

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

STATE OF ALABAMA,
PLAINTIFF,
VS.
PARTNERS IN PROGRESS
DEFENDANT

CASE NO: CV96-194

Inst # 1999-49549
12/08/1999-49549
10:13 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
006 HHS 21.00

ORDER OF CONDEMNATION

This case was commenced by the filing of the complaint for the condemnation in the Probate Court of Jefferson County, Alabama, on the 28th day of September, 1995, to condemn the property hereinafter described under and pursuant to Section 23 of the Constitution of Alabama, Title 18, Chapter 1, and Title 23-5-45 and 23-3-5 of the Code of Alabama, 1975, as amended. This case came on for trial in this Court on the 4th day of October, 1999, on appeal from the Order of Condemnation made and entered in the Probate Court of Jefferson County, Alabama on the 4th day of January, 1996. The parties to the proceedings were present in Court and represented by counsel, namely: Honorable James E. Ferguson III, attorney for the State of Alabama, and Honorable John H. Lavette, and Honorable F. Lane Finch, Jr., attorneys for Partners in Progress, L.L.P. This Court is of the opinion and finds that it has jurisdiction for the cause and of the parties.

All the parties to this cause stipulated and agreed in open Court that:

1. An Order of Condemnation may be entered in this cause granting the application for an Order to condemn the property hereinafter described.

The only issue to be decided by the jury being the amount of compensation to be awarded to the property owner.

2. That the owner of the property condemned is Partners in Progress, L.L.P.
3. Thereupon, the jury having been demanded to assess the damages and compensation to which the owner of said lands is entitled, the Court proceeded to have a jury assess the damages and compensation for condemnation of said land and on the 6th day of October, 1999, came a jury of twelve good and lawful persons to wit: Being duly impaneled and sworn according to law, upon their oaths to say:

“We, the jury, hereby assess and fix the damages and compensation to the owner(s) of the real property which is the subject of this action at: One Hundred Twenty Six Thousand Seven Hundred Fourteen dollars (\$126,714.00).”

Now comes the Plaintiff, State of Alabama, and shows unto the Court that it has heretofore in said case deposited with the Judge of Probate of Jefferson County, Alabama, the total sum of \$83,635.00, which was the damages and compensation awarded by the Probate Court for the condemnation of said land. By stipulation of the parties, the Court has calculated the interest due the property owners. The Court's calculation of said accrued interest rate is as follows:

By taking the amount of the jury verdict in the sum of \$126,714.00 and multiplying by 8.75%, which said amount when multiplied by said rate equals \$11,087.48, then dividing said sum of \$11,087.48 by 365 days thereby equaling \$30.38 dollars per day.

Accrued interest, at the rate of \$30.38 per day, commencing on the 28th day of September, 1995, which is the date the petition was filed in the Probate Court, and

continues to December 6, 1999, the date of the Order of Condemnation in the Circuit Court for a total of 1531 days. The pre-judgment interest is calculated as follows: \$30.38 per day for 1531 days equals \$46,511.78.

The post-judgment interest is calculated as follows: 21 days after December 6, 1999, or until December 27, 1999. The jury award of \$126,714.00 plus additional interest of \$46,511.78 equals \$173,225.78. The amount of \$173,225.78 multiplied by 5.50% (the 52 week Treasury Bill rate prevailing as of the date of this Order pursuant to Section 18-1A-211, Code of Alabama, (1975) equals \$9,527.42 divided by 365 days equals \$26.10 per day multiplied by 21 days equals \$548.15.

The Court finds that the State of Alabama is entitled to the interest earned on the sum of \$83,635.00 invested by the Clerk of this Court pursuant to Order of Court. The Clerk is hereby directed to pay said interest to the State of Alabama.

The Court further finds that the total sum owed to the property owner is \$126,714.00 plus interest of \$46,511.78 and \$548.15, for a total of \$173,773.93. The Clerk has on deposit \$83,635.00, plus interest. Therefore, the Plaintiff, the State of Alabama, owes to the Clerk of the Court the additional sum of \$90,138.93.

Now, therefore, it is ORDERED, ADJUDGED AND DECREED by this Court that the State of Alabama and Partners in Progress, L.L.P. are the sole parties to this cause and all other parties are hereby stricken, and all pleadings are hereby deemed amended to so reflect the names on the parties.

It is further ORDERED, ADJUDGED AND DECREED by this Court that the Plaintiff, the State of Alabama, pay the Clerk the additional sum of \$90,138.93, and that upon receipt of the payment of said sum the Clerk is ordered and directed to pay

\$173,773.93 to Corley, Moncus & Ward, P.C., as attorneys for the property owner.

\$173,773.93 is the total amount of damages and compensation, including interest, to which the property owners are entitled in this cause.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the complaint for the condemnation of land herein described be, and the same is hereby granted to the Plaintiff, the State of Alabama, is awarded the interest in said land sought to be acquired in said complaint and said lands are hereby condemned for the uses and purpose stated and sought in the complaint for the Order of Condemnation as filed herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the interest and right-of-way condemned and awarded to the Plaintiff, State of Alabama, is in, over, and across and under the following described land of the Defendant, to wit: As shown on the right-of-way map, Project number ST-659-12 of record with the Alabama Department of Transportation, as an aid to persons and entities interested therein, and as shown on the property plat attached hereto and made a part hereof:

A part of the SW 1/4 of the SW 1/4 of Section 23, T-19-S, R-3-W, Jefferson County, Alabama and part of the NW 1/4 of the NW 1/4 of Section 26, T-19-S, R-3-W, Shelby County, Alabama, identified as Tract No. 6 on Project No. ST-659-12 and being more fully described as follows: Commencing at the northeast corner of said NW 1/4 of NW 1/4; thence west along the north line of said NW 1/4 of NW 1/4 a distance of 1,250 feet, more or less, to a point on a line which extends from a point that is 78.26 feet southeasterly of and at right angles to the centerline of said project at Station 490+83.85 to a point on the present northeast right of way line of Cahaba River Estates Road that is northeasterly of and at right angles to the traverse of said road at Station 21+30 and the point of beginning of the property herein to be conveyed; thence southerly a distance of 37 feet, more or less, to said point on the present northeast right of way line of Cahaba River Estates Road that is northeasterly of and at right angles to the traverse of said road at Station 21+30; thence northwesterly along said northeast right of way line a distance of 75 feet, more or less,

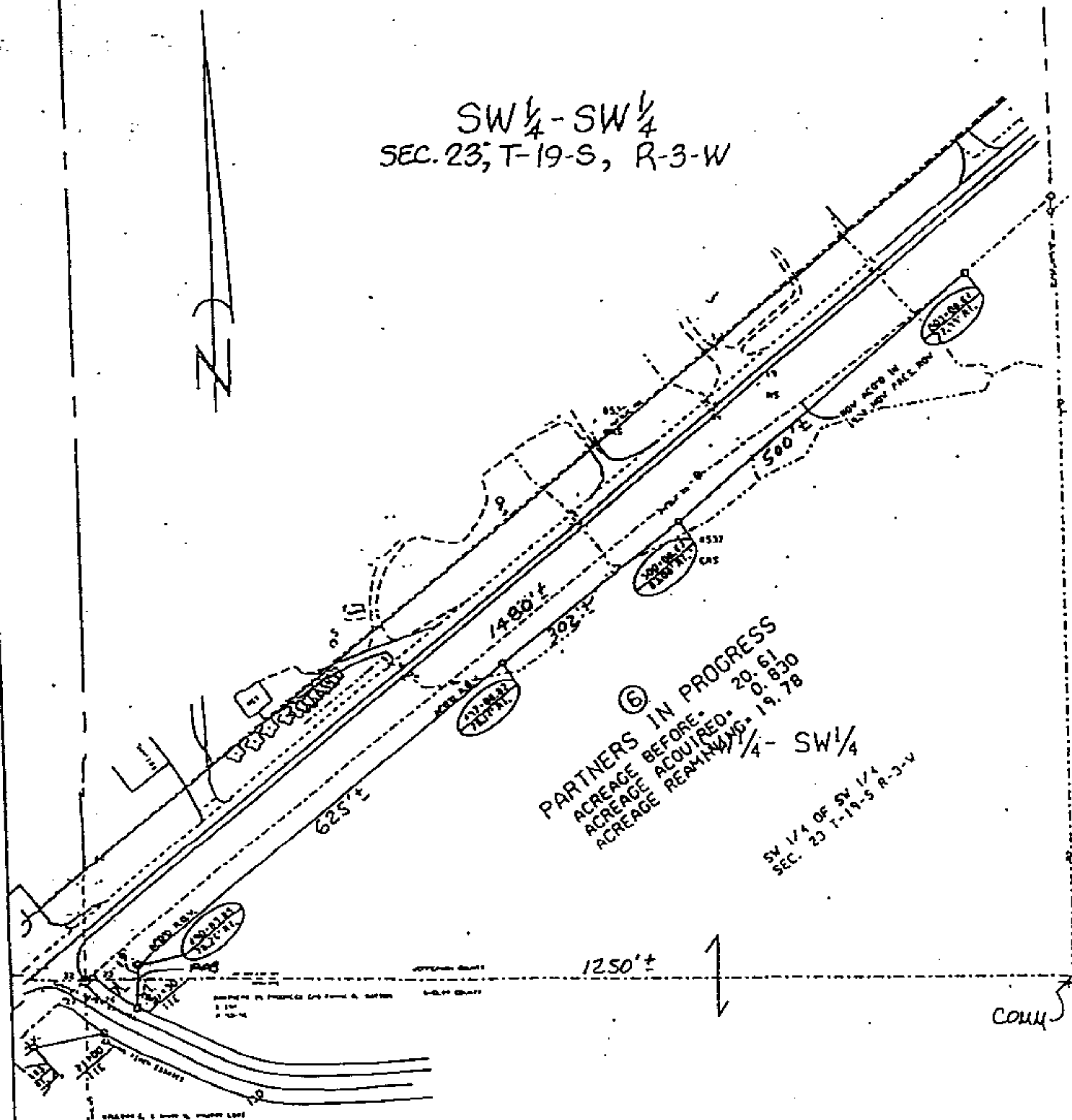
to the present southeast right of way line of Alabama Highway No. 150; thence northeasterly along said southeast right of way line a distance of 1,480 feet, more or less, to a point that is 77.99 feet southeasterly of and at right angles to the centerline of said project at Station 505+08.64; thence southwesterly a distance of 500 feet, more or less, to a point that is 83.08 feet southeasterly of and at right angles to said centerline at Station 500+08.67; thence southwesterly a distance of 302 feet, more or less, to a point that is 78.14 feet southeasterly of and at right angles to said centerline at Station 497+08.82; thence southwesterly a distance of 625 feet, more or less, to a point that is 78.26 feet southeasterly of and at right angles to said centerline at Station 490+83.85; thence southerly a distance of 19 feet, more or less, to the point of beginning. Containing 0.83 acre, more or less.

DONE AND ORDERED this the 6th day of December, 1999.

D. K. R.
CIRCUIT COURT JUDGE

NW $\frac{1}{4}$ -SW $\frac{1}{4}$

SW $\frac{1}{4}$ -SW $\frac{1}{4}$
SEC. 23, T-19-S, R-3-W



NW $\frac{1}{4}$ -NW $\frac{1}{4}$
SEC. 26, T-19-S, R-3-W

TRACT NUMBER 6 ALABAMA DEPARTMENT OF TRANSPORTATION
OWNER: PARTNERS IN PROGRESS PROJ. NO. SL-659-12
COUNTY: JEFFERSON
TOTAL ACREAGE: 20.61 SCALE: 1" = 200'
R/W REQUIRED: 0.83 DATE: 11/17/94
REMAINDER: 19.78 REVISED: 1/14/98 - 2/24/98

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