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**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *[Signature]*

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

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
 Kathleen Myer, Principal Engineer/Engineering Division
Ed Torres *ROADS/STORMWATER DIVISION*

DATE: February 10, 2005

SUBJECT: Settlement Authorization
 Lockhart-Smith Canal Project
 Bradwell Easement
 Case No.: 2005-CA-294-13-L
 Tax Parcel No. 16-19-30-5AB-0200-0040

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to the Bradwell easement on the Lockhart-Smith Canal Project. The recommended settlement is at the total sum of \$45,000.00 inclusive of all land value, severance damages, statutory interest, attorney's fees and cost reimbursements.

I PROPERTY

A. Location Data

The Bradwell easement is located along the Lockhart-Smith Canal. The canal bisects the property as illustrated on the attached Exhibit A.

B. Street Address

The street address is 950 Halsey Avenue. The property has frontage on both Halsey Avenue and South Oregon Street. A location map is attached as Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2003-R-98 on May 27, 2003, authorizing the acquisition of the Bradwell easement. The Lockhart-Smith Canal project was found to be necessary and serving a public purpose and in the best interests of the citizens of Seminole County. An Order of Take hearing will be scheduled soon.

III ACQUISITIONS AND REMAINDER

The permanent easement acquisition consists of 14,249 s.f. encumbering a parent tract of 148,408 s.f.

IV APPRAISED VALUES

The County's appraisal dated as of July 15, 2003, was prepared by Diversified Property Specialists, Inc., and reported full compensation to be \$19,400.00. No updated appraisal reports have been prepared.

V BINDING OFFER/NEGOTIATION

The County's written offer was \$25,000.00 exclusive of fees and costs. The owners claimed land value and damages of \$70,000.00 exclusive of attorney fees and costs.

The negotiated settlement is at \$45,000.00 inclusive of fees and costs.

The settlement also includes a requirement to assure that the existing pedestrian footbridge shown on Exhibit A is re-built as part of the project. The footbridge replacement is already provided for in the construction plans.

VI ATTORNEY FEES AND COSTS

The settlement at \$45,000.00 is inclusive of attorney fees and costs without specific allocation.

VII ANALYSIS

The early settlement at the total inclusive sum of \$45,000.00 is higher than the appraisal and the offer. However, all additional costs including the cost of an updated appraisal are avoided. Additionally, updated appraisals of residential property are reflecting 12 – 15% annual appreciation rates.

VIII COST AVOIDANCE

By this settlement, the County avoids all additional costs associated with further litigation.

IX RECOMMENDATION

County staff recommends that the BCC approve this settlement in the amount of \$45,000.00 inclusive of all land value, severance damage, statutory interest, attorney's fees, and cost reimbursements.

HMB/sb

Attachments

Exhibit A

Exhibit B

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PROPERTY SKETCH

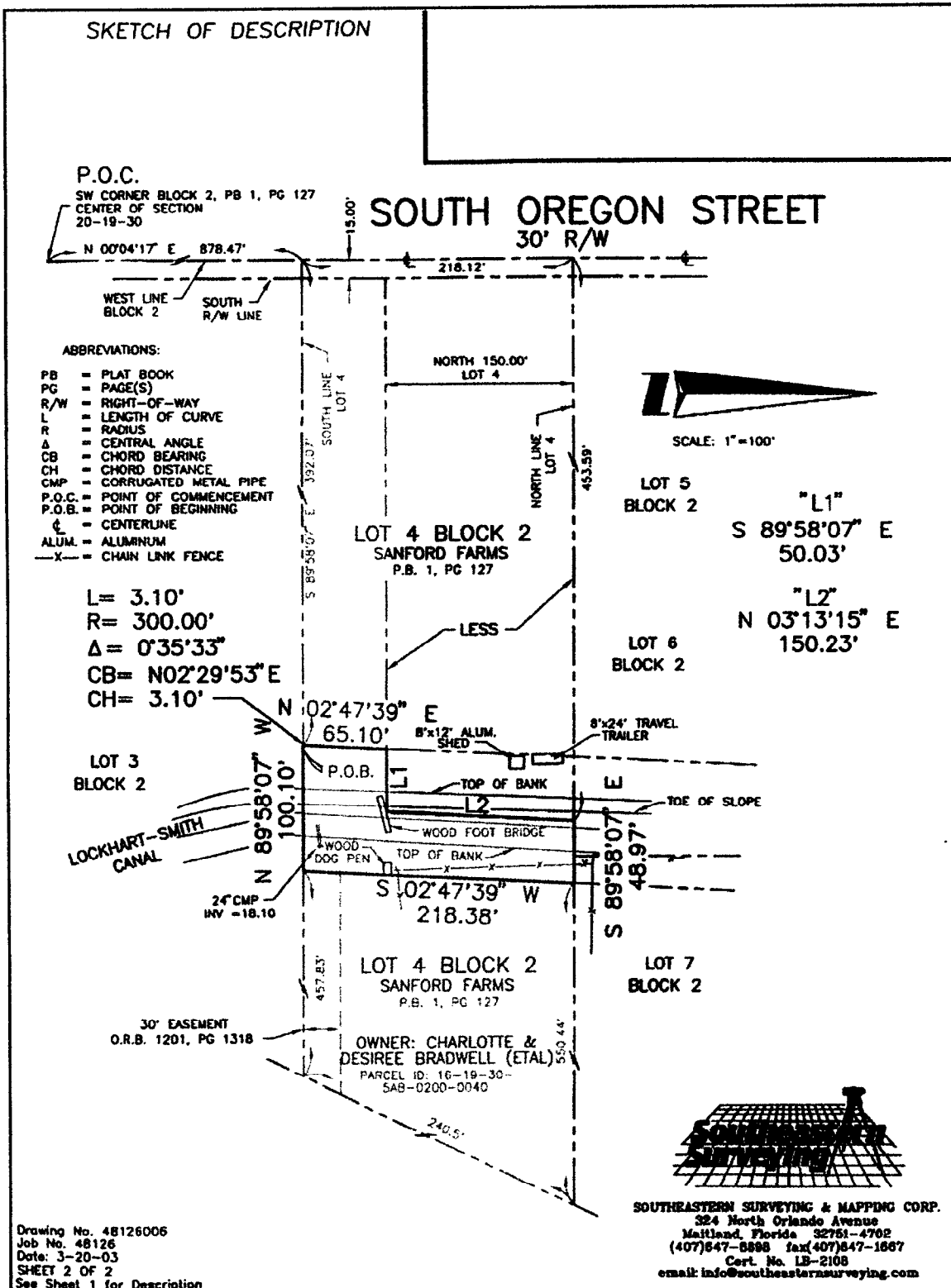


EXHIBIT A

