00 Court Deposit Fee				0 x \$1,000.00	\$ 0.00
TOTAL COUNTY POTENTIAL COSTS					\$ 14,063.30
PROPERTY OWNER COSTS					
Owner's Potential Fees					
- Appraiser		\$2,000.00	x	125%	\$ 2,500.00
- Attorney (Statutory)		\$6,370.00	x	33.000%	\$ 2,102.10
- Engineer Report				\$4,000.00	\$ 4,000.00
- Planning Report				\$0.00	\$ 0.00
- CPA				\$0.00	\$ 0.00
Owner's Potential Expert Witness Fees		Hours		Rate	
- Appraiser		8	x	\$235.00	\$ 1,880.00
- Engineer		4	x	\$200.00	\$ 800.00
- Planner		0	x	\$150.00	\$ 0.00
- CPA		0	x	\$200.00	\$ 0.00
- Surveyor		0	x	\$0.00	\$ 0.00
- Marketing		0	x	\$0.00	\$ 0.00
- Arborist		0	x	\$0.00	\$ 0.00
Depositions				\$3,000.00	\$ 3,000.00
Transcripts				\$2,000.00	\$ 2,000.00
Exhibits				\$2,500.00	\$ 2,500.00
TOTAL OF OWNER COSTS					\$ 18,782.10
TOTAL POTENTIAL COST OF COURT ACTION					\$ 32,845.40
Land and Improvements		Agreement Amount		County Appraisal	
Less Administrative Increase	\$4,000.00	\$900.00		\$3,100.00	
Business Damages				County Report	
Less Administrative Increase	\$0.00	\$0.00		\$0.00	
<input checked="" type="checkbox"/> NO FEES OR COSTS		Total Administrative Increase		3,100.00	\$ -3,100.00
Less Appraiser and Engineer Fee			[ACTUAL]	\$0.00	\$ 0.00
Less Attorney Fee			[ACTUAL]	\$0.00	\$ 0.00
Less Other Fee - mediator			[ESTIMATED]	\$0.00	\$ 0.00
Less Other Fees				\$0.00	\$ 0.00
MINIMUM EXPOSURE AVOIDANCE					\$ 29,745.40
Plus Sale of Excess Land				Rate	
Commercial	0.0	x	\$0.00	\$0.00	\$ 0.00
Residential/Acreage	0.0	x	\$0.00	\$0.00	\$ 0.00
TOTAL POTENTIAL EXPOSURE AVOIDANCE					\$ 29,745.40

This administrative increase, in association with attorney fees, expert witness fees and court costs, has been reviewed with the County eminent domain fee attorney to estimate the cost avoidance.