



APPRAISAL MANUAL

**Department of Rights of Way
Columbia, South Carolina**

November, 2017

SCDOT APPRAISAL MANUAL REVISIONS

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INTRODUCTION

The purpose of this manual is to provide guidelines for both staff and fee appraisers in the preparation of appraisal reports utilized by the South Carolina Department of Transportation (SCDOT) in the acquisition of rights of way for highway construction. These guidelines have been prescribed in order to promote a degree of uniformity in the appraisal process and to outline the basic requirements for standardized reporting. This manual is not intended to address all aspects related to the appraisal process, but to introduce appraisers to the formats used by the SCDOT for reporting an opinion of market value and to address some of the common issues encountered in appraising eminent domain acquisitions.

None of the material contained herein is intended to influence the independent judgment of the appraiser. The appraiser should contact the SCDOT Assistant Director of Rights of Way for Operations and/or SCDOT Chief Appraiser immediately if he or she feels undue pressure or inappropriate influence from anyone to arrive at a predetermined opinion of value.

All policies, procedures, and methods that govern the operation of the Appraisal Section along with the duties of the appraiser and review appraiser will be covered in this manual. The appraisal staff and all fee appraisers under contract with SCDOT are charged with the responsibility of understanding and complying with the instructions contained in this manual. Strict adherence to these instructions is required.

In addition to the Appraisal Manual, the Appraisal Section offers the complete cooperation of all personnel in an effort to attain the goals and high standards required by SCDOT in preparing a fair and well-supported estimate of market value.

For the purposes of this manual, the pronouns he, his, she, him, and her are intended to convey a neutral gender neither masculine nor feminine. They are used to refer to any person whose sex is not specified (e.g. the Rights of Way Employee, the Right of Way Agent, the Project Manager, the Staff Appraiser, the Review Appraiser, the Fee Appraiser, etc.) In all areas where these neuter gender pronouns appear, the reader may substitute the masculine and feminine pronouns of him/her or his/her, if preferred.

From time to time it will be necessary to make changes to the manual. As revisions occur, new pages will be formed to replace those that have become obsolete. When revisions are received, please study the new material and initiate procedural changes as directed. Our success depends upon the quality of and compliance with this manual therefore; suggestions, comments, and recommendations are always welcomed from appraisers and other users. Any feedback should be in writing and addressed to the Director Rights of Way and/or his designee(s).

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

SECTION I: OPERATING POLICIES

A. Authority and Purpose

The Constitution of the State of South Carolina provides that private property shall not be acquired for public use without payment of just compensation (S.C. Constitution, Article I, Section 13). The Eminent Domain Procedures Act (S.C. Code Ann. Section 28-2-10, et. seq., - Supplement, 1996) provides that prior to initiating a condemnation action, the condemnor shall cause the property to be appraised to determine just compensation for its taking. The Eminent Domain Procedures Act also provides that in determining just compensation, only the value of the property to be acquired, any diminution in value of the landowner's remaining property, and any benefits to be derived from the proposed project (including the value of any property or rights relinquished or reverting to the landowner as a result thereof) may be considered. See S.C. Code Ann. Section 28-2-370 - Supplement 1996.

Appraisal reports are necessary to assist the State in determining just compensation and are used to support SCDOT in negotiations with property owners, as well as to request reimbursement of right of way costs from the Federal Highway Administration (FHWA). SCDOT, as well as others receiving federal financial assistance for public programs and projects that require the acquisition of real property, must comply with the policies and provisions set forth in the Uniform Act, the regulations, and this manual. It is imperative that SCDOT employ only appraisers with the highest degree of competence and integrity. The appraiser should never act as an advocate for either SCDOT or the property owner. SCDOT may, at times, ask for clarifications, corrections, or additional support for estimates of value. These requests must not be construed as influence toward a predetermined value. Estimates must be supported by market evidence, and analyses of data must be based on sound appraisal principles and theory.

B. Organization

The SCDOT Appraisal Section is a part of the SCDOT Rights of Way office under direction of the Director of Rights of Way with administrative functions carried out by the Assistant Director Rights of Way for Operations and/or his designee(s). The Assistant Director Rights of Way for Operations and Chief Appraiser are responsible for the implementation of the appraisal process within the Rights of Way Appraisal Section with support provided by staff appraisers.

The Chief Appraiser and/or Assistant Director of Rights of Way for Operations will prepare scopes of work and make appraisal assignments to staff appraisers and fee appraisers, which include both the preparation and review of cost estimates, appraisal reports and appraisal reviews. All appraisals used by SCDOT for the purposes of acquisition and disposition of real estate must be prepared by an appraiser approved by SCDOT.

C. Scope of Work and Types of Appraisals

The Scope of Work is a written set of expectations that form an agreement or understanding between the appraiser and SCDOT as to the specific requirements of the appraisal, resulting in a report to be submitted to SCDOT by the staff or fee appraiser. The Scope of Work includes, but is not limited to, type of appraisal; property right(s) being appraised; date of appraisal valuation and date of report; location and zoning; highest and best use and present use; identification of the intended use and user; definition of appraisal as defined by the Uniform Act 49 CFR 24.2 (a) (3); proper notification of the landowner requirements for property inspection; 5-year sales history of the property; statement of assumptions and limiting conditions; and appraiser certification. The SCDOT Appraisal Manual provides guidance on the Scope of Work. The scope of work can change by SCDOT at any time during the appraisal process.

Two types of appraisals, Nominal and Standard, will be used when appraising real property. The terms Nominal and Standard described in this manual are used to identify SCDOT appraisal formats used to prepare appraisal reports as described by Standard 2-2B under the Uniform Standards of Appraisal Practice. The Standard Appraisal will be used for all appraisals where a before and after value are required. There are three classifications of the Standard Appraisal Report based on the scope of work. The three classifications are as follows:

- **Simple Standard** – Before and after values of the entire property including building improvements with no damages or benefits accruing to the property.
- **Moderate Standard** – Before and after values of the underlying land including damages and/or benefits to the site only.
- **Complex Standard** – Before and after values of the entire property, including improvements, damages, and/or benefits to the remainder.

The Nominal Appraisal will be used for simple partial acquisitions and total acquisitions regardless of the value of the acquisition. The Nominal format may **not** be used when damages other than a simple cost to cure (i.e. not to exceed \$5,000) occur to the remainder. Other standardized report formats may only be used with the specific approval of the Chief Appraiser and/or Assistant Director Rights of Way for Operations. .

The type of appraisal to be prepared for each acquisition and initial scope of work will be determined when the right of way cost estimate (**SCDOT R/W Form 100-A**) is prepared for the project. Both the fee appraiser and SCDOT have a role in defining the appraisal problem and developing the scope of work. The appraiser should notify the, Chief Appraiser and/or Assistant Director Rights of Way for Operations if it is determined, subsequent to beginning the assignment, that tracts should be combined or separated or if the scope of work should be expanded to address previously unforeseen conditions.

The cost estimate and initial scope of work will be submitted to the Chief Appraiser and/or Assistant Director Rights of Way for Operations for review.

When the value of the acquisition is expected to exceed \$250,000, or benefits exist, the Chief Appraiser and/or Assistant Director Rights of Way for Operations will evaluate the complexity of the appraisal problem with the appraiser to determine the appropriate scope of work. If the complexity of the appraisal problem warrants, the Chief Appraiser and/or Assistant Director of Rights of Way for Operations may order additional appraisals on any tract, regardless of the estimate of value.

D. Confidentiality of Appraisals

Appraisals are confidential communications between the appraiser and SCDOT authorized personnel, or the FHWA Realty Officer. At no time shall the appraiser disclose appraised values or any components of value to any person other than authorized employees of SCDOT or FHWA without written permission, except on proper order of the court or for court testimony.

E. Contact with Property Owners

The appraiser is required to contact the property owner prior to inspecting the property and to provide the property owner with the opportunity to be present during the inspection (Ref. Sec. 24.102c). The appraiser should be considerate and patient and convey competence, integrity, and objectivity. The appraiser will mail a letter by certified mail to the landowner and/or his/her designee and attach a copy of the postal service certification label and landowner letter in the addendum section of appraisal. If the tract has multiple property owners, only one letter is required to be sent to the point of contact for said tract. The right of way agent's worksheet will have a point of contact for multiple property owners.

During the appraiser's inspection of the property, the property owner should be given the opportunity to point out any features of their property or its use in both the before and after conditions that, in their opinion, might impact value. The appraiser should also give the property owner the opportunity to provide market data that he believes is relevant for a proper determination of market value.

The appraiser should make no attempt to answer any questions concerning negotiations or road design. Use of hypothetical or theoretical examples is discouraged. The appraiser is responsible for sufficiently understanding the plans in order to determine the impact on value that the acquisition and the proposed construction might have on the remainder, however the appraiser is cautioned against interpreting highway plan sheets for the property owner. This is primarily a function of the Rights of Way Agent. Questions concerning plans and road design should be directed to the agent through the Regional Rights of Way Administrator or Team Leader. It is important that the property owner's questions are answered completely. This is achieved most effectively when the same person provides the explanation or interpretation. This assures consistency and a more accurate accounting of the negotiation process. Separate explanations may appear inconsistent and could result in mistrust and a breakdown in negotiations.

Opinions of market value and highest and best use must only be discussed with SCDOT and FHWA personnel. The appraisal process should be explained to the property owner's satisfaction, with no reference made to the subject's market value or the value(s) of any assigned properties.

No appraiser shall act as a negotiator for real property for which he has prepared an appraisal. The appraisal and negotiation functions must remain separate to ensure the appraiser's independence and impartiality.

F. Conflicts of Interest

Under no circumstances shall the appraiser appraise any parcel in which he or she may hold, or subsequently acquire, an interest. In addition, the appraiser shall not accept the assignment of preparing an appraisal where the value might be influenced by his personal interest in other property. It shall be the ethical responsibility of the appraiser to refuse any assignments where such a conflict exists or might be reasonably presumed.

G. Staff Appraisal Assignment

The staff appraiser will receive his work assignment from the Chief Appraiser and/or Assistant Director of Rights of Way for Operations. If necessary, the staff appraiser shall request time extensions in writing prior to the due date, giving the reason the extension is needed and the proposed completion date. Requests for extensions should be addressed to the Chief Appraiser and/or Assistant Director Rights of Way for Operations.. The appraisal of property owned by SCDOT employees shall be assigned to independent fee appraisers.

H. General Valuation Information

The SCDOT Appraisal Manual is intended to set forth minimum requirements for the development and reporting of a well-supported and reasonable opinion of market value. Scopes of work and technical data are furnished to the appraiser for preparing acceptable appraisal reports that are fair and reliable.

The Sales Comparison Approach is required in appraising all types of property except in those cases where comparable sales are too dated, inadequate, or nonexistent. In such cases, the Cost Approach must be provided. Generally, the Cost Approach will be applied when appraising any special-use properties and when improvements are less than ten years old. When the cost approach is relied upon heavily, cost data and depreciation estimates should be derived from contractor proposals, or other market derived means. Information from cost estimator services should be used only to provide additional support in these cases. Should it become apparent that a detailed cost estimate from a separate source is required, payment will be assumed by SCDOT upon approval by the Chief Appraiser and/or Assistant Director Rights of Way for Operations. The Income Capitalization Approach to value shall be addressed when appraising income-producing or investment-type properties except when otherwise stipulated by the Chief Appraiser and/or Assistant Director Rights of Way for Operations.

All site improvements (except for Septic Tanks and Wells) should be based on the appraiser's opinion of their contributory value. Septic tanks and wells will be based on actual replacements costs determined by a qualified contractor. If replacement costs exceed the market value of the entire property, then SCDOT will acquire entire tract. See

site improvements defined on page I-4 paragraph H., page III-13 paragraph 22, and page III-25 paragraph 17.

Under the Principle of Substitution, the value of site improvements should be based on the items' contributory value as opposed to replacement cost. The appraiser must consider the item's function and the benefits provided by the improvement in deriving an opinion of value after the acquisition.

I. History of the Property

The appraisal must contain a sales history of the subject property for the five years prior to the acquisition. If the property or a portion of the property has changed ownership within the past five years, the appraiser must report the confirmed sales price and recorded date for each transfer along with any other pertinent facts related to the transaction. If there has been a recent sale of the subject, the appraiser must determine if alterations to the property occurred subsequent to the sale and to what extent they might have impacted market value. If the sale of the subject is not used in the valuation process, the appraiser must explain why. If no transfers have occurred the appraiser must report the date the present property owner acquired the property, the deed book and page of record, if recorded, and any other facts pertinent to ownership.

J. Waiver Valuation

The waiver valuation is an appraisal based on the ruling from South Carolina Real Estate Appraiser Board dated November 2015 and in compliance with USPAP FAQ #52. To comply with USPAP and the SC Real Estate Appraiser Board, all cost estimates are defined as Restricted Use Appraisal reports. The basic waiver concept of the waiver valuation is to be used when estimating just compensation on properties of \$20,000 or less that are considered non-complex. SCDOT defines the waiver valuation as the project cost estimate. The cost estimate will be prepared by SCDOT staff appraiser. ***Cost Estimates cannot be used to condemn property.**

Cost estimates are developed using current property sales and estimated cost to cure based on Marshall and Swift Valuation Guide Book or internal engineering estimates. Also included are necessary relocation costs, and costs of personnel services. The Chief Appraiser and/or Staff Appraiser and Assistant Director Rights of Way for Operations must approve and sign the cost estimate. When approved right of way plans are received, the Chief Appraiser shall direct SCDOT staff personnel to prepare a cost estimate **(SCDOT Right of Way Form 100-A)**. The cost estimate will indicate the number of parcels requiring appraisal, a brief description of each property to be appraised, the type of appraisal required and a preliminary scope of work. After approval, the cost estimate can be used to make offers of \$20,000 or less where no damages or benefits have been identified. The cost estimate will be prepared on SCDOT Rights of Way Form 100-A.

SECTION II: FEE APPRAISERS

A. Use of Fee Appraiser Services

The Chief Appraiser will consult with the Assistant Director Rights of Way for Operations to evaluate the current and anticipated workload of the Rights of Way Appraisal Section. Fee Appraisers will be employed as needed to supplement SCDOT appraisal staff on an as needed basis.

B. Qualifications of Fee Appraisers

All appraisals utilized for the purposes of acquisition and disposition of real estate must be performed by an appraiser approved by SCDOT. Fee appraisers must be professionals who possess highly specialized knowledge and experience in the appraisal field with specific experience in the appraisal of eminent domain acquisitions. They must have demonstrated their ability to qualify as an expert appraisal witness. Fee Appraisers must be licensed as a Certified General Appraiser by the South Carolina Real Estate Appraisers Board. They must have no unresolved prior or pending reprimands, censures, fines, suspensions, or other disciplinary matters before the South Carolina Real Estate Appraisers Board or any professional appraisal or other real estate-related associations. Prior violations must be resolved to the satisfaction of SCDOT before re-application and reinstatement as an approved Fee Appraiser. They must have previously submitted or be in a position to submit to SCDOT evidence of specific appraisal experience for the type of property they are assigned to appraise or review.

A separate approved list is maintained for fee Review Appraisers. The same qualifications as those previously described will apply. In addition, they must have a minimum of five years continuous practice in the appraisal of eminent domain acquisitions for highway purposes.

Acceptance of a contract to perform appraisals for SCDOT implies that the fee appraiser and fee review appraiser meets these qualifications and is experienced in the appraisal of eminent domain acquisitions and knowledgeable in eminent domain laws and regulations. Approved Fee Appraisers and Fee Review Appraisers shall adhere to the SCDOT Appraisal Manual and Uniform Act while appraising for SCDOT.

C. Application for Fee Appraiser/Fee Review Appraiser

The Headquarters Rights of Way Office will maintain a list of approved Fee Appraisers and Fee Review Appraisers. Appraisers seeking to serve as a Fee Appraiser or Fee Review Appraiser must submit an "Application for Fee (or Review) Appraiser" (**SCDOT Rights of Way Form 140-A**). SCDOT accepts applications for approved Fee and review Appraisers in January and July of each year unless workload necessitates more frequent acceptance or situations arise that require the services of an appraiser with particular expertise.

When an application is received by SCDOT, the Chief Appraiser and/or Assistant Director Rights of Way for Operations will determine if the applicant is qualified. This will include such inquiries as may be necessary to determine the abilities of the applicant and, if a

member, his standing in any professional appraisal or real estate related organizations. The South Carolina Real Estate Appraisers Board will be contacted to determine the applicant's current status. References shown on the application will be contacted to verify the applicant's character and integrity. Past clients and/or employers may be contacted to determine the applicant's quality of work and level of expertise. The Chief Appraiser and/or Assistant Director Rights of Way for Operations may interview prospective fee and fee review Appraisers.

A file will be opened for each appraiser upon receipt of the application. This file will contain the application and other supporting documentation, including work history, board certification, and interview notes (if conducted). The Assistant Director of Rights of Way for Operations will make a recommendation and send to the Director of Rights of Way for final approval or rejection of applicant. The Chief Appraiser will notify the applicant in writing if approved or rejected. If accepted, the appraiser will be added to the Fee Appraisers List and/or Fee Review Appraisers List.

D. Approved Fee Appraiser/Fee Review Appraiser List

After approval, a Fee Appraiser will be listed on SCDOT's Approved Fee Appraisers List and/or Fee Review Appraiser List. To remain on the lists, an approved appraiser must submit a copy of his current certification from the South Carolina Real Estate Appraisers Board to SCDOT by July 31st of each renewal year as set forth by SC LLR Appraiser Board and attend a mandatory 7 hour SCDOT continuing education seminar every two years. Any change in classification must be submitted to SCDOT immediately. Failure to submit copies of renewal certifications and attend the continuing education seminar may be cause for removal from the Approved Fee Appraiser or Fee Review Appraiser Lists. The application process must be repeated for all reinstatements. An Approved Fee Appraiser or Fee Review Appraiser will not be removed from the approved list without prior notice and opportunity to be heard.

E. Selection of Fee Appraisers for Primary Appraisal Contracts

When appraisal assignments require the services of Fee Appraisers, selection shall be by one of three methods:

1) **APPRAISAL CONTRACTS OF MORE THAN 25 TRACTS:**

The Headquarters Rights of Way Office will advertise for interest in performing appraisal services by mailing "Notice of Need for Appraisal Services" (**SCDOT Right of Way Form 141-A**) to all Fee Appraisers on the Approved Fee Appraisers List. Generally, 10 to 14 days will be allotted to submit interest letters. A "Request for Appraisal Proposal" (**SCDOT Right of Way Form 142-A**) will be mailed to each Fee Appraiser on the Approved Fee Appraisers List who submitted an interest letter within the allotted time. *The "Request for Appraisal Review Proposal" (SCDOT R/W Form 142-B) will be used for review assignments.* The proposal will list the SCDOT, and/or Project ID#, tract number, and preliminary scope of work for each parcel to be appraised. The preliminary Scope of Work will define the specific parameters of work, the specific appraisal problem, and the appropriate approach (es) to value for each tract. The appraiser should note additional items for each tract that he feels are relevant to the appraisal assignment on the Request for

Appraisal Proposal form. Additional comments may be attached separately. The appraiser will base their proposals on a scope of work that they feel is necessary to support an opinion of value. Bids for appraisals are divided into two general categories (Nominal or Standard) on the Appraisal Proposal form depending on the anticipated complexity of the assignment. For example:

- **Nominal** – Simple acquisitions, where no before and after value is required. The values may include site improvements and simple costs to cure. See site improvements defined on page I-4 paragraph H., page III-13 paragraph 22, and page III-25 paragraph 17.
- **Standard Report** – Before and after values of the entire property including all improvements, damages and/or benefits to the remaining property. .

Generally, 10 to 14 calendar days will be allowed to submit bid proposal. A complete set of SCDOT road plans, including detailed plan sheets and cross sections, will be available at the appropriate Regional Rights of Way Office and in the Right of Way Section at the SCDOT Headquarters Building located at 955 Park Street, Room 422, Columbia, SC.

Fee Appraisers submitting bid proposals should field inspect the project and locate each tract to be appraised. The appraiser's bid proposal should reflect consideration of:

- Number of parcels to be appraised
- Time allotted for completion of the assignment
- Variety of property types impacted by the project
- Scope of work required for each report
- Specific damages/benefits per tract attributable to the project
- Any other conditions that might affect delivery of the report

Fees shall not be computed on an average rate per parcel or a percentage of anticipated right of way payments. The Chief Appraiser and/or Assistant Director Rights of Way for Operations may be contacted if necessary for additional information regarding the project.

The Appraiser Selection Committee will select the Fee Appraiser(s) to be awarded contracts in accordance with Title VI of the Civil Rights Act of 1964. The Committee is made up of the Assistant Director Rights of Way for Operations, Chief Appraiser and two designees, which may include one or more of the following positions Staff Appraiser, Team Leader, Regional

Rights-of-Way Administrator, and Relocation Manager or Relocation Coordinator.

The Appraiser Selection Committee will evaluate each bid proposal by examining:

- Appraiser's understanding and recognition of potential issues affecting value
- Experience in appraising the type(s) of properties included in the contract
- Qualifications of the appraiser
- Past performance
- Ability to testify as an expert witness
- Capacity of the firm
- Fee proposal

After selection, the Chief Appraiser will prepare a Contract for Appraisal Services with a Notice to Proceed (**SCDOT R/W Form 143-A**). *The "Contract for Appraisal Review" (SCDOT R/W Form 143-B) will be used for appraisal review contracts.* A complete set of project road plans will accompany the contract along with the Right of Way Agent's worksheets. Information regarding the pre-appraisal conference, if held, will also be provided. Upon receipt of the Notice to Proceed, the Chief Appraiser must contact the fee appraiser to arrange a meeting within 14 calendar days to sign the contract and complete the pre-appraisal conference. Contract Award Notification (**SCDOT R/W Form 145-A**) will be issued to all bidders.

SCDOT reserves the right to add to or delete tracts from the contract and to revise scopes of work as necessary. The "Appraisal Contract Modification Form", (**SCDOT R/W Form 146-A**), will be used for this purpose and to adjust appraisal fees that result from changes in the original scope of work.

F. Selection of Fee Appraisers for Letter Contracts

1) APPRAISAL CONTRACTS OF 25 TRACTS OR LESS:

The Chief Appraiser or Regional Rights of Way Administrator will contact at least three (3) Fee Appraisers from the SCDOT Approved Appraiser list to obtain bid proposals and delivery schedules. A letter contract, (**SCDOT R/W Form 143-C**), will be mailed to the selected appraiser for signature and return. A memo will be prepared and maintained in the appraisal file stating each appraiser's bid proposal and the criteria used for selection.

2) SINGLE SOURCE:

A single source for appraisal services may be used in special circumstances such as: a) when one practical source exists for the desired services, b) when an attorney requests a specific appraiser for a court appearance, c) if specific expertise is required, d) when alternative methods will cause delays of projects requiring urgent completion, or e) to accommodate the court roster. A letter contract (**SCDOT R/W Form 143-C**) will be mailed to the selected appraiser for signature and return. The Chief Appraiser or the Regional Rights of Way Administrator will prepare a memo to the appraisal file summarizing the criteria used for selection and the special circumstances restricting the selection process to a single source.

The Fee Appraiser and the Chief Appraiser will negotiate fees for updating or revising appraisals. Appraisers will be selected in accordance with Title VI of the Civil Rights Act of 1964. Copies of all correspondence and proposals to and from Fee Appraisers will be maintained in the project appraisal files.

G. Pre-Appraisal Conference (SCDOT R/W Form 144-A)

At their discretion of the Chief Appraiser and /or Assistant Director of Rights of Way for Operations, SCDOT may conduct a pre-appraisal conference to discuss issues related to the appraisal assignment such as: contact information, reporting requirements, need for the project, and scope of work. Conference members will include the Chief Appraiser, the Regional Rights of Way Administrator and/or Team Leader, and the Fee Appraiser, and should be held within 15 calendar days of contract execution. The Fee Appraiser must understand the appraisal assignment completely and be aware of all contract requirements.

H. Payment Process

The Contract for appraisal services sets forth the terms and conditions required for payment. The project Comparable Data Brochure must be delivered before or at the same time as the first appraisal report. An invoice for the remaining balance for each tract may be submitted with the appraisal report(s). A penalty of 5% per parcel of the contract fee will be assessed for each calendar day an appraisal report is overdue.

I. Contract Extensions for Fee Appraisers

Requests for contract extensions must be made in writing to the Regional Rights of Way Administrator. Requests must be made at least 5 business days prior to the due date. The request must state specific reasons for the delay and the proposed delivery date.

The Regional Rights of Way Administrator will review and recommend the request and forward to the Chief Appraiser and/or Assistant Director Rights of Way for Operations for approval. The Chief Appraiser and/or Assistant Director Rights of Way for Operations will document whether the extension is to be granted. Copies of the request will be attached and become a part of the contract. Failure to comply with these terms may cause the cancellation of the contract or the imposition of late penalties or fees. In the event the appraiser is delayed by an action of SCDOT, such as a design change, the appraiser will be granted a reasonable extension of time in which to complete the assignment.

J. Post-Appraisal Conference/Evaluation (SCDOT R/W Form 148-A)

At the discretion of the Chief Appraiser and/or Assistant Director Rights of Way for Operations, SCDOT may conduct a post-appraisal conference to discuss appraisals used to establish initial offers and, if relevant, the performance of the Fee Appraiser. Conference members will include the Chief Appraiser and the Fee Review Appraiser. Post-Appraisal Conferences should be held within 45 working days of the completion of the appraisal contract, and may be held in-person, by teleconference, or by other means as made possible by information technology assistance. The post-appraisal conference may address any of the following:

- Whether the appraisal(s) addressed the scope of work completely and adequately.
- The accuracy and quality of the appraisal reports
- The Fee Appraiser's compliance with SCDOT's Appraisal Manual and the Uniform Standards of Professional Appraisal Practice(USPAP)
- The Fee Appraiser's recognition of potential issues affecting value
- The Fee Appraiser's ability to offer solutions mitigating impacts
- Timeliness of delivery
- Any other issues that reflect upon the Fee Appraiser's performance

The Chief Appraiser may prepare a written post-appraisal conference report to document project progress, outstanding work by employees and contractors, issues or problems of concern involving the appraisal contracting system, Fee Appraiser and Fee Review Appraiser performances, USPAP appraisal standards, or any other matter which the Chief Appraiser determines should be brought to the attention of the Assistant Director Rights of Way for Operations. The Assistant Director Right of Way for Operations should reference the report if, based on the conference, he makes a recommendation to the Director of Rights of Way for any action involving changes to the system or the status of any employee or Fee or Review Appraiser. Copies of the report will be provided to all attendees. The Fee and Fee Review Appraiser are encouraged to make comments and suggestions in response to the report.

The Fee or Fee Review Appraiser, Chief Appraiser and Assistant Director Rights of Way for Operations will sign and date the report, and the report will be maintained in the Fee Appraiser's file and project file.

K. Fee Appraiser Disciplinary Actions

49 CFR 24.103(d)(1) provides that "the Agency shall review the experience, education, training, certifications/licensing, designations and other qualifications of appraisers, and use only those determined by the Agency to be qualified." Therefore, the status as an approved appraiser can be considered a license under S.C. Code Section 1-23-370, which is part of the State Administrative Procedures Act (APA).

If SCDOT finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect, summary suspension of an agency license may be ordered to remove the appraiser from the Approved Fee Appraisers List or Fee Review Appraiser List pending proceedings. These proceedings shall be promptly instituted and determined by SCDOT. APA provides that a state agency must give notice and an opportunity to be heard to a holder of a license before suspending or revoking it.

Failure to comply with SCDOT's Appraisal Manual will constitute grounds for removal from the Fee Appraiser and/or Fee Review Appraiser List, provided that appropriate notice and opportunity to be heard is given pursuant to law.

SECTION III: APPRAISAL INSTRUCTIONS

A. General Information and Instructions

There are two types of appraisal formats used to estimate market value of property to be acquired by SCDOT under eminent domain. The reports are referred to as:

Standard Appraisal (SCDOT R/W Form 110-A)

Nominal Appraisal (SCDOT R/W Form 120-A)

The reporting requirements are determined by the complexity of the assignment. The following is a list of general requirements for each appraisal format. Specific instructions for each type of appraisal are contained later in this section. **The instructions contained in this manual become a part of the appraisal contract and must be followed to ensure contract compliance.**

GENERAL REQUIREMENTS:

- 1) Each appraisal will be prepared on 8 1/2 x 11 (letter size) paper.
- 2) One original appraisal must be submitted for each parcel. Two (2) complete copies must accompany the original signed appraisal unless otherwise stipulated in the contract. The original and copies must contain color photographs. Computerized color digital images re-produced on a color printer are acceptable. Appraisals must be submitted within 15 calendar days of the inspection date.
- 3) Each page of the appraisal will be consecutively numbered at the bottom center of the page.
- 4) The project ID number, and parcel number will be shown in the bottom right-hand corner of each page.
- 5) A new certificate and distribution of value page will be prepared when a change in the appraisal report affects the estimate of value or the date of valuation. *(This requirement does not apply to minor changes in the acquisition size due to design changes where the unit value is not affected and no additional damages occur to the property.)*
- 6) Any increase in the market value of real property prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the property owner, shall be disregarded in determining compensation for the property.
- 7) Appraisers shall not give consideration to, nor include in their appraisals, any allowance for relocation assistance benefits. The appraisal must

include a list of all relocation items including mobile homes, underground storage tanks, canopies, fuel pumps, inventory, trade fixtures, equipment, outdoor advertising signs, or any other items that will be covered under relocation assistance. Any items, other than contractor moving items, not included will be considered in the opinion of value. Coordination with the right of way agent is required in order to avoid dual compensation.

- 8) Damages and benefits must be supported by market data developed under the appropriate approach (es) to value i.e. sales comparison, loss of income to the real estate, and/or cost to cure. Use of predetermined tables is not acceptable.
- 9) Information regarding the name, address and contact information for each property owner, as well as a five-year sales history for each property will be provided to the Appraiser on the "Right of Way Agent Worksheet" (SCDOT Right of Way Form 809). The location of the subject property, the site size before and after the acquisition, and the size and location of the acquisition will also be provided. The appraiser must assume reasonable responsibility for the accuracy of this information. Any discrepancies must be brought to the attention of the Chief Appraiser.
- 10) At the same time the Appraiser receives the Right of Way Agent Worksheet, he will receive a set of right of way plans, including cross sections. Any subsequent plan revisions will be forwarded to the appraiser immediately through the Headquarters Appraisal Section. *Fees may be adjusted for changes in scope and/or additional work caused by plan revisions with the approval of the Chief Appraiser and/or Assistant Director Rights of Way for Operations.*
- 11) The Appraiser is responsible for understanding the appraisal assignment. Any questions should be referred to the Chief Appraiser and/or Assistant Director Rights of Way for Operations prior to completing the appraisal. The Appraiser must make no assumptions as to the appraisal assignment. The appraisal will be based upon the most current right of way plans at the date of inspection by appraiser. Any potential plan revisions that could mitigate damages or facilitate the acquisition process should be discussed with the Chief Appraiser and/or Assistant Director Rights of Way for Operations). The Appraiser, in conjunction with the Chief Appraiser and/or Assistant Director Rights of Way for Operations is responsible for correctly identifying the larger parcel. This may require combining or separating parcels. All requests for plan changes and/or changes in the assignment must be submitted through the Chief Appraiser and/or Assistant Director Rights of Way for Operations prior to beginning the appraisal.
- 12) Benefits may offset the value of the right of way acquired as well as any damages to the remainder, but the value of the acquisition may not be less than zero.

- 13)** All adjustments must be well supported and documented in the appraisal. Objective support including paired sales analysis or other market-derived means is encouraged. Greater explanation and analysis is expected whenever more subjective or higher than normal line item adjustments are necessary.
- 14)** The following items are generally considered to be non-compensable because of South Carolina Code of Laws and/or South Carolina Case Law and are typically not considered in the “after” value estimate:
- a. Loss of profits or business*
 - b. An option where it has not been exercised
 - c. Circuity of travel suffered in common with the general public*
 - d. Frustration of plans where no actual implementation of those plans has begun*
 - e. Damages arising by a reasonable and lawful exercise of police power*
 - f. Damages during the period of construction
 - g. Sentimental value
 - h. Damages by reason of the loss of anticipated profits
 - i. Raised Median*

*-When dealing with any items that are generally considered to be non-compensable, consult with the Assistant Director Rights of Way for Operations and/or Chief Appraiser prior to completion of the cost estimate, scope of work and appraisal assignment.

- 15)** Property containing sand, timber, gravel, crops, minerals, etc. must be valued by considering the extent to which the item contributes to the market value of the property as a whole. “Different elements of a tract of land are not to be separately valued and added together.” (*Uniform Appraisal Standards for Federal Land Acquisitions, p.7*). Another aspect of the Unit Rule requires that real estate be valued with respect to its gross value as a single entity as if there were only one property owner even though there are separate interests in the parcel. If several parcels are assembled under separate interests, the lease should be reviewed carefully. Items such as, the strength of the lessor/lessee, the term of the lease in relation to the remaining economic life of the improvements, and the existence and effect

of any termination or condemnation clause should be considered in order to determine if the properties should be appraised together or separately.

- 16) Staff and Fee Appraisers shall disqualify themselves immediately from assignments involving properties where a personal or business relationship exists or where a conflict of interest might be reasonably construed. Staff Appraisers shall be governed by rules and regulations established for all state employees in this regard.

B. Instructions for Preparation of Comparable Data Brochure

The original and two copies of the Comparable Data Brochure must be submitted for each project. A complete brochure must accompany the first appraisal(s) sent to the Review Appraiser. Additional sales and rents may be submitted at later dates as necessary. A revised summary of sales and rentals must accompany any additional sale and/or rent comparables. The original and copies must contain original color photographs of each comparable or computerized color digital images re-produced on a color printer. Sales of property under the threat of condemnation are not arms-length transactions and shall not be accepted.

The brochure will contain the following information:

- 1) **COVER SHEET: (SCDOT R/W FORM 101A)**

The cover sheet will provide information identifying the project and will include the appraiser's signature and the brochure completion date. The reviewing appraiser's signature certifies that he has physically inspected all comparable sales and rentals included in the brochure where possible. If a physical inspection is not practical, the reviewer should make every attempt to view the property using county tax maps, satellite imagery or similar means. A separate cover sheet must be submitted with subsequent additions to the brochure noting the revised date at the bottom of the page.

- 2) **AREA, CITY, AND NEIGHBORHOOD ANALYSIS:**

This data should consist of only those forces directly affecting the subject property and the appraiser's opinion of significant market trends. It is improper to base an opinion of value, or a conclusion with respect to neighborhood trends, upon stereotyped or biased presumptions relating to race, color, religion, sex, or national origin or upon unsupported presumptions relating to the effective age or remaining life of the property being appraised or the life expectancy of the neighborhood in which it is located. Racial, religious, and ethnic factors are unreliable and unacceptable predictors of value trends and price variances.

- 3) **COMPARABLE LOCATION MAP: (SCDOT R/W Form 103-A)**

Maps showing all sale and rent comparables must be included. The maps must provide sufficient directions and detail for the review appraiser to locate the properties.

4) COMPARABLE SALE DATA SHEETS: (SCDOT R/W Form 104-A)

Sale types should be separated in the Comparable Data Brochure by tabbed categories such as: commercial, residential, or industrial for vacant and improved properties. At the beginning of each category, a summary of the sales data should be included indicating the sale number, date of sale, size, and price per unit in descending or ascending order.

All comparable sale data included in the brochure must be confirmed to the greatest extent possible by the grantor, grantee, or a knowledgeable third party involved in the transaction. All comparables must be physically inspected, when practical. Care must be taken when verifying comparables to insure that the actual recorded sales price is reported, not a figure, which may represent a net amount received by the seller. Adjustments for brokerage fees, demolition costs or other increases or deductions should be explained in the comments section at the bottom of the page. The appraiser must report the property rights conveyed. Atypical financing terms must be analyzed and reported. The appraiser must determine if any unusual buyer or seller motivation, or whether other consideration was involved in the transaction. Comparables that identify corporations or other entities as grantor, grantee, lessor, or lessee shall be investigated by the appraiser to ensure that the principals are completely separate.

Complete descriptions of the comparable site and improvements are required including square footage, age, condition, number of parking spaces or other site improvements, available utilities, amount of frontage, zoning conformity, ingress and egress, visibility, shape, topography, and other relevant characteristics. If the comparable suffers from a form of functional obsolescence such as inadequate size, parking, visibility or other atypical characteristic, and is used as support for damages, the cause of the obsolescence should be noted. These comparables will isolate items that commonly contribute to damages and should be used whenever possible to establish an objective basis for estimating damages or benefits. Analysis of comparable sales should be performed in a manner that will determine whether the sale is comparable to the subject in the “before” or “after” conditions in terms of the legal and market requirements. The analysis should include consideration of items such as legal conformity, setback, land to building ratio, parking to building ratio, frontage ratio, access to the improvements, shape, visibility, and other site or building characteristics which might be impacted by the acquisition. If the property was rented at the time of sale, lease information should be included as additional comments or on a separate Comparable Rental sheet. The appraiser must indicate the date the comparable was inspected or photographed. Comparables that are located on the project should be marked and identified at the bottom of the Comparable Sale Data Sheet.

5) **COMPARABLE RENTAL DATA SHEET: (SCDOT R/W Form 105-A)**

All comparable rent data included in the report must be confirmed to the greatest extent possible by the lessor, lessee, or a knowledgeable third party involved in the lease transaction. All comparables must be physically inspected, where practical. Atypical lease terms must be analyzed and reported. The appraiser must determine if any unusual motivation or other consideration was involved in the transaction. A description of the lease including the type, length, property owner expenses, inception date and lease options must be reported. Adequate descriptions of the comparable site and improvements are required including square footage, condition, and other relevant characteristics. The appraiser must describe all trade fixtures, equipment, or other items apart from the real estate that are included in the lease. Comparables that are located on the project should be marked and identified at the bottom of the Comparable Rental Data Sheet.

6) **COMPARABLE PHOTO AND SKETCH, TAX MAP OR PLAT: (SCDOT R/W Form 104-B)**

Sketches, plats, or tax maps of all comparable sales are required. These must be placed, along with a photograph of the property, behind the corresponding Comparable Sale Data Sheet. Sketches must exhibit a close approximation of the property boundaries showing existing easements or right(s) of way, the general location of building improvements, site improvements, existing highways or other means of access, property identification, and a North arrow. Sketches of comparable sales are not required to be to scale. Sketches or plats of rent comparables are not required, however photographs of the rentals must be provided in the brochure behind the corresponding Comparable Rental Data Sheet.

C. Instructions for Preparation of Standard Appraisal

The standard appraisal format will be used when appraising total acquisitions and for more complex appraisal assignments involving benefits or damages other than simple costs to cure. Appraisals of total acquisitions will not include paragraphs 24 through 29. The following items must be included in the report:

- Cover Sheet - paragraphs 1-3
- Appraisal Summary – paragraphs 4-10
- Appraisal Details and Requirements – paragraphs 11-18
- Subject Location Map
- Subject Photographs
- Subject Property Sketch/Plat
- Subject Floor Plan (if applicable)

- Report Narrative – paragraphs 19-29

(NOTE: Paragraphs 24-A and 24-B, Description of the Realty must include a list of items, if any, to be covered under Relocation Assistance.)

- Distribution of Value – paragraphs 30-33
- Assumptions and Limiting Conditions
- Certificate of Appraiser
- Addenda - including any applicable items such as:
- Contractor Cost Estimates/Proposals
- Deed
- Zoning Map
- Tax Map
- FEMA Flood Map
- Soil Map
- Other Applicable Exhibits

All pages in the appraisal will be consecutively numbered. Each paragraph must be numbered and titled as set forth in these instructions in the order presented. Any specific or extraordinary assumptions or limiting conditions must be approved by the Chief Appraiser and/or Assistant Director Rights of Way for Operations.

1) COVER SHEET: (Paragraphs 1 – 3)

Paragraph 1

Location and ownership information will be furnished by the right of way agent on SCDOT Right of Way Form 809. The appraiser must assume reasonable responsibility for the accuracy of this information. A space is provided on this page for a front view of the subject property.

Paragraph 2 - (Required by Sec. 24.102c of Uniform Act)

NOTE: *It is required by Federal Law that the owner or his designated representative be given the opportunity to accompany the appraiser on an inspection of the property prior to the property being appraised.*

This paragraph will indicate how the property owner was contacted, when the property was inspected, and if the property owner or his representative accompanied the appraiser during the initial inspection. If the property owner was not present, an explanation must be provided. The invitation to the property owner must be documented. The appraiser will mail a letter by certified mail to the landowner and/or his/her designee and attach a copy of the postal service certification label and landowner letter in the addendum section of appraisal. If the tract has multiple property owners, only one letter is required to be sent to the point of contact for said tract. The right of way agent's worksheet will have a point of contact for multiple property owners. A tenant, unless specifically designated by an owner, is not considered the property owner's representative.

Every effort must be made by the appraiser to arrange a mutually agreeable time for the property owner to be present during the inspection if he desires. If the property owner wishes to accompany the appraiser, he should make arrangements to either be present within a reasonable length of time from the appraiser's invitation or designate a local representative or agent to appear for him. The appraiser shall notify the Chief Appraiser and/or Assistant Director Rights of Way for Operations immediately if attempts to contact the property owner are not successful.

Paragraph 3

The name and certification number of the appraiser(s) preparing the report and the appraisal firm with whom they are associated must be provided.

2) APPRAISAL SUMMARY: (Paragraphs 4 – 10)

These paragraphs are a summary of the appraiser's opinions and analyses. They will provide a point-by-point comparison of the "before" and "after" conditions to subsequent users of the report. Significant differences between the "before" and "after" conditions must be considered and explained in the body of the report.

3) APPRAISAL DETAILS AND REQUIREMENTS: (Paragraphs 11-18)

Paragraph 11 - Property Rights Appraised

Right of way acquisitions shall be valued as fee simple interest, unless otherwise instructed by Chief Appraiser and/or Assistant Director of Rights of Way for Operations. . The estimate of value must reflect the entire bundle of rights unencumbered.

Paragraph 12 - Purpose of the Appraisal

The purpose of the appraisal is “to estimate the difference in the market value of this property caused by the acquisition of the right of way for the proposed construction of this project.”

Paragraph 13 - Intended Use

The intended use of the appraisal is to assist the South Carolina Department of Transportation in negotiations with the property owner concerning an eminent domain acquisition.

Paragraph 13a- Intended User

The intended users are South Carolina Department of Transportation, its Rights-of-Way Department, its Right-of-Way Consultants, its Legal Department and Associate Legal Counsel.

Paragraph 14 - Exposure Time

The appraiser must develop an estimate of reasonable exposure time on which the appraised values are based. It should be specific to the subject property type and the subject market conditions. Exposure time may be stated as a range.

Paragraph 15 - Five-Year Sales History

The appraisal must contain a sales history of the subject property for the five years prior to the acquisition. If the property or any portion of it has changed ownership within the past five years, the appraiser must report the confirmed sales price and date of sale for each transfer along with any other pertinent facts related to the transaction. If there has been a recent sale of the subject, the appraiser must determine if alterations to the property occurred subsequent to the sale and to what extent they might affect the current opinion of market value. If the sale of the subject is not used in the valuation process, the appraiser must explain why. If no transfers of the subject property have occurred within the past five years, the appraiser must report the date the present property owner acquired the property, the deed book and page of record, if recorded, and any other facts pertinent to ownership.

Paragraph 16 - Current Listing

If the subject property is being marketed as of the date of appraisal, the appraiser must report the current listing information. The appraiser must also report any pending contracts for sale of the property.

Paragraph 17 - Assessment and Taxes

The current assessment information for the property must be reported. Any special or atypical assessments must be described and analyzed for its potential impact on value. It should be noted if the most recent assessment does not represent the current property description or status. The analysis of the current assessment and taxes should include a review of any appeals filed since the last reassessment.

Paragraph 18 - Current Zoning Analysis

The appraiser must provide a complete zoning analysis of the property. The analysis must state whether the property is a conforming or nonconforming use based on the minimum requirements set forth under the local ordinance. If the property is nonconforming the appraiser must address in the report whether this impacts value and, if so, to what extent.

4) SUBJECT LOCATION MAP:

A map showing the location of the subject property and the defined neighborhood shall be included. City and county maps are acceptable.

5) SUBJECT PHOTOGRAPHS:

Photographs of the property must be attached and identified. Computerized color digital images re-produced on a color printer are acceptable. This page must also include the property address/location, photograph date, and identification of the photographer. Photographs must show all improvements acquired and/or affected by the acquisition, any unusual features, and the area being acquired. The location and direction of the photograph should be indicated on the property sketch.

6) SUBJECT PROPERTY SKETCH:

The property sketch or plat should provide an accurate depiction of the property and the acquisition's impact, both in the before and in the after, and must include any cost to cure. It is not required to be to scale. All new right of way areas shall be shaded. The present and new right of ways shall be identified and labeled. A copy of the highway plan sheet is not an acceptable substitute for the sketch. The sketch can either be hand drawn or computer generated. The sketch must include the property layout, dimensions, easements, and improvement setbacks from the present and new rights of way. It should also indicate all relevant building and site improvements including septic tank, drain fields, parking areas, sidewalks, driveways, fences, and other items that might be impacted. Personal property including mobile homes, outbuildings, pumps, underground storage or above ground storage tanks, canopies, outdoor advertising signs, on-premise signs, ATM's, or other trade fixtures and equipment that might be impacted must be identified but may not be valued in the appraisal. See Section VII for examples of minimum requirements.

7) SUBJECT FLOOR PLAN: *(if applicable)*

A sketch of all building improvements affected by the acquisition showing the square footage calculations and room layout of each level must be provided.

8) REPORT NARRATIVE: (Paragraphs 19 - 29)

Paragraph 19 – Scope of Work

The scope of work is a written set of expectations that form an agreement or understanding between the appraiser and SCDOT as to the specific requirements of the appraisal, resulting in a report to be submitted to SCDOT by the staff or fee appraiser. The scope of work includes, but not

limited to, property right(s) being appraised; date of appraisal valuation and date of report; location and zoning; highest and best use and present use; identification of the intended use and user; definition of fair market value as defined by the Uniform Act 49 CFR24.2 (a) (3); proper notification of the landowner requirements for property inspection; 5-year sales history of the property; statement of assumptions and limiting conditions; appraiser certification. The SCDOT Appraisal Manual provides guidance on the scope of work. SCDOT reserves the right to change the scope of work as needed during the appraisal process.

Paragraph 20 - Description of the Realty

The description should specifically note any characteristics that will likely change after the acquisition regardless of their effect on value. This will assure the property owner and the right of way agent that all issues have been analyzed for their potential impact on value. Items such as: land to building ratios, parking ratios, frontage ratios, ingress/egress, road grade, setback, access to improvements, or other potential impacts should be critically and quantitatively analyzed to the extent possible if the item will be altered by the acquisition.

The description of the land should include the following information: total area, dimensions, existing ingress and egress, street/road description, road grade, frontage, shape, topographical features, drainage, easements, and available utilities. When applicable, the description should specify mineral deposits, marketable timber, soil types, and any other features that may influence value.

A detailed description of all building and site improvements as well as any personal property and trade fixtures located above and below ground within the new right of way, or affected by the acquisition must be provided. Descriptions must include number of units, size, use, type and quality of construction, interior and exterior condition, actual and effective age, room layout, number of parking spaces, amenities, and any other features that may influence value.

When it is obvious that the improvement value will be unaffected by the acquisition, the report may address underlying land value only, with a brief reference to the improvements and an explanation in the Scope of Work paragraph as to why the improvements were not considered.

Paragraph 21 - Highest and Best Use (Before)

Highest And Best Use is defined in *The Appraisal of Real Estate - 12th Edition* as, "The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, and financially feasible and that results in the highest value." The appraiser must discuss the four tests of highest and best use individually, both "as vacant" and "as improved" as they apply to the subject property. A statement of highest and best use is unacceptable. Greater discussion and support are required when the appraiser's opinion of highest and best use differs from

the present use of the property. Similarly, greater discussion and support are required if the present use is inconsistent with zoning, when locational or physical characteristics of the property are nonconforming or atypical and/or when existing improvements are considered an over or under-improvement to the property. If existing improvements are impacted but are determined to contribute no value to the site, the appraiser's opinion must be thoroughly supported in a demonstration of at least one of the three approaches to value.

Paragraph 22 - Valuation before the Acquisition

All applicable approaches to value must be demonstrated. The appraiser must state why any approach is omitted. The appraiser must state the value derived under each approach. Each approach should be developed independently of the others to the greatest degree possible.

Land Valuation

Land value must be derived separately for each property using the sales comparison approach and a minimum of three comparable sales. Comparable listings may be used as additional support. If adjustments are necessary, the appraiser's analysis is to be exhibited in grid form. All adjustments must be well supported market-derived and explained in the appraisal. Greater explanation and analysis is required whenever more subjective or higher than normal line item adjustments are used.

The following are examples, of site improvements that shall be addressed in the appraisal as contributory value or cost to cure. If cost to cure is needed, then a contractor bid or an estimate from an engineer is required unless approved by the Chief Appraiser and/or Assistant Director Rights of Way for Operations:

- Signs (brick and mortar, lighted, shopping center, apartment complex, any sign that requires a laborer to rebuild).
- Septic tanks & wells.
- Landscaping such as shrubs, trees, and vegetation buffers.
- Irrigation (residential, commercial and agricultural)
- Fence (wooden, split rail, vinyl, brick, decorative, ornamental, loss of linear footage, etc.)
- Fire Pits (dry fire hydrants connected to commercial buildings for fire protection).

The above is not intended to be a comprehensive listing of all site improvements.

Costs to cure must be considered reasonable based on the property's highest and best use. The appraiser must obtain bids or estimates from a qualified contractor or engineer. Bids or estimates provided by the property owner cannot be used in the appraisal report, unless approved by the Chief Appraiser and/or Assistant Director Rights of Way for Operations.

Sales Comparison Approach to Value

a. Typically, the sales comparison approach is favored in the appraisal of eminent domain acquisitions because it is most understood by property owners and more accepted by the courts. Emphasis should be placed on this approach whenever possible. A minimum of three comparable sales is required. *Additional comparables may be required for more complex properties.* Comparable listings may be used as additional support. All aspects of the property affected by the acquisition such as size, parking, frontage, road grade, setback, zoning conformity, shape, and other impacts should be considered and quantified to the greatest degree possible for analysis and comparison with the comparable data. Analysis of the sales must be exhibited in grid form. All adjustments must be supported and explained in the appraisal.

b. Cost Approach to Value

The cost approach shall be considered when improvements are less than ten years old, a special-use property, or when sufficient comparable sale or lease information is not available. When the cost approach is relied upon heavily in the final estimate of value, replacement costs and depreciation estimates must be derived from the market using cost comparables, local contractors, or other market derived means. Cost estimator services should be used as additional support. The land value must be supported by comparison with at least three comparable land sales.

c. Income Capitalization Approach to Value

The Income Capitalization Approach to value shall be addressed when appraising income-producing or investment-type properties except when otherwise stipulated by the Chief Appraiser and/or Assistant Director Rights of Way for Operations. Direct capitalization may be used to appraise properties with stabilized income and expense patterns when sufficient comparable properties with similar patterns are available in the market. Yield capitalization should be used to value more complex properties and those with unstable income and expense patterns. Estimated market rent must be based on at least three rent comparables. *Additional comparables may be required for more complex properties.* A description of the rent comparables must be included in the Comparable Data Brochure. Adjustments must be supported and explained, and exhibited in grid form. Any existing lease(s) of the subject property must be discussed. If possible, a copy of the subject lease(s) should be included in the addendum. If contract rent differs from market rent, an explanation is required. All expense deductions should be discussed and reasonably supported. Capitalization rates should be derived from market sources. Development of rates should be demonstrated and supported in the report.

Paragraph 23 - Resolution of Before Value and Value Estimate

The appraiser shall indicate which approach is given most weight based on the quality and quantity of the market data. The final estimate of value before the acquisition must be stated and explained. If the appraisal reflects a total acquisition, the appraiser should proceed to Paragraph 30.

Paragraph 24a - Description of the Acquisition

The description of the acquisition must address the land area, as well as, the building and site improvements located within or affected by the proposed acquisition. Improvements located within the **existing** right of way should be identified but not included in the estimate of value. All moving items and relocation items within the new right of way must be identified but should not be included in the final estimate of value unless stipulated by the Chief Appraiser and/or Assistant Director Rights of Way for Operations. If moving items can be replaced on the site, SCDOT will reset the items in as good or better condition as they existed prior to the project.

A description of the land acquisition must include the size of the area, topography, shape, location (as it relates to the whole property), and type/use (e.g. front/side/rear yard, wetland, parking area, common area, etc.). The description shall separately note any additional areas outside the right of way designated as slopes, drainage, outfall ditch, or construction easement.

All building and site improvements including wells, septic tanks, drain fields, landscaping, fencing, signage, parking areas or other improvements located within the new right of way must be identified.

Paragraph 24b- Description of Realty Items under Relocation Assistance

In addition, all items considered personal property including mobile homes, outbuildings, tanks, pumps, canopies, out-door advertising signs, ATM's, or other fixtures and equipment must be identified. The appraiser must explicitly state that these items will be treated as relocation items or that they will be included in the opinion of value. **Coordination with the Regional Rights of Way Administrator and Relocation Manager is required.** The appraiser shall determine if critical site improvements may be relocated on the property or whether a suitable alternative is possible. For improved tracts (except ODA's) the appraiser will contact the relocation agent prior to meeting the property owner. It is required for the relocation agent to be present during the appraiser's inspection of each tract that involves relocation items. Verification from the appropriate regulatory agency must be obtained regarding the feasibility of relocating or replacing site improvements. The Regional Rights of Way Administrator should be notified if verification cannot be obtained. If replacement of the item is not possible, the resulting effect on highest and best use and market value must be thoroughly evaluated and explained.

Paragraph 25 - Description of the Remainder

The description of the remainder must specifically address changes caused by the acquisition regardless of the effect on value. This will assure the property owner and the right of way agent that all relevant issues have been analyzed for their potential impact. Changes should be described and quantified to the extent possible by considering items such as: land to building ratios, parking to building ratios, frontage ratios, and other objective means that may be compared to the “before” condition of the subject property and the comparables. Careful consideration should also be given to changes in use, proximity, zoning conformity, road grade, shape, severance, maneuverability within the site, loss of amenities, and any other factors that might affect market value. If the appraisal reflects a simple acquisition, with no significant effect on the remainder, the appraiser may refer to the description given in Paragraph 20.

Paragraph 26 - Highest and Best Use (After)

The highest and best use of the property after the acquisition must reflect conditions after construction of the project. An opinion of highest and best use must be developed in a manner consistent with the instructions provided in Paragraph 21. Consideration should be given to any possible change in legal conformity, in addition to any physical changes as a result of the acquisition. If the highest and best use (after) is different from the highest and best use (before), a thorough discussion and adequate support must be incorporated into this analysis. If the appraiser’s opinion of highest and best use is unchanged, a statement of highest and best use (after) is sufficient.

Paragraph 27 - Value after the Acquisition

All applicable approaches to value should be demonstrated. The appraiser must state why any approach is omitted. Each approach should be developed independently of the others to the greatest degree possible. All aspects of the property affected by the acquisition such as size, utility, parking, frontage, road grade, setback, zoning conformity, shape, and other impacts should be considered and quantified to the greatest degree possible for analysis and comparison to the “before” condition and the comparable data. The value after the acquisition will reflect any compensable damages and/or benefits to the remainder as a result of the acquisition and construction of the project. Consideration should be given to one or more of the following methods for support of damages and/or benefits:

- 1) Paired sales analysis
- 2) Statistical analysis
- 3) Change in net operating income or investor risk
- 4) Cost to cure

At a minimum, the appraiser must provide sufficient discussion to satisfy SCDOT requirements and the reviewing appraiser.

Under the Principle of Substitution, the value of site improvements should be based on the items' contributory value as opposed to replacement cost. The appraiser must consider the item's function and the benefits provided by the improvement in deriving an opinion of value after the acquisition.

The appraiser must also determine:

- Whether adequate area is available to replace the items according to zoning and DHEC requirements
- Whether alternative services are available
- Whether zoning variances may be reasonably granted

The appraiser must appraise the remainder as a whole after the acquisition. Merely subtracting the value of the acquisition from the Before Value Estimate to arrive at the After Value Estimate is unacceptable. The appraiser must state the value derived under each approach.

Paragraph 28 - Resolution of After Value and Value Estimate

Please refer to Paragraph 23.

Paragraph 29 - Uneconomic Remainder

An uneconomic remnant is, "a parcel of real property in which the property owner is left with an interest after the partial acquisition of the owner's property, and which the acquiring agency has determined has little or no value or utility to the owner." (*Appraisal Guide; Federal Highway Administration*). Alternative utilization should be considered within the context of zoning, setbacks, and other minimum legal and market requirements. The appraiser should also consider the plausibility of assemblage with adjoining properties. The diminution in the per unit land value before the acquisition from reduced utility is reported as damages in the form of a percentage reduction. The appraiser should inform the Chief Appraiser and/or Assistant Director Rights of Way for Operations of possible opportunities to mitigate damages to adjacent or contiguous parcels using uneconomic remnants.

9) DISTRIBUTION OF VALUES: (Paragraphs 30 – 33)

Paragraph 30 - Distribution of Before and After Values

This paragraph will allocate the "before" and "after" values of the different components. Site improvements should be broken out and shown separately when they contribute significantly to value. The sum of the differences between the components "before" and "after" the acquisition is the value of the total acquisition including land, buildings, and site

improvements located within the new right of way, plus damages, less benefits to the remainder. In the event the “after” value estimate exceeds the “before” value estimate, the difference will be the amount by which the property has been benefited by the acquisition and improvements. Benefits must be specific to the subject property in order to be compensable. However, it should be noted that specific benefits can accrue to multiple properties. Benefits are considered specific if market value of adjacent properties is enhanced as a result of the project. ***(For additional information regarding specific benefits as they apply to eminent domain acquisitions please refer to Wilson vs. Greenville County, 110 S.C. 321 (1918) a summary of which is included in the addendum of this manual).*** It is possible for benefits to offset damages and the value of the acquisition however, the value of the acquisition less benefits shall not be less than zero. The “after” value must still be stated in the report, even when benefits offset the value of the acquisition.

Paragraph 31 - Distribution of Value Components

This paragraph will allocate the different components that comprise the total value of the acquisition. The total for the acquisition includes the sum of the value components for the land, buildings, and site improvements located within the new right of way, plus damages, less benefits to the remainder and will equal the total of paragraph 30.

Paragraph 32 - Final Statement of Value

The reconciled values before and after the acquisition from paragraphs 23 and 28 are reported with the difference representing the value of the acquisition including land and improvements located within the new right of way, plus damages, less benefits to the remainder. The difference between the indicated value of the property before the acquisition and the indicated value of the remainder after the acquisition will equal the total of paragraphs 30 and 31. The difference shall not be less than zero.

Paragraph 33 - Fair Market Rental

The appraiser shall indicate the fair market monthly rental for any building improvements located within the new right of way and on any buildings located outside the new right of way when the current property owner or occupant will be displaced as a result of the acquisition. The date of appraisal must be within 15 calendar days of the date of inspection.

This page must be manually dated and signed in blue ink by the appraiser and co-signed by any other appraiser that contributed significantly to the report. The primary signature must be the contracting appraiser. All contents, analyses, and conclusions in the report are the responsibility of the contracting appraiser. **SCDOT does not accept any form of electronic signatures.**

10) ASSUMPTIONS AND LIMITING CONDITIONS:

The appraiser(s) shall include a statement of assumptions and limiting conditions affecting the data, analyses, conclusions, and opinions contained in each appraisal. Any specific or extraordinary assumptions or limiting conditions must be approved by the Chief Appraiser and/or Assistant Director Rights of Way for Operations.

11) CERTIFICATE OF APPRAISER:

A Certificate of Appraiser must be included with each appraisal. The opinion of fair market value must agree exactly with the amounts indicated in paragraphs 30, 31, and 32 of the report. The date of the certificate cannot be prior to the date of valuation. This page must be dated and signed by the appraiser. The appraisal must contain a separate certificate for any appraiser who contributed significantly to the report. All contents, analyses, and conclusions in the report are the responsibility of the contracting appraiser.

12) ADDENDA:

An addenda is not required, however any applicable information such as deeds, contracts for sale, leases, tax maps, zoning maps, flood maps, soil maps, contractor estimates, or other items that support the conclusions reached in the appraisal and/or aid in the description of the property should be attached at the end of the appraisal.

D. Instructions for Preparation of Nominal Value Appraisal

The Nominal Value Appraisal will be used when valuing simple acquisitions. This format may **not** be used when damages other than a simple cost to cure, (not to exceed \$5,000.00), occur to the remainder. The following items must be included in the report:

- Cover Sheet - paragraphs 1-3
- Appraisal Details and Requirements – paragraphs 4-11
- Subject Location Map
- Subject Photographs
- Subject Property Sketch/Plat
- Subject Floor Plan (if applicable)
- Report Narrative – paragraphs 12-17
(NOTE: Description of the Realty must include a list of items, if any, to be covered under Relocation Assistance.)

Allocation of Value – paragraph 18

Distribution of Value – paragraphs 30-33

Certificate of Appraiser

- Addenda - including any applicable items such as:
- Contractor Cost Estimates/Proposals
- Deed
- Zoning Map
- Tax Map
- FEMA Flood Map
- Soil Map
- Other Applicable Exhibits

All pages in the appraisal will be consecutively numbered. Each paragraph must be numbered and titled as set forth in these instructions in the order presented. Any specific or extraordinary assumptions or limiting conditions must be approved by the Chief Appraiser and/or Assistant Director Rights of Way for Operations.

9) COVER SHEET: (Paragraphs 1 – 3)

Paragraph 1

Location and ownership information will be furnished by the right of way agent on SCDOT Right of Way Form 809. The appraiser must assume reasonable responsibility for the accuracy of this information. A space is provided on this page for a front view of the subject property.

Paragraph 2 - (Required by Sec. 24.102c of Uniform Act)

NOTE: It is required by Federal Law that the property owner or his designated representative be given the opportunity to accompany the appraiser on an inspection of the property prior to the property being appraised.

This paragraph will indicate how the property owner was contacted, when the property was inspected, and if the property owner or his representative accompanied the appraiser during the initial inspection. If the property owner was not present, an explanation must be provided. The invitation to the property owner must be documented. The appraiser will mail a letter by certified mail to the landowner and/or his designee and attach a copy of the postal service certification label and landowner letter in the addendum section of appraisal. If the tract has multiple property owners, only one letter

is required to be sent to the point of contact for said tract. The right of way agent's worksheet will have a point of contact for multiple property owners. A tenant, unless specifically designated by an property owner, is not considered the property owner's representative.

Every effort must be made by the appraiser to arrange a mutually agreeable time for the property owner to be present during the inspection if he desires. If the property owner wishes to accompany the appraiser he should make arrangements to either be present within a reasonable length of time from the appraiser's invitation or designate a local representative or agent to appear for him.

Paragraph 3

The name and certification number of the appraiser(s) preparing the report and the appraisal firm with whom they are associated must be provided.

1) APPRAISAL DETAILS AND REQUIREMENTS: (Paragraphs 4-12)

Paragraph 4 - Property Rights Appraised

right of way acquisitions shall be valued as fee simple interest, The estimate of value must reflect the entire bundle of rights unencumbered unless otherwise instructed by Chief Appraiser and/or Assistant Director of Rights of Way for Operations.

Paragraph 5 - Purpose of the Appraisal

The purpose of the appraisal is "to estimate the difference in the market value of this property caused by the acquisition of the right of way for the proposed construction of this project."

Paragraph 6 - Intended Use

The intended use of the appraisal is to assist the South Carolina Department of Transportation in negotiations with the property owner concerning an eminent domain acquisition.

Paragraph 7- Intended User

The intended users are South Carolina Department of Transportation, its Rights-of-Way Department, its Right-of-Way Consultants, its Legal Department and Associate Legal Counsel.

Paragraph 8 - Exposure Time

The appraiser must develop an estimate of reasonable exposure time on which the appraised values are based. It should be specific to the subject property type and the subject market conditions. Exposure time may be stated as a range.

Paragraph 9 - Five-Year Sales History

The appraisal must contain a sales history of the subject property for the five years prior to the acquisition. If the property, or a portion of the property,

has changed ownership within the past five years, the appraiser must report the confirmed sales price and date of sale for each transfer along with any other pertinent facts related to the transaction. If there has been a recent sale of the subject, the appraiser must determine if alterations to the property occurred subsequent to the sale and to what extent they might affect market value. If the sale of the subject is not used in the valuation process, the appraiser must explain why. If no transfers of the subject property have occurred within the past five years, the appraiser must report the date the present property owner acquired the property, the deed book and page of record, if recorded, and any other facts pertinent to ownership.

Paragraph 10 - Current Listing

If the subject property is being marketed as of the date of appraisal, the appraiser must report the current listing information. The appraiser must also report any pending contracts for sale of the property.

Paragraph 11 - Assessment and Taxes

The current assessment information for the property must be reported. Any special or atypical assessments must be described and analyzed for its potential impact on value. It should be noted if the most recent assessment does not represent the current property description or status. The analysis of the current assessment and taxes should include a review of any appeals filed since the last reassessment.

Paragraph 12 - Current Zoning Analysis

The appraiser must provide a complete zoning analysis of the property. The analysis must state whether the property is a conforming or nonconforming use based on the minimum requirements set forth under the local ordinance. If the property is nonconforming the appraiser must address in the report whether this impacts value and, if so, to what extent.

2) SUBJECT LOCATION MAP:

A map showing the location of the subject property and the defined neighborhood shall be included. City and county maps are acceptable.

3) SUBJECT PHOTOGRAPHS:

Photographs of the property must be attached and identified. Computerized color digital images re-produced on a color printer are acceptable. This page must also include the property address/location, photograph date, and identification of the photographer. Photographs must show all improvements acquired and/or affected by the acquisition, any unusual features, and the area being acquired. The location and direction of the photograph should be indicated on the property sketch.

4) SUBJECT PROPERTY SKETCH:

The property sketch or plat should provide an accurate depiction of the property and the acquisition's impact, both in the before and in the after, and must include any cost to cure. It is not required to be to scale. All new right of way areas shall be shaded. The present and new right of ways shall

be identified and labeled. A copy of the highway plan sheet is not an acceptable substitute for the sketch. The sketch can either be hand drawn or computer generated. The sketch must include the property layout, dimensions, easements, and improvement setbacks from the present and new rights of way. It should also indicate all relevant building and site improvements including septic tank, drain fields, parking areas, sidewalks, driveways, fences, and other items that might be impacted. Personal property including mobile homes, outbuildings, pumps, underground storage or above ground storage tanks, canopies, outdoor advertising signs, on premise signs, ATM's, or other trade fixtures and equipment that might be impacted must be identified but may not be valued in appraisal. See Section VII for examples of minimum requirements.

5) **SUBJECT FLOOR PLAN:** *(if applicable)*

A sketch of all building improvements affected by the acquisition showing the square footage calculations must be provided. The standard format should be used if significant building improvements are impacted.

6) **REPORT NARRATIVE:** (Paragraphs 13-17)

Paragraphs 13 - Scope of Work

The scope of work is a written set of expectations that form an agreement or understanding between the appraiser and SCDOT as to the specific requirements of the appraisal, resulting in a report to be submitted to SCDOT by the staff or fee appraiser. The scope of work includes, but not limited to, property right(s) being appraised; date of appraisal valuation and date of report; location and zoning; highest and best use and present use; identification of the intended use and user; definition of fair market value as defined by the Uniform Act 49 CFR24.2 (a) (3); proper notification of the landowner requirements for property inspection; 5-year sales history of the property; statement of assumptions and limiting conditions; appraiser certification. The SCDOT Appraisal Manual provides guidance on the scope of work. SCDOT reserves the right to change the scope of work as needed during the appraisal process.

Paragraph 14 - Description of Property Before and After the Acquisition

A summary description of the physical and legal characteristics of the property before and after the acquisition must be provided. The description should note all relevant characteristics and/or unusual conditions. The standard format should be used if significant changes accrue to the property as a result of the acquisition or if significant improvements are impacted. Differences in the before and after conditions must be summarized and discussed.

Paragraph 15 - Highest and Best Use Before and After

The support and rationale for the appraiser's opinion of highest and best use before and after the acquisition must be summarized in this paragraph.

The standard report format should be used if significant changes in highest and best use accrue to the property as a result of the acquisition.

Paragraph 16 - Description of the Area Acquired

The area to be acquired and all site improvements located within the new right of way must be described. Adequate support for costs to cure must be included in the addendum. Items located within the **existing** right of way should be identified but not included in the estimate of value. Personal property located within the new right of way must be identified but not included in the appraised value. Any questions regarding personal property should be discussed with the Chief Appraiser and/or Assistant Director Rights of Way for Operations.

Paragraph 17 - Valuation Analysis and Supporting Data

The value of the land acquisition will be estimated using the sales comparison approach and a minimum of three comparable sales. Listings may be used as additional support. If adjustments are necessary, the appraiser's analysis is to be exhibited in grid form. All adjustments must be market-derived and explained in the appraisal. Greater explanation and analysis is required whenever more subjective or higher than normal line item adjustments are used.

The following are examples of site improvements, shall be addressed in the appraisal as contributory value or cost to cure. If cost to cure is needed, then a contractor bid or an estimate from an engineer is required unless approved by the Chief Appraiser and/or Assistant Director Rights of Way for Operations:

- Signs (brick and mortar, lighted, shopping center, apartment complex, any sign that requires a laborer to rebuild).
- Septic tanks & wells.
- Landscaping such as shrubs, trees, and vegetation buffers.
- Irrigation (residential, commercial and agricultural)
- Fence (wooden, split rail, vinyl, brick, decorative, ornamental, loss of linear footage, etc.)
- Fire Pits (dry fire hydrants connected to commercial buildings for fire protection).

The above is not intended to be a comprehensive listing of all site improvements.

Under the Principle of Substitution, the value of site improvements located within the new right of way should be based on the items' contributory value as opposed to replacement cost. The appraiser must consider the item's function and the benefits provided by the improvement in deriving an estimate of value after the acquisition. The appraiser must also determine:

- Whether adequate area is available to replace the items according to zoning and SCDHEC requirements

- Whether alternative services are available
- Whether zoning variances may be reasonably granted

The standard appraisal format is required if damages are likely to accrue to the property as a result of the acquisition and the loss of site improvements.

Costs to cure must be considered reasonable based on the property's highest and best use. The appraiser must obtain bids or estimates from a qualified contractor or engineer. Bids or estimates provided by the property owner cannot be used in the appraisal report, unless approved by the Chief Appraiser and/or Assistant Director Rights of Way for Operations.

7) ALLOCATION OF VALUE: (Paragraph 18)

This paragraph will allocate the different components that comprise the total value of the acquisition. The total for the acquisition includes the sum of the value components for the land and improvements located within the new right of way, plus damages that may be supported by a cost to cure. The report must be submitted within 15 calendar days of the date of inspection. This page must be dated and signed by the appraiser and co-signed by any other appraiser that contributed significantly to the report. The primary signature must be the contracting appraiser. All contents, analyses, and conclusions in the report are the responsibility of the contracting appraiser.

8) ASSUMPTIONS AND LIMITING CONDITIONS:

The appraiser(s) shall include a statement of assumptions and limiting conditions affecting the data, analyses, conclusions, and opinions contained in each appraisal. Any specific or extraordinary assumptions or limiting conditions must be approved by the Chief Appraiser and/or Assistant Director Rights of Way for Operations.

9) CERTIFICATE OF APPRAISER:

A Certificate of Appraiser must be included with each appraisal. The opinion of value must agree exactly with the amount indicated in paragraph 18 of the report. The date of the certificate cannot be prior to the date of valuation. This page must be dated and signed by the appraiser. The appraisal must contain a separate certificate for any other appraiser that contributed significantly to the report. All contents, analyses, and conclusions in the report are the responsibility of the contracting appraiser.

10) ADDENDA:

An addenda is not required, however any applicable information such as deeds, contracts for sale, leases, tax maps, zoning maps, flood maps, soil maps, contractor estimates, or other items that support the conclusions reached in the appraisal and/or aid in the description of the property should be attached at the end of the appraisal.

E. Specialized Equipment, Machinery, Trade Fixtures & Timber

The Chief Appraiser and/or Assistant Director Rights of Way for Operations should be contacted to determine whether equipment, machinery or trade fixtures are to be considered personal or real property. In the event an appraisal assignment requires the valuation of specialized equipment, machinery, trade fixtures, mineral deposits, or timber, the appraiser may employ a specialist or consultant for assistance. The Chief Appraiser and/or Assistant Director Rights of Way for Operations must approve payment for contractor services or specialists deemed necessary after the contract date. SCDOT shall have the right to approve or reject any firm or individual that the appraiser may propose to use as a subcontractor or employee for the purpose of preparation of the appraisals herein set out.

F. Moving Items/Relocation Items

Moving items are defined as-items that are moved clear of the new rights of way during construction by SCDOT personnel or SCDOT's construction contractor and shall not be valued in the appraisal.

These items are considered moving items and addressed as moving items in the appraisal.

- Fence (barbwire, chain link and hog wire)
- On-premise signs that do not require a laborer to rebuild such as (on skids, wheels, and 4x4 post or smaller)
- Monitoring Wells

Relocation Items are defined as- items deemed to be personal property that are moved clear of the new rights of way prior to the start of construction through SCDOT's Relocation Assistance Program. Oversight of the Relocation Assistance Program is through the SCDOT Relocation Manager.

The following are examples, but not limited to personal property that are treated as relocation items and not valued in the appraisal: vehicles, boats, shipping containers, mobile homes, fuel dispensers, outdoor advertising signs (billboards), business inventory, trade fixtures and FF&E (Fixtures, Furniture and Equipment). **Coordination with the Relocation Manager, Chief Appraiser and Relocation Agent is required to identify actual relocation items. All relocation items must be identified in the appraisal.**

G. Temporary Rights of Way

Temporary Rights of Way will be obtained by use of a Right of Way Easement and valued will be based on the market value of ground leases or rents. It will be the appraiser's responsibility to correctly identify the effects the easement has on the remainder during the term of construction. **Prior to writing an appraisal, coordination with the Chief Appraiser is required to determine the length of time to be used in the valuation of temporary right of way.**

SECTION IV: APPRAISAL REVIEW

A. General

OFFERS ON ALL PROPERTIES:

- The SCDOT Assistant Director of Rights of Way for Operations or his designee(s) must set just compensation prior to all written offers, whether they are from an appraisal or the cost estimate.
- **All appraisals will be reviewed and approved in accordance with the procedures of this section.**

Appraisals should be reviewed and released within 15 calendar days of receipt. If a review cannot be completed within 15 calendar days, the Chief Appraiser and/or Assistant Director Rights of Way for Operations must approve a request for an extension before the deadline expires.

B. Technical Appraisal Review Policies

- 1) The technical review appraiser must field inspect each subject property.

When practical, all sale and lease comparables require a field inspection to verify the information contained in the Comparable Data Brochure. If a physical inspection is not practical, the technical review appraiser should make every attempt to view the property using county tax maps, satellite imagery or similar means.

- 2) If two or more appraisers are appraising the same or an adjacent project, the technical review appraiser must reconcile any wide variations in adjustments and/or values that might exist. Inconsistencies should be discussed with the SCDOT Chief Appraiser and/or Assistant Director Rights of Way for Operations.
- 3) The technical review appraiser will ensure that all appraisals are prepared in accordance with the Appraisal Manual and the Uniform Standards of Professional Appraisal Practice (USPAP) and meet the appraisal requirements under *49 CFR Part 24* of the Uniform Act. The technical review appraiser is responsible for ensuring that the Larger Parcel is correctly identified and the property is properly identified under the Unit Rule as outlined in the *Uniform Appraisal Standards for Federal Land Acquisitions*.
- 4) The technical review appraiser will determine that the appraisal:
 - a. Follows accepted appraisal principles and techniques in the valuation of real property.
 - b. Adequately identifies and addresses differences between the “before” and “after” conditions.

- c. Consistently values similar properties throughout the project(s) and applies damages and benefits correctly and consistently.
 - d. Properly identifies the larger parcel in both the “before” and “after” conditions.
 - e. Locates and correctly identifies relevant items as real property, personal property, or relocation items in the appraisal report.
 - f. Includes consideration of all compensable items including damages, and/or benefits and does not include compensation for relocation items or items considered non-compensable.
 - g. Contains the difference in the estimated value of the property before and after the acquisition and provides an allocation of value between land, improvements, damages and/or benefits to the remainder.
 - h. Correctly identifies and adequately supports the value of any uneconomic remainder(s).
 - i. Uses verified sales, and income data derived from the market. *Cost data must be derived from the market when the Cost Approach is heavily weighted.*
 - j. Coincides with the current plans for the project.
 - k. Contains correct mathematical calculations that are reasonable and well supported.
- 5) The technical review appraiser shall identify each appraisal report as **recommended** (as the basis for the establishment of the amount believed to be just compensation), **accepted** (meets all requirements, but not selected as recommended or approved), or **not accepted**.
- 6) When deficiencies are noted in the appraisal, the technical reviewer appraiser may:
- a. Request in writing, by telephone, or in person that the appraiser provide corrections, clarifications, or additional documentation to the report. If requested in writing, a copy of the request will be placed in the reviewer’s file. Telephone and personal contact shall be documented in the technical reviewer’s file.
 - b. Arrange a conference with the appraiser in order to resolve questions and/or deficiencies. The date and substance of the conference will be stated in a memo and retained in the technical review appraiser’s file.

- c. Recommend a new appraisal to the Chief Appraiser..

Corrections are due within 15 calendar days from completion of review.

- 7) If two or more appraisals are prepared for the same parcel, the technical reviewer must evaluate the strengths and weaknesses of each report and submit a recommendation of the appraisal that best supports an opinion of value to the Chief Appraiser. If neither appraisal is acceptable, the technical reviewer may request an additional opinion after consultation with the Chief Appraiser and/or Assistant Director Rights of Way for Operations

C. Offers of Compensation

The appraisal review will be prepared on **SCDOT R/W Form 151-A and will be forwarded to the Headquarters Rights of Way Office**. Appraisal reviews must be signed by the reviewing appraiser and should accompany the Headquarters Rights of Way Office Appraiser copy, Regional Rights of Way Office copy and right of way agent copy of appraisal reports. An administrative review and signature by an SCDOT Rights of Way employee is required for all review reports prior to an offer being made.

1. If technical review appraisal is performed by Fee Review Appraiser his signature recommends just compensation to SCDOT. See items 2, 3, 4 and 5 for approval for negotiations.
2. If under \$250,000 and no damages and/or benefits a technical review will be performed by a staff appraiser. The staff appraiser's signature indicates approval for negotiations.
3. If over \$250,000, a technical review will be performed by a staff appraiser and forwarded to the Chief Appraiser for approval for negotiations.
4. If there are any damages and/or benefits, a technical review will be performed by a staff appraiser and forwarded to the Chief Appraiser for approval for negotiations.
5. Desk Review by the Chief Appraiser, in addition to a technical review, is required where benefits exceeds damages or where acquisition values are in excess of \$500,000 and forwarded to the Assistant Director Rights of Way for Operations for approval for negotiations.

D. Administrative Appraisal Review Policy

The Administrative Appraisal Reviewer must be an SCDOT Rights of Way employee who must set just compensation for appraisals from fee technical review appraisers (49 CFR 24.102) (d). This employee is not required to be licensed as an appraiser. This administrative review is not binding by Uniform Standards of Appraisal Practice (USPAP). The SCDOT administrative reviewer is responsible for ensuring that all appraisals are prepared in accordance with SCDOT's Appraisal Manual and meet the appraisal requirements under *49 CFR Part 24* of the Uniform Act (23 CFR 710.201(a)).

- 1) The administrative appraisal reviewer is responsible for ensuring the appraisal:
 - a. Ensures fee simple property rights are valued unless otherwise instructed. Ensures appraiser signs report and review report.
 - b. Adequately identifies and addresses differences between the “before” and “after” conditions of the subject property. (ie. sketch & pictures)
 - c. Consistently values similar properties throughout the project(s) and applies damages and benefits correctly and consistently.
 - d. Properly identifies the larger parcel in both the “before” and “after” conditions.
 - e. Locates and correctly identifies relevant items as real property, personal property, or relocation items in the appraisal report.
 - f. Includes consideration of all compensable items including damages, and/or benefits and does not include compensation for relocation items or items considered non-compensable.
 - g. Contains the difference in the estimated value of the property before and after the acquisition and provides an allocation of value between land, improvements, damages and/or benefits to the remainder.
 - h. Correctly identifies any uneconomic remainder(s).
 - i. Coincides with the current plans for the project and the review sheet correctly states acquisition size.
 - j. Contains correct mathematical calculations and appraisers are using the most current appraisals templates.

E. Revisions to Market Value

Plan revisions resulting in a minor increase or decrease in the acquisition amount require a new appraisal review form. Reasons for the revised review must be stated. If the revision results in only a minimal change in the original estimate of value, no new appraisal is required. A new appraisal reflecting the plan revisions must be prepared if the revision might alter the estimated unit value of the appraiser or his opinion of damages or benefits. The Chief Appraiser and/or Assistant Director Rights of Way for Operations will make the final determination. Revised review sheets will be forwarded to the Headquarters Rights of Way Office.

F. Coordination Responsibility

The Chief Appraiser and/or Assistant Director Rights of Way for Operations are responsible for coordination with the appraiser, administrative appraisal reviewer,

Regional Rights of Way Administrator, engineering personnel, rights of way agent and relocation manager to ensure all information is current.

APPRAISAL FORMS

SCDOT Form 100C

SCDOT UPDATED COST ESTIMATE FORM

Project ID No.: _____ Road/Route: _____ County: _____

ORIGINAL ESTIMATES

Tract # : (SF) x \$ (\$/Unit) = \$ (Land) + \$ (Site/Bldg) + \$ (Cost to Cure) = Total Original Estimate of \$ _____

Description of Changes

[Empty box for Description of Changes]

UPDATED ESTIMATES

Tract # : (SF) x \$ (\$/Unit) = \$ (Land) + \$ (Site/Bldg) + \$ (Cost to Cure) = Total Revised Estimate of \$ _____

APPRAISAL UPDATE COMPLIANCE

This updated appraisal report is prepared in compliance with the scope of work requirements stated from the original report and concur with the analysis and conclusions in the original report. I performed this appraisal update in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of the Appraisal Foundation and that were in place at the time this appraisal update was prepared. I have updated the appraisal by incorporating the scope of work from the original appraisal report.

USPAP allows for appraisal updates as a new assignment and provides direction as a new report that incorporates by reference specified information/analysis from the prior report so that, in combination, the reference portions and the new information/analysis added satisfies the applicable reporting requirements. In addition, rather than duplicating steps used in the original appraisal, this update uses extraordinary assumptions with incorporating portions of the original appraisal in this new appraisal assignment.

This option can only be used if certain pre-conditions are met which are included as follows:

- 1. Same appraiser(s)
2. The original appraiser's firm and client are involved.
3. The intended use and the real estate have undergone no significant changes since original appraisal.
4. The time period between the effective date of the original appraisal and the effective date of the pending update is not unreasonably long for the type of property.
5. Same interest appraised.

APPRAISER'S CERTIFICATION:

I CERTIFY THAT I HAVE PERFORMED AN INSPECTION OF THE SUBJECT PROPERTY TO DETERMINE IF THE CONDITIONS AND REQUIREMENTS STATED IN THE ORIGINAL APPRAISAL HAVE BEEN SATIFIED. I HAVE STATED MY ANAYLSIS AND CONCLUSIONS IN THIS APPRAISAL UPDATE AND RETAINED DATA IN MY WORK FILE.

Estimates under \$20,000.00 approved for negotiations, excluding those with damages, cost to cure or benefits.

Compiled By:

Authorized SCDOT Representative:

Signature and (Print Name), (Title) fields for Compiled By and Authorized SCDOT Representative, including Date: 1/1/16

SCDOT Form 100D

A
RESTRICTED USE APPRAISAL REPORT
OF
PROPERTIES

SECTION I: IN

Choose an item.

COUNTY, SC

PREPARED FOR

*William C. Johnston, Assistant Director of Rights of Way
for Operations
SCDOT R/W Division
955 Park Street, Room 422
Columbia, SC 29202*

Click here to enter a date.

Project ID No. Enter 7 digit Project ID No. — Enter Road or Route, the Designation, and the Number.



This appraisal is a **Restricted Use Appraisal Report** prepared under Standard 2-2c of the Uniform Standards of Professional Appraisal Practice (USPAP), effective January 1, 2016. As such, it presents only the stated discussions of the data, reasoning and the opinion of value. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated. The appraiser is not responsible for the unauthorized use of this report.

SCOPE OF WORK

Supporting documentation concerning the scope of work used in this report to support the data, reasoning and analysis is retained in the appraiser's work file for this assignment. The intended use of the Restricted Use Appraisal was to establish a fair market value for budgetary considerations and negotiations under \$20,000. The intended user is SCDOT. Market related information was used to establish the per tract property values. This certification has been added to the cost estimate to comply with SC LLR and USPAP requires as a Restricted Use Appraisal Report. The restricted use requirements were communicated with the client prior to the acceptance of this assignment.

Data research involves the inspection of the subject properties, the neighborhood and collecting, analyzing data from the market area that affects the value of the subject properties, and researching the sale comparables similar to the properties and confirmation of those sale comparables in the past three years.

The amount and type of information researched and the analysis applied in an assignment. Scope of work includes, but is not limited to, the following:

The degree to which the property is inspected or identified; the extent of research into physical or economic factors that could affect the property; the extent of data research; and the type and extent of analysis applied to arrive at opinions or conclusions.

Sincerely,

Enter Appraiser Name / Number

Important Conclusions

Location: In _____ County, SC, along _____.

Property Type: Varies; Improved and Vacant tract

Client: SCDOT

Interest Appraised: Fee simple

Intended Use: Restricted Use; Budgetary consideration and negotiations where applicable

Intended User: SCDOT for budgetary considerations and negotiations where applicable

Zoning: Varies

Site Size: Varies

Highest and Best Use: To be determined on an individual property basis

Date of Inspection: [Click here to enter a date.](#)

Date of Report: [Click here to enter a date.](#)

Effective Date of Report: [Click here to enter a date.](#)

Opinion of Market Value: **\$000 (This total figure from the first three lines of Summary block from Cost Estimate)**

***Sales Data maintained in appraisal file on Sales Data Page in Cost Estimate on SCDOT R/W Form 100**

***See Highway Plans for tract specific information**

***Note Hypothetical Conditions & Extraordinary Assumptions**

CERTIFICATION OF THE APPRAISER

I certify, to the best of my knowledge and belief as follows:

The statements of fact contained in this report are true and correct. The reported analyses, opinions and conclusions are limited only by the reported, assumptions and limited conditions, and are my personal, unbiased professional opinions and conclusions; I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved; My compensation is not contingent on an action or event resulting from the analyses, opinions or conclusions in, or the use of, this report; My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Practice of the Uniform Standards for Professional Appraisal Practices.

I have made a personal inspection of the properties that are the subject of this report and all supporting data documented in the report; No one provided significant professional assistance regarding value conclusions outside the person signing this report, other than those mentioned in the report. Based on all elements which could reasonably affect the value of the subjects and considering the Assumptions and Limiting conditions contained herein, I have concluded a market value estimate of the subject property as of **Click here to enter a date.**

The following report gives a summary of the information that I obtained to give my opinion of value for budgetary consideration and negotiations where applicable. It also lists the assumptions and limiting conditions of the report.

I certify that I have no present or contemplated future interest, and have not provided any services in the past three years on any of the real properties described in the report and that compensation for preparation of the report is in no way based on the opinion of value given.

*An extraordinary assumption has been made that the square footage and/or acre sizes provided by SCDOT are correct. This cost estimate is based on a “drive-by” inspection without the benefit of an interior inspection.

* The cost estimate is subject to the extraordinary assumption that the new right of way does not exist and will not exist. The cost estimate is also subject to the hypothetical condition recognizing the condition of the properties as if the new right of way is already existed.

Sincerely,

Enter Appraiser Name / Number

SCDOT GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

General Assumptions - This appraisal has been completed and the appraisal report prepared with the following **general assumptions**:

- 1.** No responsibility is assumed for the legal description or for matters including legal or title considerations. The titles to the property are assumed to be good and marketable unless otherwise stated. Any plats, maps, or photographs in this appraisal are used merely to help the reader visualize the property and its surroundings and are not certified to be accurate.
- 2.** Any liens or encumbrances (except for any lease encumbrance that might be referred to in the appraisal) which may exist have been disregarded, and the property has been appraised as though no delinquency in the payment of general taxes or special assessment exists and as though free of indebtedness.
- 3.** It is assumed that the utilization of the land and improvements are within the boundaries of the lines of the property described and that there is no encroachment or trespass unless noted in the report. No survey of the subject property was made or caused to be made by us, and no responsibility is assumed for the occurrence of such matters.
- 4.** A visual inspection of the subject site was made and all engineering is assumed to be correct. The plot plan and illustrative materials in this report are included only to assist the reader in visualizing the property and to show the reader the relationship of its boundaries. The appraiser is not a construction engineer and is not responsible for structural or cosmetic inadequacies associated with any of the improvements unless otherwise noted in the report.
- 5.** It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them. The soil for the area under appraisal appears to be firm and solid, unless otherwise stated. Subsidence in the area is unknown or uncommon, and the appraiser(s) does not warrant against this condition or occurrence.
- 6.** Subsurface rights (minerals and oil) were not considered in this appraisal unless otherwise stated. In addition, no potential timber value was considered.
- 7.** It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined, and considered in the appraisal report. Unless otherwise stated in this report, the appraiser did not observe the existence of hazardous materials or gases, which may or may not be present on the property. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there are no such materials on or in the property, which would cause a loss in value. No responsibility is

assumed for any such conditions or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

- 8.** It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconforming use has been stated, defined, and considered in the appraisal report.
- 9.** It is assumed that all required licenses, certifications of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
- 10.** This appraisal assumes water and sewer services will always be provided for the subject.
- 11.** Responsible ownership and competent property management are assumed.
- 12.** The Americans with Disabilities Act (“ADA”) became effective January 26, 1992. I (we) have not made a specific compliance survey and an analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative impact on the value of the property. Since I (we) have no direct evidence relating to this issue, I (we) did not consider non-compliance with the requirements of ADA in estimating the value of the property.
- 13.** There is currently a good deal of discussion regarding the potential hazards of Electro-Magnetic Fields and the possible health risk of being located near high voltage transmission lines. I (we) have not made a specific compliance survey and analysis of this property to determine whether or not there are potentially hazardous effects from EMF’s. It is possible that a compliance survey of the property together with a detailed analysis could reveal that there is EMF levels, which are above a safe level. If so, this fact could have a negative impact on the value of the subject property. Since I (we) have no direct evidence relating to this issue, I (we) did not consider EMF levels in estimating the value for the property.

General Limiting Conditions – This appraisal has been completed and the appraisal report has been prepared with the following **general limiting conditions**.

1. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used. The value estimates provided in the report apply to the entire property, and any proration or division of the total into fractional interests will invalidate the value estimate, unless such proration or division or interests has been set forth in this report.
2. Neither possession of this appraisal or copy thereof carries with it the right to publication, nor may it be used for any purpose by anyone but the applicant without previous consent of the appraiser(s).
3. The appraiser, by reason of this appraisal, is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless arrangements have been previously made.
4. Neither all no part of the contents of this report (especially as to value, the identity of the appraiser, or the firm with which the appraiser is associated) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraiser.
5. Information, estimates, and opinions contained in this report are obtained from sources considered reliable, however the appraiser assumes no liability for such sources.
6. The information supplied to the appraiser is considered to be accurate. The information supplied by the client has been accepted without further verification as correctly reflecting the property's current condition unless otherwise noted.
7. The various estimates of value presented in this report apply to this appraisal only and may not be used out of the context presented herein. This appraisal is valid only for the appraisal date or dates specified herein and only for the appraisal purpose specified herein.

SCDOT Form 101A

SECTION I: COMPARABLE DATA BROCHURE

The sales contained in this brochure were examined by me and were considered applicable for use as comparable on the project.

Prepared by: <u>Appraiser's Name</u> SECTION I: S.C. State Certified General R/E Appraiser No. CG _____
Contributing Appraiser: <u>Appraiser's Name</u> S.C. State Certified General R/E Appraiser # Lic./ Cert. #
Date: _____

FOR OFFICIAL USE

The sales contained in this brochure were examined by me on _____ and found to be acceptable for this project except as noted below: (See *Section IV - Appraisal Review* of the South Carolina Department of Transportation Appraisal Manual).

Reviewed by: <u>SCDOT Reviewer</u> SECTION I: S.C. Certified General R/E Appraiser No. _____
Date: _____
Firm: <u>South Carolina Department of Transportation</u>

Additions to Brochure (by date):

SECTION I: AREA, CITY, AND NEIGHBORHOOD ANALYSIS

COMPARABLE LOCATION MAP

Insert Image

COMPARABLE SALE NO.

SECTION I: IDENTIFICATION

Type Sale: Click for List, (Describe if "OTHER")			
Address:		City:	County:
Tax Map No.:	Plat Ref.:	Deed Book: (enter 5 characters)/(enter 4 characters)	
Grantor:		Grantee:	
Zoning:		Conformity: Legal Conforming	
Sale Price: \$	Date:	Financing:	
Functional Obsolescence: (Describe if "OTHER")		Verification:	

SECTION I: SITE DESCRIPTION

Present or Intended Use: Click for List, (Describe if "OTHER")			Site Size: sf
road grade	Shape:	Topography:	
Corner:	<u>Ingress/Egress</u>		
	Primary Road:	Secondary Road(s):	
	<i>Additional Comments</i>		
Primary Frontage (Front Feet):		Total Frontage (Front Feet):	
Site Improvements:		No. Parking Spaces:	
Utilities:			

SECTION I: DESCRIPTION OF IMPROVEMENTS

Business Name (if applicable):		
Improvement Size:	Construction:	Condition:
Effective Age (yrs):	Actual Age (yrs):	
Deferred Maintenance:		
HVAC:	Plumbing:	
Additional Features:		
Renovations/Additions (year/description):		
Furniture, Fixtures & Equipment:		

SECTION I: ADDITIONAL COMMENTS

--

This Comparable is located on the Project:

Tract Number:

LEASE / FINANCIAL INFORMATION (if applicable)

PGIM:		Vacancy and Collection:	%	NOI:	\$
EGIM:		Expense Ratio:	%	OAR:	%
Annual Rent/SF:		\$		Gross Profit Multiplier:	
Additional Information:					

INDICATORS

Price per SF (Building):	\$	Price per SF (Land):	
Adjusted Price per SF:	\$	Adjusted Price per SF (Land):	
L:B		SF:Primary Frontage:	
SF:Parking:		SF:Total Frontage:	

Date of Inspection: _____

Unadjusted Price Per _____ : square foot

Inspecting Appraiser

S.C. Certified General Real Estate Appraiser No. CG _____

Reviewing Appraiser (if applicable)

SECTION I: COMPARABLE SALE PHOTOGRAPH

Photo Taken by: _____ Address: _____

Insert Image

SECTION I: COMPARABLE SALE SKETCH/PLAT

Insert Image

COMPARABLE RENTAL NO.
(Attach Photo on Additional Sheet)

SECTION I: IDENTIFICATION

Property Type: Click for List, (Describe if "OTHER")		Property Name:
Address:	City:	County:

SECTION I: GENERAL LEASE DATA

Lessor:		Lessee:	
Initial Annual Rent: \$ per square foot		Lease Inception Date:	
Current Annual Rent: \$ per square foot		Occupancy:	
Type Lease: Monthly,	Lease Terms:	Initial Term: years	
Options:		Verification:	
Owner Expenses: Taxes <input type="checkbox"/> , Utilities <input type="checkbox"/> , Janitorial <input type="checkbox"/> , Insurance <input type="checkbox"/> , Ext. Maintenance <input type="checkbox"/> , Int. Maintenance <input type="checkbox"/> , Management <input type="checkbox"/> , Reserves <input type="checkbox"/> , Other <input type="checkbox"/> (Explain in Comments)			

SECTION I: SITE DESCRIPTION

Site Size:	Shape:	
Access: , - (Additional Comments)		
Topography:	Corner:	Utilities:

SECTION I: DESCRIPTION OF IMPROVEMENTS

Improvement Size: sq. ft.	Finished/Heated SF:	No. Parking Spaces:
Construction:	Condition:	
Effective Age: years	Year Built:	
# Stories:	Foundation:	Roof Type:
Deferred Maintenance:		
Renovations/Additions (year/description):		
Amenities:	Additional Features:	
Furniture, Fixtures & Equipment:		

SECTION I: ADDITIONAL COMMENTS

--

This Comparable is located on the Project: Tract Number:

COMPARABLE RENTAL PHOTOGRAPH

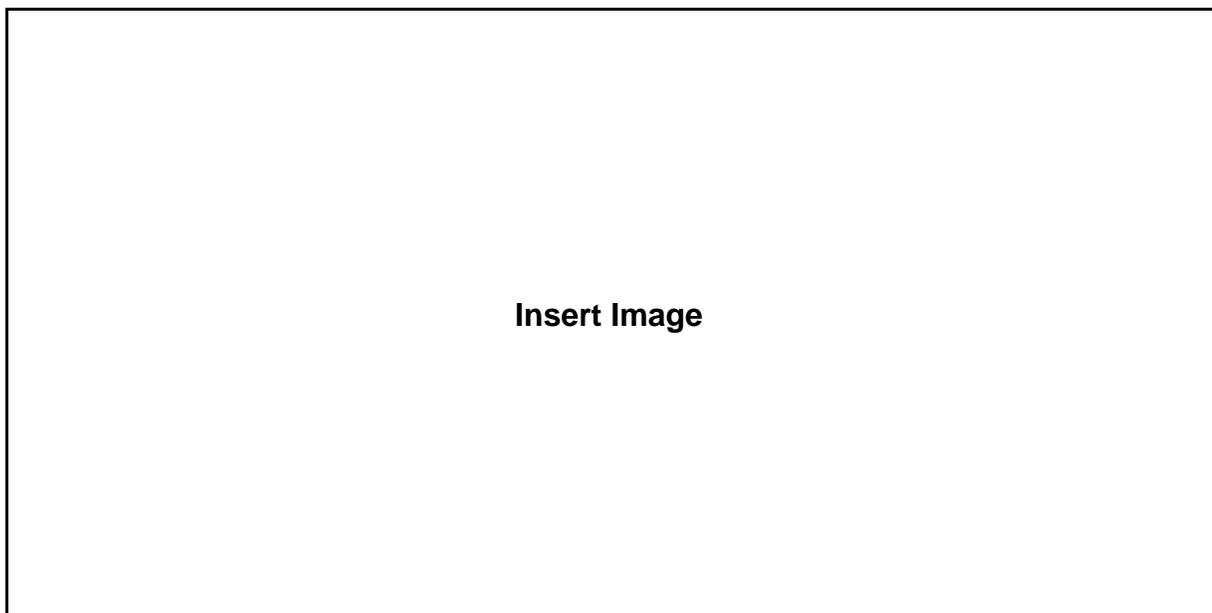
Insert Image

SCDOT Form 110A

Project ID No. _____ Road/Route _____ County _____ Tract _____

APPRAISAL REPORT

- (1) Tract Location: _____ 1. _____
- Property Owner: _____ 2. _____
- Address: _____ 3. _____



4. Front View of Subject Property

PREPARED FOR:

5. South Carolina Department of Transportation

- (2) Prior to inspection the owner was contacted _____ and invited to be present during inspection of this property. The tract was inspected on DD/MM/YY and I was accompanied by _____, _____.

Required by Sec. 24.102 (c) of Uniform Act.

Explain: (Why not accompanied relation of representative, items discussed, etc.)

6.

7. PREPARED BY:

- (3) **8. Appraiser's Name** _____
- S.C. State Certified General R/E Appraiser #:** **CG** _____
- _____
- Firm Name:** _____
- _____

APPRAISAL SUMMARY

.(4) Property Owner: 10. _____
 Tract Location: 11. _____
 Date of Appraisal: 12. _____ Date of Value: _____

(5) 13. DESCRIPTION	14. BEFORE	AFTER
Present Use:	15. Click for List (Describe if "Other")	Click for List (Describe if "Other")
Number of Buildings:		
Primary Improvement Size: (Stated in units of comparison)		
Building Setback (Feet)		
# of Feet Building is Above (+), at (0), or Below (-) Road Grade:		
# Parking Spaces:		
Corner Influence:		
Primary Frontage (Linear Feet):		
Total Frontage(s) (Linear Feet):		
Ingress/Egress: Primary Road Secondary Road(s)		
Zoning Conformity:		

(6) Site Size (SF):	16.	17.
Site Size (Ac.):	18.	19.
Present or Intended Use of Site:	20. Click for List 21. (Describe if "Other")	22. Click for List 23. (Describe if "Other")
Shape:		
Size of Acquisition:		

(7) HIGHEST AND BEST USE		
As Vacant:		
As Improved:		

(8) Annual Market Rent per SF:	24. \$	\$
--------------------------------	--------	----

(9) VALUE INDICATIONS		
Land Value:	\$	\$
Sales Comparison Approach:	25. \$	\$
Cost Approach:	\$	\$
Income Approach:	\$	\$
Final Value Indications:	\$	\$

(10) Value of Acquisition:	\$
----------------------------	----

APPRAISAL DETAILS AND REQUIREMENTS

- (11) **PROPERTY RIGHTS APPRAISED:** Fee Simple
- (12) **PURPOSE OF THE APPRAISAL:** To estimate the difference in the market value of this property caused by the acquisition of the right of way for the proposed construction of this project.
- (13) **INTENDED USE:** To assist the South Carolina Department of Transportation in negotiations with the property owner concerning an eminent domain acquisition.

Market value is defined as "The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.

SOURCE: The Appraisal Institute, The Dictionary of Real Estate Appraisal, 4th Edition

- (13a) **INTENDED USER:** The South Carolina Department of Transportation, its Rights-of-Way Department, its Right-of-Way Consultants, its Legal Department and Associate Legal Counsel.

(14) **EXPOSURE TIME:** _____

(15) **FIVE-YEAR SALE HISTORY:**

27. Date	Sale Price	Deed Reference
28.	29. \$	30.
31.	32. \$	33.
	\$	
	\$	
Comments:		

(16) **35. CURRENT LISTING:** _____ **PENDING CONTRACT:** _____

(17) **ASSESSMENT AND TAXES:**
 Tax Parcel ID #: _____
 Tax Year: _____
 Land Value: \$ _____ Improvement Value: \$ _____ Total Assessed Value: \$ _____
 Real Estate Taxes: \$ _____

(18) **38. CURRENT ZONING ANALYSIS:**
 District: _____ Current Conformity: _____
MINIMUM REQUIREMENTS:
 Front Setback: _____
 Rear Setback: _____
 Side Setback: _____
 Building Height: _____
 # Parking Spaces: _____

Road Frontage: _____
Maximum Building Size: _____

SUBJECT LOCATION MAP

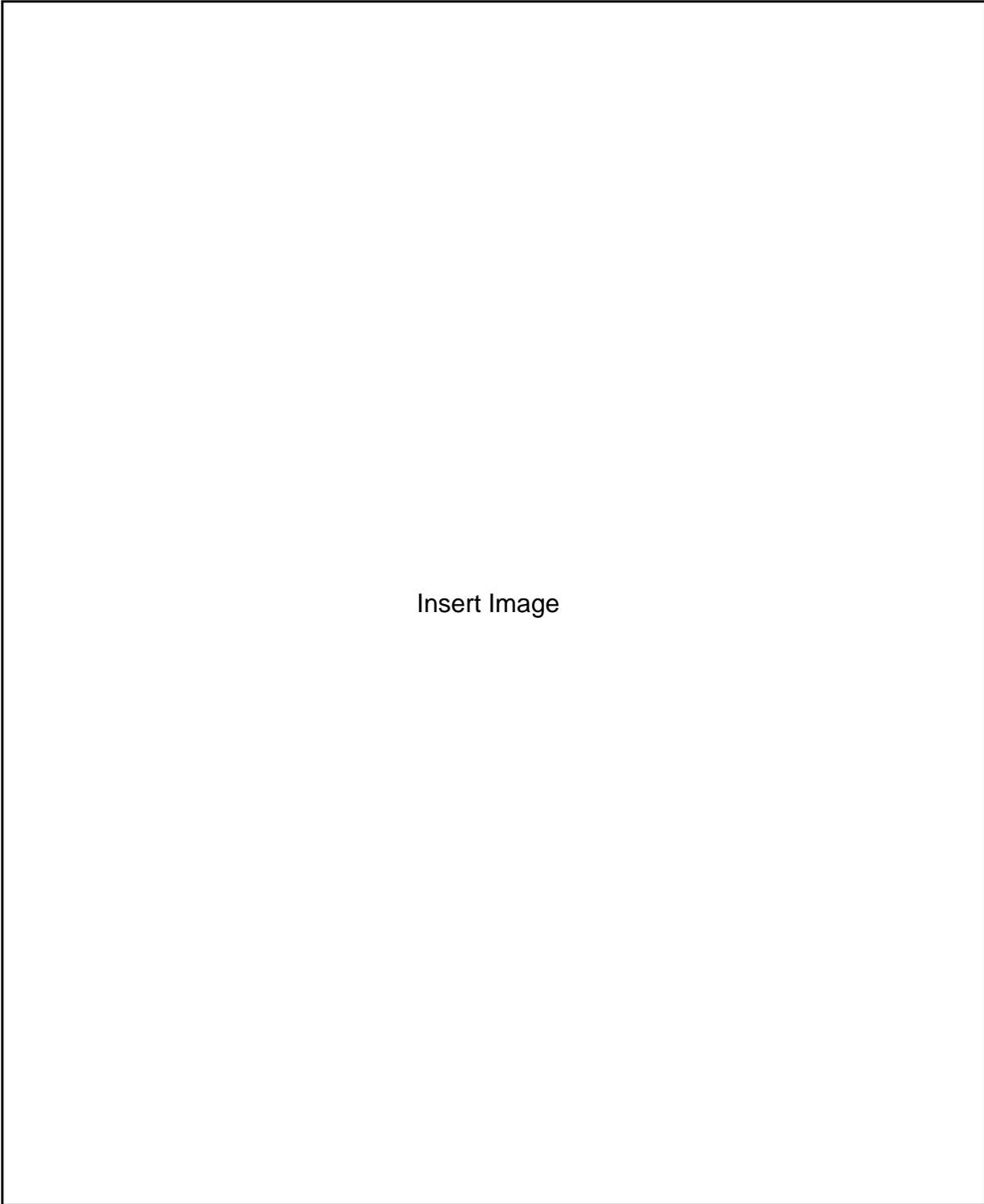
Insert Image

TAX MAP

Tax Map Number:

Insert Image

ZONING MAP
Zoning Classification:



FEMA FLOOD MAP

Flood Panel:

Date:

Insert Image

BLANK ADDENDA EXHIBIT

Insert Image

SUBJECT PHOTOGRAPHS (1-3)

Address/Location: _____

Photos Taken By: _____

Date of Photos: _____

Enter the location and direction of the photo

Insert Image

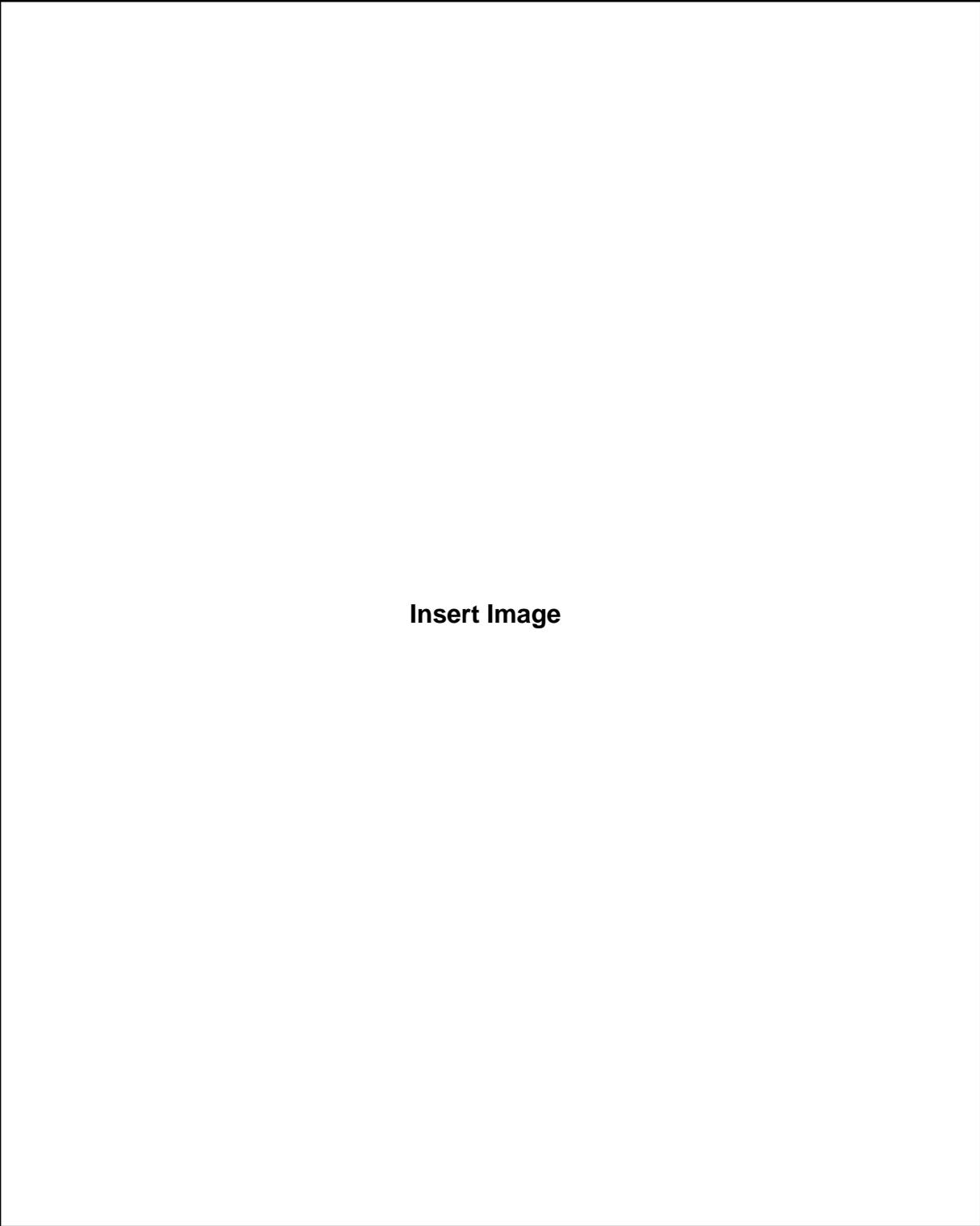
Enter the location and direction of the photo

Insert Image

Enter the location and direction of the photo

Insert Image

SUBJECT PLAT / SKETCH



Insert Image

SUBJECT FLOOR PLAN

DESCRIPTION: (1st floor, 2nd floor, basement, garage, etc.)

Insert Image

PARAGRAPH 19. SCOPE OF WORK:

The scope of work is a written set of expectations that form an agreement or understanding of the appraisal assignment between the appraiser and SCDOT as to the specific requirements of the appraisal.

The scope of work generally encompasses the following: (except where deviating from the norm is agreed upon with SCDOT (the client) and/or the appraiser; or in the case of instruction from the client as to the desired type of value requested or extent of the written report).

The amount and type of information researched and the analysis applied in an assignment as required by the Uniform Act and SCDOT Appraisal Manual. Scope of work includes, but is not limited to, the following:

The degree to which the property is inspected or identified; The extent of research into physical or economic factors that could affect the property; The extent of data research; and the type and extent of analysis applied to arrive at opinions or conclusions.

A. Inspection of the subject

This phase of the appraisal involves a physical inspection of the subject property, as specified by the SCDOT Appraisal Manual and Uniform Act. The subject was inspected on _____.

B. Extent of research

This involves the collection of data on national, state, regional and local trends, and an identification and analysis of the social, economic, environmental and governmental forces affecting the market value of the subject property. SCDOT provided plans and ownership information.

C. Extent of data research

Data research involves the inspection of the subject property, the neighborhood and collecting and analyzing data from the market area that affects the value of the subject property. I have performed research of the sales comparables similar to the subject and confirmation of those sales comparables in the past five years. An extensive search of similar properties in _____ County was undertaken. I also talked with real estate agents and appraisers familiar with area.

D. Type and extent of analysis applied to arrive at opinion or conclusion

This phase of the appraisal process involves analyzing all of the previously gathered data and determining the Highest and Best uses of the subject properties within the framework of the supply and demand, legal uses of the subject properties, and possible physical uses of the subject properties as if vacant, or as improved.

The South Carolina Department of Transportation requires that the Sales Comparison Approach be demonstrated for all improved properties unless unusual circumstances preclude its development or the improvements are determined to be unaffected by the acquisition. The Cost Approach shall be considered when the impacted improvements are less than ten years old, a special-use property, or when sufficient comparable sale or lease information is not available. The SCDOT requires application of the Income Approach on all investment and income-producing properties where existing improvements might be impacted by the project.

The conclusions have been reported in a SCDOT Standard format in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP), Uniform Act and SCDOT Appraisal Manual.

The SCDOT Right of Way plans identify the subject (before size) as Tract containing acres or square feet of land.

Adequate data was available to complete the analysis. The before value is subject to the extraordinary assumption that the new right of way does not exist and will not exist. The after value is subject to a hypothetical condition recognizing the value of the subject as if new right of way already existed.

Additional Comments:

PARAGRAPH 20-A. DESCRIPTION OF REALTY (BEFORE):

SITE DESCRIPTION

41. Present Use	From Paragraph 5
42. Site Size	_____ acres or _____ square feet. It is recommended that a qualified surveyor inspect the subject for existing property lines and easements that are unable to be detected by the appraiser(s).
43. Curb and Gutters	
44. Sidewalk	
45. # of Lanes	
46. Traffic Level	
47. Traffic Control	
48. Shape	
49. Ingress/Egress	Describe the access to and from the site.
Access to the Improvements	Describe the maneuverability within the site and the quality of access to the improvements.
50. Frontage	_____ linear feet
51. Grade at Road Level	
Visibility/Exposure	
Topography	
Drainage	
Flood Plain:	
Map Number	
Date	
Zone	
Landscaping	Average
Utilities	
Water	
Sewer	
Electricity	
Natural Gas	
Telephone	
Zoning	
Designation	
Uses Allowed	
Easements/ Encroachments	Based upon my inspection and examination of the subject site, as well as my review of plats and deeds of the property, I did not detect adverse easements other than normal utility easements and rights of way. These are not believed to have a detrimental impact on property value. Describe adverse conditions, if any. It should be noted that I am not qualified to detect easements and

	encroachments and legal counsel should be retained if there are any indications of title defects.
Environmental	I am unaware of potential environmental hazards on the property. Describe adverse hazards, if known or suspected. Environmental aspects of the subject property are beyond my expertise. If necessary, I recommend a professional in environmental expertise be retained.
Comments	
Personal Property, FF&E, etc. (Included in the estimate of value)	
Relocation Items (Not included in the estimate of value)	

PARAGRAPH 20-B. DESCRIPTION OF REALTY (BEFORE):

IMPROVEMENT DESCRIPTION

52. Business Name (if applicable)	
53. Improvement Size (Stated in Units of Comparison)	
54. Year Built	
55. Estimated Effective Age	years
56. Estimated Economic Life	years
57. Type/Quality of Construction	
58. Additions/Renovations	
59. Foundation	
60. Exterior Walls/Windows	
Roof	
Special Features	
Exterior Condition	Overall exterior condition is average. Comments
61. Interior Walls/Ceilings	
62. HVAC	
63. Flooring Covering	
64. Lighting	
Plumbing	
Interior Condition	Overall interior condition is average. Comments
65. Site Improvements	
66. Parking	
67. Utility	The property appears to have adequate utility and amenities for the existing utilization.
68. Comments	
Personal Property, FF&E, etc. (Included in the estimate of value)	
Relocation Items (Not included in the estimate of value)	

PARAGRAPH 21. HIGHEST AND BEST USE (BEFORE):

Highest and Best Use is defined in The Appraisal of Real Estate – 13th Edition as, “The reasonably probable and legal use of vacant land or an improved property, that is physically possible, legally permissible, appropriately supported, financially feasible, and that results in the highest value.”

AS VACANT:

Physically Possible:

Legally Permissible:

Financially Feasible:

Maximally Productive:

Therefore, based on the preceding discussion my opinion of the highest and best use of the property, as vacant and available for development, is for utilization.

AS IMPROVED:

Physically Possible:

Legally Permissible:

Financially Feasible:

Maximally Productive:

Therefore, based on the preceding discussion my opinion of the highest and best use of the subject property, as improved, is for utilization.

PARAGRAPH 22. VALUATION BEFORE THE ACQUISITION:

LAND VALUATION (BEFORE):

Land value is derived separately using the sales comparison approach and a minimum of three comparable sales. The South Carolina Department of Transportation requires that the Sales Comparison Approach be demonstrated for all improved properties unless unusual circumstances preclude its development or the improvements are determined to be unaffected by the acquisition. The Cost Approach shall be considered when the impacted improvements are less than ten years old, a special-use property, or when sufficient comparable sale or lease information is not available. The SCDOT requires application of the Income Approach on all investment and income-producing properties where existing improvements might be impacted by the project.

EXPLANATION OF ADJUSTMENTS:

LAND VALUATION (BEFORE) CONCLUSION:

The subject's land value has been developed using the Sales Comparison Approach to value. Number comparable sales have been identified and analyzed on the following adjustment grid(s).

Comments and Summary on the Estimated Unit Value(Before)

The indicated market value of the subject is shown as follows:

Site Size	X	\$	per unit	=	\$
	X	\$	per unit	=	\$
Rounded to:					\$

Insert Land Sales Adjustment Grid (Before)

PARAGRAPH 22-A. SALES COMPARISON APPROACH TO VALUE (BEFORE)

The following steps are applied in deriving a value via the Sales Comparison Approach:

- 1) Comparable data in the subject market and/or competing market(s) are researched.
- 2) Data is verified as accurate and representative of an arms-length transaction.
- 3) The proper unit(s) of comparison is determined.
- 4) Differences between the subject and the comparables are identified and evaluated.
- 5) Adjustments are applied to the comparables for the relevant elements of comparison.
- 6) The resulting value indications are reconciled into a single value.

EXPLANATION OF ADJUSTMENTS:

SALES COMPARISON APPROACH (BEFORE) CONCLUSION:

Number comparable sales have been identified and analyzed on the following adjustment grid(s). A complete description of each comparable is provided in the Comparable Data Brochure.

Comments and Summary on the Sales Comparison Approach (Before)

The indicated market value of the subject is shown as follows:

Primary Improvement Size	X	\$	per unit	=	\$
	X	\$	per unit	=	\$
Rounded to:					\$

Insert Improved Sales Adjustment Grid (Before)

PARAGRAPH 22-B. COST APPROACH TO VALUE (BEFORE):

The following steps are applied in deriving a value via the Cost Approach:

- 1) Estimate the land value as though vacant.
- 2) Estimate the direct and indirect costs of the improvements new as of the date of appraisal.
- 3) Estimate an appropriate entrepreneurial profit.
- 4) Estimate the total accrued depreciation from physical deterioration, functional obsolescence, and external obsolescence.
- 5) Subtract total depreciation from the total cost new of the improvements.
- 6) Estimate the contributory value of any remaining site improvements
- 7) Add land value to the depreciated cost of the improvements.
- 8) Adjust the indicated value for any personal property or any intangible asset value that may be included in the cost estimate.

Discussion of Reproduction/Replacement Cost - New

Direct Cost		\$
Plus Indirect Cost @	%	
Total		\$
Plus Entrepreneurial Profit at	%	
Total Reproduction Cost - New		\$

ACCRUED DEPRECIATION:

LAND VALUE (From Paragraph 22):

COST APPROACH (BEFORE) CONCLUSION:

Comments and Summary on the Cost Approach (Before)

Based on this analysis the indication of value provided by the Cost Approach is \$.

Insert Cost Summary (Before)

PARAGRAPH 22-C INCOME CAPITALIZATION APPROACH TO VALUE (BEFORE)

Under the Income Approach, value is created by the anticipation of future benefits to the owner in the form of cash flows and reversion. Anticipated benefits are converted to value using either direct capitalization or yield capitalization. Direct capitalization is normally used to appraise properties with stabilized income and expense patterns, while yield capitalization is used to value more complex properties and those with unstable income and expense patterns. This approach considers the property from the investor’s point of view.

EXPLANATION OF ADJUSTMENTS (MARKET RENT):

The survey of comparable rentals indicates annual market rent to be \$ per .

VACANCY AND COLLECTION LOSS:

The effective gross income for the subject property is estimated to be \$.

OPERATING EXPENSES:

Summarize Expense Deductions

Based on the preceding analysis, total operating expenses for the subject property are estimated at \$, indicating a net operating income of \$.

CAPITALIZATION RATE / MULTIPLIER:

Demonstrate development of capitalization rate or income multiplier

INCOME APPROACH (BEFORE) CONCLUSION:

Number comparable rents have been identified and analyzed on the following adjustment grid(s). A complete description of each lease is provided in the Comparable Data Brochure.

Comments and Summary on the Income Approach (Before)

Based on this analysis the indication of value provided by the Income Approach is \$.

Insert Rental Adjustment Grid (Before)

Insert Reconstructed Income Statement (Before)

PARAGRAPH 23. RESOLUTION OF BEFORE VALUE AND VALUE ESTIMATE:

Sales Comparison Approach - Discuss strengths and weaknesses

Cost Approach - Discuss strengths and weaknesses

Income Approach - Discuss strengths and weaknesses

Reconciliation

Therefore, based on the information contained in this report, the market value of the subject property as of the date of this report is estimated to be \$.

PARAGRAPH 24. DESCRIPTION OF THE ACQUISITION:

PARAGRAPH 25. DESCRIPTION OF THE REMAINDER:

Describe changes in the remainder caused by the acquisition.

PARAGRAPH 26. HIGHEST AND BEST USE (AFTER):

AS VACANT:

Therefore, based on the preceding discussion, my opinion of the highest and best use of the subject property, as vacant and available for development, after the proposed road construction is for utilization.

AS IMPROVED:

Therefore, based on the preceding discussion, my opinion of the highest and best use of the subject property, as improved, after the proposed road construction is for utilization.

PARAGRAPH 27. VALUE AFTER THE ACQUISITION:

“After” values and conclusions are based upon plans provided by the SCDOT and the completion of the proposed road construction.

Consideration has been given to relevant aspects of the property affected by the acquisition for analysis and comparison to the subject’s “before” condition and the comparable data.

LAND VALUATION (AFTER):

EXPLANATION OF ADJUSTMENTS:

LAND VALUATION (AFTER) CONCLUSION:

The subject’s land value after the acquisition has been developed using the Sales Comparison Approach to value. Number comparable sales have been identified and analyzed.

Comments and Summary on the Estimated Unit Value(After)

The indicated market value of the subject is shown as follows:

Size Size	X	\$	per unit	=	\$
	X	\$	per unit	=	\$
Rounded to:					\$

Insert Land Adjustment Grid (After)

PARAGRAPH 27-A. SALES COMPARISON APPROACH TO VALUE (AFTER):

EXPLANATION OF ADJUSTMENTS:

SALES COMPARISON APPROACH (AFTER) CONCLUSION:

Number comparable sales have been identified and analyzed. A complete description of each comparable is provided in the Comparable Data Brochure.

Comments and Summary on the Sales Comparison Approach (After)

The indicated market value of the subject is shown as follows:

Primary Improvement Size	X	\$	per unit	=	\$
	X	\$	per unit	=	\$
Rounded to:					\$

Insert Improved Sales Adjustment Grid (After)

PARAGRAPH 27-B. COST APPROACH TO VALUE (AFTER):

Discussion of Reproduction/Replacement Cost - New (if different from "Before").

Direct Cost		\$
Plus Indirect Cost @	%	
Total		\$
Plus Entrepreneurial Profit at	%	
Total Reproduction Cost - New		\$

DEPRECIATION AND/OR COST TO CURE ANALYSIS:

LAND VALUE (From Paragraph 27):

COST APPROACH (AFTER) CONCLUSION:

Comments and Summary on the Cost Approach (After)

Based on this analysis the indication of value provided by the Cost Approach is \$.

Insert Cost Summary (After)

PARAGRAPH 27-C. INCOME CAPITALIZATION APPROACH TO VALUE (AFTER)

EXPLANATION OF ADJUSTMENTS (MARKET RENT):

The survey of comparable rentals indicates annual market rent to be \$ per .

VACANCY AND COLLECTION LOSS:

The effective gross income for the subject property is estimated to be \$.

OPERATING EXPENSES:

Summarize Expense Deductions

Based on the preceding analysis, total operating expenses for the subject property are estimated at \$, indicating a net operating income of \$.

CAPITALIZATION RATE / MULTIPLIER:

Demonstrate development of capitalization rate or income multiplier

INCOME APPROACH (AFTER) CONCLUSION:

Number comparable rents have been identified and analyzed on the following adjustment grid(s). A complete description of each lease is provided in the Comparable Data Brochure.

Comments and Summary on the Income Approach (After)

Based on this analysis the indication of value provided by the Income Approach is \$.

Insert Rental Adjustment Grid (After)

Insert Reconstructed Income Statement (After)

PARAGRAPH 28. RESOLUTION OF AFTER VALUE AND VALUE ESTIMATE:

Sales Comparison Approach - Discuss strengths and weaknesses

Cost Approach - Discuss strengths and weaknesses

Income Approach - Discuss strengths and weaknesses

Reconciliation

Therefore, based on the information contained in this report, the market value of the subject property after the acquisition is estimated to be \$.

PARAGRAPH 29. UNECONOMIC REMAINDER:

UNECONOMIC REMNANT – A parcel of real property in which the owner is left with an interest after the partial acquisition of the owner’s property, and which the acquiring agency has determined has little or no value or utility to the owner.

NOTE: An uneconomic remnant may have substantial “market” value and still have little or no value or utility to the owner. (*Appraisal Guide; Federal Highway Administration*).

Describe uneconomic remainder.

Provide support for value estimate.

Remainder Size	X	\$	per unit	X	Residual Value %	=	\$
Rounded to:							\$

DISTRIBUTION OF VALUES

(30)	Value Components:	Before (Paragraph 22)	After (Paragraph 27)	Difference
	Land Value:			\$0
	Building Value:			\$0
	Site Improvements:			\$0
	TOTAL:	\$0	\$0	\$0

(31)	Value Components of the Acquisition:			
	Right of Way Acquired:			
	Land:	acres/sf @:		\$0
	Value of Buildings within the Acquisition Area:			
	Value of Site Improvements within the Acquisition Area:			
	Total for the Acquisition:			\$0
	plus Damages (if any to the remainder)			
	less Benefits (if any to the remainder)			
	Total for the Acquisition (Right of way, plus damages, less benefits):			\$0

(32)	Final Statement of Value:		
	a)	Having considered all applicable approaches, it is my opinion that the indicated value of the whole property before the acquisition is:	\$0
	b)	Having considered all applicable approaches, it is my opinion that the indicated value of the whole property after the acquisition is:	\$0
	c)	The difference between the indicated value of the property before the acquisition, and the indicated value of the remainder, after the acquisition is:	\$0

(33)	Based on this report, the fair market rental for this property is:			per month.
	<i>(Indicate monthly rental if building improvement is located within the new right of way or if the current occupant will be displaced as a result of the acquisition.)</i>			
	The appraisal is made as of:			
	Date of Report			
	S.C. Certified General Real Estate Appraiser			
	CG			
	S.C.		Real Estate Appraiser	

GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

General Assumptions - This appraisal has been completed and the appraisal report prepared with the following **general assumptions**:

14. No responsibility is assumed for the legal description or for matters including legal or title considerations. The titles to the property are assumed to be good and marketable unless otherwise stated. Any plats, maps, or photographs in this appraisal are used merely to help the reader visualize the property and its surroundings and are not certified to be accurate.
15. Any liens or encumbrances (except for any lease encumbrance that might be referred to in the appraisal) which may exist have been disregarded, and the property has been appraised as though no delinquency in the payment of general taxes or special assessment exists and as though free of indebtedness.
16. It is assumed that the utilization of the land and improvements are within the boundaries of the lines of the property described and that there is no encroachment or trespass unless noted in the report. No survey of the subject property was made or caused to be made by us, and no responsibility is assumed for the occurrence of such matters.
17. A visual inspection of the subject site was made and all engineering is assumed to be correct. The plot plan and illustrative materials in this report are included only to assist the reader in visualizing the property and to show the reader the relationship of its boundaries. The appraiser is not a construction engineer and is not responsible for structural or cosmetic inadequacies associated with any of the improvements unless otherwise noted in the report.
18. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them. The soil for the area under appraisal appears to be firm and solid, unless otherwise stated. Subsidence in the area is unknown or uncommon, and the appraiser(s) does not warrant against this condition or occurrence.
19. Subsurface rights (minerals and oil) were not considered in this appraisal unless otherwise stated. In addition, no potential timber value was considered.

General Assumptions Continued

20. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined, and considered in the appraisal report. Unless otherwise stated in this report, the appraiser did not observe the existence of hazardous materials or gases, which may or may not be present on the property.

The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there are no such materials on or in the property, which would cause a loss in value. No responsibility is assumed for any such conditions or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

- 21.** It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconforming use has been stated, defined, and considered in the appraisal report.
- 22.** It is assumed that all required licenses, certifications of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
- 23.** This appraisal assumes water and sewer services will always be provided for the subject.
- 24.** Responsible ownership and competent property management are assumed.
- 25.** The Americans with Disabilities Act (“ADA”) became effective January 26, 1992. I (we) have not made a specific compliance survey and an analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative impact on the value of the property. Since I (we) have no direct evidence relating to this issue, I (we) did not consider

General Assumptions Continued

non-compliance with the requirements of ADA in estimating the value of the property.

26. There is currently a good deal of discussion regarding the potential hazards of Electro-Magnetic Fields and the possible health risk of being located near high voltage transmission lines. I (we) have not made a specific compliance survey and analysis of this property to determine whether or not there are potentially hazardous effects from EMF's. It is possible that a compliance survey of the property together with a detailed analysis could reveal that there is EMF levels, which are above a safe level. If so, this fact could have a negative impact on the value of the subject property. Since I (we) have no direct evidence relating to this issue, I (we) did not consider EMF levels in estimating the value for the property.

General Limiting Conditions – This appraisal has been completed and the appraisal report has been prepared with the following **general limiting conditions**.

8. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used. The value estimates provided in the report apply to the entire property, and any proration or division of the total into fractional interests will invalidate the value estimate, unless such proration or division or interests has been set forth in this report.
9. Neither possession of this appraisal or copy thereof carries with it the right to publication, nor may it be used for any purpose by anyone but the applicant without previous consent of the appraiser(s).
10. The appraiser, by reason of this appraisal, is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless arrangements have been previously made.
11. Neither all nor part of the contents of this report (especially as to value, the identity of the appraiser, or the firm with which the appraiser is associated) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraiser.

General Limiting Conditions Continued

- 12.** Information, estimates, and opinions contained in this report are obtained from sources considered reliable, however the appraiser assumes no liability for such sources.
- 13.** The information supplied to the appraiser is considered to be accurate. The information supplied by the client has been accepted without further verification as correctly reflecting the property's current condition unless otherwise noted.
- 14.** The various estimates of value presented in this report apply to this appraisal only and may not be used out of the context presented herein. This appraisal is valid only for the appraisal date or dates specified herein and only for the appraisal purpose specified herein.

CERTIFICATE OF APPRAISER

I hereby certify:

That I have personally inspected the property herein and that I have also made a personal field inspection of the comparable sales relied upon in making this appraisal. The subject and the comparable sales relied upon in making the appraisal were as represented in the comparable data brochure which supplements this appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal herein set forth are true, and information upon which the opinions expressed therein are based is correct: subject to the limiting conditions therein set forth.

That I understand that such appraisal may be used in connection with acquisition of right of way for a highway to be constructed by the State of South Carolina with the assistance of Federal-aid highway funds, or other Federal Funds.

That such appraisal has been made in conformity with the appropriate State and Federal laws regulations, policies and procedures applicable to that appraisal of right of way for such purposes; and that to the best of my knowledge, no portion of the value assigned to such property consists of items, which are non-compensable under the established law of South Carolina.

That neither my employment nor my compensation for preparing this appraisal report is in any way contingent upon the values reported herein.

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the South Carolina Department of Transportation or officials of the Federal Highway Administration and I will not do so until so authorized by the State officials or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That the owner or his designated representative was given the opportunity to accompany me during my inspection of the property.

That I have not provided any services regarding the subject property within the prior three years, as an appraiser or in any other capacity.

That any decrease or increase in the fair market value of the real property prior to the date of valuation caused by the public improvement for which such property is being acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to the physical deterioration with in the reasonable control of the owner, has been disregarded in determining the compensation for the property.

That my opinion of the fair market value of the acquisition as of enter date of value is \$ _____ based upon my independent appraisal and the exercise of my professional judgment.

As of the date of this report, I have completed the requirements for continuing education as set forth by the Uniform Standards of Professional Appraisal Practice.

Date: _____

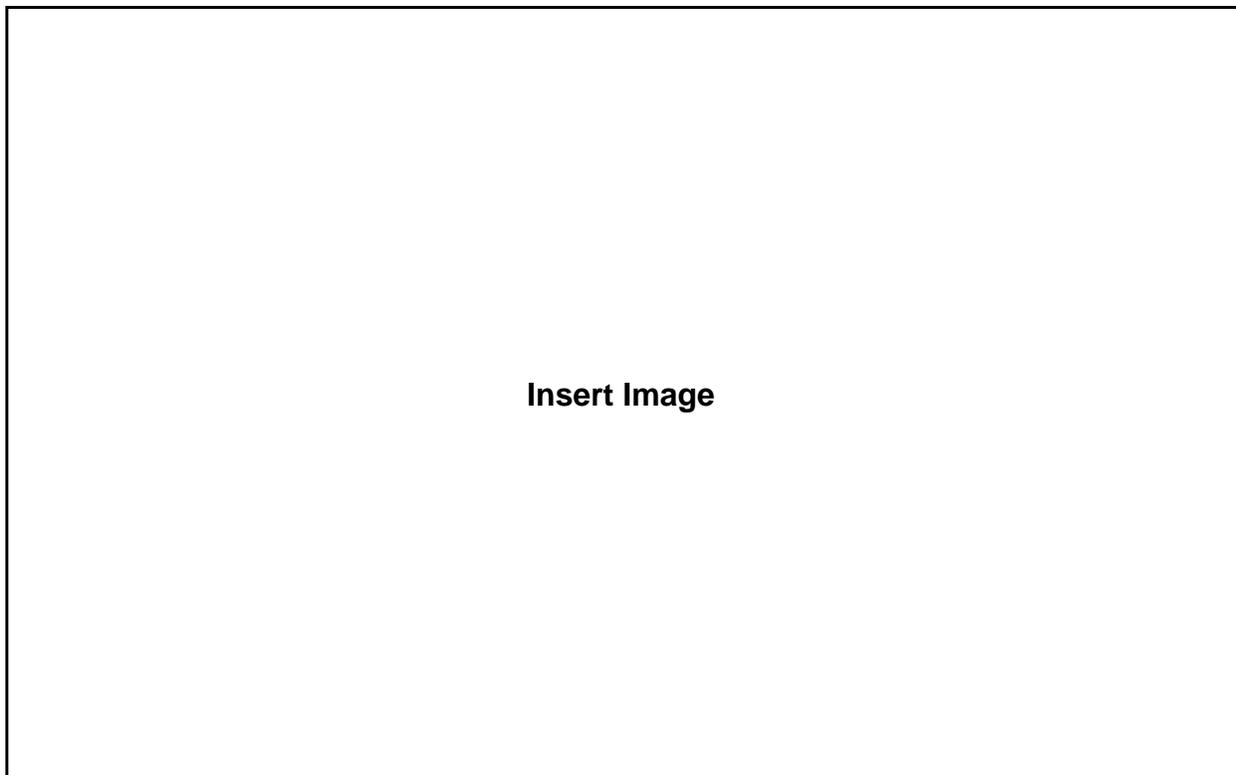
Appraiser's Name Inspecting Appraiser State Certified General Real Estate Appraiser # _____

SCDOT Form 120A

Project ID No. _____ Road/Route _____ County _____ Tract _____

• **APPRAISAL REPORT**

- (1) Tract Location: _____ 1.
- Property Owner: _____ 2.
- Address: _____ 3.



Insert Image

4. Front View of Subject Property

PREPARED FOR:

5. South Carolina Department of Transportation

- (2) Prior to inspection the owner was contacted _____ and invited to be present during inspection of this property. The tract was inspected on DD/MM/YY and I was accompanied by _____, _____.

Required by Sec. 24.102 (c) of Uniform Act.

Explain: (Why not accompanied, relation of representative, items discussed, etc.)

6.

7. PREPARED BY:

- (3) Inspecting Appraiser: _____
- S.C. State Certified General R/E Appraiser #: **CG** _____
- Contributing Appraiser (if applicable): _____
- _____
- Firm Name: _____
- _____

● APPRAISAL DETAILS AND REQUIREMENTS

- (4) PROPERTY RIGHTS APPRAISED: Fee Simple
- (5) PURPOSE OF THE APPRAISAL: To estimate the difference in the market value of this property caused by the acquisition of the right of way for the proposed construction of this project.
- (6) INTENDED USE: To assist the South Carolina Department of Transportation in negotiations with the property owner concerning an eminent domain acquisition.

Market value is defined as “The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.

SOURCE: The Appraisal Institute, The Dictionary of Real Estate Appraisal, 4th Edition

- (7) INTENDED USER: The South Carolina Department of Transportation, its Rights-of-Way Department, its consultants, its Legal Department and Associate Legal Counsel.

- (8) EXPOSURE TIME: 11.

- (9) FIVE-YEAR SALE HISTORY:

12. Date	Sale Price	Deed Reference
13.	14. \$	15.
16.	17. \$	18.
	\$	
	\$	
Comments:		

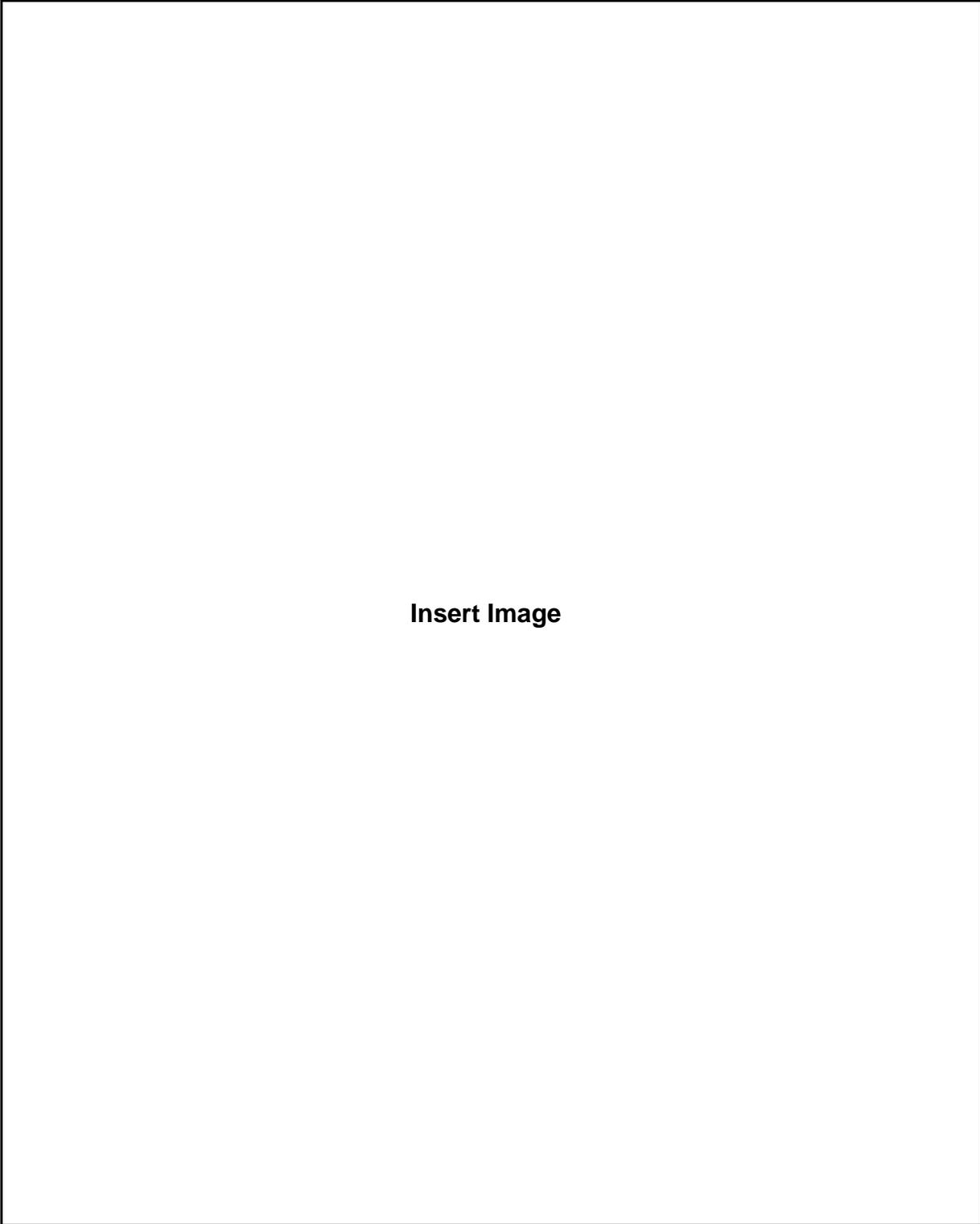
(10)	20. CURRENT LISTING:	PENDING CONTRACT:	

(11)	ASSESSMENT AND TAXES:				
	Tax Parcel ID #:				
	Tax Year:				
	Land Value:	\$	Improvement Value:	\$	Total Assessed Value: \$
	Real Estate Taxes:	\$			

(12)	23. CURRENT ZONING ANALYSIS:		
	District:		Current Conformity:
	MINIMUM REQUIREMENTS:		
	Front Setback:		
	Rear Setback:		
	Side Setback:		
	Building Height:		
	# Parking Spaces:		
	Road Frontage:		
	Maximum Building Size:		
	Comments:		

- **SUBJECT LOCATION MAP**

.



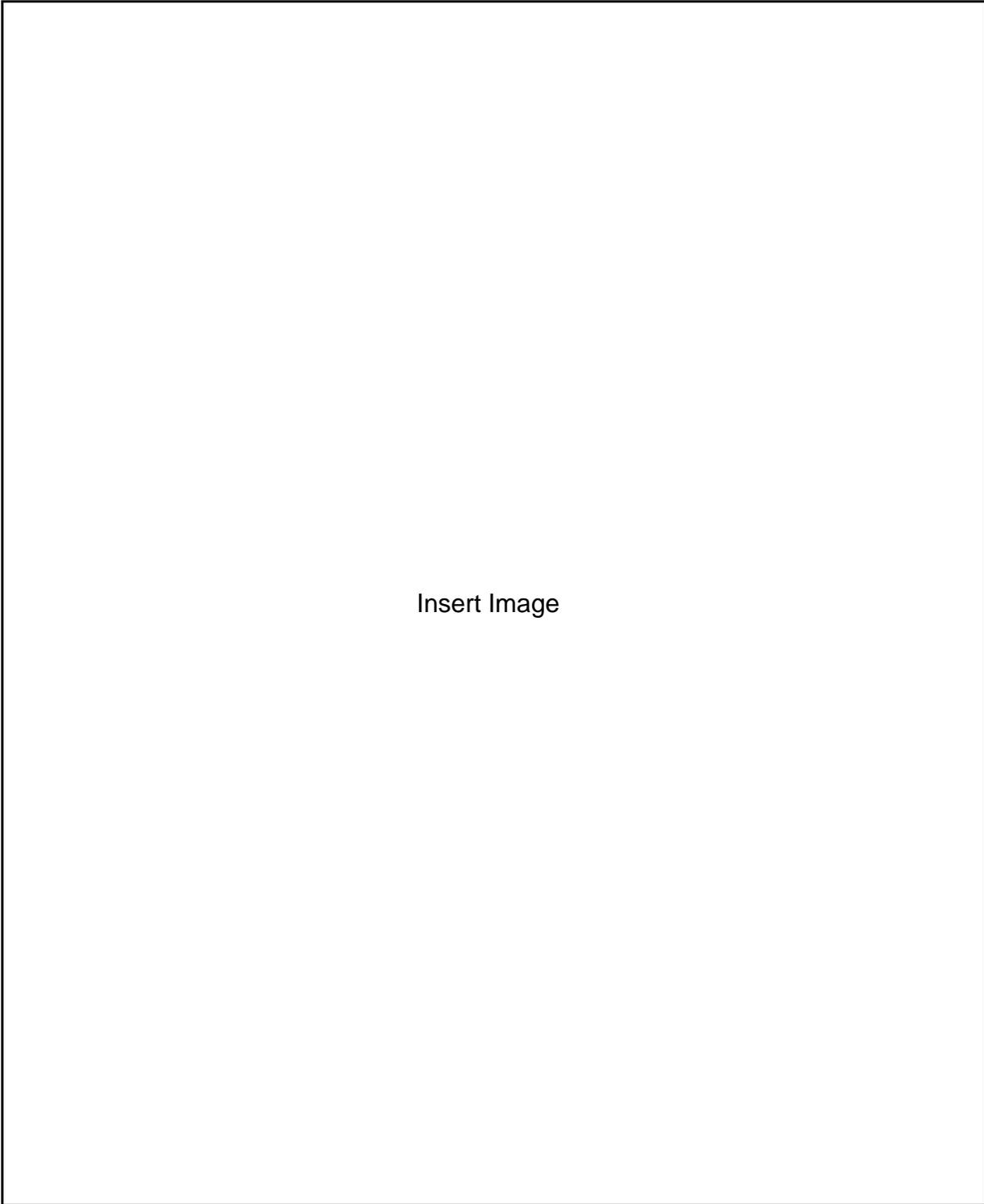
Insert Image

TAX MAP

Tax Map Number:

Insert Image

ZONING MAP
Zoning Classification:



FEMA FLOOD MAP

Flood Panel:

Date:

Insert Image

BLANK ADDENDA EXHIBIT

Insert Image

SUBJECT PHOTOGRAPHS (1-3)

Address/Location: _____

Photos Taken By: _____

Date of Photos: _____

Enter the location and direction
of the photo

Insert Image

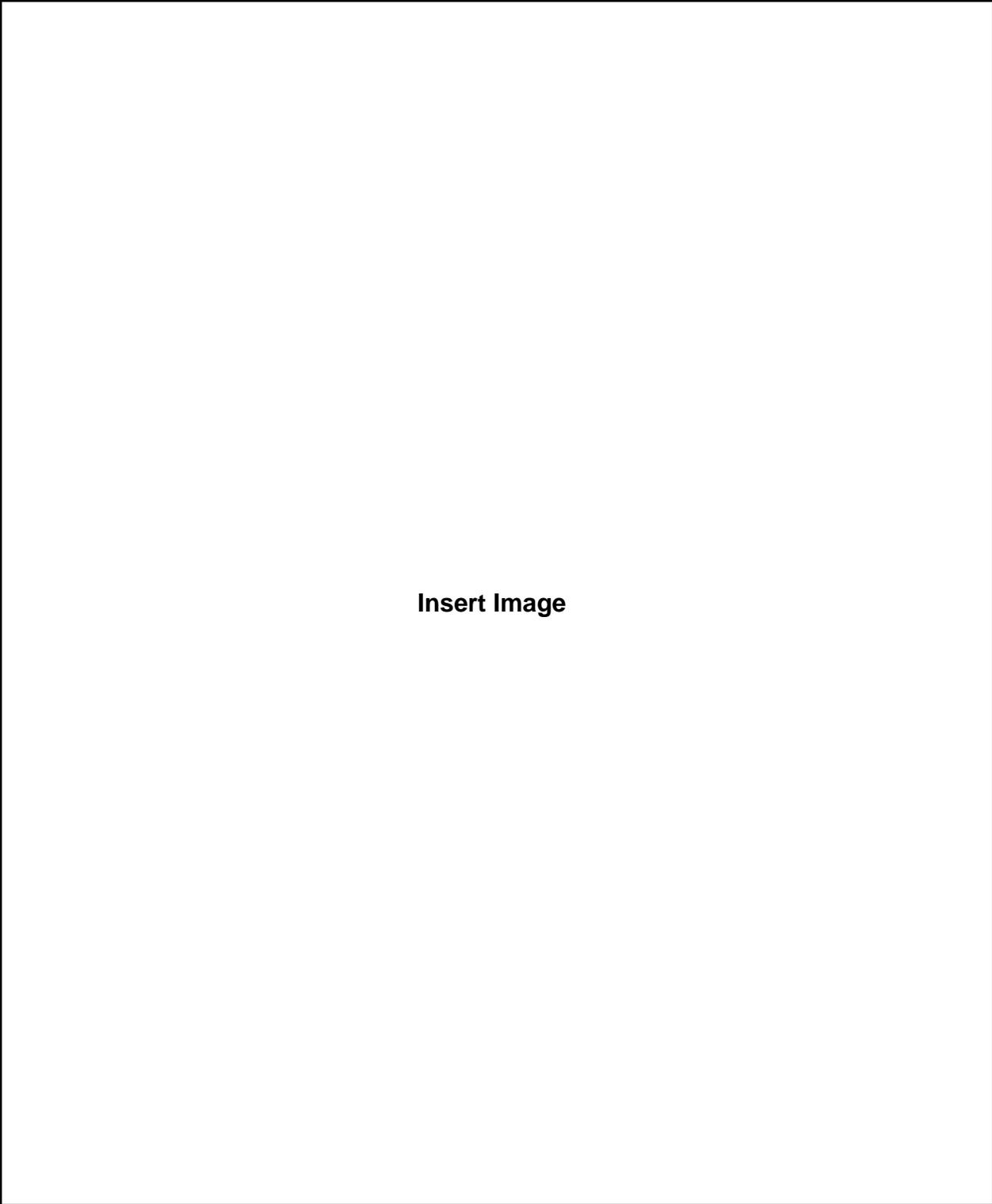
Enter the location and direction
of the photo

Insert Image

Enter the location and direction
of the photo

Insert Image

SUBJECT PLAT / SKETCH



Insert Image

(13) Scope of Work:

The scope of work is a written set of expectations that form an agreement or understanding of the appraisal assignment between the appraiser and SCDOT as to the specific requirements of the appraisal.

The scope of work generally encompasses the following: (except where deviating from the norm is agreed upon with SCDOT (the client) and/or the appraiser; or in the case of instruction from the client as to the desired type of value requested or extent of the written report).

The amount and type of information researched and the analysis applied in an assignment as required by the Uniform Act and SCDOT Appraisal Manual. Scope of work includes, but is not limited to, the following:

The degree to which the property is inspected or identified; The extent of research into physical or economic factors that could affect the property; The extent of data research; and the type and extent of analysis applied to arrive at opinions or conclusions.

A. Inspection of the subject

This phase of the appraisal involves a physical inspection of the subject property, as specified by the SCDOT Appraisal Manual and Uniform Act. The subject was inspected on _____.

B. Extent of research

This involves the collection of data on national, state, regional and local trends, and an identification and analysis of the social, economic, environmental and governmental forces affecting the market value of the subject property. SCDOT provided plans and ownership information.

C. Extent of data research

Data research involves the inspection of the subject property, the neighborhood and collecting and analyzing data from the market area that affects the value of the subject property. I have performed research of the sales comparables similar to the subject and confirmation of those sales comparables in the past five years. An extensive search of similar properties in _____ County was undertaken. I also talked with real estate agents and appraisers familiar with area.

D. Type and extent of analysis applied to arrive at opinion or conclusion

This phase of the appraisal process involves analyzing all of the previously gathered data and determining the Highest and Best uses of the subject properties within the framework of the supply and demand, legal uses of the subject properties, and possible physical uses of the subject properties as if vacant, or as improved.

The South Carolina Department of Transportation requires that the Sales Comparison Approach be demonstrated for all improved properties unless unusual circumstances preclude its development or the improvements are determined to be unaffected by the acquisition. The Cost Approach shall be considered when the impacted improvements are less than ten years old, a special-use property, or when sufficient comparable sale or lease information is not available. The SCDOT requires application of the Income Approach on all investment and income-producing properties where existing improvements might be impacted by the project.

The conclusions have been reported in a SCDOT Standard format in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP), Uniform Act and SCDOT Appraisal Manual.

The SCDOT Right of Way plans identify the subject (before size) as Tract containing _____ acres or _____ square feet of land.

Adequate data was available to complete the analysis. The before value is subject to the extraordinary assumption that the new right of way does not exist and will not exist. The after value is subject to a hypothetical condition recognizing the value of the subject as if new right of way already existed.

(14)	Description of Property Before and After the Acquisition:	
	Utilities: Electricity <input type="checkbox"/> , Gas <input type="checkbox"/> , Well <input type="checkbox"/> , Public Water <input type="checkbox"/> , Septic Tank <input type="checkbox"/> , Public Sewer <input type="checkbox"/> , Other <input type="checkbox"/>	
	26. DESCRIPTION	BEFORE
	Present Use:	27. Click for List (Describe if "Other")
	Site Size:	Click for List (Describe if "Other")
	Acquisition Size:	
	Zoning:	
	Zoning Conformity:	
	Corner Influence:	
	Primary Frontage (Linear Feet):	
	Secondary Frontage(s) (Linear Feet):	
	Visibility:	
	Ingress/Egress Primary Road: Secondary Road(s):	
	Grade at Road Level:	
Shape:		
<u>Additional Comments:</u>		

(15) Highest and Best Use Before and After the Acquisition:

Summarize Highest and Best Use

Based on the preceding discussion, my opinion of the highest and best use of the subject property is for utilization.

(16) Description of the Area Acquired:

(17) Valuation Analysis:

A: Land Valuation- Sales Comparison Approach

Insert Adjustment Grid

Explanation and Support of Adjustments:

B: Valuation of Improvements in Area Acquired

Description of Site Improvements:

Explanation and Support of Value Estimate:

Provide support for value estimate.

Remainder Size	X	\$	per unit	X	Residual Value %	\$
Rounded to:						\$

GENERAL ASSUMPTIONS AND ALLOCATION OF VALUE

(18)	Estimated Value of the Acquisition:					
	Land Acquired:		ac/sf	X Unit Value:		
	Value Summary					
	Value of Land Acquired:					\$0
	Value of Temporary Right of Way:					
	Value of Site Improvements:					
Damages/Cost to Cure:						
Total:					\$0	
Therefore it is the appraiser's opinion that the Fair Market Value of the Acquisition is:					\$0	
as of:						
Date of the Report:						
<div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: 80%;"> <p style="text-align: center;">S.C. Certified General Real Estate Appraiser</p> <p style="text-align: center;">CG</p> </div>						

LIMITING CONDITIONS

General Assumptions - This appraisal has been completed and the appraisal report prepared with the following **general assumptions**:

- 27.** No responsibility is assumed for the legal description or for matters including legal or title considerations. The titles to the property are assumed to be good and marketable unless otherwise stated. Any plats, maps, or photographs in this appraisal are used merely to help the reader visualize the property and its surroundings and are not certified to be accurate.
- 28.** Any liens or encumbrances (except for any lease encumbrance that might be referred to in the appraisal) which may exist have been disregarded, and the property has been appraised as though no delinquency in the payment of general taxes or special assessment exists and as though free of indebtedness.

General Assumptions Continued

- 29.** It is assumed that the utilization of the land and improvements are within the boundaries of the lines of the property described and that there is no encroachment or trespass unless noted in the report. No survey of the subject property was made or caused to be made by us, and no responsibility is assumed for the occurrence of such matters.
- 30.** A visual inspection of the subject site was made and all engineering is assumed to be correct. The plot plan and illustrative materials in this report are included only to assist the reader in visualizing the property and to show the reader the relationship of its boundaries. The appraiser is not a construction engineer and is not responsible for structural or cosmetic inadequacies associated with any of the improvements unless otherwise noted in the report.
- 31.** It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them. The soil for the area under appraisal appears to be firm and solid, unless otherwise stated. Subsidence in the area is unknown or uncommon, and the appraiser(s) does not warrant against this condition or occurrence.
- 32.** Subsurface rights (minerals and oil) were not considered in this appraisal unless otherwise stated. In addition, no potential timber value was considered.
- 33.** It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined, and considered in the appraisal report. Unless otherwise stated in this report, the appraiser did not observe the existence of hazardous materials or gases, which may or may not be present on the property. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there are no such materials on or in the property, which would cause a loss in value. No responsibility is assumed for any such conditions or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

General Assumptions Continued

- 34.** It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconforming use has been stated, defined, and considered in the appraisal report.
- 35.** It is assumed that all required licenses, certifications of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or

organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

- 36.** This appraisal assumes water and sewer services will always be provided for the subject.
- 37.** Responsible ownership and competent property management are assumed.
- 38.** The Americans with Disabilities Act (“ADA”) became effective January 26, 1992. I (we) have not made a specific compliance survey and an analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative impact on the value of the property. Since I (we) have no direct evidence relating to this issue, I (we) did not consider non-compliance with the requirements of ADA in estimating the value of the property.
- 39.** There is currently a good deal of discussion regarding the potential hazards of Electro-Magnetic Fields and the possible health risk of being located near high voltage transmission lines. I (we) have not made a specific compliance survey and analysis of this property to determine whether or not there are potentially hazardous effects from EMF’s. It is possible that a compliance survey of the property together with a detailed analysis could reveal that there is EMF levels, which are above a safe level. If so, this fact could have a negative impact on the value of the subject property. Since I (we) have no direct evidence relating to this issue, I (we) did not consider EMF levels in estimating the value for the property.

General Limiting Conditions – This appraisal has been completed and the appraisal report has been prepared with the following **general limiting conditions**.

15. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used. The value estimates provided in the report apply to the entire property, and any proration or division of the total into fractional interests will invalidate the value estimate, unless such proration or division or interests has been set forth in this report.
16. Neither possession of this appraisal or copy thereof carries with it the right to publication, nor may it be used for any purpose by anyone but the applicant without previous consent of the appraiser(s).
17. The appraiser, by reason of this appraisal, is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless arrangements have been previously made.
18. Neither all nor part of the contents of this report (especially as to value, the identity of the appraiser, or the firm with which the appraiser is associated) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraiser.
19. Information, estimates, and opinions contained in this report are obtained from sources considered reliable, however the appraiser assumes no liability for such sources.
20. The information supplied to the appraiser is considered to be accurate. The information supplied by the client has been accepted without further verification as correctly reflecting the property's current condition unless otherwise noted.
21. The various estimates of value presented in this report apply to this appraisal only and may not be used out of the context presented herein. This appraisal is valid only for the appraisal date or dates specified herein and only for the appraisal purpose specified herein.

• CERTIFICATE OF APPRAISER

I hereby certify:

That I have personally inspected the property herein and that I have also made a personal field inspection of the comparable sales relied upon in making this appraisal. The subject and the comparable sales relied upon in making the appraisal were as represented in the comparable data brochure which supplements this appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal herein set forth are true, and information upon which the opinions expressed therein are based is correct: subject to the limiting conditions therein set forth.

That I understand that such appraisal may be used in connection with acquisition of right of way for a highway to be constructed by the State of South Carolina with the assistance of Federal-aid highway funds, or other Federal Funds.

That such appraisal has been made in conformity with the appropriate State and Federal laws regulations, policies and procedures applicable to that appraisal of right of way for such purposes; and that to the best of my knowledge, no portion of the value assigned to such property consists of items, which are non-compensable under the established law of South Carolina.

That neither my employment nor my compensation for preparing this appraisal report is in any way contingent upon the values reported herein.

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the South Carolina Department of Transportation or officials of the Federal Highway Administration and I will not do so until so authorized by the State officials or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That the owner or his designated representative was given the opportunity to accompany me during my inspection of the property.

That I have not provided any services regarding the subject property within the prior three years, as an appraiser or in any other capacity.

That any decrease or increase in the fair market value of the real property prior to the date of valuation caused by the public improvement for which such property is being acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to the physical deterioration with in the reasonable control of the owner, has been disregarded in determining the compensation for the property.

That my opinion of the fair market value of the acquisition as of enter date of value is \$ _____ based upon my independent appraisal and the exercise of my professional judgment.

As of the date of this report, I have completed the requirements for continuing education as set forth by the Uniform Standards of Professional Appraisal Practice.

Date: _____

Appraiser's Name Inspecting Appraiser State Certified General Real Estate Appraiser # _____

EMPLOYMENT HISTORY (List company or agency name, address, telephone number, dates of service, and job title and duties performed. Use separate sheet if needed.)

PROFESSIONAL DESIGNATIONS

ASSOCIATIONS (Include all professional appraisal or real estate associations to which you belong. Use separate sheet if necessary.)

REFERENCES Names, Addresses & Telephone # (include at least 3 who are familiar with your qualifications as an appraiser. Use separate sheet if necessary.)

APPRAISAL EXPERIENCE (List major clients for whom you have preformed appraisal services. Include specific eminent domain appraisal experience. You may be asked to provide samples.)

LITIGATION EXPERIENCE (Provide examples of the types of litigation for which you have given court testimony. Use separate sheet if necessary.)

NOTE: Review appraisers must have a minimum of five years experience in the appraisal of eminent domain acquisitions for highway use.

Signature

Date

SCDOT Form 141A

NOTICE OF NEED FOR APPRAISAL SERVICES

Notice is hereby given that the South Carolina Department of Transportation is requesting letters of interest from appraisers interested in performing work on the following projects. It is anticipated that these projects will be awarded within the next six (6) months:

✓	PROJECT ID NO.	ROAD/ROUTE	COUNTY

THE PURPOSE OF THIS NOTICE is to identify approved appraisers who wish to submit fee proposals on the above referenced projects. Interested appraisers must have the basic qualifications necessary to perform appraisal assignments with the South Carolina Department of Transportation (SCDOT). (These qualifications may be obtained by contacting the South Carolina Department of Transportation, Headquarters, Rights of Way Section, P. O. Box 191, Columbia, South Carolina 29202.) Requests for Proposals will be forwarded to selected appraisers based on the following criteria:

- Professional and ethical standing
- Experience in appraising the type(s) of properties included in the contract
- Qualifications of the appraiser
- Past performance
- Ability to testify as an expert witness
- Capacity of the firm

Approved appraisers with demonstrated experience, competence and qualifications are invited to submit interest letters. Appraisers will be selected in accordance with Title VI of the Civil Rights Act of 1964.

TO EXPRESS INTEREST:

Due Date: On or Before _____

Please return this form to: South Carolina Department of Transportation, Headquarters, Rights of Way Section, **Attention: Appraisal Interest Letter**, P. O. Box 191, Columbia, South Carolina, 29202.

I wish to receive a bid proposal for the project(s) identified above.

Signature: _____

Print Name (Appraiser) _____ **SC Real Estate Appraiser No.** CG

SCDOT Form 142A

Enter Date

Enter complete name and address of Addressee

RE: **REQUEST FOR APPRAISAL PROPOSALS — Contract No.**
Project ID No. Enter 7 digit Project ID No. — Enter Road or Route, the Designation, and the
Number. — Enter County Name. County

Dear Enter Salutation:

Fee proposals are requested for appraisal services on the above referenced project located in Enter County
Name. County from Project termini.

The enclosed Request for Proposal form reflects _____ tract(s). Relocation item(s) are located within the
proposed right of way on tract(s) _____. Please return this form to: South Carolina Department of Transportation
(SCDOT), Headquarters Rights of Way Section, **Attention: Bid Proposals**, P. O. Box 191, Columbia, South
Carolina 29202.

**The Proposal is due on/or before MM/DD/YY. Bids must be received by the end of business on the
due date in a sealed envelope marked “Bid Proposal.” Failure to comply will disqualify your bid.**

**“A COMPLETE SET OF PLANS INCLUDING CROSS SECTIONS ARE AVAILABLE AT
SCDOT HEADQUARTERS AND THE REGIONAL RIGHT OF WAY OFFICES. PLEASE CONTACT
THE CHIEF APPRAISER AT (803) 737-1537 OR _____, REGIONAL RIGHT OF WAY
ADMINISTRATOR AT ENTER REGIONAL OFFICE PHONE FOR REVIEW.”**

The South Carolina Department of Transportation, in accordance with Title VI of the Civil Rights Act of
1964, 78 state 252, 42 U.S.C. 2000d to 2000-4 and Title 49, Code of Federal Regulations, Department of
Transportation, Sub-title A, Office of the Secretary, Department of Transportation, issued pursuant to such Act,
hereby notifies all bidders that it will affirmatively insure that, in any contract entered into pursuant to this
solicitation, minority business enterprises will be afforded full opportunity to submit bids in response to this
invitation and will not be discriminated against on the grounds of race, color, religion, creed, sex, age, ancestry,
or national origin in consideration for an award.

Page 2
 Enter Date

Appraisals of improved properties must be submitted within ____ days of the contract award date. Appraisals of unimproved tracts are due within ____ days of the contract award date. All reports must be submitted on acceptable forms according to the Appraisal Manual of the South Carolina Department of Transportation.

Yours very truly,

William C. Johnston
 Assistant Director of Rights of Way
 for Operations

WCJ/Enter Typist initials (in lowercase)
 Enclosure
 cc: Liz Capps, Right of Way Agent
 File: RW/WCJ

, 20

Project ID No. Enter 7 digit Project ID No. Road/Route _____ County Enter County Name.

**Bid Proposal
 Contract No.:**

I wish to submit the following fee proposal for the appraisal of tracts included in the above referenced project.

Tract No.	Nominal	Simple Standard	Moderate Standard	Complex Standard	Scope of Work*	Proposal Fee
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$
TOTAL						\$

* **Relocation** - Improvements within right of way

_____ Appraiser's Name _____ Appraiser's Signature

S.C. Certified General Real Estate Appraiser No. CG _____

SCDOT Form 142B

Enter Date

Enter complete name and address of Addressee

**SECTION I: RE: REQUEST FOR APPRAISAL REVIEW PROPOSALS —
Contract No.**

Project ID No. Enter 7 digit Project ID No. — Enter Road or Route, the Designation, and the Number.
— Enter County Name. County

Dear Enter Salutation:

Fee proposals are requested for appraisal services on the above referenced project located in Enter County Name. County from Project termini.

The enclosed Request for Proposal form reflects _____ tract(s). Relocation items(s) are located within the proposed right of way on tract(s) _____. Please return this form to: South Carolina Department of Transportation (SCDOT), Headquarters Rights of Way Section, **Attention: Bid Proposals**, P. O. Box 191, Columbia, South Carolina 29202.

The Proposal is due on/or before MM/DD/YY. Bids must be received by the end of business on the due date in a sealed envelope marked “Bid Proposal.” Failure to comply will disqualify your bid.

“A COMPLETE SET OF PLANS INCLUDING CROSS SECTIONS ARE AVAILABLE AT SCDOT HEADQUARTERS AND THE REGIONAL RIGHT OF WAY OFFICE. PLEASE CONTACT THE CHIEF APPRAISER AT (803) 737-1537 OR _____, REGIONAL RIGHT OF WAY ADMINISTRATOR AT ENTER REGIONAL OFFICE PHONE FOR REVIEW.”

The South Carolina Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964, 78 state 252, 42 U.S.C. 2000d to 2000-4 and Title 49, Code of Federal Regulations, Department of Transportation, Sub-title A, Office of the Secretary, Department of Transportation, issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that, in any contract entered into pursuant to this solicitation, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, creed, sex, age, ancestry, or national origin in consideration for an award.

Appraisal Reviews that require no revisions or corrections must be submitted within _____ calendar days from the date of receipt. Reviews of appraisals requiring revisions or corrections are due within _____ calendar days from date revisions or corrections are received. All reports must be submitted on acceptable forms according to the Appraisal Manual of the South Carolina Department of Transportation.

Yours very truly,

William C. Johnston
Assistant Director of Rights of Way
for Operations

SCDOT Form 143A

Enter Date

Enter complete name and address of Addressee

RE: Project ID No. Enter 7 digit Project ID No. — Enter Road or Route, the Designation, and the Number. —
Enter County Name. County
Contract No.

Dear :

Enclosed you will find a Contract for Appraisal Services in accordance with your proposal for preparation of appraisals on the above referenced project. Please sign the original and return to the South Carolina Department of Transportation (SCDOT), **Attention: Appraisal Contract**, Headquarters Rights of Way Section, P. O. Box 191, Columbia, South Carolina 29202.

Your attention is directed to paragraphs 2 and 6(B) of the contract regarding penalties due to late delivery and prompt reply to corrections and revisions.

The original and two copies of the Comparable Data Brochure and each Appraisal Report are required and should also be submitted to the **Headquarters (HQ) Appraisal Section** as they are completed. SCDOT will distribute copies to the Regional Office.

Reviews on this project are being performed by "Enter Name of Appraiser performing Reviews". (*When reviews are outsourced the original and one copy of the brochure and each appraisal report must be submitted to Headquarters Appraisal Section and two copies to the review appraiser.*)

If you have any questions please do not hesitate to contact this office.

Yours very truly,

William C. Johnston
Assistant Director of Rights of Way
for Operations

4. WCJ/rvg
Enclosure
cc: Liz Capps, Right of Way Agent
File: RW/WCJ

5. CONTRACT FOR APPRAISAL SERVICES

Contract No.

THIS CONTRACT is made between Appraiser's Name, Licensed Appraiser # CG (hereinafter called "Appraiser") and the South Carolina Department of Transportation (hereinafter called "SCDOT") this _____ day of _____ 20_____.

For and in consideration of the performance of the mutual covenants and promises made herein, the parties agree as follows:

1. SERVICES TO BE PERFORMED

Appraiser shall provide the appraisal services described below for the following parcels of property at the fee stated, subject to the terms, conditions, and general provisions set forth herein and such other provisions, if any, incorporated by attachment or reference.

Project ID No.			Road/Route			County		
Enter 7 digit Project ID No.			Enter Road or Route, the Designation, and the Number.			Enter County Name.		
Tract	Appraisal Type	Fee	Tract	Appraisal Type	Fee	Tract	Appraisal Type	Fee

Appraiser shall perform an appraisal of the fair market value of the above listed properties and prepare a written report of the appraisal (hereinafter referred to as the "Appraisal Report") in accordance with the SCDOT Appraisal Manual, applicable state and federal laws, and appropriate guidance memoranda.

2. TIME FOR DELIVERY

The Appraisal Report(s) shall be furnished in triplicate to SCDOT on or before _____, 20_____. All reports must be delivered to SCDOT within 15 days of the date of valuation to be considered acceptable.

Time extensions for delivery must be requested in writing at least five (5) business days prior to the required delivery date (and must include time needed to complete and reason for request) and is subject to approval by the Chief Appraiser and/or Right of Way Field Administrator for Operations.

Failure of Appraiser to submit an Appraisal Report on or before the above date will subject Appraiser to a reduction of five (5%) percent of the per parcel fee for each delinquent report for each CALENDAR day that the report is delinquent. The Chief Appraiser and/or Right of Way Field Administrator for Operations may at his/her discretion waive this penalty for good and sufficient reason.

3. PAYMENT

Appraiser shall be paid the above stated fee for each parcel upon completion of the appraisal and Appraisal Report for that parcel and delivery of the report in triplicate to the SCDOT Rights of Way Appraisal Section, with an invoice in triplicate. Such payment shall constitute full reimbursement to Appraiser for services provided and any expenses incurred, including the costs of all supplies, material, equipment, and consultant services, unless otherwise agreed in writing.

4. APPRAISER OBSERVATIONS/RECOMMENDATIONS

In addition to the normal scope of services, Appraiser shall provide his/her recommendations and observations regarding mitigation of damages and/or other value enhancement suggestions. When such recommendations require substantial changes in the typical scope of services, compensation for the additional work may be negotiated as provided for in paragraph 6(D) below. All recommendations and suggestions shall be presented to the Chief Appraiser and/or Regional Administrator for approval prior to submitting the Appraisal Report.

5. COURT TESTIMONY

Upon request of SCDOT Legal Counsel, the Appraiser agrees to testify regarding the content and conclusions of his/her Appraisal Reports in any judicial proceedings involving a determination of the value of the property. In consideration of the performance of this work, the Appraiser shall be paid at a rate not in excess of \$75.00 per hour. Such payment shall constitute full reimbursement to the Appraiser for such services and for any expenses incurred, including travel and subsistence unless otherwise agreed to in writing. Payment for this work shall be by SCDOT in accordance with its prescribed regulations and procedures.

6. GENERAL PROVISIONS

A. Type of Appraisal Required: Appraisal Reports shall be prepared in accordance with the instructions for the type of appraisal required as provided in the approved "Appraisal Manual" of SCDOT and in accordance with the Scope of Services agreed to by the Appraiser and SCDOT.

B. Corrections and Revisions: If requested in writing to submit corrections or revisions to the Appraisal Report previously submitted, the Appraiser shall provide the required information to SCDOT within 15 calendar days of receiving the request. Failure to provide such additional information will render the Appraisal Report unacceptable and no additional payment will be made for that tract.

C. Data to be Provided by SCDOT: The following data or information will be furnished to Appraiser by the South Carolina Department of Transportation: Ownership (1st sheets), right of way plans showing area to be acquired, and analysis of engineering shown on plans as necessary.

D. Changes in Work:

1) SCDOT reserves the right to unilaterally add or delete parcels from the Contract and to revise scopes of work as necessary. The Appraisal Contract Modification Form (SCDOT R/W Form 146-A) will be used for the purpose and to adjust appraisal fees accordingly.

2) Other changes in the scope, character, or estimated total cost of the work must be agreed upon by both parties in writing.

E. Updated Appraisals: In the event SCDOT requires a previously acceptable Appraisal Report to be updated, such work will be the subject of negotiation between the Appraiser and the Chief Appraiser and/or Assistant Director of Rights of Way for Operations.

F. Confidentiality: All information contained in the Appraisal Report and all parts thereof are to be treated as strictly confidential unless otherwise instructed by SCDOT or its Legal Counsel. The Appraiser shall take all necessary steps to insure that no member of his staff or organization divulges any information concerning the Appraisal Reports except to a duly authorized representative of SCDOT.

G. Inspection: The Appraiser shall give the property owner or his designated representative the opportunity, by written notice, or otherwise, to accompany him/her during the inspection of the property for the purpose of making the appraisal.

H. Compliance with Law: In the performance of the work of this Contract Appraiser agrees to comply with all applicable Federal, State and local laws and ordinances.

I. Title VI, Civil Rights Act of 1964. Appraiser specifically agrees to comply with the Title VI of the Civil Rights Act in addition to Title 15, Code of Federal Regulations, part 8, issued in implementation of Title VI. The regulations provide as follows:

TITLE VI - NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS. Sec. 601. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

During the performance of this contract, Appraiser, for him/herself, and for his/her sub-consultants, assignees and successors agrees as follows:

1) *Compliance with Regulations*. Appraiser shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter, "USDOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.

2) *Nondiscrimination*. With regard to the work performed during the Contract, Appraiser shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Appraiser shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the Contract covers a program set forth in Appendix B of the Regulations.

3) *Solicitations for Subcontracts, Including Procurements of Materials and Equipment*. In all solicitation either by competitive bidding or negotiation made for work to be performed under a sub-contract, including procurements of materials or equipment, Appraiser shall notify each potential subcontractor or supplier of Appraiser's obligations under this Contract and the Regulations relative to nondiscrimination on the ground of race, color, sex or national origin.

4) *Information and Reports*. Appraiser shall provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records accounts, other sources of information, and its facilities as may be determined by SCDOT or the Federal Highway Administration to be pertinent to ascertain

compliance with such Regulations, orders and instructions. Where any information required is in the exclusive possession of another who fails or refuses to furnish this information, Appraiser shall so certify to SCDOT, or the Federal Highway Administration as appropriate, and shall set forth what efforts Appraiser has made to obtain the information.

5) *Sanctions for Noncompliance.* In the event of Appraiser's noncompliance with the nondiscrimination provisions of this contract, SCDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: a) withholding of payments to Appraiser under the Contract until the Appraiser complies, and/or; b) cancellation, termination or suspension of the Contract, in whole or in part.

6) *Incorporation of Provisions.* Appraiser shall include the provisions or paragraph (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, order, or instruction issues pursuant thereto. Appraiser shall take such action with respect to any subcontract or procurement as SCDOT or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event Appraiser becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Appraiser may request the State to enter into such litigation to protect the interest of the State, and, in addition, Appraiser may request the United States to enter into such litigation to protect the interest of the United States.

J. Warranty: Appraiser warrants that he/she has not employed or retained any company or person, other than a bona fide employee working solely for Appraiser, to solicit, or secure this Contract, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Appraiser, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the State shall have the right to annul this Contract without liability.

K. Subletting: Appraiser agrees that the Contract will not be sublet or transferred except by prior written approval of SCDOT.

I. Appraiser's Certificate: Appraiser agrees to execute a Certificate of Appraiser similar in form and function to SCDOT R/W Form 109A. The Certificate is to be attached to the Appraisal Reports.

K. Disputes: Except as otherwise provided for in this Contract, any dispute concerning a question of fact arising under the Contract which is not disposed of by mutual agreement, shall be decided by the Director of Rights of Way, who shall reduce his/her decision to writing, and

mail or otherwise furnish a copy of his/her decision to Appraiser. Within thirty days from the date of receipt of such copy, Appraiser may appeal by mailing or otherwise furnishing to the Deputy Director of Engineering a written appeal. The decision of the Deputy Director of Engineering, or his/her designee, shall be final and conclusive, subject only to appeal to a court of competent jurisdiction. In connection with any appeal to the Director of Engineering, Appraiser shall be afforded an opportunity to be heard and to offer evidence in support of his/her appeal. Pending final decision of a dispute hereunder, Appraiser shall proceed diligently with the performance of the Contract and in accordance with the Director of Rights of Way's decision.

L. Termination for Default: If Appraiser refuses or fails to perform this Contract within the time specified, or any extension thereof, or so fails to make progress so as to endanger performance of this Contract in accordance with its terms, SCDOT may by written notice, terminate the right of Appraiser to proceed with the Contract or with such part thereof as to which there has been default or delay, and may hold the Appraiser liable for any damage caused SCDOT by reason of such termination. The right of the Appraiser to proceed with the performance of the Contract shall not be terminated under this clause if the delay is due to causes beyond the control and without the fault or negligence of Appraiser. Upon termination under this clause, SCDOT reserves the right to require Appraiser to turn over to SCDOT all data, maps, photographs, or other materials acquired for this contract work upon payment of an equitable price therefore.

M. Termination for Convenience of SCDOT: The performance of work under the Contract may be terminated, in whole or in part, whenever SCDOT shall determine that termination is in its best interest, by delivery to Appraiser of a written Notice of Termination at least three (3) days prior to the effective date of termination. Upon receipt of the Notice, Appraiser agrees to cease all work, to turn over to SCDOT all data, maps, photographs, and other material acquired for the Contract work, and to submit to SCDOT a claim for work performed prior to termination. SCDOT shall pay Appraiser an equitable price for work performed prior to termination, such price not to exceed a fair proportion of the original contract price.

IN WITNESS WHEREOF, the parties have set their hands and seals on the dates shown below.

WITNESS:

Date: _____

APPRAISER

Name: _____

By: _____

Title: _____

WITNESS:

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

Name: _____

Date: _____

By: _____

Title: _____

SCDOT Form 143B

, 20

Review Contract #

SECTION I: L _____ SECT _____ Count _____

SECTION I: Name
SECTION I: Address
SECTION I: City, SC ZIP

Dear _____ :

Attached you will find the contract in accordance with your proposal for preparation of appraisal reviews on the above referenced project. Please sign the original and return to the **Attention: Appraisal Review Contract**, Right of Way Section, South Carolina Department of Transportation, P.O. Box 191, Columbia, SC 29202.

If corrections or revisions are required the date they are received should be indicated on the back of each page and inserted in the appropriate place in the report. The removed pages should be marked void in red on the front and attached face down to the back of the report.

You will receive one (1) copy of the comparable data brochure and one (1) copy of each appraisal report from the appraiser. Upon completion please submit the (2) original review sheets (SCDOT form 151-A) and (2) copies of the front page of the comparable brochure to: Name, Regional R/W Administrator, address, city, SC zip. A copy of the report may be retained for your files.

If you have any questions please do not hesitate to contact this office.

Yours very truly,

Name
Title

SECTION I: **Sender's initials/Typist's initials**

cc:
Name, Title
File

revisions request dates, corrections or revisions received dates and approved/released dates. The Review Appraiser's log must be submitted to SCDOT upon the completion of the contract (or at anytime per SCDOT's request). The Review Appraiser must submit a Post Appraisal Evaluation (form 117A) upon completion of the contract. Reviews must be in accordance with the SCDOT Appraisal Manual and applicable state and federal laws, and in accordance with appropriate memoranda, of the individual parcels comprising the real property described above. Time Extensions to this contract must be requested in writing at least 7 days prior to the expiration date of this contract (and must include time needed to complete & reason for request) and is subject to approval by the Director Rights of Way and/or designee(s). Failure of the Review Appraiser to submit certified reviews within the specified time will subject him to a reduction of 5% of the per parcel contract amount of each delinquent review for each CALENDAR day that the review is delinquent. The Field Administrator and/or designee(s), Rights of Way may at his/her discretion; waive this penalty for good and sufficient reason.

Total Number of Tracts to be Reviewed:

Total Contract Amount: \$

Payment shall constitute full reimbursement to the Review Appraiser for his services and for any expenses incurred, including the costs of all supplies, material, equipment, and consultant services unless otherwise specified.

3. COURT TESTIMONY:

Upon the request of the South Carolina Department of Transportation Legal Counsel, the Review Appraiser agrees to testify as to the value of any and all of the property included in the appraisal reports reviewed in any judicial proceedings involving a determination of the value of the property. In consideration of the performance of the undertaking provided for in this paragraph, the Review Appraiser shall be paid at a rate not in excess of \$75.00 per hour. Such payment shall constitute full reimbursement to the Review Appraiser for such services and for any expenses incurred, including travel and subsistence unless otherwise specified. Payment therefore shall be by SCDOT in accordance with its prescribed regulations and procedures.

4. GENERAL PROVISIONS:

A. APPRAISER'S REVIEWS: The reviews shall be prepared in accordance with the instructions for the type of appraisal required as contained in the "Appraisal Manual" of SCDOT.

B. CORRECTIONS AND REVISIONS: When requested in writing to submit corrections or revisions to the report previously submitted under this contract the Review Appraiser shall provide the required information to SCDOT within 15 calendar days of receiving the

request. Failure to provide such additional information will render the review unacceptable and no additional payment will be made for that tract.

- C. DATA TO BE PROVIDED:** The following data or information will be furnished by the South Carolina Department of Transportation: Agent Rights of Way Worksheet (1st sheets), right of way plans showing area to be acquired and analysis of engineering shown on plans as necessary.
- D. PAYMENT:** Payment for the Reviews shall become due upon delivery and acceptance of the Reviews in conformity with this contract.
- E. CHANGE IN WORK:** The mutual acceptance of major changes in the scope, character, or estimated total cost of the work to be performed if such changes become necessary as the work progresses may be subject to negotiation.
- F. UPDATING APPRAISAL REVIEWS:** In the event SCDOT requires the “updating” of previously acceptable appraisal reviews, such work will be the subject of negotiation.
- G. DEFINITION:** The word “parcel” as used herein means areas included in the description set forth herein which are contiguous and in identical ownership. The land will be deemed contiguous even though portions thereof are separated by roads, railroad rights of way, streams, etc. If there has been a severance of the surface and sub-surface of the land, determination of what constitutes a parcel shall be based on ownership of the surface.
- H. INFORMATION CONFIDENTIAL:** All information contained in the review(s) and all parts thereof are to be treated as strictly confidential. The Review Appraiser shall take all necessary steps to insure that no member of his staff or organization divulges any information concerning the Reviews except to a duly authorized representative of SCDOT.
- I. LEGAL COMPLIANCE:** The Review Appraiser agrees to comply with all Federal, State and local laws and ordinances applicable to the work required by this contract, including Title 15, Code of Federal Regulations, part 8, issued in implementation of Title VI, of the Civil Rights Act of 1964. The applicable regulations are as follows:
TITLE VI - NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS Sec. 601. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

During the performance of this contract, the contracted, for itself, its assignees and successors in interest (hereinafter referred to as the “appraiser”), agrees as follows:

- 1) **Compliance with Regulations:** The appraiser shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter, "USDOT") Title 49, Code of Deferral Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- 2) **Nondiscrimination:** The appraiser, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The appraiser shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- 3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitation either by competitive bidding or negotiation made by the appraiser for work to be performed under a sub-contract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the appraiser of the appraiser's obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex or national origin.
- 4) **Information and Reports:** The appraiser will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records accounts, other sources of information, and its facilities as may be determined by the South Carolina Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an appraiser is in the exclusive possession of another who fails or refuses to furnish this information, the appraiser shall so certify to the South Carolina Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- 5) **Sanctions for Noncompliance:** In the event of the appraiser's noncompliance with the nondiscrimination provisions of this contract, the South Carolina Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the appraiser under the contract until the appraiser complies, and/or;
 - b. Cancellation, termination or suspension of the contract, in whole or in part.

- 6) Incorporation of Provisions:** The appraiser will include the provisions or paragraph (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, order, or instruction issues pursuant thereto. The appraiser will take such action with respect to any subcontract or procurement as the South Carolina Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, that, in the event the appraiser becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the appraiser may request the State to enter into such litigation to protect the interest of the State, and, in addition, the appraiser may request the United States to enter into such litigation to protect the interest of the United States.
- J. WARRANTY:** The Review Appraiser warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Review Appraiser, to solicit, or secure this agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Review Appraiser any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the State shall have the right to annul this agreement without liability.
- K. SUBLETTING:** The Review Appraiser agrees that the contract will not be sublet or transferred except by prior written approval of SCDOT.
- L. REVIEW APPRAISER'S CERTIFICATE:** The Review Appraiser agrees to execute a Certificate of Review Appraiser similar in form and function to SCDOT R/W Form 108A. The certificate is to be attached to the reviews.
- M. DISPUTES:** Except as otherwise provided for in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement, shall be decided by the State Highway Engineer, who shall reduce his decision to writing, and mail or otherwise furnish a copy of his decision to the Review Appraiser. Writing thirty days from the date of receipt of such copy, the Review Appraiser may appeal by mailing or otherwise furnishing to the State Highway Engineer a written appeal addressed to the Executive Director and the decision of the Executive Director or his representative duly authorized to hear such appeals, shall, unless determined by a court of competent jurisdiction to have been fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, be final and conclusive; provided that, if no such appeal is taken, the decision of the State Highway Engineer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Review Appraiser shall be afforded an opportunity to be heard and to offer

evidence in support of his appeal. Pending final decisions of a dispute hereunder, the Review Appraiser shall proceed diligently with the performance of the contract and in accordance with the Sate Highway Engineer's decision. The term "State Highway Engineer" as used herein shall include his duly appointed successor or his representative specially designated for this purpose.

N. TERMINATION FOR DEFAULT: If the Review Appraiser refuses or fails to perform this contract within the time specified, or any extension thereof, or so fails to make progress as to endanger performance of this contract in accordance with its terms, SCDOT may by written notice, terminate the right of the Review Appraiser to proceed with the contract or with such part thereof as to which there has been default or delay, and may hold the Appraiser liable for any damage caused SCDOT by reason of such termination. The right of the Review Appraiser to proceed with the performance of this contract shall not be terminated under this clause if the delay is due to causes beyond the control and without the fault or negligence of the Review Appraiser. Upon termination under this clause, SCDOT reserves the right to require the Review Appraiser to turn over to SCDOT all data, maps, photographs, or other materials acquired for this contract work upon payment of an equitable price therefore.

O. TERMINATION FOR CONVENIENCE OF SCDOT: The performance of work under this contract may be terminated, in whole or in part, whenever SCDOT shall determine that termination is in its best interest, by delivery to the Review Appraiser or a Notice of Termination at least three days prior to the effective date of termination. The Review Appraiser agrees to cease all work, to turn over to SCDOT all data, maps, photographs, and other material acquired for this contract work, and to submit to SCDOT a claim for work performed prior to termination. SCDOT shall pay the Review Appraiser an equitable price for work performed prior to termination, such price not to exceed a fair proportion of the original contract price.

5. EXECUTION BY REVIEW APPRAISER:

WITNESS:

_____ **Date** _____
_____ **Fee Appraiser**

6. EXECUTION FOR AND ON BEHALF OF SCDOT:

WITNESS:

_____ **Date** _____

“Title”, Right of Way

Project ID No. _____

SCDOT Form 143C

, 20

Appraiser's Name
Address
City, SC ZIP

RE: Letter Contract # _____ - Project ID No. _____ - Road/Route - County _____

Dear _____ :

In reference to the above project you are requested to prepare appraisal report(s) in a Summary format. The following fee(s) is/are approved, and the completion date(s) are as follows:

- Tract # _____ Tract # _____ \$Enter Amount _____ Enter Due Date _____

The original and two copies of the report(s) are required, and should be submitted to: _____ ,
Title, SCDOT, _____ Address, City, SC 29zip.

Time extensions must be in writing at least five (5) business days prior to the expiration date. The request must indicate the reason for the extension and the time required to complete the assignment. The Regional Right of Way Administrator will review and recommend the request and forward to the Field Administrator for approval. Failure to submit report(s) on or before the completion date will result in a reduction of 5% of the per parcel contract amount of each delinquent report for each CALENDAR day the report is past due.

If this contract meets with your approval, please sign the enclosed copy of the agreement and return it to this office.

Sincerely,

Name
Title

Sender's Initials/Typist's Initials
Enclosure
File: PC/District Managers Initials

SECTION I: PLEASE RETURN SIGNED COPY TO THIS OFFICE

I agree to the stipulations and terms

Set forth in this document.

Appraiser's Name
CG

**SCDOT Form 144A
PRE-APPRAISAL CONFERENCE**

Date:

Project ID No.:		Road/Route:		County:	
SCDOT Appraisal Representative:					
Appraisal Contractor:				CG	Cert #

INFORMATION FURNISHED FEE APPRAISER:

SECTION annual:		SCDOT Appraisal Forms:			
Plans:		Contact Person:			
First Sheets:	Enter tract #'s		Telephone:		
Other:					
<p>*The SCDOT logo in the bottom right corner should be in color on a minimum of one appraisal for HQ files and original of all photo and signed pages provided in all appraisal reports.</p>					

TOPICS DISCUSSED:

SECTION I: Type/Scope of Appraisals:					
SECTION I: Personality:	Note relocation items and those to be considered in the estimate of value.				
Completion Dates:	Vacant Tracts		Improved Tracts		Corrections Within 15 calendar days
Contract Reviewed:			Manual Reviewed:		
Plans Reviewed:			First Sheets Reviewed:		
Method of Contact:	NOTE: The method of contact must be stated and approved.				
Other:					
REMINDER: Comparable data provided in the brochure must be complete.					

--

SECTION I:			
SECTION I: SCDOT Representative	Date	SECTION I: Appraisal Contractor	Date

SCDOT Form 145A

SECTION I: M E M O R A N D U M

TO: Fee Appraisers

FROM: Enter Name of Sender, Enter Sender's Title, Rights of Way

DATE: Enter Date

RE: CONTRACT AWARD NOTIFICATION
 Project ID No. Enter 7 digit Project ID No. — Enter Road or Route, the Designation, and the Number. — Enter County Name. County

Proposals were requested for appraisals of tracts included on the above referenced project. Replies were received from appraisers. All proposals have been reviewed in compliance with the Appraisal Manual of the South Carolina Department of Transportation (SCDOT). The contract for appraisal services has been awarded.

Thank you for your interest. The SCDOT will notify you of further requests for proposals as needed.

Type Sender/Signer's Initials (in CAPS)/Enter Typists Initials (in lowercase)
 File: RW/Type Sender/Signer's Initials (in CAPS)

SCDOT Form 146A

APPRAISAL CONTRACT MODIFICATION FORM

TO: _____ FEE APPRAISER DATE: _____

FROM: _____ REGION

PROJECT ID NO. _____ ROAD/ROUTE: _____ COUNTY: _____

FEE APPRAISER NAME: _____ GENERAL CERTIFICATION: CG

CONTRACT NO.: _____ COMPLETION DATE: _____

#1) A = ADDITION; D = DELETION; E = EXTENSION; T = TYPE; OR U = UPDATE

#2) N = NEW APPRAISAL

Tract No.	Type	Fee Amount	\$	Due Date
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

DATE 1ST SHEET MAILED TO FEE APPRAISER: _____

APPROVED BY:
PLEASE RETURN SIGNED COPY TO:
I agree to the stipulations and terms set forth in this appraisal contract and modifications.

Regional Administrator
Date

Appraisal Contractor
Date

	Assistant Director of Rights of Way for Operations
	Chief Appraiser
	Review Appraiser

The Post Appraisal conference must be completed within 45 calendar days of the completion of the appraisal contract. Failure to attend Post Conference will constitute automatic removal from Approved Fee Appraiser List and Review Appraisers List.

SCDOT Form 149A

Enter Current Date

Enter complete Name and Address of Appraiser

RE: South Carolina Real Estate Licenses and Certificates

Dear Enter Salutation:

The South Carolina Department of Transportation (SCDOT) is updating its Approved Fee Appraisers List. In order to remain on our approved list you must submit a copy of your General Certification along with the information requested below by **Enter date**. Please include a business card if available.

If you are not interested in preparing appraisals for SCDOT at this time, we ask that you consider being placed on our Inactive Roster. You may notify the Department when you wish to be returned to the Active Roster. If you have any questions, please contact Enter contact's name at Enter contact's number.

Yours very truly,

William C. Johnston
Assistant Director of Rights of Way
for Operations

WCJ/Enter Typist's Initials (in Lowercase)
File: RW/WCJ

Firm Name _____
 Name _____ Professional Designation or Certification _____
 Address _____
 Area Code & Phone No. _____ Fax No. _____
 E-mail Address _____
 Cell Phone No. _____ Pager No. (if applicable) _____

_____ Copy of License or Certificate enclosed (failure to submit by Enter date due will result in the removal of your name from the Approved Fee Appraiser's List).

SCDOT Form 151A

South Carolina Department of Transportation
APPRAISAL REVIEW

Project ID No.		Road/Route		County	
				Tract No.	

	Before Value	After Value	Acquisition Value		
Appraisal No. 1			\$0		
Appraisal No. 2			\$0		
Appraiser Name/Certification		Date of Value:		Report Date:	

Land Acquired		<i>(Including Site Improvements)</i>
Improvements Acquired		
Damages to Remainder		
Cost to Cure		
Less Benefits to Remainder		
(1) Total	\$0.00	
Plus Uneconomic Remainder		
(2) Total	\$0.00	

Temporary Right of Way: _____ for _____ sf/acres of land.

Fair Market Rent: _____ *(From Paragraph 33 of Standard Report)*

Right of Way:	\$0.00	For:
Damages (minus benefits):	\$0.00	

(1) Total:	\$0.00	
OR		
Plus Uneconomic Remainder:	\$0.00	(Enter value of uneconomic remainder.)
(2) Total:	\$0.00	for:

Comments/Explanations:

1. If technical review appraisal is performed by Fee Review Appraiser his signature recommends just compensation to SCDOT. See items 2, 3, 4 and 5 for approval for negotiations.
2. If under \$250,000 and no damages and/or benefits a technical review will be performed by a staff appraiser. The staff appraiser's signature indicates approval for negotiations.
3. If over \$250,000, a technical review will be performed by a staff appraiser and forwarded to the Chief Appraiser for approval for negotiations.
4. If there are any damages and/or benefits, a technical review will be performed by a staff appraiser and forwarded to the Chief Appraiser for approval for negotiations.
5. Desk Review by the Chief Appraiser, in addition to a technical review, is required where benefits exceeds damages or where acquisition values are in excess of \$500,000 and forwarded to the Assistant Director of Rights of Way for Operations for approval for negotiations.

(Signature-remove before printing)			(Signature-remove before printing)	
(Type Name of Appraiser) Technical Review Appraiser S.C. Real Estate Appraiser #			SCDOT Representative	
Date of Review			Approved for Negotiations	
			Date:	



APPRAISAL REVIEW SUMMARY

The reviewer has field inspected the subject property and the comparable sales contained in the appraisal. The reviewer has checked all information found in the appraisal for accuracy and compliance with standard appraisal techniques, the SCDOT Appraisal Manual, and the Uniform Standards of Professional Appraisal Practice. If errors or omissions are found, the reviewer has requested corrections to the appraisal. The review has been performed in compliance with the rules and regulations of the South Carolina Department of Transportation and the Federal Highway Administration. The purpose of the review is to insure accuracy and quality of work in for condemnation appraisals prepared for the acquisition of property by the State of South Carolina for highway improvements.

Real property interest being appraised:	Fee Simple
-----------------------------------------	-------------------

The review appraiser has identified the appraisal report as:

	Recommended - as the basis for the establishment of the amount believed to be just compensation.	Type either Recommended, Accepted, Not Accepted in this space
	Accepted - meets all requirements, but not selected as recommended or approved.	
	Not accepted	

Answer Yes or No to the following questions:

The appraisal meets all applicable standards. The data contained in the report is relevant to the appraisal problem. The quality and quantity of the data is adequate. Adjustments are reasonable and adequately supported. The methods and techniques are appropriate and adequately supported. The analyses, opinions, and conclusions in the appraisal are reasonable.	
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Comments:

--

I certify that to the best of my knowledge are belief:

- the facts and data reported by the reviewer and used in the review process and true and correct.
- the analyses, opinions and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal, impartial, unbiased, professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this review.
- my analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I did personally inspect the subject property and the supporting comparable properties of the report under review.
- no one provided significant professional assistance to the person signing this review report.
- I have not performed any services on the subject property in the past three years.

(Signature-remove before printing)	
(Type Name of Appraiser) Review Appraiser	
S.C. Real Estate Appraiser #	0
Date:	January 0, 1900

Project ID	
No.	0
Tract No.	0



DESK APPRAISAL REVIEW SUMMARY

The extent and detail of the review process is, the reviewer has not inspected the subject realty, nor any comparable sales considered by the appraiser(s); the reviewer has checked all information found in the appraisal for accuracy and compliance with standard appraisal techniques and the uniform standards of professional appraisal practice. If errors

or omissions are found; the reviewer has asked for corrections to the appraisal. This review is conducted in compliance with the rules and regulations of the South Carolina Department of Transportation and Federal Highway Administration. The purpose being to insure the quality of work and accuracy in the SCDOT appraisal.

Answer Yes or No to the following questions:

<p>The appraisal meets all applicable standards. The data contained in the report is relevant to the appraisal problem. The quality and quantity of the data is adequate. Adjustments are reasonable and adequately supported. The methods and techniques are appropriate and adequately supported. The analyses, opinions, and conclusions in the appraisal are reasonable.</p>	
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Comments:

I certify that to the best of my knowledge and belief:

- the facts and data reported by the reviewer and used in the review process are true and correct.
- the analyses, opinions and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal, impartial, unbiased, professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this review.
- my analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I did not inspect the subject property and the supporting comparable properties of the report under review.
- no one provided significant professional assistance to the person signing this review report.
- I have not performed any services on the subject property in the past three years.

(Signature-remove before printing)	
(TYPE NAME)	
Desk Review Appraiser	
S.C. Real Estate Appraiser #	0
Date of Review:	January 0, 1900

Project ID No. 0
Tract No. 0

SOUTH CAROLINA CASE LAWS

SECTION VI: SOUTH CAROLINA CASE LAW

Westlaw

175 S.E.2d 391
254 S.C. 360, 175 S.E.2d 391
(Cite as: 254 S.C. 360, 175 S.E.2d 391)

Page 1

▶ **South Carolina State Highway Dept. v. Wilson**,
S.C. 1970.

Supreme Court of South Carolina.
SOUTHCAROLINA STATE HIGHWAY
DEPARTMENT, Appellant,

v.

Gertrude B. **WILSON**, Anna Rebecca Drayton,
Martha G. Alexander, Raymond Drayton and Aubrey
W. Jones, Respondents,
and Standard Oil Company and Shell Oil and Gas
Company.
No. 19071.

June 26, 1970.

Highway condemnation case. The Common Pleas Court, Lee County, E. Harry Agnew, J., entered judgment on jury verdict and highway department appealed. The Supreme Court, Bussey, J., held that where construction of median permitting access to plaintiff's property was only an incidental part of overall highway department plan for construction and relocation of highway any damage attributable to median was an incidental result of exercise of power of eminent domain and not an exercise of police power and could be considered in determining amount of damage suffered by abutting landowner from the condemnation and construction.

Affirmed.
West Headnotes

[1] Eminent Domain 148 ↪ 2.1

148 Eminent Domain

148I Nature, Extent, and Delegation of Power

148k2 What Constitutes a Taking; Police and

Other Powers Distinguished

148k2.1 k. In General. **Most Cited Cases**

(Formerly 148k2(1))

Eminent Domain 148 ↪ 122

148 Eminent Domain

148II Compensation

148II(C) Measure and Amount

148k122 k. Necessity of Just or Full
Compensation or Indemnity. **Most Cited Cases**

Just compensation is required in case of exercise of power of eminent domain, but not for loss by property owner resulting from constitutional exercise of police power.

[2] Courts 106 ↪ 95(1)

106 Courts

106II Establishment, Organization, and Procedure

106II(G) Rules of Decision

106k88 Previous Decisions as Controlling
or as Precedents

106k95 Decisions of Courts of Other
State

106k95(1) k. In General. **Most Cited**

Cases

Decisions of courts of other jurisdictions are only persuasive authority.

[3] Eminent Domain 148 ↪ 63

148 Eminent Domain

148I Nature, Extent, and Delegation of Power

148k63 k. When Taking Is Complete; Date of

Taking. **Most Cited Cases**

Deprivation of ordinary beneficial use and enjoyment of one's property is equivalent to taking of it and is as much a taking as though property were actually appropriated to public use. Const. art. 1, § 17.

[4] Eminent Domain 148 ↪ 63

148 Eminent Domain

148I Nature, Extent, and Delegation of Power

148k63 k. When Taking Is Complete; Date of

Taking. **Most Cited Cases**

Within purview of constitutional provision that private property shall not be taken for public use without just compensation, there is no distinction between taking and damaging and the least damage to property constitutes a "taking". Const. art. 1, § 17.

[5] Eminent Domain 148 ↪ 112

148 Eminent Domain

148II Compensation

148II(B) Taking or Injuring Property as

Ground for Compensation

[148k94](#) Elements of Compensation for Injuries to Property Not Taken

[148k112](#) k. Injuries from Construction or Operation of Works. [Most Cited Cases](#) (Formerly 148k12)

Where construction of median permitting access to plaintiff's property was only an incidental part of overall highway department plans for construction and relocation of highway, any damage attributable to median was an incidental result of exercise of power of eminent domain and not an exercise of police power and could be considered in determining damages suffered by abutting landowner from the condemnation and construction. Const. art. 1, § 17.

[\[6\]](#) Trial 388 43

[388](#) Trial

[388IV](#) Reception of Evidence

[388IV\(A\)](#) Introduction, Offer, and Admission of Evidence in General

[388k43](#) k. Admission of Evidence in General. [Most Cited Cases](#)

Trial 388 55

[388](#) Trial

[388IV](#) Reception of Evidence

[388IV\(A\)](#) Introduction, Offer, and Admission of Evidence in General

[388k55](#) k. Exclusion of Improper Evidence.

[Most Cited Cases](#)

Admission or exclusion of evidence is matter addressed to sound discretion of trial court.

[\[7\]](#) Appeal and Error 30 970(2)

[30](#) Appeal and Error

[30XVI](#) Review

[30XVI\(H\)](#) Discretion of Lower Court

[30k970](#) Reception of Evidence

[30k970\(2\)](#) k. Rulings on Admissibility of Evidence in General. [Most Cited Cases](#)

In absence of clear abuse of discretion of trial judge in admitting or excluding evidence, amounting to error of law, his ruling will not be disturbed.

[\[8\]](#) Eminent Domain 148 262(5)

[148](#) Eminent Domain

[148III](#) Proceedings to Take Property and Assess Compensation

[148k250](#) Appeal

[148k262](#) Review

[148k262\(5\)](#) k. Harmless Error. [Most Cited Cases](#)

Evidence 157 142(3)

[157](#) Evidence

[157IV](#) Admissibility in General

[157IV\(C\)](#) Similar Facts and Transactions

[157k142](#) Showing Value

[157k142\(3\)](#) k. Difference in Time of Sale. [Most Cited Cases](#)

Allowing witnesses for landowners to testify, over objection, in regard to sale prices of two properties sold approximately nine years before condemnation in the instant case was not an abuse of discretion or prejudicial to condemnor, where the per acre prices involved in such sales were approximately one-half of the per acre price claimed by landowners as market value of their comparable acreage.

[\[9\]](#) Evidence 157 543(3)

[157](#) Evidence

[157XII](#) Opinion Evidence

[157XII\(C\)](#) Competency of Experts

[157k543](#) Value

[157k543\(3\)](#) k. Real Property. [Most Cited Cases](#)

Where condemnee testified as to various matters other than fair market value of land condemned and his testimony disclosed that he had a clear concept of fair market value as defined by courts, fact that he improperly defined fair market value as what one would take personally if he were selling did not entitle condemnor to have all of testimony of condemnee stricken.

[\[10\]](#) Evidence 157 555.6(10)

[157](#) Evidence

157XII Opinion Evidence

157XII(D) Examination of Experts

157k555 Basis of Opinion

157k555.6 Value

157k555.6(10) k. Comparable Sales

or Values. Most Cited Cases

(Formerly 157k555)

Although in course of cross-examination of one condemnee it developed that her knowledge of allegedly comparable sales was gained, at least in part, from abstract of deeds prepared by attorney, as opposed to seeing record of such deeds in courthouse, motion of condemnor to strike all of condemnee's testimony, not just her testimony with respect to comparable sales, was properly refused as entirely too broad.

[11] Evidence 157  474(18)

157 Evidence

157XII Opinion Evidence

157XII(A) Conclusions and Opinions of Witnesses in General

157k474 Special Knowledge as to Subject-Matter

157k474(18) k. Value of Real Property.

Most Cited Cases

Generally, landowner, who was familiar with his property and its value, is allowed to give his estimate as to its value or damage thereto, even though owner is not an expert.

[12] Evidence 157  555.6(10)

157 Evidence

157XII Opinion Evidence

157XII(D) Examination of Experts

157k555 Basis of Opinion

157k555.6 Value

157k555.6(10) k. Comparable Sales

or Values. Most Cited Cases

(Formerly 157k555)

Extent and source of witness' knowledge or information as to allegedly comparable sales, used as partial basis of opinion as to value in condemnation case, would, generally, affect merely weight of opinion evidence being offered rather than its competency or admissibility.

[13] Evidence 157  555.6(10)

157 Evidence

157XII Opinion Evidence

157XII(D) Examination of Experts

157k555 Basis of Opinion

157k555.6 Value

157k555.6(10) k. Comparable Sales

or Values. Most Cited Cases

(Formerly 157k555)

Where one condemnee's testimony reflected her knowledge of and familiarity with real property and its value, fact that her knowledge of allegedly comparable sales was gained in part from reading abstracts of recorded deeds prepared by her attorney, rather than public record thereof, at most affected merely weight of her testimony and not its competency or admissibility.

****393*361** Atty. Gen. Daniel R. McLeod and Asst. Atty. Gen. C. Pinckney Roberts, Columbia, ***362** Dan F. Laney, Jr., Bishopville, for appellant.

Jennings & Jennings, Bishopville, for respondents.

***363** BUSSEY, Justice.

This is an appeal by the State Highway Department from a jury verdict in the amount of \$30,200.00 in a highway condemnation case. The land involved belonged to the widow and children of one Aubrey Wilson. Raymond Drayton, a son-in-law of Wilson, is an interested party by virtue of having been a tenant of the property for many years and having constructed thereon a number of buildings. The interests of Standard Oil Company and Shell Oil and Gas Company, if any, do not appear in the portion of the transcript included in the appeal record.

Prior to the condemnation, the Wilson tract contained 44 acres located on the west side of U.S. Highway 15, approximately 2.5 miles south of the center of the City of Bishopville. It was approximately rectangular in shape and fronted on U.S. Highway 15 for approximately 670 feet. Located on the southern portion of the property, near Highway 15, there were improvements consisting of a mercantile store building, two grain bins and a warehouse. A county road, leading to U.S. Highway 15, extended along the southern boundary of the Wilson property.

Condemned by the Department was approximately three acres taken for the purpose of approach to an interchange of I-20, a controlled access highway, which will cross U.S. Highway 15 slightly to the south of the Wilson property. U.S. Highway 15 where it borders the Wilson property is being widened from a two lane highway with no median to a four lane highway *364 with a traffic median separating the northbound from the southbound lanes. This median will extend, with the exception of one break, the length of the Wilson property and beyond to a point approximately 400 feet north of the northern property boundary. The county road at the southern boundary of the Wilson property is being relocated and, as relocated, will run diagonally across the Wilson property and intersect with U.S. Highway 15 at an angle of approximately sixty degrees. The only break in the above mentioned median is at the intersection of the relocated county road. The angle at which this county road intersects means that southbound traffic turning into the relocated county road will make a sixty degree turn, while northbound traffic entering the county road will make a left turn of approximately one hundred twenty degrees. The severance of the Wilson property by this relocated county road leaves 1.74 acres (an elongated triangle) lying to the south of the relocated county road and 39.26 acres lying to the north thereof. The two grain bins and a substantial portion of the store building hereinabove mentioned were located upon the **394 condemned portion of the land. The warehouse remains upon the above mentioned triangular parcel.

A controlled access line extends from the southern boundary of the Wilson tract to the relocated county road so that there will be no access whatever from the remaining southern portion of the Wilson land to U.S. Highway 15, except via the relocated county road. Included in the condemnation is a triangular site area extending fifty feet north of the relocated county road, with the result that the remaining frontage of the Wilson land bordering the right of way on U.S. 15, to the north of the county road, is reduced to approximately 330 feet.

The condemnees contended and offered evidence to the effect that the highest and best use of three to four acres of the land bordering U.S. 15 was for

commercial purposes and the highest and best use of the remainder was for farm land. Witnesses for the department regarded it all as being *365 farm land. The condemnees claimed damages for loss of access to U.S. 15, due to the limited, controlled access, the construction of the median, taking of improvements within the right of way, and poor accessibility to the warehouse and the land remaining on the south side of the county road. Witnesses for the condemnees testified as to total damages ranging from about \$46,000 to nearly \$66,000. The witnesses for the Department contended that the benefits exceeded any damage by some five to ten thousand dollars, because, as a result of the construction, the remaining portion of the Wilson land would be the first accessible to northbound traffic leaving I-20, and the last accessible to southbound traffic on U.S. 15 about to enter I-20. In view of the respective contentions, the nature of the access to the remaining portions of the Wilson land after construction, and the effect thereof on the value of the remainder, became most important issues in the case.

The trial court declined a requested charge by the Highway Department to the effect that any diminution in the value of the remaining property, resulting from the construction of the median, was not a compensable element of damage, since the construction of the median was an exercise of the State's police power, rather than its power of eminent domain. It is now asserted that the failure to so charge constituted prejudicial error.

[1] This court has previously recognized that there is a distinction between the exercise of the police power and the exercise of the power of eminent domain; that just compensation is required in the case of the exercise of eminent domain but not for the loss by the property owner which results from the constitutional exercise of the police power. [Richards v. City of Columbia, 227 S.C. 538, 88 S.E.2d 683](#); [Edens v. City of Columbia, 228 S.C. 563, 91 S.E.2d 280](#). While we, apparently, have not heretofore had the precise question before us, the clear weight of authority from other jurisdictions is to the effect that the construction of a median, or other traffic control *366 devices, is an exercise of the police power; and that where there is no other taking or damaging of the

property of an abutting landowner, the landowner is not entitled to compensation for any resulting damage.

Additionally, there is considerable authority from other jurisdictions to the effect that, even though there be other taking or damaging of the property of an abutting landowner, under the power of eminent domain, the landowner is still not entitled to recover any damage resulting from the concomitant construction of a median or other traffic control device. Barnes v. North Carolina State Highway Commission, 257 N.C. 507, 126 S.E.2d 732 (1962); Annotation 73 A.L.R.2d 689.

While no case precisely in point factually with the instant case has been cited or come to the attention of the court, the Department urges us to adopt and apply to **395 the facts of the instant case the rule of law last above mentioned.

[2] The decisions of courts from other jurisdictions are, of course, only persuasive authority and we are not convinced that the rule which the Department would have us adopt is a sound one. To the contrary, our pertinent constitutional provision, our statutory law, and the prior decisions of this court interpreting the same lead us to the conclusion that the trial judge properly refused the Department's request to charge.

[3][4] The Constitution of this State, Article I, Sec. 17, provides that '* * * private property shall not be taken * * * for public use without just compensation being first made therefor.' We have consistently held that the deprivation of the ordinary beneficial use and enjoyment of one's property is equivalent to the taking of it, and is as much a taking as though the property were actually appropriated to the public use. We have consistently held that within the purview of this constitutional provision, there is no distinction between taking and damaging and that the least damage to property constitutes a taking within the *367 purview of the Constitution. Owens v. South Carolina State Highway Dept., 239 S.C. 44, 121 S.E.2d 240 (1961); Webb v. Greenwood County, 229 S.C. 267, 92 S.E.2d 688 (1956); Early v. South Carolina Public Service Authority, 228 S.C. 392, 90 S.E.2d 472 (1955); Milhous v. State Highway Dept.,

194 S.C. 33, 8 S.E.2d 852 (1940); Chick Springs Water Co. v. State Highway Dept., 159 S.C. 481, 157 S.E. 842 (1931).

Section 33-135 of the 1962 Code of Laws provides for just compensation to the landowner, upon the acquisition of a highway right of way, and specifically includes any special damages resulting therefrom.

In the recent case of south Carolina State Highway Dept. v. Allison, 246 S.C. 389, 143 S.E.2d 800 (1965), we held, inter alia, that,

'* * * an abutting property owner has a right of access over a street adjacent to his property, as an appurtenance thereto. And that an obstruction that materially injures or deprives the abutting property owner of ingress or egress to and from his property is a 'taking' of the property for which recovery may be had. The fact that other means of access to the property are available affects merely the amount of damages, and not the right of recovery.'

With respect to special damages, which the landowner is entitled to recover, we, in South Carolina State Highway Department v. Bolt, 242 S.C. 411, 131 S.E.2d 264 (1963), quoted with approval the following from 18 Am.Jur. 905, Sec. 265,

'In other words, he is entitled to full compensation for the taking of his land and all its consequences; * * * nor is there any requirement that the damage be special and peculiar, or such as would be actionable at common law; it is enough that it is a consequence of the taking. The entire parcel is considered as a whole, and the inquiry is, how much has the particular public improvement decreased the fair market value of the property, taking into consideration the *368 use for which the land was taken and All the reasonably probable effects of its devotion to that use.' (Emphasis added.)

In the instant case, prior to condemnation, the Wilson tract fronted on U.S. Highway 15 for a distance of 670 feet, and, according to the landowners, the highest and best use of this frontage was for commercial purposes. As a result of the condemnation and construction, the frontage on U.S. Highway 15 has been reduced to 330 feet with access

to only the southbound lanes of U.S Highway 15.

The Wilson tract has been severed into two parts and with respect to the southern portion, there is no access to either the **396 north of southbound lanes of U.S. Highway 15 except via the county road. None of the remaining land will have any access to and from the northbound lanes of U.S. Highway 15 except via the county road. In speaking of this limited access to the northbound lanes of U.S. Highway 15, Mrs. Drayton, one of the owners, in her testimony attributed a specific sum to damages which, in her opinion, were caused by the construction of the median, and Mr. Drayton based his estimate of the damages, at least in part, on the existence of the median. The only expert who testified for the landowners, however, testified to the effect that it was virtually impossible to separate from the overall picture what portion, if any, of the damages sustained by the landowners was actually attributable to the median. While factual issues were for the jury and not for this court, when the plans and specifications of the Department are studied, we are inclined to agree with the expert who testified for the landowners.

[5] While the construction of a median, with nothing more, may very well be an exercise of the police power with no resulting compensable damage to an abutting property owner, in the instant case the proposed median is only an incidental part of the overall Department plans and contemplated construction. There is no suggestion of the need for, or the contemplated construction of, a *369 median except as an incidental part of the major relocation and construction plans of the Department. But for such overall construction and relocation, and condemnation under the power of eminent domain for such purposes, there would have been no median and, of course, no damage to the abutting landowner. It logically follows, we think that any damage attributable to the planned median is an incidental result of the exercise of the power of eminent domain, and under these circumstances we know of no sound reason for departing from the established rule in this State, which is as follows:

"The entire parcel is considered as a whole, and the inquiry is, how much has the particular public

improvement decreased the fair market value of the property, taking into consideration the use for which the land was taken and all the reasonably probable effects of its devotion to that use."South Carolina State Highway Dept. v. Bolt, supra.

[6][7][8] Witnesses for the landowners were allowed to testify, over objection, in regard to the sales prices of two properties sold in 1959, approximately nine years before the condemnation in the instant case. The Department asserts that such sales were too remote in point of time and, accordingly, that there was an abuse of discretion on the part of the trial judge in admitting such evidence. The record shows that none of the witnesses had been able to discover any fairly recent sales of comparable property in that area. It is elementary that the admission or exclusion of evidence is a matter which is addressed to the sound discretion of the trial judge and that in the absence of a clear abuse of such discretion, amounting to an error of law, his ruling will not be disturbed. While the sales referred to were quite remote in point of time, we are not convinced, under the circumstances here, that there was any abuse of discretion or prejudice to the Department. The per acre prices involved in these two sales were approximately one half of the per acre price claimed by the landowners as the market value of their comparable acreage, and for this reason, evidence as to these two *370 particular sales tended to be beneficial rather than prejudicial to the Department.

[9] In the course of the cross-examination of Mr. Drayton, he was asked to state a definition of 'fair market value' and he gave the following response: 'Fair market value is what you would take personally if you were selling.'

He further stated that the same would apply whether he was buying or selling and **397 that he had valued the land accordingly. Based on such, counsel for the Department asked that the jury be excused and moved that All of the testimony of Mr. Drayton be stricken because he was not testifying on the basis of 'fair market value' as legally defined. Such motion was overruled and properly so. The motion was entirely too broad since Mr. Drayton had testified as to various matters other than the fair market value of

the land. Moreover, his testimony, when considered in full, discloses that he had a clear concept of 'fair market value' as defined by the courts, even though he, a layman, was not able to precisely state a legal definition thereof.

[10] In the course of the cross-examination of Mrs. Drayton it developed that her knowledge of allegedly comparable sales was gained, at least in part, from an abstract of certain deeds prepared by her attorney, as opposed to seeing the record of such deeds in the court house. Upon such disclosure, counsel for the Department moved to strike all of the testimony of Mrs. Drayton, not just her testimony with respect to comparable sales. As in the case of Mr. Drayton, the motion was entirely too broad and was properly refused on that ground alone.

[11][12] Mrs. Drayton was one of the owners of the land and the practice in this State is in accord with the general rule that a landowner, who is familiar with his property and its value, is allowed to give his or her estimate as to the value of the land or damages thereto, even though the owner be not an expert. This general rule of law, the reasons*371 therefor, and its application are dealt with in [32 C.J.S. Evidence s 546\(116\), p. 433](#). Where comparable sales are in part a basis of the opinion as to value, even expert witnesses, as often as not, do not have firsthand information, or personal knowledge, thereabout. The extent and source of a witness's knowledge or information as to allegedly comparable sales, used as a partial basis of opinion, would, as a general rule we think affect merely the weight of the opinion evidence being offered rather than its competency or admissibility.

'Where the witness bases his opinion entirely or chiefly on incompetent or inadmissible matters, it has been held that his testimony must be rejected; but the fact that the witness's knowledge as to market value is largely hearsay will not exclude his opinion, provided the witness gives to such information the sanction of his own general experience and knowledge.' [32 C.J.S. Evidence s 546\(117\) p. 449](#).

[13] The testimony of Mrs. Drayton reflected her knowledge of and familiarity with the real property, and its value, taken and damaged in the instant case.

The fact that her knowledge of allegedly comparable sales was gained in part from reading abstracts of recorded deeds prepared by her attorney, rather than the public record thereof, at most affected merely the weight of her testimony and not the competency or admissibility thereof.

Several exceptions on the part of the appellant have been abandoned, not having been argued in its brief. We are unconvinced that there was any prejudicial error in the trial below and the judgment of the lower court is, accordingly,

Affirmed.

MOSS, C.J., and LEWIS, BRAILSFORD and LITTLEJOHN, JJ., concur.

S.C. 1970.

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Only the Westlaw citation is currently available.

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Supreme Court of South Carolina.
HILTON HEAD AUTOMOTIVE, LLC, Appellant,
v.
SOUTH CAROLINA DEPARTMENT OF
TRANSPORTATION, Respondent.

No. 27026.
Heard April 20, 2011.
Decided Aug. 15, 2011.

Background: Automobile dealership brought an inverse condemnation action against the Department of Transportation, alleging violations of due process and equal protection rights, and civil conspiracy. The Circuit Court, Beaufort County, [Marvin H. Dukes, III](#), J., granted summary judgment in favor of Department, and dealership appealed.

Holding: The Supreme Court, [Kittredge, J.](#), held that Department's reconfiguration of highway crossovers did not result in a taking without just compensation.

Affirmed.

West Headnotes

[1] Eminent Domain 148  **266**

[148](#) Eminent Domain
[148IV](#) Remedies of Owners of Property; Inverse Condemnation
[148k266](#) k. Nature and Grounds in General.
[Most Cited Cases](#)

In an "inverse condemnation action," a private property owner seeks to establish that a government entity has taken his or her property.

[2] Eminent Domain 148  **2.1**

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[148](#) Eminent Domain
[148I](#) Nature, Extent, and Delegation of Power
[148k2](#) What Constitutes a Taking; Police and Other Powers Distinguished
[148k2.1](#) k. In General. [Most Cited Cases](#)

Eminent Domain 148  **266**

[148](#) Eminent Domain
[148IV](#) Remedies of Owners of Property; Inverse Condemnation
[148k266](#) k. Nature and Grounds in General.
[Most Cited Cases](#)

The governmental conduct at issue in an inverse condemnation action generally takes one of two forms: (1) the entity has physically appropriated private property or (2) the entity has imposed restrictions on the use of the property that deprive the owner of the property's economically viable use.

[3] Eminent Domain 148  **106**

[148](#) Eminent Domain
[148II](#) Compensation
[148II\(B\)](#) Taking or Injuring Property as Ground for Compensation
[148k94](#) Elements of Compensation for Injuries to Property Not Taken
[148k106](#) k. Obstruction of Access. [Most Cited Cases](#)

Department of Transportation's modification of highway crossovers that prevented immediate left turns to or from automobile dealership did not result in a taking without just compensation, absent any material injury to dealership's easements of access; dealership retained a reasonable means of ingress and egress from highway, and could still access westbound lanes of highway with only minor inconvenience. [Const. Art. 1, § 3.](#)

[Richard D. Bybee](#) and [M. Brent McDonald](#), of Smith, Bundy, Bybee & Barnett, of Mt. Pleasant, for Appellant.

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[Marshall H. Waldron, Jr.](#), and [Matthew D. Cavender](#), of Griffith Sadler & Sharp, P.A., of Beaufort, for Respondent.

Justice [KITTREDGE](#).

*1 This is an inverse condemnation case. Appellant **Hilton Head Automotive**, LLC, contends the South Carolina Department of Transportation's re-configuration of the median crossovers on U.S. Highway 278, which Appellant's business abuts, was a taking because it deprived Appellant and its customers of the ability to enter or exit the highway by making a left turn. We disagree and affirm the decision of the circuit court granting summary judgment in favor of the Department of Transportation.

The facts of this case are similar to those of the *Hardin* case as described in *Hardin v. South Carolina Department of Transportation*, 371 S.C. 598, 641 S.E.2d 437 (2007). As in *Hardin*, the property owner in this case was deprived of *immediate* left turn access to an abutting highway, but it retained a reasonable means of ingress and egress from that highway. Because **Hilton Head Automotive** ("HHA") was not deprived of a reasonable means of ingress and egress from Highway 278, it did not suffer a material injury to its easement of access to that highway, and therefore, did not suffer a compensable taking.

I.

In response to population growth and business development along U.S. Highway 278 in Beaufort County, the South Carolina Department of Transportation ("the Department") engaged experts for the purpose of streamlining the flow of traffic on that highway. Relying on the opinions of those experts, the Department determined that it should widen the highway, close two median crossovers, and open a new median crossover at a central location between the two intersections that bound HHA's property: Burnt Church Road and Bluffton Road/Highway 46.

The properties on the north side of Highway 278 agreed among themselves to share the cost of modifying and/or building private roads that would allow left turn access to all of their properties by way of the new median crossover. The properties on the south side of the highway, however, were unable to reach such an agreement. As a result, HHA's proper-

ty—which is on the south side of the highway—lost its immediate left turn access to and from Highway 278. Nonetheless, HHA retained direct right turn access to and from the eastbound lanes of Highway 278. Moreover, HHA could be reached from the westbound lanes of Highway 278 by making a U-turn at the new median crossover or at the lighted intersection with Bluffton Road/Highway 46. Correspondingly, a vehicle exiting HHA's property could reach westbound Highway 278 by making a U-turn at Burnt Church Road.^{FN1}

HHA sought monetary and declaratory relief for inverse condemnation, violation of its due process and equal protection rights under the South Carolina Constitution, and civil conspiracy. The Department successfully moved for summary judgment on all causes of action. We certified HHA's appeal pursuant to [Rule 204, SCACR](#).

II.

Summary judgment "shall be rendered ... if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." [Rule 56\(c\), SCRCR](#).

A.

Inverse Condemnation

*2 [\[1\]\[2\]](#) The South Carolina Constitution provides, "[e]xcept as otherwise provided in this Constitution, private property shall not be taken for private use without the consent of the owner, nor for public use without just compensation being first made for the property." [S.C. Const. art. I, § 13\(A\)](#). In an inverse condemnation action, a private property owner seeks to establish that a government entity has taken his or her property. The governmental conduct at issue generally takes one of two forms: (1) the entity has physically appropriated private property or (2) the entity has imposed restrictions on the use of the property that deprive the owner of the property's "economically viable use." See, e.g., *Byrd v. City of Hartsville*, 365 S.C. 650, 656–58, 620 S.E.2d 76, 79–80 (2005). In this case, HHA has alleged that the Department physically appropriated private property by materially injuring an easement appurtenant thereto.^{FN2}

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Following *Hardin*, a proper analysis of an inverse condemnation claim premised on an alleged physical taking must begin with a determination of the scope of the property rights at issue. 371 S.C. at 605, 609, 641 S.E.2d at 441, 443 (explaining that a court evaluating an inverse condemnation claim premised on a physical taking should “focus ... on a landowner's actual property interests; that is, his easements”). As an abutting property owner, HHA had “an easement for access” to Highway 278, “regardless of whether [it had] access to and from an additional public road.” *Id.* at 606, 641 S.E.2d at 442. In addition, HHA had “an easement for access to and from the public road system.” *Id.*^{FN3} If governmental action materially injured either of these easements, such that HHA no longer enjoyed the reasonable means of access to which it was entitled, a physical taking has occurred.^{FN4} *E.g.*, *S.C. State Highway Dep't v. Allison*, 246 S.C. 389, 393, 143 S.E.2d 800, 802 (1965) (“[A]n obstruction that materially injures or deprives the abutting property owner of ingress or egress to and from his property is a ‘taking’ of the property, for which recovery may be had.”); *Sease v. City of Spartanburg*, 242 S.C. 520, 524–25, 131 S.E.2d 683, 685 (1963) (“The protection of [the South Carolina “takings” clause] extends to all cases in which any of the essential elements of ownership has been destroyed or impaired as the result of the construction or maintenance of a public street.”); *Brown v. Hendricks*, 211 S.C. 395, 403–04, 45 S.E.2d 603, 606–07 (1947) (“The accessibility of one's property may in some instances constitute a great part of its value, and to permit a material impairment of his access would result in the destruction of a great part of the value ... and his property is therefore as effectually taken as if a physical invasion was made thereon and a physical injury done thereto.” (quoting with approval *Foster Lumber Co. v. Arkansas Valley & Western Ry. Co.*, 20 Okla. 583, 95 P. 224, 228 (1908))).

*3 [3] The gravamen of HHA's claim is that its easements included a right to make an immediate left turn to and from Highway 278, and such right could not be infringed without just compensation. We disagree. As recognized in *Hardin*, a regulation or traffic control device preventing immediate left turns to or from one's property does not result in a taking, provided it does not otherwise cause a material injury to the abutter's easements of access. 371 S.C. at 607, 641 S.E.2d at 442 (“[A] landowner has no right to access abutting roads in more than one direction.” (citing *C.C. Marvel*, Annotation, *Power to restrict or inter-*

fere with access of abutter by traffic regulations, 73 A.L.R.2d 689, 691–98 (1960)). The relevant inquiry, then, is whether the abutter has retained a reasonable means of access to and from abutting roads and the public road system. *Cf.* Roland F. Chase, Annotation, *Abutting owner's right to damages for limitation of access caused by conversion of conventional road into limited-access highway*, 42 A.L.R.3d 13, § 3, 30 (1972) (“In numerous cases ... courts have held or recognized that an owner of property abutting on a public street or highway is entitled to damages where such street or highway is converted into a limited-access highway, if as a result of such conversion access to and from his property is made *unreasonably* circuitous or difficult.” (first and second emphases added)). Historically, courts have rejected the view that a regulation regarding the direction of travel upon a particular road, without more, materially impaired an abutter's easement of access. *Marvel*, *supra*, 73 A.L.R.2d at § 3, 692 (“Regulations and regulatory devices, applicable to all traffic, such as ... prohibitions against certain turns, etc., which merely impose some circuitry of route upon the abutter, have been universally upheld against contentions that access was impaired.”); *see also S.C. State Highway Dep't v. Carodale Assocs.*, 268 S.C. 556, 561, 235 S.E.2d 127, 129 (1977) (“[A] landowner has no property right in the continuation or maintenance of the flow of traffic past its property. Traffic on the highway ... is subject to the same police power regulations as every other member of the traveling public. Re-routing and diversion of traffic are police power regulations.”); *S.C. State Highway Dep't v. Wilson*, 254 S.C. 360, 365–66, 175 S.E.2d 391, 394 (1970) (recognizing that the “clear weight of authority from other jurisdictions is to the effect that the construction of a median, or other traffic control device[], is an exercise of the police power”). HHA has not presented any evidence that would justify a departure from this well-established rule. Rather, the undisputed facts reveal that HHA could access the westbound lanes of Highway 278 with only minor inconvenience. As a matter of law, HHA's abutter's access to Highway 278 has not been materially impaired. Therefore, the circuit court properly granted summary judgment in favor of the Department.

*4 At oral argument, HHA relied heavily on our decision in *South Carolina State Highway Department v. Wilson*. *Wilson* concerned whether, in the context of a clear exercise of the power of eminent domain, a

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median closure could form a compensable element of the damages.^{FN5} In this case, we find no taking has occurred, and therefore, we do not reach the issue of damages. *Wilson* does not apply.

For these reasons, we uphold the circuit court's decision granting summary judgment in favor of the Department on HHA's inverse condemnation claim.

B. Collateral Claims

As part of the same project to streamline traffic on Highway 278, the Department initially planned to condemn a portion of HHA's property and construct a deceleration lane serving vehicles turning right onto that property. However, the Department later changed its plans to avoid the need to acquire property from HHA. HHA alleged the Department's decision in this regard amounted to a civil conspiracy orchestrated to put HHA at a strategic disadvantage by forcing it to bring an inverse condemnation claim, in violation of HHA's right to due process of law. In addition, because the Department compensated certain other property owners for damages caused by the project and included some owners in discussions regarding the placement of the new median crossover, HHA claimed the Department violated HHA's right to equal protection. Having carefully reviewed the record, we find HHA has failed to create a genuine issue of material fact as to these collateral claims.

III.

The median closure in this case did not work a material injury to HHA's easements of access to Highway 278, and therefore, did not amount to a physical taking of HHA's property. Further, HHA has failed to create a genuine issue of fact as to its collateral claims. Accordingly, the order of the circuit court granting summary judgment in favor of the Department is

AFFIRMED.

TOAL, C.J., PLEICONES, BEATTY and HEARN, JJ., concur.

FN1. Bluffton Road is approximately 0.6 miles west of the entrance to HHA's property. Burnt Church Road is a mere 0.3 miles east of the entrance.

FN2. HHA has presented this matter to us solely in the context of a physical taking; we resolve the issue in the manner presented to us.

FN3. In *City of Rock Hill v. Cothran*, this Court also recognized an abutter's right to proceed upon the abutting road to the next intersection. 209 S.C. 357, 369, 40 S.E.2d 239, 244 (1946) (“[T]he right of an abutting landowner to passage at least to the next intersection is a substantial property right ...”); see also *Powell v. Spartanburg County*, 136 S.C. 371, 374–76, 134 S.E. 367, 368 (1926) (holding that, where a portion of a road was formally discontinued and a new road was built to route traffic around the discontinued portion such that the two roads formed a semicircle pattern, property owners abutting on the old road “could not rightfully be deprived of the privilege of still using it to reach the newly located portion [of the road] in either direction,” and therefore, nonsuit was improper where access to the new road was cut off at the south end of the old road, even though the new road was accessible from the north end of the old road (emphasis added)). While *Hardin* overruled *Cothran* in certain respects, it did not expressly overrule the existence of this property right. We take no position regarding the status of this right, as HHA has not lost the ability to proceed upon Highway 278 to the next intersection.

FN4. Certain language in *Hardin* might suggest this “material injury” test is no longer good law. We take this opportunity to clarify. The “material injury” test is firmly rooted in our jurisprudence, and *Hardin* did not overrule this well-established aspect of our takings analysis. See *Hardin*, 371 S.C. at 609, 641 S.E.2d at 443 (“We therefore overrule the ‘special injury’ analysis ... and specify that our focus in these cases is on how any road re-configuration affects a property owner's easements.”); *id.* at 609 n. 4, 641 S.E.2d at 443 n. 4 (“[N]either landowner ... has been deprived of ingress or egress ... nor have these landowners been injured in their ability to enter or exit their

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property.” (emphasis added)).

FNS. 254 S.C. at 368–69, 175 S.E.2d at 396
 (“[I]n the instant case the proposed median is only an incidental part of the overall Department plans.... It logically follows, we think[,] that any damage attributable to the planned median is an incidental result of the exercise of the power of eminent domain, and under these circumstances we know of no sound reason for departing from the established rule in this State ... [that] ‘[t]he entire parcel is considered as a whole, and the inquiry is, how much has the particular public improvement decreased the fair market value of the property’ ” (quoting S.C. State Highway Dep’t v. Bolt, 242 S.C. 411, 417, 131 S.E.2d 264, 267 (1963))).

S.C.,2011.
Hilton Head Automotive, LLC v. South Carolina
Dept. of Transp.
--- S.E.2d ----, 2011 WL 3568543 (S.C.)

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Hardin v. South Carolina Dept. of Transp.
S.C.,2007.

Supreme Court of South Carolina.

John A. **HARDIN** and Martha **Hardin** Curran, as
Trustees of Marital Trust 2 under the will of Martha
S. **Hardin**, Deceased, Respondents,

v.

The **SOUTH CAROLINA DEPARTMENT OF
TRANSPORTATION**, Petitioner.
and Elisha B. Tallent, d/b/a Elisha's California Hair,
Respondent

v.

The **South Carolina** Department of Transportation,
Petitioner.
No. 26262.

Hardin heard April 5, 2006.

Tallent heard May 2, 2004.

Decided Feb. 12, 2007.

Rehearing Denied March 8, 2007.

Background: Landowners brought inverse-condemnation action against South Carolina Department of Transportation (SCDOT). Following a bench trial, the Circuit Court, York County, [Paul E. Short, Jr., J.](#), found that a taking had occurred. SCDOT appealed. The Court of Appeals, [359 S.C. 244, 597 S.E.2d 814](#), affirmed. In separate case, commercial landowner brought inverse-condemnation action against SCDOT. The Circuit Court, Greenville County, Charles B. Simmons, Jr., J., found that SCDOT's actions constituted compensable taking, and SCDOT appealed. The Court of Appeals, [363 S.C. 160, 609 S.E.2d 544](#), affirmed. SCDOT filed petitions for writs of certiorari, which were granted.

Holdings: The Supreme Court, [Toal](#), C.J., held that:

(1) in determining whether road reconfiguration amounts to a taking, focus is on how reconfiguration affects property owner's easements to access public road system; overruling [City of Rock Hill v. Cothran](#), [209 S.C. 357, 40 S.E.2d 239](#), and [Gray v. South Carolina Dep't of Highways and Public Transp.](#), [311](#)

[S.C. 144, 427 S.E.2d 899](#);

(2) reconfiguration of divided highway's intersection did not constitute a taking; and

(3) reconfiguration of road did not constitute a taking.

Court of Appeals' decisions reversed.

[Waller](#), J., concurred in part, dissented in part, and filed opinion, in which [Moore](#), J., concurred.

West Headnotes

[1] Eminent Domain 148  **91**

148 Eminent Domain

148II Compensation

148II(B) Taking or Injuring Property as
Ground for Compensation

148k89 Nature of Injury to Property Not
Taken

148k91 k. General or Special Injuries.

[Most Cited Cases](#)

Eminent Domain 148  **106**

148 Eminent Domain

148II Compensation

148II(B) Taking or Injuring Property as
Ground for Compensation

148k94 Elements of Compensation for
Injuries to Property Not Taken

148k106 k. Obstruction of Access. [Most
Cited Cases](#)

In determining whether a road re-configuration amounts to a taking of property, the focus is on how the reconfiguration affects property owner's easements to access public road system, not on whether property owner has suffered special injury that is different in kind and not merely in degree from that suffered by public at large; overruling [City of Rock Hill v. Cothran](#), [209 S.C. 357, 40 S.E.2d 239](#), and [Gray v. South Carolina Dep't of Highways and Public Transp.](#), [311 S.C. 144, 427 S.E.2d 899](#). [U.S.C.A. Const.Amend. 5](#); [Const. Art. 1, § 13](#).

(Cite as: 371 S.C. 598, 641 S.E.2d 437)

[2] Constitutional Law 92  **3855****92** Constitutional Law**92XXVII** Due Process**92XXVII(A)** In General**92k3848**

Relationship to Other Constitutional Provisions; Incorporation

92k3855 k. Fifth Amendment. **Most****Cited Cases**

(Formerly 92k280)

Fifth Amendment's takings clause applies to the actions of state governments through the due process clause of the Fourteenth Amendment. [U.S.C.A. Const.Amend. 5, 14.](#)

[3] Eminent Domain 148  **2.1****148** Eminent Domain**148I** Nature, Extent, and Delegation of Power**148k2** What Constitutes a Taking; Police and Other Powers Distinguished**148k2.1** k. In General. **Most Cited Cases**

Governmental regulations which control or limit the use of property can "take" the property in the constitutional sense. [U.S.C.A. Const.Amend. 5; Const. Art. 1, § 13.](#)

[4] Eminent Domain 148  **2.1****148** Eminent Domain**148I** Nature, Extent, and Delegation of Power**148k2** What Constitutes a Taking; Police and Other Powers Distinguished**148k2.1** k. In General. **Most Cited Cases**

Determining whether government action effects a taking requires a court to examine the character of the government's action and the extent to which this action interferes with the owner's rights in the property as a whole. [U.S.C.A. Const.Amend. 5; Const. Art. 1, § 13.](#)

[5] Eminent Domain 148  **2.1****148** Eminent Domain**148I** Nature, Extent, and Delegation of Power**148k2** What Constitutes a Taking; Police and Other Powers Distinguished**148k2.1** k. In General. **Most Cited Cases**

Ad hoc, factual inquiries into whether government action effects a taking of property involve examining the character of the government's action, the economic impact of the action, and the degree to

which the action interferes with the owner's investment-backed expectations. [U.S.C.A. Const.Amend. 5; Const. Art. 1, § 13.](#)

[6] Eminent Domain 148  **2.1****148** Eminent Domain**148I** Nature, Extent, and Delegation of Power**148k2** What Constitutes a Taking; Police and Other Powers Distinguished**148k2.1** k. In General. **Most Cited Cases**

Physical occupation of private property by the government generally results in a taking regardless of the public interest the government's action serves. [U.S.C.A. Const.Amend. 5; Const. Art. 1, § 13.](#)

[7] Eminent Domain 148  **2.1****148** Eminent Domain**148I** Nature, Extent, and Delegation of Power**148k2** What Constitutes a Taking; Police and Other Powers Distinguished**148k2.1** k. In General. **Most Cited Cases**

Enforcement of a government regulation will usually effect a taking when the regulation denies all economically beneficial or productive use of land. [U.S.C.A. Const.Amend. 5; Const. Art. 1, § 13.](#)

[8] Eminent Domain 148  **2.1****148** Eminent Domain**148I** Nature, Extent, and Delegation of Power**148k2** What Constitutes a Taking; Police and Other Powers Distinguished**148k2.1** k. In General. **Most Cited Cases**

In order to have taken any part of landowners' properties, the South Carolina Department of Transportation (SCDOT) must have physically appropriated some aspect of them; alleged taking did not involve enactment of any regulation that directly regulated any use of properties. [U.S.C.A. Const.Amend. 5; Const. Art. 1, § 13.](#)

[9] Highways 200  **85****200** Highways**200V** Title to Fee and Rights of Abutting Owners**200k85** k. Right of Access. **Most Cited Cases**

Owner of a corner lot has an easement for access to and from both roads that abut his property.

[10] Highways 200  **85**

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(Cite as: 371 S.C. 598, 641 S.E.2d 437)

200 Highways[200V](#) Title to Fee and Rights of Abutting Owners[200k85](#) k. Right of Access. [Most Cited Cases](#)

A landowner has an easement for access to and from the public road system.

[11] Highways **200**  **85****200** Highways[200V](#) Title to Fee and Rights of Abutting Owners[200k85](#) k. Right of Access. [Most Cited Cases](#)

Owner whose property does not abut any public road will not be denied access to the public road system.

[12] Eminent Domain **148**  **106****148** Eminent Domain[148II](#) Compensation

[148II\(B\)](#) Taking or Injuring Property as Ground for Compensation

[148k94](#) Elements of Compensation for Injuries to Property Not Taken

[148k106](#) k. Obstruction of Access. [Most Cited Cases](#)

When only a portion of a public road abutting a landowner's property is closed, leaving the property in a cul-de-sac, no taking has occurred; as long as the landowner has access to and from the remainder of the road that continues to abut his property, his easement with respect to that road remains intact.

[U.S.C.A. Const.Amend. 5](#); [Const. Art. 1, § 13](#).

[13] Eminent Domain **148**  **106****148** Eminent Domain[148II](#) Compensation

[148II\(B\)](#) Taking or Injuring Property as Ground for Compensation

[148k94](#) Elements of Compensation for Injuries to Property Not Taken

[148k106](#) k. Obstruction of Access. [Most Cited Cases](#)

There is no taking when a government entirely closes one of the roads that abuts a corner lot; so long as a landowner has access to the public road system, the landowner's easement by necessity is intact. [U.S.C.A. Const.Amend. 5](#); [Const. Art. 1, § 13](#).

[14] Eminent Domain **148**  **2.19(1)****148** Eminent Domain[148I](#) Nature, Extent, and Delegation of Power

[148k2](#) What Constitutes a Taking; Police and Other Powers Distinguished

[148k2.19](#) Highways and Streets[148k2.19\(1\)](#) k. In General. [Most Cited](#)[Cases](#)

Road closings and realignments which do not take land or an easement from a property owner do not give rise to compensable takings; these actions do not directly interfere with an owner's rights in the property as a whole. [U.S.C.A. Const.Amend. 5](#); [Const. Art. 1, § 13](#).

[15] Eminent Domain **148**  **2.1****148** Eminent Domain[148I](#) Nature, Extent, and Delegation of Power

[148k2](#) What Constitutes a Taking; Police and Other Powers Distinguished

[148k2.1](#) k. In General. [Most Cited Cases](#)

Government action can effect no taking unless it has deprived an owner of a property interest. [U.S.C.A. Const.Amend. 5](#); [Const. Art. 1, § 13](#).

[16] Eminent Domain **148**  **106****148** Eminent Domain[148II](#) Compensation

[148II\(B\)](#) Taking or Injuring Property as Ground for Compensation

[148k94](#) Elements of Compensation for Injuries to Property Not Taken

[148k106](#) k. Obstruction of Access. [Most Cited Cases](#)

Reconfiguration of divided highway's intersection did not constitute a taking of property on either side of highway's intersection with road, although reconfiguration resulted in inability to make any left turns at intersection; landowners continued to have access to and from highway and public road system. [U.S.C.A. Const.Amend. 5](#); [Const. Art. 1, § 13](#).

[17] Eminent Domain **148**  **106****148** Eminent Domain[148II](#) Compensation

[148II\(B\)](#) Taking or Injuring Property as Ground for Compensation

[148k94](#) Elements of Compensation for Injuries to Property Not Taken

[148k106](#) k. Obstruction of Access. [Most](#)

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Cited Cases

Reconfiguration of road that led to highway did not constitute a taking of landowner's property, although reconfiguration situated property on cul-de-sac and limited landowner's access to highway by requiring landowner to navigate series of secondary roads; no aspect of property had been physically taken. U.S.C.A. Const.Amend. 5; Const. Art. 1, § 13.

****439** Linda C. McDonald and Beacham O. Brooker, Jr., both of Columbia, and Robert L. Widener, of McNair Law Firm, of Columbia, for Petitioner. David A. White, of Robinson, Bradshaw & Hinson, of Rock Hill, for Respondents.

Andrew F. Lindemann, of Davidson Morrison & Lindemann, of Columbia, and Danny C. Crowe, of Turner Padgett Graham & Laney, of Columbia, for Amicus Curiae Municipal Association of South Carolina.

Richard D. Bybee, of Smith Bundy Bybee & Barnett, of Mt. Pleasant, for Amicus Curiae South Carolina Landowners Association.

Robert E. Lyon, Jr., and M. Clifton Scott, both of the South Carolina Association of Counties, of Columbia, for Amicus Curiae South Carolina Association of Counties.

Robert Clyde Childs, III, of Greenville, for Respondent.

Chief Justice TOAL:

602** These cases deal with the issue of whether and to what degree realignments and closures of public roads constitute "takings" *440** within the meaning of Article I, § 13 of the South Carolina Constitution and the Fifth Amendment to the United States Constitution. Lower courts separately determined that the property owners in both Hardin and Tallent suffered takings as a result of actions of the South Carolina Department of Transportation (SCDOT). We reverse.

Factual/Procedural Background

In light of our disposition of these two appeals, we engage in only a brief review of the facts.

A. Hardin

Dave Lyle Boulevard is a high-speed, divided, controlled-access highway connecting the City of Rock Hill to Interstate Highway 77. No private driveway has direct access to the highway. Instead, private driveways exit onto side roads which have

intermittent access to the highway. The highway has a number of turn lanes in the median which allow traffic to cross the median and access the many intersecting surface streets.

The plaintiffs own two properties that are located on the north side of Dave Lyle Boulevard. The properties sit on either side of the highway's intersection with Garrison Road. For several years, this intersection contained a break in the median which runs down Dave Lyle Boulevard. This break allowed vehicles at the intersection to access both Garrison Road and the highway in either direction. In 1998, the City of Rock Hill requested that SCDOT construct a new intersection approximately 1,000 feet east of the existing intersection to ***603** accommodate an industrial park and a technical college. SCDOT advised that creating a new intersection would require that the Garrison/Dave Lyle intersection be closed due to the limitations of cross streets on the highway. After a public hearing, SCDOT consented to the construction of the new intersection. As a result, SCDOT closed the break in the median at the Garrison/Dave Lyle intersection. This prevented vehicle traffic from making any left turns at the Garrison/Dave Lyle intersection.

In 2001, the plaintiffs filed an inverse condemnation action against SCDOT alleging that depriving the traffic leaving their properties the ability to cross Dave Lyle Boulevard constituted a taking for which the plaintiffs were owed compensation. The trial court ruled that the plaintiffs suffered a compensable taking, and the court of appeals affirmed. See Hardin v. South Carolina Dep't of Transp., 359 S.C. 244, 597 S.E.2d 814 (Ct.App.2004).

B. Tallent

In this case, the plaintiff purchased a tract of property located on Old Easley Bridge Road near Greenville. The plaintiff opened and operated a hair salon and tanning studio on the property. At the time she purchased the property, the property had access to Highway 123 via Old Easley Bridge Road. As the roads were then aligned, Old Easley Bridge Road split off Highway 123 as a tangent and gradually curved to intersect White Horse Road, which runs perpendicular to Highway 123.

Sometime after the plaintiff purchased the property, SCDOT began construction of a controlled-access "

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diamond” interchange at the intersection of Highway 123 and White Horse Road. This re-configuration involved closing access points between Old Easley Bridge Road and White Horse Road. Specifically, SCDOT closed Old Easley Bridge Road to through traffic, removed a traffic light, and made several cosmetic changes along the road. These changes altered the character of Old Easley Bridge Road from a through-connecting surface street to a road ending in a cul-de-sac.

As in *Hardin*, the plaintiff brought an inverse condemnation action against SCDOT. Using the fact that the road re-⁶⁰⁴ configuration situated her property on a cul-de-sac and limited her access to Highway 123 by requiring her to navigate a series of secondary roads running through low income neighborhoods, the plaintiff alleged SCDOT had “taken” her property. The plaintiff alleged the road re-configuration decreased her property value and resulted in her business being less accessible to the public (and thus less valuable). The trial court ruled that the plaintiff suffered a compensable taking, and the court of appeals affirmed. See *Tallent v. South Carolina Dep't of Transp.*, 363 S.C. 160, 609 S.E.2d 544 (Ct.App.2005).

**441 Law/Analysis

[1] As we have previously held, a plaintiff's right to recovery in an inverse condemnation case is premised upon the ability to show that he or she has suffered a taking. *Byrd v. City of Hartsville*, 365 S.C. 650, 657, 620 S.E.2d 76, 80 (2005). Although it has been recognized that the existence of property interests are often determined by reference to sources such as state law, see *Georgia v. Randolph*, 547 U.S. 103, 126 S.Ct. 1515, 1540, 164 L.Ed.2d 208 (2006) (Scalia, J., dissenting), South Carolina courts have embraced federal takings jurisprudence as providing the rubric under which we analyze whether an interference with someone's property interests amounts to a constitutional taking. *Byrd*, 365 S.C. at 656 n. 6, 620 S.E.2d at 79 n. 6 (citing *Westside Quik Shop, Inc. v. Stewart*, 341 S.C. 297, 306, 534 S.E.2d 270, 275 (2000)).

[2][3] Both [Article I, § 13 of the South Carolina Constitution](#) and the Fifth Amendment to the United States Constitution provide that private property shall not be taken for public use without the payment of “just compensation.” ^{FNI} Although the takings clause

was once understood to apply only to a direct appropriation of property or the functional equivalent of an ouster of possession, it is now universally accepted that regulations which control or limit the use of property can “take” the property in the constitutional sense. See ⁶⁰⁵*Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1014, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1992) (reviewing nineteenth century takings jurisprudence); see also *Penn Central Transp. Co. v. City of New York*, 438 U.S. 104, 122 n. 2, 98 S.Ct. 2646, 57 L.Ed.2d 631 (1978); and *byrd* 365 S.c. at 656, 620 S.E.2d at 79.

^{FNI}. The Fifth Amendment's takings clause applies to the actions of state governments through the due process clause of the Fourteenth Amendment to the United States Constitution. *Chicago, B. & O.R. Co. v. City of Chicago*, 166 U.S. 226, 241, 17 S.Ct. 581, 41 L.Ed. 979 (1897).

[4][5][6][7] Although no set formula exists for determining whether property has been “taken” by the government, the relevant jurisprudence does provide significant guideposts. Determining whether government action effects a taking requires a court to examine the character of the government's action and the extent to which this action interferes with the owner's rights in the property as a whole. *Penn Central*, 438 U.S. at 130-31, 98 S.Ct. 2646. Stated more specifically, these “ad hoc, factual inquiries” involve examining the character of the government's action, the economic impact of the action, and the degree to which the action interferes with the owner's investment-backed expectations. *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 426, 102 S.Ct. 3164, 73 L.Ed.2d 868 (1982) (quoting *Penn Central*, 438 U.S. at 124, 98 S.Ct. 2646); *Byrd*, 365 S.C. at 658-59, 620 S.E.2d at 80 (quoting the same). Generally, the physical occupation of private property by the government results in a taking regardless of the public interest the government's action serves. See *Loretto*, 458 U.S. at 426-28, 102 S.Ct. 3164; see also *Lucas*, 505 U.S. at 1015, 112 S.Ct. 2886. Additionally, the enforcement of a government regulation will usually effect a taking when the regulation denies all economically beneficial or productive use of land. *Lucas*, 505 U.S. at 1015, 112 S.Ct. 2886.

[8] In the instant cases, it is instructive to begin by classifying the nature of the government's actions

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which the property owners allege give rise to takings. Neither *Hardin* nor *Tallent* involves the enactment of any regulation which directly regulates any use of the owners' properties. Thus, in order to have "taken" any part of these properties, SCDOT must have physically appropriated some aspect of them. Determining this question requires that we analyze what property interests exist with reference to the public road system and a property owner's access thereto.

*606 In some jurisdictions, a property owner merely has an easement for the purpose of accessing the public road system. Therefore, as long as a property owner has access to the public road system, his easement is intact. For this reason, any road re-configuration that does not cut off an owner's access to the public road system effects no taking upon him.

**442 [9][10][11] In South Carolina, however, a property owner has more rights. As we have held, a property owner in South Carolina has an easement for access to and from any public road that abuts his property, regardless of whether he has access to and from an additional public road. *South Carolina State Hwy. Dep't v. Allison*, 246 S.C. 389, 393, 143 S.E.2d 800, 802 (1965). Thus, for example, in South Carolina, an owner of a corner lot has an easement for access to and from both roads that abut his property. Of course, an owner in South Carolina also has an easement for access to and from the public road system. This principle provides that an owner whose property does not abut any public road will not be denied access to the public road system.

In finding that takings occurred in these cases, the court of appeals relied on this Court's opinion in *City of Rock Hill v. Cothran*, 209 S.C. 357, 40 S.E.2d 239 (1946). In that case, the City of Rock Hill closed a portion of a street which rendered the remaining part of the street a cul-de-sac. *Id.* at 361-62, 40 S.E.2d at 240-41. The property owner of a corner lot which fronted both the cul-de-sac and another street brought an action against the city for a taking, and the trial court ruled in the city's favor. *Id.* at 365, 40 S.E.2d at 242. This Court reversed, stating:

The right of a landowner to recover damages because of the vacation of a street depends on the location of his land with reference to the street vacated, or the part of the street vacated, and the effect of such vacation on his rights as an abutting owner. It is well settled that an owner is not entitled to recover

damages unless he has sustained an injury different in kind and not merely in degree from that suffered by the public at large. If it appears that there is a special injury, the owner may recover damages notwithstanding his property does not abut, as in this case, on the *607 part of the street vacated, because this amounts to a 'taking.'

* * *

In the absence of special injury, no recovery will be allowed. The test is, not whether the property abuts, but whether there is a special injury, and the first practical question which presents itself is whether one whose property does not abut immediately on the part of the street vacated-the part vacated being in the same block between his property and the next connecting cross street-is so specially injured as to be entitled to recover compensation on the ground that his access is cut off in one direction, but not in the opposite direction.

Id. at 368-69, 40 S.E.2d at 243-44.

[12][13] *Cothran* is representative of a line of cases which provide that the closing of a portion of a road abutting a piece of private property necessarily constitutes some degree of a taking of that property. *E.g., Gray v. South Carolina Dep't of Highways and Public Transp.*, 311 S.C. 144, 427 S.E.2d 899 (Ct.App.1992). A critical examination of the property interests at work in these cases, however, yields no plausible explanation for this rule. When only a portion of a public road abutting a landowner's property is closed, leaving the property in a cul-de-sac, no taking has occurred. As long as the owner has access to and from the remainder of the road that continues to abut his property, his easement with respect to that road remains intact. Further, as long as a landowner still has access to the public road system, this easement is unaffected.^{FN2} This reasoning is in line with the notion that a landowner has no right to access abutting roads in more than one direction. *See* 73 A.L.R.2d 689, 691-698.

^{FN2}. Returning to the corner lot example, the natural extension of this analysis is that if the government were to entirely close one of the roads that abutted the owner's property, there would be no taking. This is exactly correct. The existence of the road was the condition that created the easement, not the other way around. So long as a landowner has access to the public road

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system, his easement by necessity is intact. The easement for access to the (now closed) abutting road has not been taken, it has been extinguished.

*608 This Court came very close to expressing this analysis in another similar case. In South Carolina State Highway Dep't v. Carodale Assoc., this Court stated:

**443 A landowner has no vested right in the continuance of a public highway; the abandonment of a highway, without its being closed, is *damnum absque injuria*. Likewise, the State is under no duty to maintain a minimum level of traffic flow. Nonetheless, the vacation of a street or the creation of a cul de sac with the concomitant diversion of traffic and loss of frontage has been held a “taking” of property.

Closing a street inherently produces a diversion of traffic and loss of frontage on a viable traffic artery. However, these repercussions are not compensable elements of damage. Succinctly, the restriction of ingress or egress to and from one's property is the right which must be compensated if infringed when a highway is closed by condemnation.

The landowner has no property right in the continuation or maintenance of the flow of traffic past its property. Traffic on the highway, to which they have access, is subject to the same police power regulations as every other member of the traveling public. Re-routing and diversion of traffic are police power regulations.

268 S.C. 556, 561, 235 S.E.2d 127, 128-29 (1977) (emphasis in original, internal citations omitted).

[14] Though it does not expressly provide so, Carodale implicitly recognizes that road closings and re-alignments are actions of a far different character than government conduct which affects an owner's rights in his or her property in a constitutionally significant sense. Stated in doctrinal terms, modern takings principles instruct that road closings and realignments which do not “take” land or an easement from a property owner do not give rise to compensable takings because these actions do not directly interfere with an owner's rights in the property as a whole.^{FN3}

FN3. The dissent attempts to take us to task for “ignoring well-established precedent” in reaching our decision. Of course, we do

not ignore precedent as the dissent suggests; we expressly overrule it.

*609 This Court's prior decisions holding that the closing of a road constituted a taking actually imply that a property owner possesses more than an easement; they imply possession of a property interest in the existence of a particular public road. That cannot be correct. See Tuggle v. Tribble, 177 Ark. 296, 6 S.W.2d 312, 314 (1928) (not passing on the takings issue, but finding that a landowner can have no vested interest in the existence of an abutting road); cf. Carodale, 268 S.C. at 561, 235 S.E.2d at 128-29 (stating that a landowner has no vested rights in the continuance of a public highway and in the continuation of maintenance of traffic flow past his property). Thus, to the extent the rationale for these holdings was that the government had caused the owner to lose a property right, this reasoning collapses on itself.

[15] As this analysis indicates, the focus of our inquiry must be on a landowner's actual property interests; that is, his easements. We therefore overrule the “special injury” analysis contained in our jurisprudence in this area and specify that our focus in these cases is on how any road re-configuration affects a property owner's easements. An easement is either taken or it is not. That is the “injury different in kind and not merely in degree” with which we are concerned. Under Cothran's legal standard, an owner might prevail in a takings claim despite the fact that all of his relevant property interests-his easements for access-have not been disturbed. Not only was the result in Cothran incorrect, its pronouncement of the law must be abandoned.^{FN4}

FN4. The contrary rule the dissent advances is curious on its own terms. As a primary matter, neither landowner in this case has been deprived of ingress or egress to his or her property, nor have these landowners been injured in their ability to enter or exit their property. Instead, these cases involve alterations to the road system which have not disturbed the landowners' easements of access. Government action can effect no taking unless it has deprived an owner of a property interest. To the degree that the dissent's analysis focuses on particular uses to which landowners put their property and

the change of a property's use-driven value following alterations in the public road system, the dissent suggests that a significant economic impairment of a landowner's expectations may give rise to a taking. This analysis puts the cart before the horse and overlooks the critical factor in these cases which is the character of the government's action. No property rights of these owners have been taken or directly interfered with. To find a taking in either of these cases would be to stretch reason beyond reality.

****444 *610 [16] Because the plaintiffs in *Hardin* continue to have access to and from Dave Lyle Boulevard and the public road system, their property rights have not been disturbed. The ability to turn only one way onto the boulevard is irrelevant. We therefore reverse the court of appeals' decision and hold that there has been no taking in this case.**

[17] Similarly, no aspect of the *Tallent* plaintiff's property has been physically taken by SCDOT. Accordingly, we reverse the court of appeals' decision and hold that there has been no taking in this case.

Conclusion

For the foregoing reasons, we reverse the court of appeals' decisions in these cases.

BURNETT and PLEICONES, JJ., concur. WALLER, J., concurring in part, dissenting in part in a separate opinion in which MOORE, J., concurs. Justice WALLER, concurring in part, and dissenting in part:

I concur in part and dissent in part.

Although I concur in result with the majority's holding that *Hardin* has not suffered a compensable taking, I disagree with the rationale underlying its decision. Further, I disagree with the majority's conclusion that *Tallent* has not suffered a compensable taking.

In my view, the majority ignores well-established precedent and then, without direct citation of authority, holds that "modern takings principles instruct that road closings and realignments which do not "take" land ... do not give rise to compensable

takings because these actions do not directly interfere with an owner's rights in the property as a whole." To the contrary, it has long been the law of this state that an actual physical taking of property is not necessary to entitle one to compensation. *611 *Gasque v. Town of Conway*, 194 S.C. 15, 8 S.E.2d 871 (1940), overruled on other grounds *McCall v. Batson*, 285 S.C. 243, 329 S.E.2d 741 (1985) (to deprive one of the ordinary beneficial use and enjoyment of property is, in law, equivalent to the taking of it, and is as much a "taking" as though the property itself were actually appropriated).

As this Court noted in *South Carolina State Highway Dep't v. Allison*, 246 S.C. 389, 393, 143 S.E.2d 800, 802 (1965), "an obstruction that materially injures or deprives the abutting property owner of ingress or egress to and from his property is a 'taking' of the property, for which recovery may be had. The fact that other means of access to the property are available affects merely the amount of damages, and not the right of recovery."

I agree with the majority that *City of Rock Hill v. Cothran*, 209 S.C. 357, 40 S.E.2d 239 (1946) was wrongly decided upon its facts and should therefore be limited. In *Cothran*, the plaintiff's property did not directly abut the closed portion of the road, such that there was no direct denial of ingress or egress. *Cothran* was not deprived of one of the immediate means of access to his property. Accordingly, under the facts of *Cothran*, the plaintiff suffered, at best, a diversion of traffic flow which, as the majority points out, this Court has recognized is not compensable. *Carodale* (landowner has no property right in the continuation or maintenance of the flow of traffic past its property).^{FNS}

^{FNS}. It has been noted that although a loss of traffic, loss of business, and circuity of travel are not themselves compensable, they are factors to be considered in determining the reasonableness of the remaining access to and from an abutting roadway. *Cady v. N.D. Dep't of Transp.*, 472 N.W.2d 467 (N.D.1991).

However, in my view, the fact that a diversion in traffic flow is not compensable does not mean that closure of a road which materially deprives the abutting property owner of ingress or egress to and from his property is not a compensable taking.

(Cite as: 371 S.C. 598, 641 S.E.2d 437)

See 46 Am.Jur. Proof of Facts 3d 493 § 17 (2004) (courts have often noted important distinction between a limitation of access, which may be compensable, and a change in traffic flow, which is not compensable).

****445 *612** On the facts of the Hardin case, I agree with the majority that there has been no taking. Hardin's property does not directly abut the median which was closed by the Department of Transportation, and he was not materially deprived of ingress or egress to and from his property. Accordingly, I concur in result only with Hardin.

I dissent from the majority opinion's holding in Tallent. In Tallent's ^{FN6} case, as a result of SDCOT's closure of access points between Old Easley Bridge Road and Highway 123, Old Easley Bridge Road was rendered a cul de sac at one end, the end used by Tallent and her customers to access her salon. Tallent's only remaining access to Highway 123 was by means of a series of secondary roads running through a low-income neighborhood. Due to the closure, the value of the residential properties increased, while the value of Tallent's commercial property decreased.

^{FN6}. Tallent's beauty shop was located on Old Easley Bridge Road.

Courts have generally held, consistent with South Carolina law, that a landowner on a partially closed road, whose land is on the opened portion, cannot claim damages if he still has reasonable access to the general system of roads. There is an exception to this rule, however, if the road closing leaves the landowner in a cul de sac. Mill Creek Properties v. City of Columbia, 944 So.2d 67 (Miss.App.2006), citing Miss. State Highway Comm'n v. Fleming, 248 Miss. 187, 157 So.2d 792 (1963); Kick's Liquor Store, Inc. v. City of Minneapolis, 587 N.W.2d 57 (Minn.Ct.App.1998) (holding that creation of a cul de sac may be compensable if losses of access to and from existing roads "substantially impairs [the landowner's] right to reasonably convenient and suitable access to the main thoroughfare"). See also DuPuy v. City of Waco, 396 S.W.2d 103, 110 (Tex.1965) (where construction of viaduct left property owner in cul-de-sac, he was deprived of reasonable access, even though he could still physically get to public roads from his property);

Boehm v. Backes, 493 N.W.2d 671 (N.D.1992) (Highway Department's construction of overpass that converted street in front of auto repair business into cul-de-sac by closing off direct access to street from nearby highway was a *613 taking; access to business after permanent closure forced use of indirect route of additional four large blocks, through residential neighborhood, distance comparable to six regular city blocks, and this physical interference specially affected property).

Here, the road on which Tallent's business is located has essentially been rendered a cul de sac. In my view, therefore, if Tallent has suffered a special injury, she has a compensable taking.^{FN7}

^{FN7}. As this Court recognized in Sease v. Spartanburg, 242 S.C. 520, 131 S.E.2d 683 (1963), the test of whether a landowner is entitled to recover damages for the vacation of a street is the existence of special injury amounting to a taking.

As noted by the Court of Appeals in this case, "The expert appraiser ... testified that [Tallent's] business losses differed from those in the area because the other entities were 'destination' businesses, such that people will seek them out regardless of the lack of immediate access from Highway 123.... [W]hile the surrounding residential area benefited from the actions of SCDOT, the value of Tallent's commercial property had been adversely affected. The realtor ... testified that there had been no interest in the property due to the current lack of access to Highway 123." Tallent, 363 S.C. at 168, 609 S.E.2d at 547. Moreover, the Master indicated that several of Tallent's patrons testified they had difficulty reaching the property since the closure, and were reluctant to do so for safety reasons in driving through the low income neighborhood.

I would affirm the Court of Appeals' holding that Tallent suffered a compensable taking.

MOORE, J., concurs.
S.C.,2007.

Hardin v. South Carolina Dept. of Transp.
371 S.C. 598, 641 S.E.2d 437

END OF DOCUMENT



Supreme Court of South Carolina.
 SOUTH CAROLINA STATE HIGHWAY
 DEPARTMENT, Appellant,
 v.
 J. D. ALLISON, Respondent.
 No. 18394.

Aug. 25, 1965.

Appeal by highway department from judgment by Court of Common Pleas, Anderson County, W. L. Rhodes, Jr., J., in favor of landowner in highway condemnation case. The Supreme Court, Bussey, J., held that an abutting landowner was entitled to compensation for the loss of access to an existing highway when a controlled access facility was constructed on top of it, at least to the extent that such loss adversely affected the fair market value of the remainder of the landowner's property not taken, and the construction of a frontage road allowing access to the facility a short distance away did not deprive owner of right of compensation but was in the nature of a benefit and was a mitigating factor to be considered in determining the amount of compensation to which the landowner was entitled.

Affirmed.

West Headnotes

[1] Eminent Domain 148  106

148 Eminent Domain
148II Compensation
148II(B) Taking or Injuring Property as Ground for Compensation
148k94 Elements of Compensation for Injuries to Property Not Taken
148k106 k. Obstruction of Access. [Most Cited Cases](#)

Abutting landowner was entitled to compensation for loss of access to existing highway when a controlled access facility was constructed on top of it, at least to extent that such loss adversely affected fair market value of remainder of landowner's property.

[2] Eminent Domain 148  106

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148 Eminent Domain
148II Compensation
148II(B) Taking or Injuring Property as Ground for Compensation
148k94 Elements of Compensation for Injuries to Property Not Taken
148k106 k. Obstruction of Access. [Most Cited Cases](#)

The construction of frontage road allowing access a short distance away to controlled access highway abutting landowner's property did not deprive owner of right to compensation for loss of direct access to previously existing highway but was mitigating factor to be considered in determining amount of compensation to which landowner was entitled.

[3] Eminent Domain 148  106

148 Eminent Domain
148II Compensation
148II(B) Taking or Injuring Property as Ground for Compensation
148k94 Elements of Compensation for Injuries to Property Not Taken
148k106 k. Obstruction of Access. [Most Cited Cases](#)

Municipal Corporations 268  669

268 Municipal Corporations
268XI Use and Regulation of Public Places, Property, and Works
268XI(A) Streets and Other Public Ways
268k664 Privileges of and Restrictions on Abutting Owners
268k669 k. Access to and Use of Roadway. [Most Cited Cases](#)

An **abutting landowner** has property **right of access** over street adjacent to his property, and, where obstruction materially injures or deprives owner of ingress to or egress from his property, fact that other means of access to property are available does not affect owner's right of recovery but only amount of damage.

[4] Eminent Domain 148  106

148 Eminent Domain

148II Compensation
148II(B) Taking or Injuring Property as Ground
for Compensation

148k94 Elements of Compensation for
Injuries to Property Not Taken

148k106 k. Obstruction of Access. Most
Cited Cases

Highways 200  85

200 Highways

200V Title to Fee and Rights of Abutting Owners

200k85 k. Right of Access. Most Cited Cases

Rule that landowners in municipality, who sometimes do not own fee in existing street right-of-way on which they abut, have property **right of access** and are entitled to compensation for loss of access was applicable to rural area where as general rule **abutting landowners** own fee in right-of-way.

[5] Eminent Domain 148  85

148 Eminent Domain

148II Compensation

148II(B) Taking or Injuring Property as Ground
for Compensation

148k81 Property and Rights Subject of
Compensation

148k85 k. Easements and Other Rights in
Real Property. Most Cited Cases

Statute which empowered state highway department to acquire lands and property for controlled access highway and which expressly included authorization to acquire **abutting landowner's right of access** showed a clear recognition by legislature that **right of access** is property right and an intent that property owner be compensated for such rights in accordance with established principles. Code 1962, § 33-217.

[6] Highways 200  85

200 Highways

200V Title to Fee and Rights of Abutting Owners

200k85 k. Right of Access. Most Cited Cases

Proviso in statute that the procedure authorizing the highway department to change or close existing driveway or side road entrances and exits under certain conditions should be alternative method of relief and should not abrogate or deny any property owners' rights as to relief under any existing laws relating to condemnation of property was clear recognition by legislature of existence of property right vested in abutting landowners of access in and to

the existing highways of the state. Code 1962, § § 33-219.1, 33-219.3.

[7] Eminent Domain 148  2.19(2)

148 Eminent Domain

148I Nature, Extent, and Delegation of Power

148k2 What Constitutes a Taking; Police and
Other Powers Distinguished

148k2.19 Highways and Streets

148k2.19(2) k. Construction and
Maintenance. Most Cited Cases

(Formerly 148k2(6))

State may not deprive abutting landowner of access to existing highway in the course of construction of controlled access facility, without compensation, merely because landowner is provided with frontage road along the abutting property.

390** *801** Daniel R. McLeod, Atty. Gen., J. McNary Spigner, Asst. Atty. Gen., Columbia, Francis R. Fant, Anderson, for appellant.

***391** E. Harry Agnew, Anderson, for respondent.

***392** BUSSEY, Justice.

In this highway condemnation case the South Carolina Highway Department appeals from a verdict and judgment in favor of the respondent landowner. The respondent owned a tract of land in Anderson County containing some forty acres which fronted to the east on what was known as the 'Old Greenville Road.' U. S. Highway No. 29 was constructed, some years ago, over the rear or western portion of the property. The instant condemnation proceeding was instituted in connection with the acquisition of a right of way for Highway I-85, a controlled-access facility, one lane of which is to be constructed on top of U. S. Highway No. 29. The landowner had access to Highway 29 along the entire western extremity of his property prior to the taking. After the taking, he will have identical access to a frontage road being constructed in conjunction with Highway I-85. By traveling seven-tenths of a mile south of his property on this frontage road, respondent can enter Highway I-85, as well as the rest of the general highway system. His access to the Old Greenville Road at the eastern extremity of his property is unaffected.

[1][2] Appellant's sole exception raises the single question, stated in the record, as follows:

'It is stipulated that the question to be answered in this appeal is whether a landowner is entitled to compensation for the loss of access to an existing

highway, when a controlled access facility is constructed on top of it, where a frontage road is provided along the entire extremity of the landowner's property.'

We think that under these circumstances the landowner is entitled to compensation for the loss of such access, at least to the extent that such loss adversely affects the fair market value of the remainder of the landowner's property, not taken in the condemnation proceeding. The construction of a frontage road is in the nature of a benefit and, as the *393 trial judge charged the jury, such was a mitigating or offsetting factor to be considered in determining the amount of compensation to which the landowner was entitled.

****802 [3]** Although not all states follow such rule, it is, we think, clearly established in this state that an abutting property owner has a right of access over a street adjacent to his property, as an appurtenance thereto. And, that an obstruction that materially injures or deprives the abutting property owner of ingress or egress to and from his property is a 'taking' of the property, for which recovery may be had. The fact that other means of access to the property are available affects merely the amount of damages, and not the right of recovery. Sease v. City of Spartanburg, 242 S.C. 520, 131 S.E.2d 683; Brown v. Hendricks, 211 S.C. 395, 45 S.E.2d 603; City of Rock Hill v. Cothran, 209 S.C. 357, 40 S.E.2d 239; Houston v. Town of West Greenville, 126 S.C. 484, 120 S.E. 236.

[4] All of the cited cases were concerned with streets within a municipality as opposed to a highway outside of an urban area. We think, however, that the rule consistently followed by this court with respect to urban streets is just as soundly applicable, if not more so, to highways in rural areas.

None of these cases make reference to the ownership of the fee in and to the urban streets involved, but it is a matter, we think, of common knowledge that at least in some instances the municipalities, rather than the adjacent property owners, own the fee to the streets. Neither the history of U. S. Highway No. 29, nor the manner of the acquisition of the right of way therefor through the property of respondent appears in the record.

Nevertheless, as a general rule, the fee to the right of way of certainly most highways in this state remains in

the abutting landowners. In the acquisition of highway rights of way, the benefits, if any, of the improvement are *394 taken into consideration in determining the amount of compensation to which the landowner is entitled. A new highway is normally of no benefit to the landowner over whose land the highway is constructed unless he had the right of access thereto, and, hence, the landowner's right of access thereto becomes, in effect, a property right for which the landowner has directly or indirectly paid a valuable consideration.

[5] Aside from the decisions of this court, the legislature itself has clearly recognized, we think, the property right of an abutting landowner in and to access to a public street, highway or thoroughfare. The General Assembly of this state first provided for and authorized the construction of controlled-access highway facilities by the South Carolina Highway Department in the year 1956, the provisions of the 1956 Act being now incorporated in Article 4, Chapter 3 of Title 33 of the 1962 Code of Laws. Code Section 33-217 reads as follows:

'Acquisition of property for controlled-access facilities; rights of abutting owners.-The Department may acquire such lands and property, *including rights of access*, as may be needed for controlled-access facilities, by gift, devise, purchase or condemnation, in the same manner as now or hereafter authorized by law for acquiring property or property rights in connection with other State highways. Along new highway locations abutting property owners shall not be entitled, as a matter of right, to access to such new locations, and any denial of such rights of access shall not be deemed as grounds for special damages.' (Emphasis added.)

We think the quoted Code section shows a clear recognition by the legislature of the property right of access existing in property owners whose lands abut the public highways of the state and an intent that such property owners should be compensated for such rights, in accordance with established principles. The last sentence of the section, of course, denies access to new locations of controlled-access facilities, *395 but with that provision of the statute we are not here concerned.

****803 [6]** Code Section 33-219.1, also a part of the 1956 Act, authorizes the Highway Department to change or close existing driveways, or side road entrances, and exits under certain circumstances and conditions.

Code Section 33-219.3 provides for judicial review of the Department's decisions thereabout and contains the following:

'Provided, however, that the above procedure shall be an alternative method of relief and shall in no wise abrogate or deny any property owners' rights as to relief under any existing law relating to the condemnation of property.'

The quoted proviso, we think, again is a clear recognition by the legislature of the existence of a property right of access in and to the existing highways of the state, vested in the abutting property owners.

[7] A number of jurisdictions have held that the state, in the exercise of its police power, may deprive an abutting landowner of access to an existing highway, in the course of the construction of a controlled-access facility, without compensation, where the landowner is provided with a frontage road along the abutting property. The appellant earnestly urges that this court should adopt and follow that principle or rule. The decisions from other jurisdictions are, however, far from unanimous on the point.

Which rule a particular state adopts or follows is, of necessity, largely dependent upon a number of factors, including the constitutional and statutory provisions of the particular state and the prior case law of the jurisdiction. As above pointed out, not all jurisdictions are committed to the rule, as we are, that an **abutting landowner** has a property **right of access** to an existing street or highway. However sound the rule, which appellant would have us adopt and apply, may be in those jurisdictions which so hold, this court is not free to adopt the same in view of not only the *396 prior decisions of this court construing the Constitution of this state, but what we think was the clear intent of the legislature.

Much of appellant's argument is addressed to subsidiary, collateral and incidental questions which were neither raised below, passed upon by the lower court nor raised by any proper exception here, and for this reason we refrain from discussing the same.

The judgment of the lower court is, accordingly, affirmed.

Affirmed.

TAYLOR, C. J., and MOSS, LEWIS and
BRAILSFORD, JJ., concur.
S.C. 1965
South Carolina State Highway Dept. v. Allison
246 S.C. 389, 143 S.E.2d 800

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C

Supreme Court of South Carolina.
 The SOUTH CAROLINA STATE HIGHWAY
 DEPARTMENT, Appellant,
 v.
 CARODALE ASSOCIATES and Arthur Keels,
 Respondents.

No. 20433.
 May 18, 1977.

Landowner appealed from decision of board of condemnation awarding it \$14,000 for one-half acre of land condemned by State Highway Department. The Common Pleas Court, Richland County, John Grimball, J., entered judgment awarding landowner \$170,000, and Highway Department appealed. The Supreme Court, Ness, J., held that admission of testimony relating to diversion of traffic and loss of frontage on highway was erroneous and prejudicial and dictated a new trial.

Reversed and remanded.

West Headnotes

[1] Constitutional Law 92 🔑2642

92 Constitutional Law
92XXI Vested Rights
92k2642 k. Zoning and Land Use. [Most Cited Cases](#)
 (Formerly 92k92)

Eminent Domain 148 🔑100(6)

148 Eminent Domain
148II Compensation
148II(B) Taking or Injuring Property as Ground for Compensation
148k94 Elements of Compensation for Injuries to Property Not Taken
148k100 Occupation or Use of Street or Other Highway
148k100(6) k. Vacation. [Most Cited Cases](#)

Landowner has no vested right in continuance of public highway; the abandonment of a highway, without its being closed, is *damnum absque injuria*.

[2] Eminent Domain 148 🔑107

148 Eminent Domain
148II Compensation
148II(B) Taking or Injuring Property as Ground for Compensation
148k94 Elements of Compensation for Injuries to Property Not Taken
148k107 k. Interference with Trade or Business. [Most Cited Cases](#)

State is under no duty to maintain a minimum level of traffic flow.

[3] Eminent Domain 148 🔑100(6)

148 Eminent Domain
148II Compensation
148II(B) Taking or Injuring Property as Ground for Compensation
148k94 Elements of Compensation for Injuries to Property Not Taken
148k100 Occupation or Use of Street or

Other Highway

[148k100\(6\)](#) k. Vacation. [Most Cited](#)

[Cases](#)

Eminent Domain 148 106

[148](#) Eminent Domain

[148II](#) Compensation

[148II\(B\)](#) Taking or Injuring Property as
Ground for Compensation

[148k94](#) Elements of Compensation for In-
juries to Property Not Taken

[148k106](#) k. Obstruction of Access. [Most
Cited Cases](#)

Closing a street inherently produces a diversion of traffic and loss of frontage on a viable traffic artery; however, these repercussions are not compensable elements of damage in condemnation proceeding; succinctly, the restriction of ingress or egress to and from one's property is the right which must be compensated if infringed when highway is closed by condemnation.

[4] Eminent Domain 148 107

[148](#) Eminent Domain

[148II](#) Compensation

[148II\(B\)](#) Taking or Injuring Property as
Ground for Compensation

[148k94](#) Elements of Compensation for In-
juries to Property Not Taken

[148k107](#) k. Interference with Trade or
Business. [Most Cited Cases](#)

Landowner has no property right in continuation or maintenance of flow of traffic past its property.

[5] Eminent Domain 148 203(1)

[148](#) Eminent Domain

[148III](#) Proceedings to Take Property and Assess
Compensation

[148k199](#) Evidence as to Compensation

[148k203](#) Damages

[148k203\(1\)](#) k. In General. [Most Cited
Cases](#)

Eminent Domain 148 262(5)

[148](#) Eminent Domain

[148III](#) Proceedings to Take Property and Assess
Compensation

[148k250](#) Appeal

[148k262](#) Review

[148k262\(5\)](#) k. Harmless Error. [Most
Cited Cases](#)

Eminent Domain 148 263

[148](#) Eminent Domain

[148III](#) Proceedings to Take Property and Assess
Compensation

[148k250](#) Appeal

[148k263](#) k. Determination and Disposition
of Cause. [Most Cited Cases](#)

In condemnation proceeding, admission of testimony relating to diversion of traffic and loss of frontage on highway was erroneous and prejudicial, and dictated a new trial.

[6] Eminent Domain 148 131

[148](#) Eminent Domain

[148II](#) Compensation

[148II\(C\)](#) Measure and Amount

[148k129](#) Taking Entire Tract or Piece of
Property

[148k131](#) k. Value of Land. [Most Cited
Cases](#)

The "scope of the project test" was created to prevent escalated or depressed prices of purchases due to condemnation project when later acquired land was initially contemplated by the project.

[7] Eminent Domain 148 ↪222(5)

148 Eminent Domain

148III Proceedings to Take Property and Assess Compensation

148k213 Assessment by Jury

148k222 Instructions

148k222(5) k. Damages. Most Cited

Cases

In condemnation proceeding, trial court did not err in charging jury that compensable measure of damages was value of land at date of taking plus any resulting injury to remaining property offset by any benefits to remaining land as a result of the project, in view of fact that condemned property had been initially contemplated by project and included in the first public design hearing.

[8] Eminent Domain 148 ↪238(6)

148 Eminent Domain

148III Proceedings to Take Property and Assess Compensation

148k225 Assessment by Commissioners, Appraisers, or Viewers

148k238 Review by Court

148k238(6) k. Trial or Review. Most

Cited Cases

In trial de novo of condemnation proceeding, following appeal from decision of board of condemnation, prior condemnation proceedings and awards are inadmissible. Code 1962, § 33-139.

**128 *557 Atty. Gen. Daniel R. McLeod, Asst. Atty.

Gen. A. Camden Lewis, Donald V. Myers and William F. Austin, Columbia, for appellant.

*558 Michael H. Quinn, Columbia, for respondents.

*560 NESS, Justice:

This is an appeal involving the condemnation of less than one-half acre of land (.47 acres) by the appellant South Carolina State Highway Department. The Board of Condemnation awarded \$14,000.00 and the landowner appealed. A trial de novo resulted in a jury verdict in favor of the landowner in the amount of \$117,000.00. We find reversible error of law necessitating a new trial.

The landowner's property was acquired for an exit ramp off Interstate # 77 being constructed in Richland County. A portion of U.S. Highway # 1, fronting on the landowner's property prior to the condemnation, will be relocated creating a cul de sac contiguous to the respondent's land. Access to the relocated U.S. Highway # 1 will be afforded by the construction of a connecting street.

Appellant continuously objected to the admission of testimony relating to diversion of traffic and loss of frontage on the highway.[FN1] Appellant's motion for a new trial was also premised on this alleged error.

FN1. Although interposed objections to the testimony of the numerous witnesses were profuse, the following occurring during the direct examination of the landowner's first witness is representative:

"Mr. Lewis: Your Honor, I'm going to have to object to this testimony as being irrelevant and it shouldn't go to any just compensation, the frontage on the highway, or the traffic, or the right to a highway is not compensable damages under our law.

“The Court: All right. I overrule your objection . . .

“Mr. Lewis: Again we must renew our objection. The relocation of the road and the frontage on the road and the continuance of the highway is not compensable damages under the laws of the State of South Carolina.

“The Court: I think it is, Mr. Lewis. I overrule your objection . . .” (Tr. pages 65-67)

*561 [1][2] A landowner has no vested right in the continuance of a public highway; the abandonment of a highway, without its being closed, is *damnum absque injuria*. Wilson v. Greenville County, 110 S.C. 321, 96 S.E. 301 (1918). Likewise, the State is under no duty to maintain a minimum level of traffic flow. 4A Nichols, Eminent Domain, Section 14.244(4). Nonetheless, the vacation of a street or the creation of a cul de sac with the concomitant diversion of traffic and loss of frontage has been held a “taking” of property. City of Rock Hill v. Cothran, 209 S.C. 357, 40 S.E.2d 239 (1946).

**129 [3] Closing a street inherently produces a diversion of traffic and loss of frontage on a viable traffic artery. However, these repercussions are not compensable elements of damage. Succinctly, the restriction of ingress or egress to and from one's property is the right which must be compensated if infringed when a highway is closed by condemnation. South Carolina State Highway Department v. Wilson, 254 S.C. 360, 175 S.E.2d 391 (1970); South Carolina State Highway Department v. Allison, 246 S.C. 389, 143 S.E.2d 800 (1965); Sease v. City of Spartanburg, 242 S.C. 520, 131 S.E.2d 683 (1963); Powell v. Spartanburg County, 136 S.C. 371, 134 S.E. 367 (1926).

[4] The landowner has no property right in the continuation or maintenance of the flow of traffic past its property. Traffic on the highway, to which they have access, is subject to the same police power regulations as every other member of the traveling public. Re-routing and diversion of traffic are police power regulations. 42 A.L.R.3d 148, 163; Woodland Market Realty v. City of Cleveland, 426 F.2d 955 (6th Cir. 1970); Hollis v. Armour & Company, 190 S.C. 170, 179, 2 S.E.2d 681 (1939); 8 South Carolina Digest, Eminent Domain, ¶2(1).

[5] We agree with the appellant that testimony relating to alleged damages for which restitution is not recognized at law was erroneous and prejudicial dictating a new trial.

*562 Since it is probable the same questions will arise at the next trial, we consider the following exceptions.

Appellant asserts error in the refusal of the court to accept or charge the “scope-of-the-project test.” The trial court ruled the test was not recognized in South Carolina. We need not reach this issue as the test, even if cognizable in this State, is not applicable to the instant case. Mr. Justice Stewart in United States v. Reynolds, 397 U.S. 14, 90 S.Ct. 803, 25 L.Ed.2d 12 (1970) fully discussed the precept:

“The Court early recognized that the ‘market value’ of property condemned can be affected, adversely or favorably, by the imminence of the very public project that makes the condemnation necessary. And it was perceived that to permit compensation to be either reduced or increased because of an alteration in market value attributable to the project itself would not lead to the ‘just compensation’ that the Constitution requires. On the other hand, the development of a public project may also lead to enhancement in the market value of neighboring land that is not covered

by the project itself. And if that land is later condemned, whether for an extension of the existing project or for some other public purpose, the general rule of just compensation requires that such enhancement in value be wholly taken into account, since fair market value is generally to be determined with due consideration of all available economic uses of the property at the time of the taking.” [397 U.S. at 16-17, 90 S.Ct. at 805.](#)

[6] The facts of this case do not disclose a bifurcated condemnation with an intervening enhancement of property values attributable to the project. The “scope-of-the-project test” was created to prevent escalated or depressed prices of purchases due to the condemnation project when later acquired land was initially contemplated by the project. In Reynolds over 250 acres of land was condemned to create a reservoir. The case concerned 78 acres of the land taken for construction of recreational facilities which was not referred to in the initial design memorandum:

*563 “ * * * The parties agree that if the acreage in issue was ‘probably within the scope of the project from the time the Government was committed to it,’ substantially less compensation is due than if it was not. For if the property was probably within the project’s original scope, then its compensable value is to be measured in terms of agricultural use. If, on the other hand, the acreage was outside the original scope of the project, its compensable value is properly measurable in terms of its economic potential as lakeside**130 residential or recreational property.” [397 U.S. at 18, 90 S.Ct. at 806.](#)

[7] In the instant case, the condemned property was initially contemplated by the project and included in the first public design hearing. The trial court correctly charged that the compensable measure of damages was the value of the land at the date of the taking plus any resulting injury to the remaining property offset by any benefits to the remaining land

as a result of the project. See [South Carolina State Highway Department v. Freeman, 263 S.C. 522, 211 S.E.2d 561 \(1975\)](#); [South Carolina State Highway Department v. Miller, 237 S.C. 386, 117 S.E.2d 561 \(1960\)](#); [Smith v. City of Greenville, 229 S.C. 252, 92 S.E.2d 639 \(1956\)](#); ss 33-135, 33-136, Code of Laws, 1962.

[8] Appellant also asserts as error the introduction of testimony as to the prior condemnation award. Section 33-139, Code of Laws, 1962, provides for a jury trial de novo after the appeal of a decision of the Board of Condemnation. Prior condemnation proceedings and awards are inadmissible in the trial de novo. [Wateree Power Company v. Rion, 113 S.C. 303, 102 S.E. 331 \(1920\)](#); 29A C.J.S. Eminent Domain s 273(7); 30 C.J.S. Eminent Domain s 372(6). A review of the record indicates there was no specific reference to the Board of Condemnation or its award. While it is inferable that the testimony is merely the Highway Department’s pre-trial assessment of just compensation,*564 the coincidental similarity of the Department’s assessment and the condemnation award certainly could produce adverse connotations. Ultimate prudence would dictate exclusion of testimony which hints of impropriety. However, we reserve comment on the existence of error or prejudice on this issue as the question may not be presented again in the impending new trial.

Appellant finally asserts that pre-trial discovery pursuant to Circuit Court Rule 88 was unduly restricted by the trial court. It is conceded that all requested material has been disclosed and we need not reach this issue in light of the forthcoming new trial.

The remaining exceptions are without merit.

We, therefore, reverse the judgment of the trial court and remand for a new trial.

235 S.E.2d 127

268 S.C. 556, 235 S.E.2d 127

(Cite as: 268 S.C. 556, 235 S.E.2d 127)

Page 31

REVERSED and REMANDED.

LEWIS, C. J., and LITTLEJOHN, RHODES and
GREGORY, JJ., concur.

S.C. 1977.

South Carolina State Highway Dept. v. Carodale As-
sociates

268 S.C. 556, 235 S.E.2d 127

END OF DOCUMENT

415 S.C. 299
Court of Appeals of South Carolina.
SOUTH CAROLINA DEPARTMENT OF
TRANSPORTATION, Respondent,
v.
David Franklin POWELL, Appellant.
Appellate Case No. 2013-001759.
|
No. 5368.
|
Heard Dec. 10, 2014.
|
Decided Dec. 9, 2015.
|
Rehearing Denied Feb. 19, 2016.

Synopsis

Background: Department of Transportation filed a notice of condemnation. The Circuit Court, Horry County, [Edward B. Cottingham, J.](#), entered summary judgment for Department, and landowner appealed.

[Holding:] The Court of Appeals, [Lockemy, J.](#), held that any diminution in value of landowner's property as a result of the change in road access was not compensable.

Affirmed.

West Headnotes (5)

- ^[1] **Eminent Domain**
🔑 Necessity of just or full compensation or indemnity

In order for the landowner to be compensated fully, the government must put the owners in as good position pecuniarily as if the use of their property had not been taken, and landowner is entitled to have the full equivalent of the value of such use at the time of the taking paid contemporaneously with the taking.

[Cases that cite this headnote](#)

- ^[2] **Highways**
🔑 Right of access

Property owner has an easement for access to and from any public road that abuts his property, regardless of whether he has access to and from an additional public road, and property owner also has an easement for access to and from the public road system.

[Cases that cite this headnote](#)

- ^[3] **Eminent Domain**
🔑 Obstruction of access

Any diminution in value of landowner's property as a result of the change in road access was not compensable in condemnation case involving Department of Transportation, which condemned portion of landowner's property as part of its overall road project; any damage to the remainder of landowner's property as a result of the closure of the intersection of road and highway was not compensable, and landowner had not lost his right of ingress or egress to and from his property.

[Cases that cite this headnote](#)

- ^[4] **Eminent Domain**
🔑 Interference with trade or business

In condemnation context, landowner has no vested rights in the continuance of a public highway and in the continuation of maintenance of traffic flow past his property.

[Cases that cite this headnote](#)

[5] **Eminent Domain**
🔑 **Obstruction of access**

The taking of part of landowner's property by Department of Transportation was only an incidental result of the closure of highway's intersection and was not indispensable to and inseparable from overall highway project, and thus landowner was not entitled to compensation for loss of access to remainder of his property; property was taken to round intersection of road and a second highway, and taking of landowner's property was not a substantial part of overall project given that Department could have closed intersection without taking part of landowner's property.

[Cases that cite this headnote](#)

Attorneys and Law Firms

**727 [Howell V. Bellamy, Jr.](#) and [Robert S. Shelton](#), both of Bellamy, Rutenberg, Copeland, Epps, Gravely & Bowers, P.A., of Myrtle Beach, for appellant.

[John B. McCutcheon, Jr.](#), of Thompson & Henry, P.A., of Conway; and [Beacham O. Brooker, Jr.](#), of the South Carolina Department of Transportation, of Columbia, for respondent.

Opinion

[LOCKEMY, J.](#)

*301 In this appeal from a condemnation action, David Powell argues the circuit court erred in granting the South Carolina Department of Transportation's (SCDOT) motion for partial summary judgment. We affirm.

FACTS/PROCEDURAL BACKGROUND

On August 27, 2010, SCDOT filed a notice of condemnation acquiring 0.183 acres of a 2.51 acre tract of unimproved land owned by Powell at the northeast corner of Old Socastee Highway and Emory Road in Horry County. The acquisition occurred in conjunction with a highway improvement project involving nearby Highway

17. SCDOT offered Powell \$72,000 for the condemned property. Powell rejected SCDOT's offer and requested a jury trial to determine just compensation.

Prior to the condemnation, Powell's property was accessible from Highway 17 via Emory Road. As a result of SCDOT's highway improvement project, the intersection of Emory Road and Highway 17 was closed and Powell's property was accessible only from Highway 17 via an entrance one mile north of his property on to Old Socastee Highway. Powell's property was taken for the purpose of converting the corner of Emory Road and Old Socastee to a curve. Prior to the start of trial, SCDOT changed its road plan. As a result of the change, Old Socastee Highway would no longer extend to the entrance to Highway 17, but would dead-end into a cul-de-sac just north of Powell's property. In order to access Powell's property from Highway 17 after the road change motorists would have to travel a longer distance (roughly 2 miles).

On March 14, 2013, SCDOT submitted the revised appraisal report of its real estate valuation expert, Corbin Haskell, outlining his opinion of just compensation under SCDOT's changed road plan. Whereas Haskell had assessed no damages *302 to Powell's remaining property in any of his three prior reports, in his fourth report Haskell determined Powell's remaining property had been damaged fifty percent as a result of the taking, and he was entitled to compensation in the amount of \$517,000.

One week later, SCDOT submitted a fifth appraisal report from Haskell. As he did in his first three reports, Haskell determined there were no damages to the remainder of Powell's property. On the cover of his report, Haskell included the following disclaimer: "I have been requested to revise my appraisal since legal counsel advises that the reconfiguration of the roadways does not constitute damages to the remainder in this case. Therefore, there are no damages to the subject as the property will have full ingress/egress via an adjoining road 'after' the acquisition."

On March 25, 2013, SCDOT filed a motion in limine to exclude any evidence of diminution in the value of Powell's remaining property caused by the loss of access to Highway 17. SCDOT asserted Powell's property did not abut Highway 17 and he had no private property right with respect to that road. SCDOT maintained Powell's easements with respect to the public roads his property abutted had not been disturbed by the project. Additionally, SCDOT requested the court exclude damages to the remainder of Powell's property caused by loss of visibility from Highway 17. At the hearing on SCDOT's motion, Powell's counsel requested SCDOT

convert its motion to one of partial summary judgment to accommodate an appeal. SCDOT agreed to do so. In a May 14, 2013 order, the circuit court granted SCDOT's motion for partial summary judgment. Citing *Hardin v. South Carolina Department of Transportation*, 371 S.C. 598, 641 S.E.2d 437 (2007), the court found Powell's loss of access was not compensable and excluded any evidence regarding change in access from the trial. The court declined to rule on the issue of loss of visibility. Powell's subsequent Rule 59(e), SCRCP, motion to alter or amend was denied. This appeal followed.

STANDARD OF REVIEW

When reviewing the grant of a summary judgment motion, this court applies the same standard that governs the trial court under Rule 56(c), SCRCP; summary judgment is proper *303 when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002). In determining whether a genuine issue of fact exists, the evidence and all reasonable inferences drawn from it must be viewed in the light most favorable to the nonmoving party. *Sauner v. Pub. Serv. Auth. of S.C.*, 354 S.C. 397, 404, 581 S.E.2d 161, 165 (2003).

LAW/ANALYSIS

I. *Hardin*

Powell argues the circuit court erred in finding our supreme court's holding in *Hardin v. South Carolina Department of Transportation*, 371 S.C. 598, 641 S.E.2d 437 (2007), an inverse condemnation case, prevents the consideration of access damages to remaining property in direct condemnation actions.

^[1] Under South Carolina's Constitution, "private property shall not be taken for public use ... without 'just compensation' being first made for the property." S.C. Const. art. I, § 13(A). "In determining just compensation, only the value of the property to be taken, any diminution in the value of the landowner's remaining property, and any benefits as provided in § 28-2-360 may be considered." S.C.Code Ann. § 28-2-370 (2007).

In order for the landowner to be compensated fully, the government must "put the owners in as good position pecuniarily as if the use of their property had not been taken. They are entitled to have the full equivalent of the value of such use at the time of the taking paid

contemporaneously with the taking."

S.C. Dep't of Transp. v. Faulkenberry, 337 S.C. 140, 148, 522 S.E.2d 822, 826 (Ct.App.1999) (quoting *Phelps v. United States*, 274 U.S. 341, 344, 47 S.Ct. 611, 71 L.Ed. 1083 (1927)).

In *Hardin*, the plaintiffs filed an inverse condemnation action against SCDOT alleging the closure of a break in the median of an abutting highway deprived the traffic leaving their properties of the ability to cross the highway and constituted a taking. 371 S.C. at 603, 641 S.E.2d at 440. The trial court ruled the plaintiffs suffered a compensable taking, and *304 the court of appeals affirmed. *Id.* at 603, 641 S.E.2d at 440. The supreme court reversed the court of appeals and found there was no taking. *Id.* at 610, 641 S.E.2d at 444.

Prior to *Hardin*, "a landowner's ability to recover damages as a result of a re-configuration of road access depended on the location of his land with reference to the road vacated and the effect of the vacation on his rights as an abutting landowner." *Carolina Chloride, Inc. v. S.C. Dep't of Transp.*, 391 S.C. 429, 433, 706 S.E.2d 501, 503 (2011) (citing *City of Rock Hill v. Cothran*, 209 S.C. 357, 40 S.E.2d 239 (1946)). "The *Cothran* [c]ourt held a landowner is not entitled to recover damages unless he has sustained a 'special injury,' which is an injury different in kind and not merely in degree from that suffered by the public at large." *Id.* (citing *Cothran*, 209 S.C. at 368-69, 40 S.E.2d at 243-44). "In *Hardin*, the [c]ourt abandoned the 'special injury' analysis which previously existed in this state's jurisprudence, and specified that the focus in these cases should be how any road re-configuration affects a property owner's easements." *Id.* (citing *Hardin*, 371 S.C. at 609, 641 S.E.2d at 443).

^[2] Pursuant to *Hardin*, "a property owner in South Carolina has an easement for access to and from any public road that abuts his property, regardless of whether he has access to and from an additional public road." 371 S.C. at 606, 641 S.E.2d at 442. A property owner "also has an easement for access to **729 and from the public road system." *Id.* The *Hardin* court held

[a]s long as the owner has access to and from the remainder of the road that continues to abut his property, his easement with respect to that road remains intact. Further, as long as a landowner still has access to the public road system, this easement is unaffected. This reasoning is in line with the notion

that a landowner has no right to access abutting roads in more than one direction.

Id. at 607, 641 S.E.2d at 442 (footnote omitted). The *Hardin* court found the plaintiffs continued to have a means of ingress and egress from the highway and the public road system, and therefore, their property rights had not been disturbed. 371 S.C. at 610, 641 S.E.2d at 444.

*305 Here, Powell argues the issue of admissibility of evidence relating to the increased remoteness and complexity of access to his property resulting from the SCDOT road project is essential to the determination of just compensation. He asserts that because his property is zoned “highway commercial,” the ease of access to his property affects its value. Powell contends the route to his property is no longer visible to northbound travelers on Highway 17 and is only accessible indirectly.

Powell further maintains that had the legislature intended to prevent consideration of any particular evidence of diminution in value to remaining property, it could have inserted limitation language into the Eminent Domain Procedure Act. Instead, Powell notes, section 28–2–370 provides any diminution in value of a landowner’s remaining property is to be considered in determining just compensation. See S.C.Code Ann. § 28–2–370 (2007) (“In determining just compensation, only the value of the property to be taken, any diminution in the value of the landowner’s remaining property, and any benefits as provided in § 28–2–360 may be considered.”).

Powell argues the circuit court’s reliance on *Hardin* is improper. In *Hardin*, our supreme court held the first step in determining if a taking occurred is to look at the property right the plaintiff held prior to the government action for which the plaintiff complained. 371 S.C. at 609, 641 S.E.2d at 443. Next, the court must determine whether the government action materially injured the property right such that the plaintiff “no longer enjoyed the reasonable means of access to which it was entitled.” *Hilton Head Auto., LLC v. S.C. Dep’t of Transp.*, 394 S.C. 27, 31, 714 S.E.2d 308, 310 (2011). Powell contends the *Hardin* analysis is unnecessary in direct condemnation cases, like the present case, where a taking has already been established. He asserts that pursuant to section 28–2–370, the court must consider all evidence of damage to the landowner.

Conversely, SCDOT argues redesigning highways and redirecting traffic are police power regulations. SCDOT asserts any diminution in the value of Powell’s remaining

property after the closure of the intersection of Emory Road and Highway 17 is an incidental result of a police power of the *306 State, not one of eminent domain, and is not compensable. SCDOT contends the closure of the intersection was not a taking that deprived Powell of any pre-existing property right. Additionally, SCDOT contends Powell’s property still has full access to each of the roads it abuts (Emory Road and Old Socastee Highway) and to the general system of roads by traveling south on Emory Road. SCDOT argues the added distance is not unreasonable and neither of the easements described in *Hardin* have been taken.

We find *Hardin* is not applicable to the present case. *Hardin* is an inverse condemnation case which does not involve the physical appropriation of private property. Here, the relevant question to consider is whether Powell is entitled to compensation for access damages to his remaining property where there was physical appropriation of land by SCDOT.

The factual scenario presented here is similar to that in *South Carolina State Highway Department v. Carodale Associates*, 268 S.C. 556, 235 S.E.2d 127 (1977). In *Carodale*, the highway department acquired 0.47 acres of land from the landowner for the construction of an exit ramp off Interstate 77 in Richland County. 268 S.C. at 560, 235 S.E.2d at 128. Part of the project also involved the relocation **730 of part of Highway 1 upon which the landowner’s property abutted. *Id.* The property was afforded access to the relocated Highway 1 by the construction of a connecting street. *Id.* The supreme court reversed the award of damages to the landowner’s remaining land attributable to the diversion of traffic previously passing its property. *Id.* at 564, 235 S.E.2d at 130. The court declared the State is under no duty to maintain a minimum level of traffic flow. *Id.* at 561, 235 S.E.2d at 128. Further, the *Carodale* court held

[c]losing a street inherently produces a diversion of traffic and loss of frontage on a viable traffic artery. However, these repercussions are not compensable elements of damage. Succinctly, the restriction of ingress or egress to and from one’s property is the right which must be compensated if infringed when a highway is closed by condemnation.

Id. at 561, 235 S.E.2d at 129.

[3] [4] Viewing the evidence in the light most favorable to

Powell, we hold the circuit court did not err in finding any *307 diminution in value of Powell's property as a result of the change in road access is not compensable. While the circuit court's reliance on *Hardin* was error, pursuant to *Carodale*, a landowner has no vested rights in the continuance of a public highway and in the continuation of maintenance of traffic flow past his property. Therefore, any damage to the remainder of Powell's property as a result of the closure of the intersection of Emory Road and Highway 17 is not compensable. Moreover, we note Powell has not lost his right of ingress or egress to and from his property. Powell had access to Old Socastee Highway and Emory Road prior to the road project and will continue to have access to Old Socastee Highway and Emory Road following the completion of road project.

II. *Wilson*

The circuit court found Powell's property was taken for the purpose of rounding the intersection of Emory Road and Old Socastee Highway, and SCDOT could have eliminated the intersection of Emory Road and Highway 17 without taking Powell's property. On appeal, Powell asserts this finding is not supported by any evidence in the record. Powell argues this finding by the court created an inference that could erroneously distinguish the closure of the intersection and the creation of the Old Socastee Highway cul-de-sac from the highway project for which the present action was filed. Relying on *South Carolina State Highway Department v. Wilson*, 254 S.C. 360, 175 S.E.2d 391 (1970), Powell asserts SCDOT's condemnation of a portion of his property was part of its overall road project and he is entitled to recover access damages to his remaining property.

In *Wilson*, the highway department took a portion of Wilson's property in order to align a county road running alongside her property with U.S. 15 which her property abutted. 254 S.C. at 363, 175 S.E.2d at 393. Concurrently, the department constructed a raised concrete median in the center of U.S. 15 eliminating her ability to make left turns onto U.S. 15 from her property. *Id.* at 363–64, 175 S.E.2d 391. The supreme court found that “[w]hile the construction of a median, with nothing more, may very well be an exercise of the police power with no resulting compensable damage to an abutting property owner, in the instant case the proposed *308 median is only an incidental part of the overall Department plans and contemplated construction.” *Id.* at 368, 175 S.E.2d at 396. The court held

[b]ut for such overall construction and relocation, and condemnation

under the power of eminent domain for such purposes, there would have been no median and, of course, no damage to the abutting landowner. It logically follows, we think that any damage attributable to the planned median is an incidental result of the exercise of the power of eminent domain....

Id. at 369, 175 S.E.2d at 396.

SCDOT argues *Wilson* represents a close factual case between acts of eminent domain and police power actions for which no compensation is due. It contends the federal courts have formalized a three part rule to distinguish damages resulting from a taking and damages resulting from concurrent police power acts in the same project. The “*Campbell* rule,” SCDOT asserts, is contained **731 in three cases: *Campbell v. United States*, 266 U.S. 368, 45 S.Ct. 115, 69 L.Ed. 328 (1924); *West Virginia Pulp & Paper Co. v. United States*, 200 F.2d 100 (4th Cir.1952); and *United States v. Pope & Talbot, Inc.*, 293 F.2d 822 (9th Cir.1961).

In *Campbell*, the United States condemned 1.81 acres of Campbell's land along with 1,300 acres owned by other landowners to construct a nitrate plant. 266 U.S. at 369, 45 S.Ct. 115. Campbell appealed the refusal of the district court to award him any damages for diminution in value to his remaining land. *Id.* at 369–70, 45 S.Ct. 115. The government did not propose to use Campbell's land for industrial purposes. Rather, the plant would be physically located on land taken from the other landowners. The Supreme Court held that the proposed use of land by the government taken from others did not constitute a taking of Campbell's property. 266 U.S. at 371, 45 S.Ct. 115. It noted that, if the neighboring landowners had put their land to the identical use that the government proposed, Campbell would have no right to prevent it. *Id.* at 371–72, 45 S.Ct. 115. In summary, the court stated,

[t]he rule supported by better reason and the weight of authority is that the just compensation assured by the Fifth Amendment to an owner, a part of whose land is taken for *309 public use, does not include the diminution in value of the remainder caused by the acquisition and use of adjoining lands of others for the same undertaking.

Id. at 372, 45 S.Ct. 115.

The Fourth Circuit in *West Virginia Pulp & Paper* distinguished *Campbell* and awarded compensation for damages to the remainder of the condemnee's property for the diminution in value to two other contiguous tracts owned by the condemnee. 200 F.2d at 103. The court noted that just compensation "includes not only the market value of that part of the tract appropriated, but the damage to the remainder resulting from that taking, embracing, of course, injury due to the use to which the part appropriated is to be devoted." *Id.* at 102 (quoting *United States v. Grizzard*, 219 U.S. 180, 183, 31 S.Ct. 162, 55 L.Ed. 165 (1911)).

The Ninth Circuit in *Pope & Talbot*, established a corollary rule to *Campbell*. There, the United States had taken part of Pope & Talbot's land and the land of other owners for a dam project. 293 F.2d at 823. The land taken from Pope & Talbot was flooded along with the other lands. *Id.* In addition, the remaining Pope & Talbot land suffered a loss of accessibility due to having to drive around the lake instead of straight across its bed. *Id.* at 823–24. The Court held three elements are necessary to negate the application of *Campbell*: indispensability, substantiality, and inseparability. *Id.* at 825. The Court found (1) the land taken from the condemnee landowner was indispensable to the dam project; (2) the land taken constituted a substantial part of the tract devoted to the project; and (3) the damages resulting to the land not taken from the use of the land taken were inseparable from the damages to the land not taken flowing from the condemnor government's use of its adjoining land in the

dam project. *Id.*

^[5] We agree with SCDOT that it could have eliminated the intersection without taking part of Powell's property. Powell's property was taken for the purpose of rounding the intersection of Emory Road and Old Socastee Highway, not for the Highway 17 intersection closure. While the intersection closure and the taking of Powell's property were part of the same SCDOT highway improvement project, the relevant question to consider is whether the taking of Powell's property *310 was necessary for the intersection closure. In light of the cases discussed above, we find the taking of Powell's property was only an incidental result of the closure and was not indispensable to and inseparable from the overall project. We further hold the taking of Powell's property was not a substantial part of the overall road project.

CONCLUSION

We affirm the trial court's grant of SCDOT's motion for partial summary judgment.

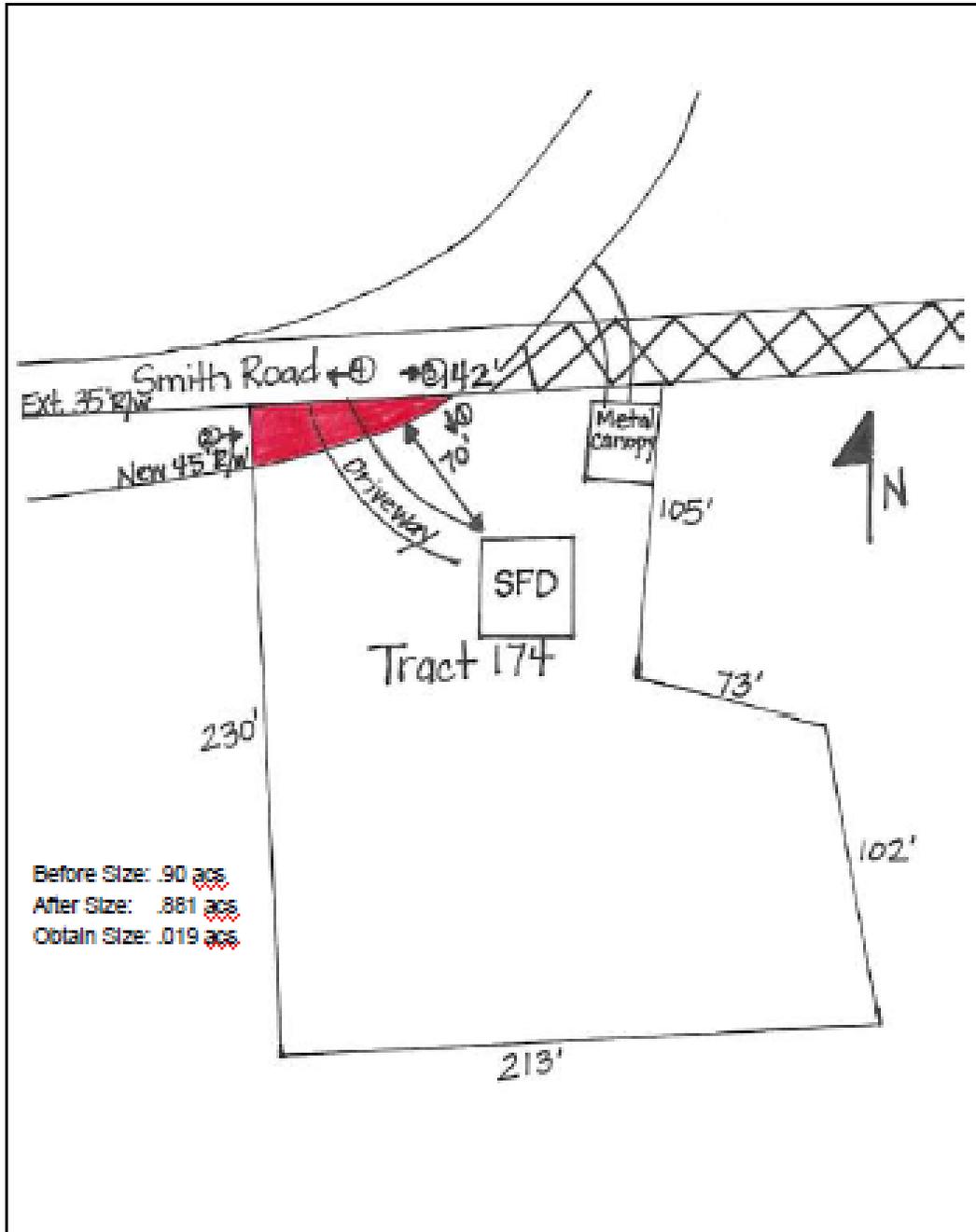
FEW, C.J., and THOMAS, J., concur.

All Citations

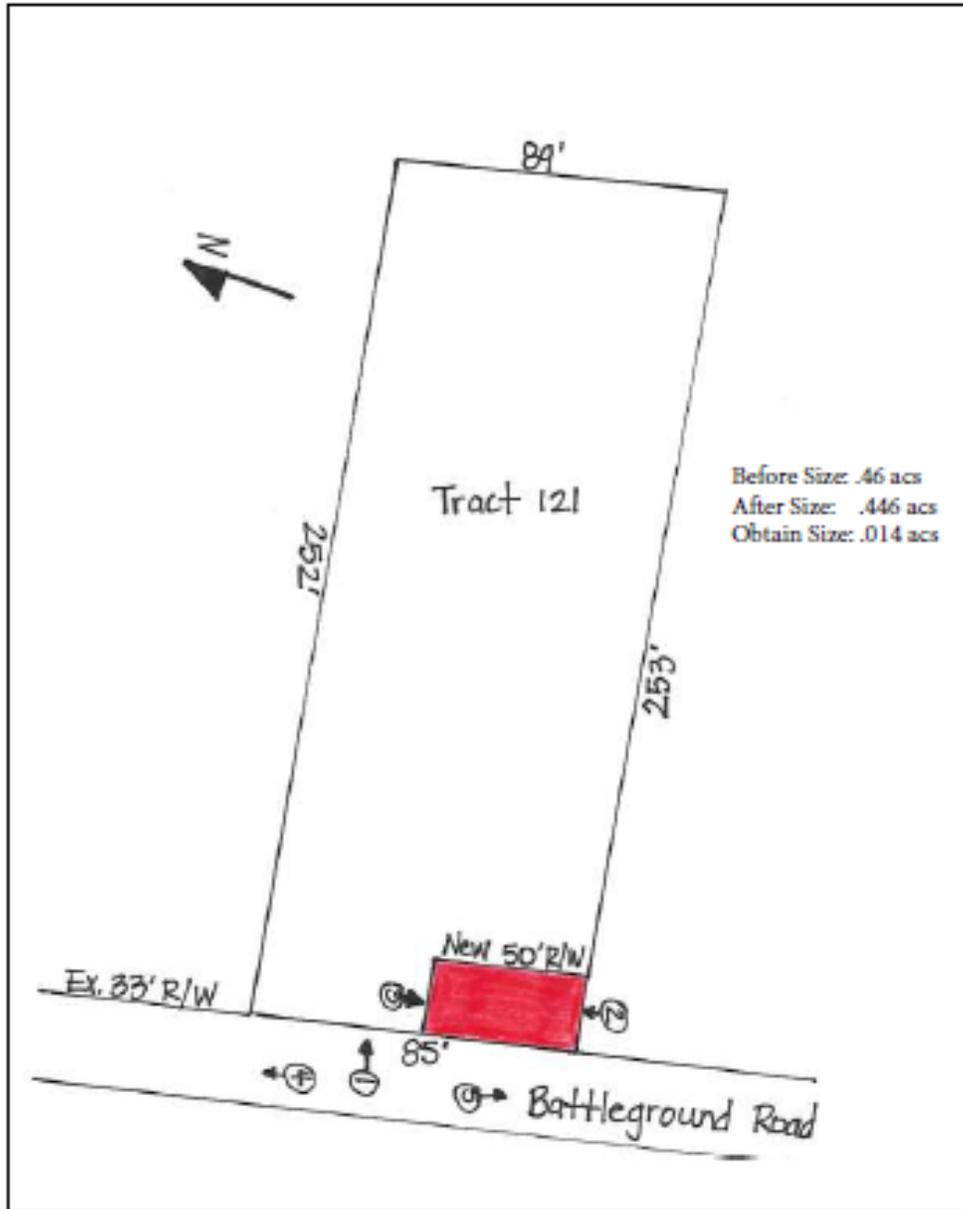
415 S.C. 299, 781 S.E.2d 726

SECTION VII: SKETCH DESIGN EXAMPLES

SUBJECT PLATISKETCH



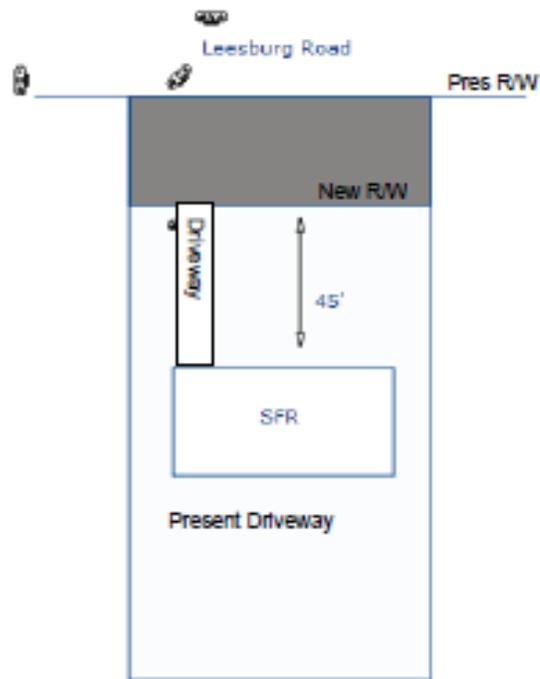
SUBJECT PLAT SKETCH



File No: _____ Project: _____ Tract: _____

SKETCH OF ACQUISITION

Not to Scale



Before Acreage:	0.286	SF:	12,458
Acquired Acreage:	0.052	SF:	2,278
After Acreage:	0.234	SF:	10,180

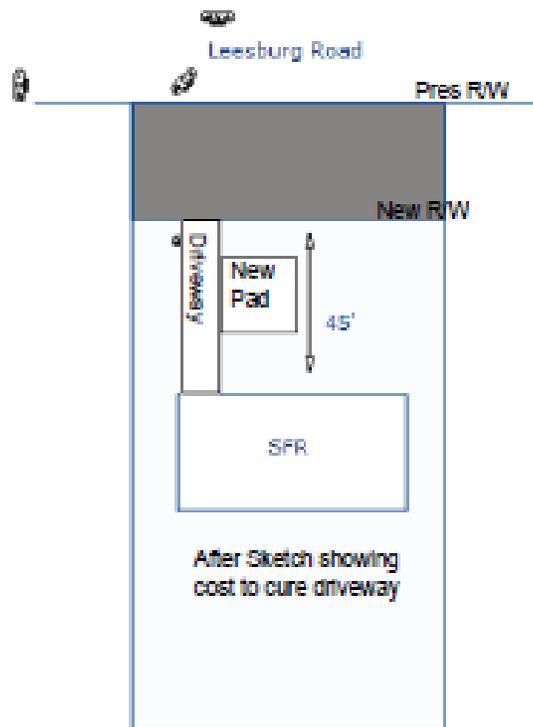
File No: _____

Project: _____

Tract: _____

SKETCH OF ACQUISITION

Not to Scale N ←



Before Acreage:	0.286	SF:	12,458
Acquired Acreage:	0.052	SF:	2,278
After Acreage:	0.234	SF:	10,180