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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 *[Signature]*  
Ext. 5736 *HMB*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *[Signature]*  
Kathleen Myer, Principal Engineer/Engineering Division *[Signature]*

DATE: October 28, 2004

SUBJECT: Settlement Authorization  
County Road 427 Phase I  
Revised Parcel No.: 889; Inland Materials, Inc.  
*Seminole County v. Davis, et al.*  
Case No.: 98-CA-2050-13-W

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This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel No. 889 as revised on the County Road 427 Phase I project. The recommended settlement is at the total sum of \$33,805.95 inclusive of all land value, severance damages, statutory interest, attorney fees and costs.

**I PROPERTY**

**A. Location Data**

Parcel No. 889, as revised, consists of a drainage easement of 2,586 S.F., extending to a depth of approximately ten feet (10') across the County Road 427 frontage of the property.

**B. Street Address**

The street address is 1591 County Road 427 North. A parcel sketch is attached as Exhibit A and a location map as Exhibit B.

## **II AUTHORITY TO ACQUIRE**

The BCC adopted Resolution No. 96-R-253 on November 26, 1996, authorizing the acquisition of Parcel No. 889, a drainage easement totaling 1,876 S.F. This memorandum requests authorization to vacate the Parcel No. 889 obtained at an order of take and authorize the acquisition of a correct Parcel No. 889 at 2,586± S.F. The aforementioned Resolution found that the County Road 427 Phase I project was necessary and served a public purpose and was in the best interests of the citizens of Seminole County.

## **III ACQUISITION AND REMAINDER**

As revised, Parcel No. 889 is a drainage easement encumbering 2,586± S.F. of a vacant parcel of 11,632± S.F.

## **IV APPRAISED VALUES**

An appraisal of the original easement of 1,876± S.F. was performed in 1998 by Hastings and Spivey, Inc., and opined full compensation to be \$5,700.00.

The revised Parcel No. 889 at 2,586± S.F. was not appraised.

The owner had no appraisal performed; however, it consulted an appraiser.

## **V CONSTRUCTION ISSUES**

The original Parcel 889 was acquired by an order of taking entered in late 1998. The case is still open since the valuation issues have not been resolved. During construction of the road it became apparent that there are drainage pipe and inlets located outside the area covered by the original legal description. The owner then tried to assert an inverse condemnation claim, however, the Court ruled that until construction was complete and an accurate description prepared, the claim was premature. Now that construction is complete and the area involved actually determined the inverse claim is ripe. This settlement eliminates the cost and expense of defending an inverse case that would not be won, while closing out the 1998 case by amending the legal description and completely resolving the issues of compensation, costs and fees.

## **VI ALLOCATION AS TO LAND VALUE, ATTORNEYS FEES AND COSTS**

The proposed settlement is inclusive of all damages, attorney fees and costs.

The owner has allocated the inclusive sum as follows: (1) Land value and severance damage \$20,000.00; (2) Land Planning Costs \$1,635.00; (3) Appraisal Consultation Costs \$2,887.00; (4) Engineering Costs \$1,563.95; (5) Construction Estimate \$720.00; and, (6) Attorney Fees \$7,000.00.

## **VIII COST AVOIDANCE/RECOMMENDATION**

County staff recommends that the BCC approve this settlement in the amount of \$33,805.95 for the revised Parcel No. 889, as it concludes all issues between the parties, including the fees and costs of experts and attorneys. This settlement is deemed reasonable because litigating an inverse case would be futile and costly. The County would be required to obtain a new appraisal for the revised legal description and the owner's costs and fees would also increase.

HMB/dre

Attachments:

Exhibit A - Parcel Sketch

Exhibit B - Location Map

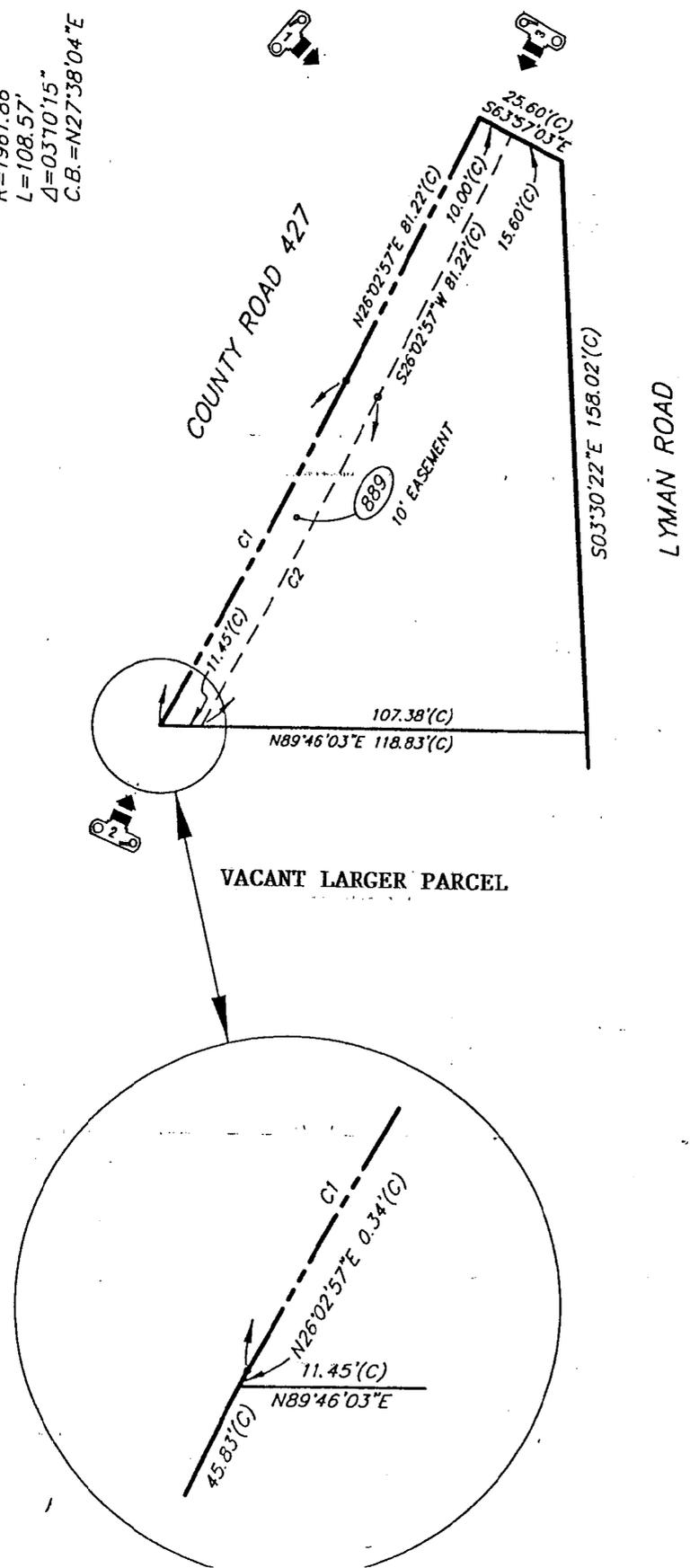
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VACANT TRACT  
AREA OF EASEMENT  
= 1,876 SQUARE FEET  
AREA OF REMAINDER  
= 11,632 SQUARE FEET

C1  
R=1961.86'  
L=108.57'  
Δ=03°10'15"  
C.B.=N27°38'04"E

C2  
R=1971.86'  
L=103.83'  
Δ=03°01'01"  
C.B.=S27°33'28"W

EXHIBIT A



**SHEET 2 of 2**  
SKETCH DATE: MAY, 1998  
PREPARED BY:  
**DONLEY & ASSOCIATES,**  
LAND SURVEYORS AND MAPPERS  
362-C SOUTH GRANT STREET  
LONGWOOD, FLORIDA 32750  
PH: (407)260-1818 FAX (407)260-1820

**NOTES**  
1. SKETCH ONLY. THIS SKETCH DOES NOT REPRESENT A BOUNDARY SURVEY.  
2. THE PURPOSE OF THIS SKETCH IS TO AID IN THE APPRAISAL OF THE SUBJECT PARCEL.  
3. ALL BOUNDARY INFORMATION AND CALCULATIONS BASED ON SEMI-HOLE COUNTY R/W MAPS FOR C.R. 427 FROM S.R. 436 TO CHARLOTTE STREET.  
JOB FILE # PS-101.

PROJECT NUMBER: 700.011  
CADD FILE: /ACAD/HASTINGS/CR427/CR427189

WATER METER  
GUY WIRE/ANCHOR  
STEEL POLE  
LIGHT POLE  
POWER POLE  
MANHOLE

CH - CHORD  
CH.BRC. - CHORD BEARING  
C.B. - CHORD BEARING  
O.R. - OFFICIAL RECORDS

EXHIBIT B

