



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney

FROM: Henry M. Brown, Assistant County Attorney *HMB*
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
Kathleen Myer, Principal Engineer/Engineering Division *SPK KM*

DATE: December 22, 2003

SUBJECT: Settlement Authorization
East Lake Mary Boulevard, Segment I
Parcel Nos.: 101 and 102
Owner: Loxcreen Company as to Parcel No. 101
Owner: American Bronze Fine Arts Foundry, Inc. as to Parcel No. 102
Seminole County vs. Loxcreen, et al.
Case No.: 2000-CA-1613-13-G
Seminole County vs. American Bronze Fine Art Foundry, Inc., et al
Case No.: 2000-CA-1910-13-L

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to expert costs. The parcels are adjacent and were consolidated as to costs by the Court. The total settlement sum is \$56,700.00.

I PROPERTY

A. Location Data

Parcel Nos. 101 and 102 are located on the north side of East Lake Mary Boulevard, Segment I just east of the Sanford Avenue intersection.

B. Street Address

The street address for Loxcreen is 1600 East Lake Mary Boulevard. The Street Address for the American Bronze Fine Art Foundry is 1640 East Lake Mary Boulevard.

A location map is attached as Exhibit A and Parcel Sketches as Exhibits B. and C.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 96-R-187 on September 10, 1996, authorizing the acquisition of Parcel Nos. 101 and 102, and finding that the East Lake Mary Boulevard Project was necessary and served a public purpose and was in the best interest of the citizens of Seminole County.

III BACKGROUND

In April, 2003, the BCC approved a mediated settlement as to Loxcreen, Parcel No. 101 at the sum of \$24,400.00 with attorney fees statutorily set at \$2,215.13. These expert costs were not included.

As to American Bronze, the BCC approved a mediated settlement in September, 2003, at the sum of \$124,836.54 with attorney fees statutorily set at \$17,498.24. These expert costs were not included.

IV COST CLAIM

The owners claimed consolidated costs allocated:

(1)	Engineering Costs	\$44,605.23
(2)	Business Damage Experts	<u>\$26,915.99</u>
	Total Costs Claim	\$71,521.22

V NEGOTIATION

In negotiation, several non-reimbursable office overhead costs were taken out and the County argued that portions of the work performed was outside the scope of the eminent domain case and were not compensable under *Chandrinos*.

Negotiations resulted in a reduction of 20.7% from \$71,521.22 to \$56,700.00.

The mediated allocated result is as follows:

(1)	Engineering Costs	\$35,700.00
(2)	Business Damage Experts	<u>\$21,000.00</u>
	Total Mediated Cost Reimbursements	\$56,700.00

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

The 20.7% reduction as to claimed costs is significant. To proceed further would require the County to expend costs for the County's two experts to complete their review of the claimed costs and testify as to reasonableness. Not only would the County experts need to be additionally paid, we cannot say with any certainty that their testimony would be at substantially lower numbers. A hearing would most probably result in a similar 20%± reduction in claimed costs.

VII RECOMMENDATION

This office recommends settlement of cost reimbursements at \$56,700.00.

HMB/sb

Attachments:

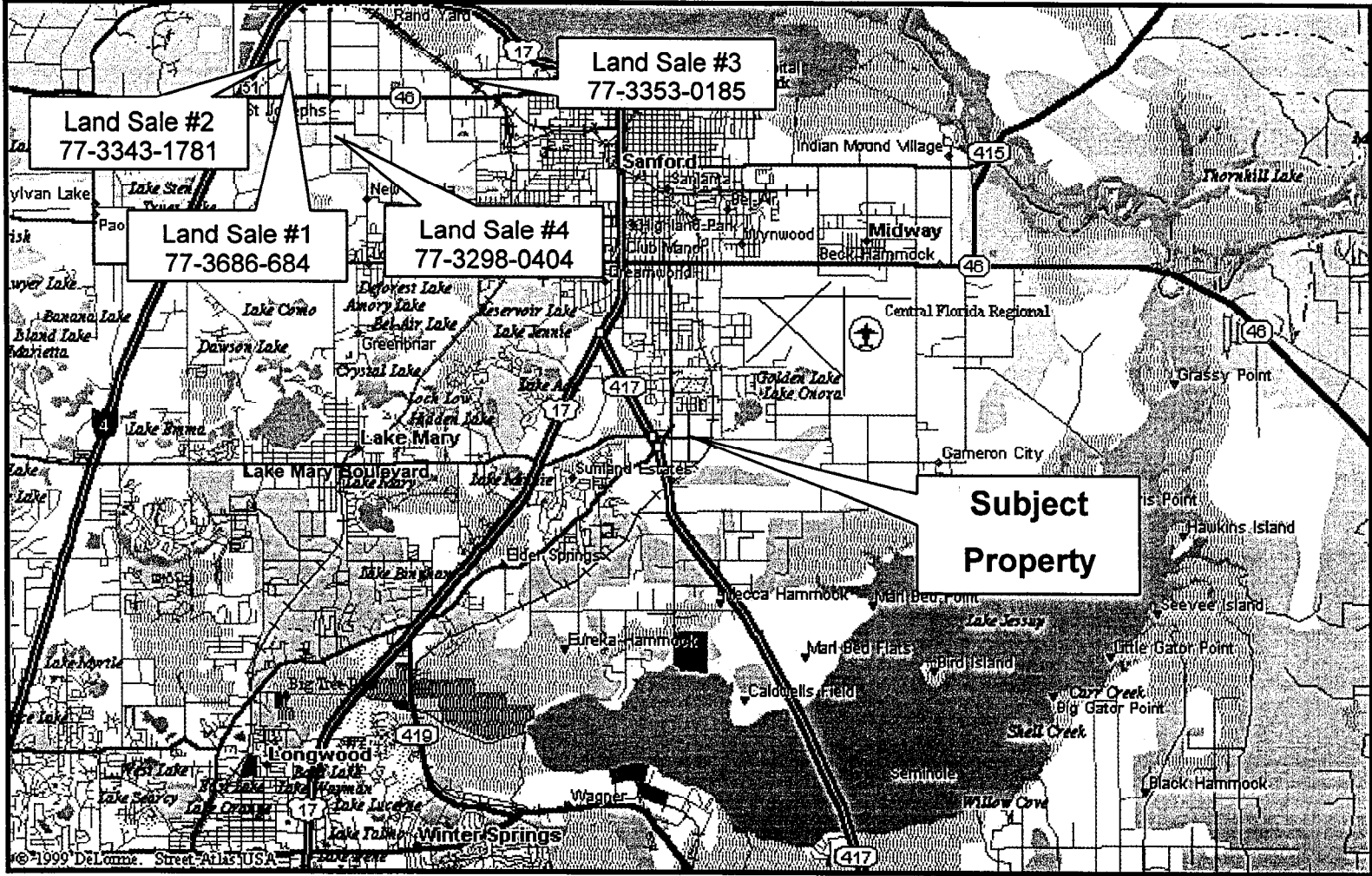
Exhibit A

Exhibit B

Exhibit C

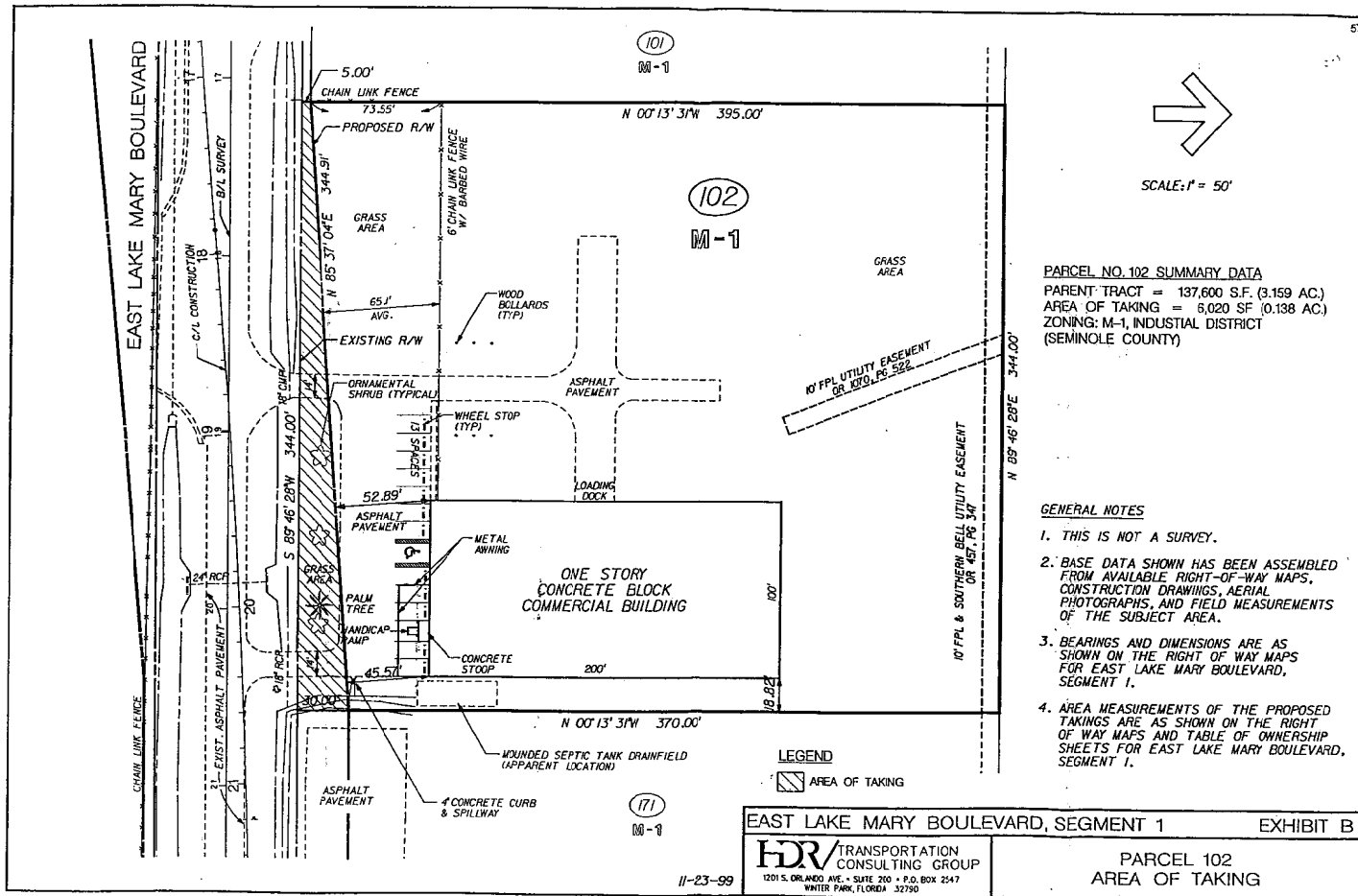
P:\USERS\CASB01\MY DOCUMENTS\MEMOAGENDA ITEM ELMB SEG I LOXCREEN AMERICAN BRONZE SETT AUTH.DOC

LAND SALES LOCATION MAP



CLAYTON, ROPER & MARSHALL

EXHIBIT A



PARCEL NO. 102 SUMMARY DATA
 PARENT TRACT = 137,600 S.F. (3.159 AC.)
 AREA OF TAKING = 6,020 SF (0.138 AC.)
 ZONING: M-1, INDUSTRIAL DISTRICT
 (SEMINOLE COUNTY)

- GENERAL NOTES**
1. THIS IS NOT A SURVEY.
 2. BASE DATA SHOWN HAS BEEN ASSEMBLED FROM AVAILABLE RIGHT-OF-WAY MAPS, CONSTRUCTION DRAWINGS, AERIAL PHOTOGRAPHS, AND FIELD MEASUREMENTS OF THE SUBJECT AREA.
 3. BEARINGS AND DIMENSIONS ARE AS SHOWN ON THE RIGHT OF WAY MAPS FOR EAST LAKE MARY BOULEVARD, SEGMENT 1.
 4. AREA MEASUREMENTS OF THE PROPOSED TAKINGS ARE AS SHOWN ON THE RIGHT OF WAY MAPS AND TABLE OF OWNERSHIP SHEETS FOR EAST LAKE MARY BOULEVARD, SEGMENT 1.



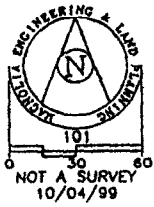
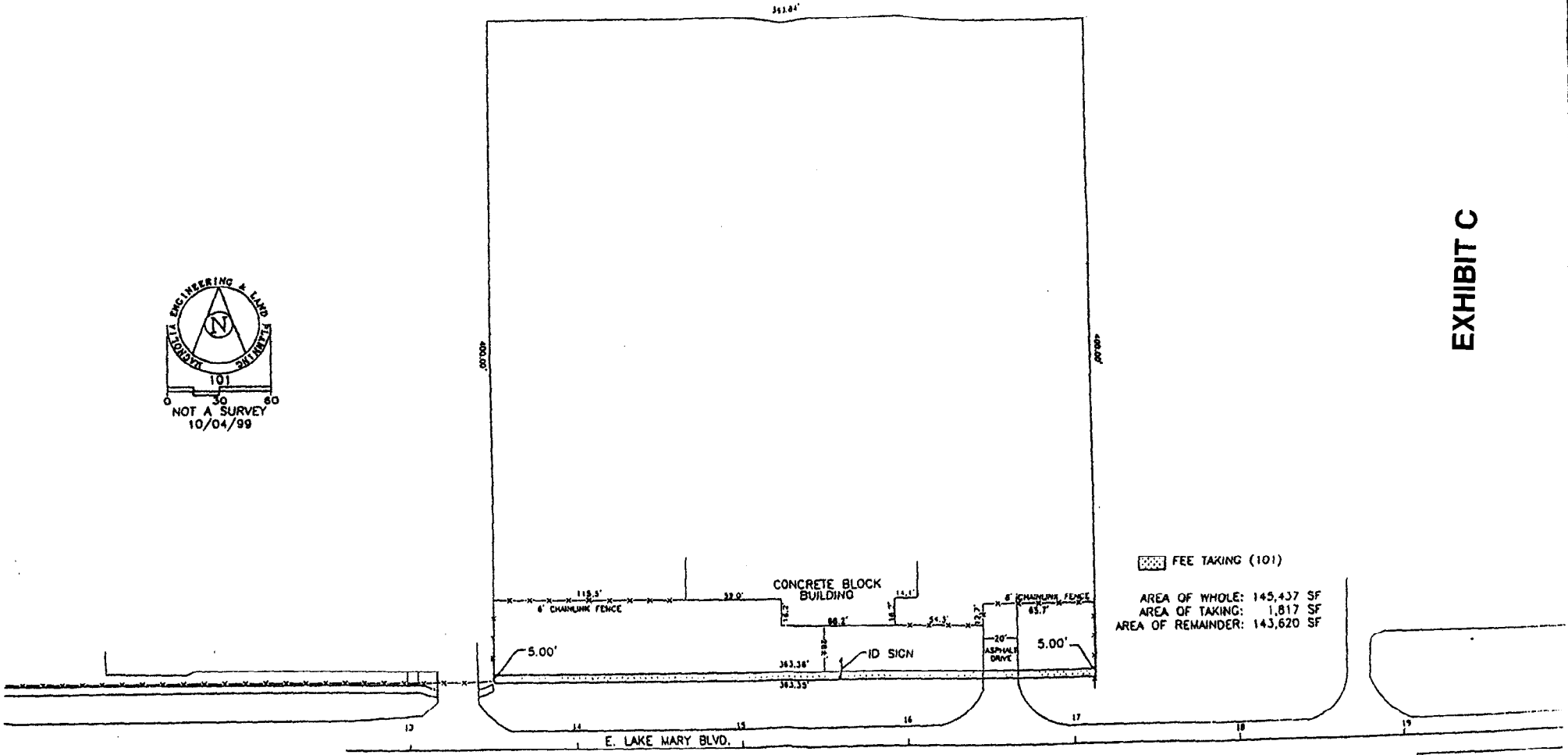


EXHIBIT C



[Hatched Box] FEE TAKING (101)
 AREA OF WHOLE: 145,437 SF
 AREA OF TAKING: 1,817 SF
 AREA OF REMAINDER: 143,620 SF

MAGNOLIA

Engineering & Land Planning, Inc.
 248 N. WESTMONIE DRIVE - ALTAMONTE SPRINGS, FL 32714
 PHONE: (407) 772-1321 FAX: (407) 772-1300

PARCEL 101
 SITE SKETCH
 SEMINOLE COUNTY
 FLORIDA

EXHIBIT A