



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney

FROM: Lynn Vouis, Assistant County Attorney *LV*

CONCUR: Pam Hastings *PH* Administrative Manager/Public Works Department
Ed Torres, Principal Engineer/Roads – Stormwater Division *ET*

DATE: March 28, 2005

SUBJECT: First Amended Resolution of Necessity/Binding Written Offer for Faircloth Parcel-Lockhart Smith Canal Drainage Improvement Project.

It is necessary to amend the Resolution of Necessity No. 2003-R-98, Lockhart-Smith Canal Drainage Improvement Project, which was approved and adopted by the Board of County Commissioners on May 27, 2003. It is also necessary to make an additional binding written offer to the property owner. Request adoption of amended Resolution and authorization to make a binding written offer to the owner of the above-referenced property in the amount of \$37,000.00.

The amendment adds language that describes the permanent drainage easement for Parcel I.D. No. 16-19-30-5AB-0200-0050 to be acquired by the County, including the acceptable uses of the easement. This is now standard language in all resolutions, but was not at the time the original Lockhart-Smith Canal Drainage Improvement Project Resolution was approved in 2003. This property was to be acquired on March 15, but the Order of Taking was denied based on the lack of specificity as to the extent of the County's use of the property in the Resolution.

Since the County needs to re-file the Resolution, a new binding written offer will also be tendered to the property owner. Accordingly, this item also seeks Board approval of a new binding written offer amount, adjusted upwards 20% to account for the passage of time and other possible contingencies. The amount of the original binding written offer was \$30,900.00. The updated binding written offer amount, adjusted upwards 20% and rounded is \$37,000.00. County staff requests the Board authorize the County Attorney's Office to make a new binding written offer to the property owner in the amount of \$37,000.00.

LV:krc

Attachment:
First Amended Resolution of Necessity

RESOLUTION NO. 2005-R-____

SEMINOLE COUNTY, FLORIDA

**FIRST AMENDED RESOLUTION
(Lockhart-Smith Canal Drainage Improvement Project)**

**THE FOLLOWING RESOLUTION WAS ADOPTED BY THE
BOARD OF COUNTY COMMISSIONERS OF SEMINOLE
COUNTY, FLORIDA, AT ITS REGULARLY SCHEDULED
MEETING OF _____, 2005.**

WHEREAS, this First Amended Resolution of Necessity is necessary to amend Resolution of Necessity Number 2003-R-98, which was approved and adopted by the Board of County Commissioners of Seminole County on May 27, 2003; and

WHEREAS, the Board of County Commissioners of Seminole County desires to adopt a First Amended Resolution for the Lockhart Smith Canal Drainage Improvement project in order to clarify the easement description for Parcel No. 16-19-30-5AB-0200-0050 (legal description attached as Exhibit A 000001-000002), which modifies the previously adopted resolution; and

WHEREAS, as established in Resolution Number 2003-R-98, it is necessary, serves a County and public purpose, and is in the best interests of the citizens of Seminole County to improve the drainage facilities on or relating to the Lockhart-Smith Canal in order to prevent flooding and safeguard water quality within Seminole County, in order to benefit the health, safety and welfare of the general public; and

WHEREAS, Seminole County has heretofore caused the area of the systems construction to be located and surveyed and has caused a map to be prepared, based upon and incorporating the survey and location data; and

WHEREAS, descriptions of the properties needed for the improvement of the Lockhart-Smith Canal drainage system and other appurtenant systems have been prepared based upon the aforementioned survey and location data; and

WHEREAS, specifications as to the uses to be acquired as to the drainage easements described in Resolution Number 2003-R-98 have been prepared based upon aforementioned survey and location data and the right-of-way maps; and

WHEREAS, the Board of County Commissioners of Seminole County desires to adopt a First Amended Resolution for the Lockhart-Smith Canal Drainage Improvement project to add language describing the uses for the designated parcels described in Resolution Number 2003-R-98 which are needed for improvements to the drainage system on the Lockhart-Smith Canal.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA;

Section 1. The above recitals are adopted as findings and incorporated into the text of this Resolution.

Section 2. Section 2 of the Lockhart-Smith Canal Drainage Improvement Project Resolution of Necessity Number 2003-R-98 is hereby amended to include the following additional language:

The interest to be condemned as to Parcel I.D. No. 16-19-30-5AB-0200-0050 is a permanent perpetual access, maintenance berm, drainage, and utility easement. The County's non-exclusive use of the Parcel shall include the right to construct, operate, secure, maintain, repair, and replace fill slopes, underground pipes, surface drainage facilities including retention ponds, and

public utility facilities and structures, together with appurtenances that are reasonably necessary to construct, operate, secure, maintain, repair and replace the fill slopes, underground pipes, surface drainage facilities and public utility facilities and structures. The County acquires the right to enter upon, over, under and across the Parcel with all such fills, cuts, drains, ditches, and other facilities, which may be deemed necessary for the Lockhart-Smith Canal drainage improvements. The owner's privileges in the use of the Parcel includes all uses and purposes not specifically acquired by the County or inconsistent with County uses.

The owner's privileges and use include access to the remaining property, the right to construct underground and surface facilities that are not in conflict with County installed underground and surface facilities, maintenance and repair rights of owner installed underground and surface facilities. The owner may install a pedestrian gate in the County's fence to provide pedestrian access to the canal waters. Additionally, the owner may install a stairway and deck area at or near the toe of the slope to the canal waters. Installation of a gate, stairway, or other owner installed facilities shall not be inconsistent with or in conflict with the County's access and maintenance berm area. The owner retains all rights to satisfy and include the Parcel in applicable land development code requirements including: greenspace and landscape buffer requirements, buildable acreage calculations, and other land development code satisfactions and requirements consistent with the requirements of the applicable land development codes.

Section 3. This Resolution amends Resolution of Necessity Number 2003-R-98 by adding the language enumerated herein to Section 2 of that Resolution. The remaining provisions of Resolution of Necessity Number 2003-R-98 are hereby ratified and affirmed.

ADOPTED this _____ day of _____, 2005.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANN MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON D. HENLEY, Chairman

Date: _____

For the use and reliance
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board
of County Commissioners at its _____,
2005, regular meeting

County Attorney

LV/krc

P:\USERS\LV\OUI\RESOLUTIONS\1ST AMENDED LOCKHART SMITH RESO.DOC

DESCRIPTION:

A portion of Lots 5 and 6, LESS the South 545.5 feet, Block 2, Sanford Farms according to the map or plat thereof recorded in Plat Book 1, page 127, of the public records of Seminole County, Florida, more particularly described as follows:

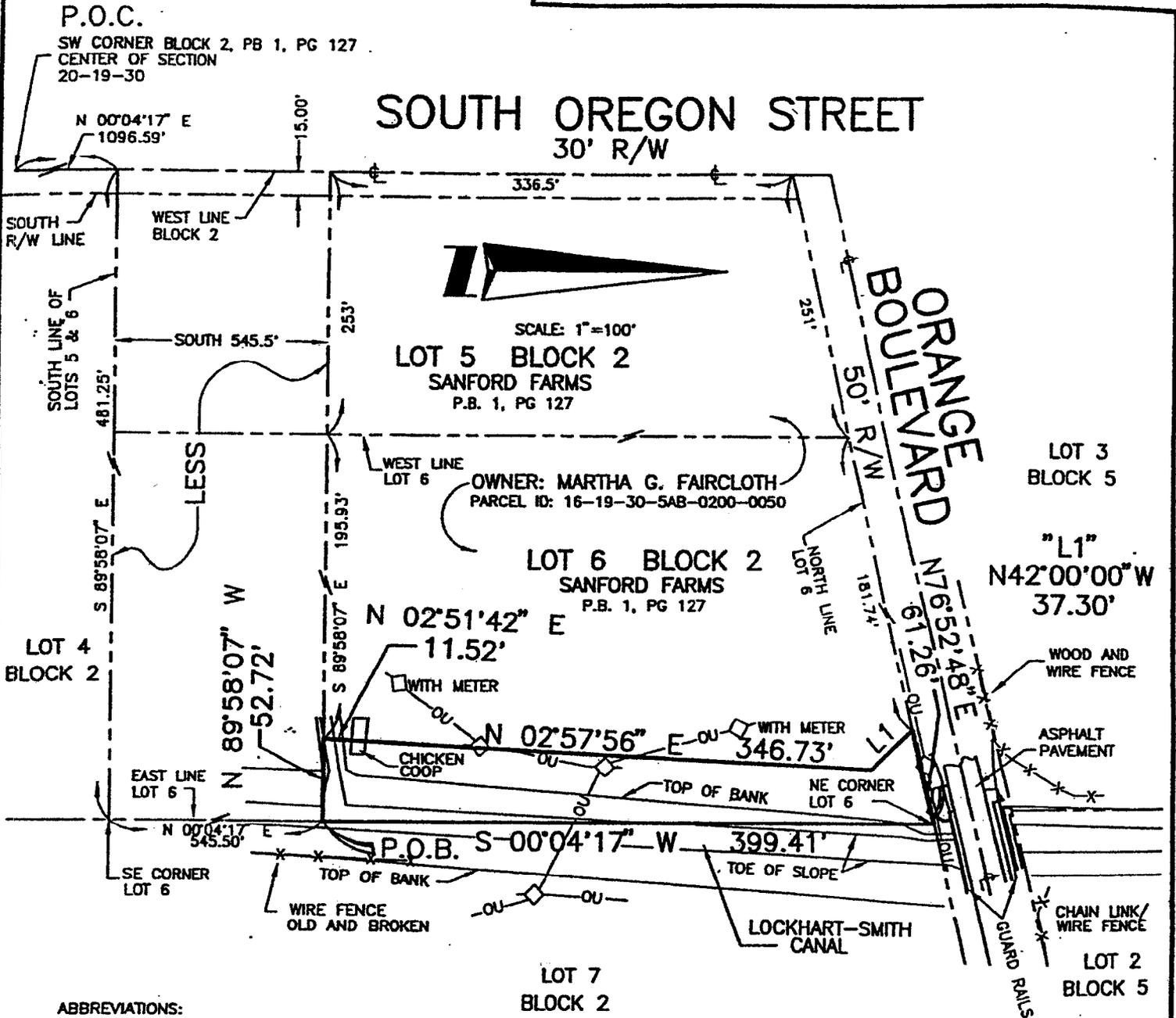
Commence at the Southwest corner of Block 2 of said plat, also being the center of Section 20, Township 19 South, Range 30 East, thence North 00°04'17" East along the West line of said Block 2, also being the centerline of South Oregon Street, 1096.59 feet; thence South 89°58'07" East, 481.25 feet along the South line of said Lots 5 and 6 to the Southeast corner of said Lot 6; thence North 00°04'17" East along the East line of said Lot 6, 545.50 feet to the Point of Beginning; thence North 89°58'07" West, 52.72 feet; thence North 02°51'42" East, 11.52 feet; thence North 02°57'56" East, 346.73 feet, thence North 42°00'00" West, 37.30 feet to a point on the North line of said Lot 6; thence North 76°52'48" East along said North line, 61.26 feet to the Northeast corner of said Lot 6; thence South 00°04'17" West, 399.41 feet along the East line of said Lot 6 to the Point of Beginning.

Containing 17,355 square feet (0.398 acres, more or less.)

SURVEYORS NOTES

1. Bearings shown hereon are based on the centerline of South Oregon Street, being N. 0°04'17" E., per the map of Lockhart-Smith Canal, prepared by Tinklepaugh Surveying Services, Inc., dated: 5/01/01, File No. SX6822-A
2. I hereby certify that the "Sketch of Description" of the above described property is true and correct to the best of my knowledge and belief as recently drawn under my direction and that it meets the Minimum Technical Standards for Land Surveying CH. 61G17-6 requirements.
3. Vertical information shown hereon refers to 4"x4" Concrete Monument with Seminole County disk stamped 3050801 located ± 30' North of the centerline of the intersection of Canal Street and Missouri Avenue (Elevation=7.414)
4. Topography shown hereon was extracted from a digital file of a topographic survey prepared by Tinklepaugh Surveying Services, Inc. dated 5-1-01 and verified by a field reconnaissance by Southeastern Surveying & Mapping Corporation dated 3-20-2003.
5. This description is based on information shown on the map of Lockhart-Smith Canal, prepared by Tinklepaugh Surveying Services, Inc., dated: 5/01/01, File No. SX6822-A.

<p>DESCRIPTION</p> <p>FOR</p> <p>Seminole County</p> <p>EXHIBIT A</p> <p>000001</p>	Date:		3-20-2003	EO	<p>CERT. NO. LB2108</p>  <p>48126011</p> <p>SOUTHEASTERN SURVEYING & MAPPING CORP. 324 North Orlando Avenue Maitland, Florida 32751 (407)647-8898 fax(407)647-1667 email info@southeasternsurveying.com</p> <p><i>Gary B. Krick</i> GARY B. KRICK REGISTERED LAND SURVEYOR NO. 4245</p>
	Job No.:	Scale:	48126011	1" = 100'	
	<p>CH. 61G17-6, Florida Administrative Code requires that a description drawing bear the notation that THIS IS NOT A SURVEY.</p>				
<p>SHEET 1 OF 2 SEE SHEET 2 FOR SKETCH</p>					



ABBREVIATIONS:

- PB = PLAT BOOK
- PG = PAGE(S)
- R/W = RIGHT-OF-WAY
- L = LENGTH OF CURVE
- R = RADIUS
- Δ = CENTRAL ANGLE
- CB = CHORD BEARING
- CH = CHORD DISTANCE
- P.O.C. = POINT OF COMMENCEMENT
- P.O.B. = POINT OF BEGINNING
- ☉ = CENTERLINE
- X- = WIRE FENCE
- ◇ = POWER POLE
- OU = OVERHEAD UTILITY LINE

EXHIBIT A
000002



SOUTHEASTERN SURVEYING & MAPPING CORP.
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 Maitland, Florida 32751-4702
 (407)847-8898 fax(407)847-1687
 Cert. No. LB-2108
 email: info@southeasternsurveying.com

Drawing No. 48126012
 Job No. 48126
 Date: 3-20-03
 SHEET 2 OF 2
 See Sheet 1 for Description