




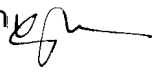
CCAO 1

**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 

Date: October 23, 2002

Subject: Settlement Authorization on Costs
C. R. 427, 1871887
Owners: Indravaden G. Patel and Lilabel Patel
Seminole County v. Patel, et al.
Case No.: 99-CA-1290-13-G

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for costs. The total settlement sum is \$47,531.25.

I **PROPERTY**

A. **Location Data**

Parcel No. 187 is a fee simple acquisition consisting of a small triangular shaped strip of land which is located along the east side of County Road 427 beginning at the north property line and extending through the northern access point south to a point. The taking consists of 580 square feet.

Parcel No. 887 is a permanent drainage easement consisting of 3,650 square feet. The strip of land is irregular in shape and extends along the entire east right-of-way line of County Road 427.

B. **Street Address**

1681 C.R. 427 North
Cassel berry, FL 327 18

II BACKGROUND

In May, 2002, the BCC approved the mediated settlement of Parcel Nos. 187/887. The settlement was at the sum of \$45,000.00, exclusive of costs, plus a County Engineering commitment to redesign the entrance driveways. The design plans provided for flared driveways at this convenience store/gas station site. In the before, the gas station had radius drives. At mediation, the flared drives were found to be in error and Engineering committed to a redesign to establish the prior existing radius drives.

The case was settled at \$45000.00, plus the engineering commitment to redesign the driveways. Statutory attorney's fees were established at \$5,360.00. The effect of the settlement to include correction of the design error was to cap the settlement at \$45,000.00 and attorney's fees at \$5,360.00.

III COST CLAIM

The owners claimed costs totaling \$55,063.48. The engineering and appraisal costs related in significant part to design correction. The costs were reported as follows:

(1) Marketing Expert	\$ 6,156.25
(2) Engineering Expert	\$17,234.23
(3) Appraisal Expert	<u>\$31,673.00</u>
Total Cost Claim	\$55,063.48

IV NEGOTIATION

In negotiation, the County challenged the hourly rates as too high, and number of hours as too many. However, it is difficult to challenge costs when the settlement corrects an error to the County's design plans. At a hearing on costs, the experts need only to demonstrate that the agreed settlement utilized the work product of the experts to correct the plans.

V SETTLEMENT ANALYSIS/COST AVOIDANCE

Under negotiation, the claimed costs are reduced approximately 14% from \$55,063.48 down to \$47,531.25. At hearing, it would be difficult to argue that the costs were unnecessary or excessive after the County has recognized in settlement of the case that the costs were necessary to correct the driveway design error.

If this matter goes to hearing, the County will need to employ expert witnesses and incur other costs. It is not expected with the correction of a design

error actually occurring, that a hearing would reduce costs any greater than the negotiated 14%.

VI RECOMMENDATION

This office recommends settlement of this cost matter at \$47,531.25.

HMB/sb

\\CA_CSBI\SYSTEMS\CA\USERS\CASB01\MY DOCUMENTS\MEMOAGENDA ITEM LITIGATION CR 427 I PATEL EXPERT COSTS.DOC

COUNTY ROAD 4.77 (SEMINOLE COUNTY, FLORIDA)
 PARCEL 187/887 - SKETCH OF PARENT TRACT AND AREA OF TAKING
 DESCRIPTION: GAS STATION

SKETCH FOR: HASTINGS & SPIVEY, INC.

AREA OF PARENT TRACT = 64,542 SQUARE FEET/1.48 ACRES
 AREA OF TAKING = 580 SQUARE FEET
 AREA OF REMAINDER = 63,962 SQUARE FEET/1.47 ACRES
 AREA OF PERMANENT DRAINAGE
 EASEMENT = 3,650 SQUARE FEET

**DETAIL OF
 AREA OF TAKING and
 DRAINAGE EASEMENT**

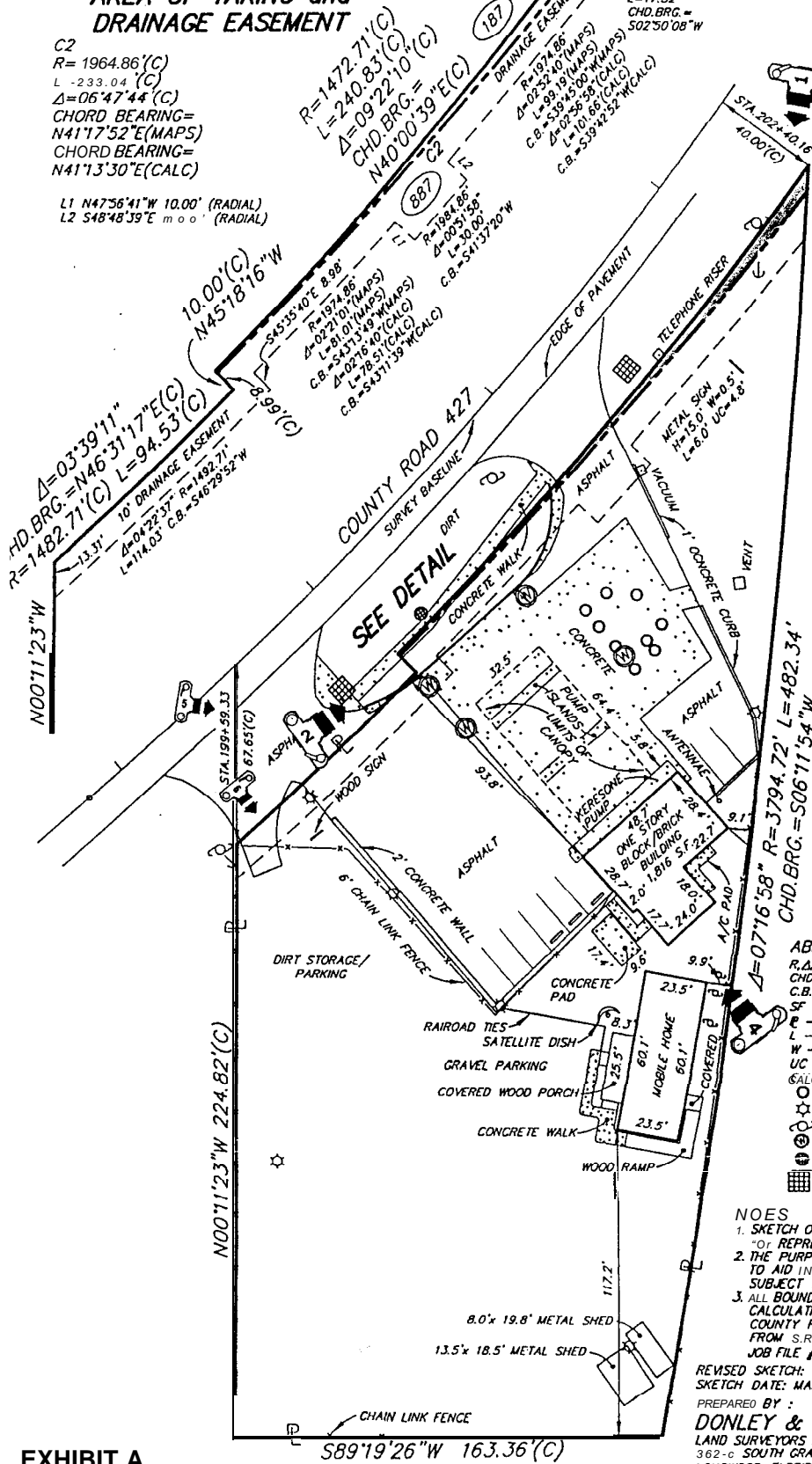
C2
 R=1964.86(C)
 L=233.04(C)
 $\Delta=06^{\circ}47'44''(C)$
 CHORD BEARING=
 $N41^{\circ}17'52''E(MAPS)$
 CHORD BEARING=
 $N41^{\circ}13'30''E(CALC)$

L1 $N47^{\circ}56'41''W$ 10.00' (RADIAL)
 L2 $S48^{\circ}48'39''E$ 10.00' (RADIAL)

$R=3794.72'$
 $L=9.81'$
 $\Delta=00^{\circ}08'53''$
 CHD.BRG.=
 $S02^{\circ}37'50''W$

EXISTING R/W
 AREA OF TAKING
 PROPOSED R/W

$R=3794.72'$
 $\Delta=00^{\circ}15'41''$
 $L=17.32'$
 CHD.BRG.=
 $S02^{\circ}50'08''W$



SCALE 1" = 50'

ABBREVIATIONS/LEGEND:
 R, Δ, A - RADIUS, DELTA, ARC LENGTH
 CHD.BRG. - CHORD BEARING
 C.B. - CHORD BEARING
 SF - SQUARE FEET
 P - PROPERTY LINE
 L - LENGTH
 W - WIDTH
 UC - UNDER CLEARANCE
 CALC - CALCULATED
 TANK LID
 LIGHT POLE
 POWER POLE
 HELL
 MANHOLE
 CATCH BASIN

NOES
 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 W/ SEMINOLE COUNTY R/W MAPS FOR CR.417 FROM S.R.436 TO CHARLOTTE ST. JOB FILE # PS-101.

REVISED SKETCH: APRIL, 1998
 SKETCH DATE: MARCH, 1998
 PREPARED BY :
DONLEY & ASSOCIATES, INC.
 LAND SURVEYORS AND MAPPERS
 362-C SOUTH GRANT STREET
 LONGWOOD, FLORIDA 32750
 PH.(407)260-1818 FAX (407)260-1848

EXHIBIT A

$S89^{\circ}19'26''W$ 163.36'(C)
 PLUMOSA AVENUE

PROJECT NUMBER: 700.011
 CADD FILE: /ACAD/HASTINGS/CR427/CR427187