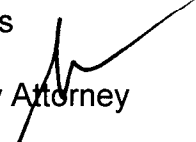



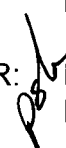
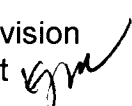


**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney 

FROM: Herbert S. Zischkau III, Assistant County Attorney 
Ext. 5736

CONCUR:  Kathleen Myer, Principal Engineer Major Projects, Engineering Division
Pam Hastings, Administrative Manager, Public Works Department 

DATE: November 5, 2003

SUBJECT: Authorization to Settle Eminent Domain Litigation
Lake Emma Road Project
Parcel Nos. 131A, 131B, 131C and 731
Seminole County v. Recoton Corporation, et al.
Case No.: 03-CA-850-13-K
Owner: Ambassador III L.P.

This memorandum requests authorization by the Board of County Commissioners (BCC) to settle pending litigation in which Seminole County acquired Parcel Nos. 131A, 131B, 131C and 731 in the Lake Emma Road improvement project. The recommended settlement is for the total sum of \$33,380.00, inclusive of attorney's fees and costs.

I. PROPERTY

A. Location Data

The parent tract is improved by a 600-unit apartment complex, Sun Lake, on the east side of Lake Emma Road, south of Lake Mary Boulevard in Lake Mary, Seminole County, Florida. See, Location Map and Sketches attached as Exhibits A and B, respectively. The tax parcel identification number is 19-20-30-300-0020-0000.

B. Street Address

420 Sun Lake Circle
Lake Mary, FL 32746

II. AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2002-R-56 on April 9, 2002, for the Lake Emma Road road improvement project, authorizing the acquisition of the above-referenced property, and finding that the construction of the Lake Emma Road improvement project is necessary and serves a county and public purpose and is in the best interests of the citizens of Seminole County.

III. ACQUISITION/REMAINDER

The fee simple acquisition of Parcel Nos. 131A, 131B and 131C consists of 4,131 square feet acquired from the total parcel of 45.923 acres, leaving a remainder of 45.828 acres. Parcel No. 131A is a 122 square foot corner clip at the entrance drive. Parcel No. 131B is an 1800 square foot strip along the east side of Lake Emma Road that is 10 feet wide and 180 feet long. Parcel No. 131C is a 2,209 square foot strip along the east side of Lake Emma Road that is 10 feet wide and 219.9 feet long.

The acquisition of a 3,106 square foot temporary construction easement, Parcel No. 731, is for the purpose of reconnecting the owner's driveway.

IV. APPRAISED VALUES

The County's updated appraisal report was prepared by The Spivey Group, Inc., and as of May 12, 2003, reported a value of \$21,000.00 for Parcel Nos. 131A, 131B and 131C, and \$5,300.00 for Parcel No. 731, for a total appraised value of \$26,300.00.

The property owner expressed the intention of having an independent appraisal performed but never disclosed any appraisal to Seminole County.

V. BINDING OFFER AND NEGOTIATIONS

On October 3, 2001, the County extended a binding written offer to the property owner for Parcel Nos. 131A, 131B, 131C and 731 in the amount of \$29,880.00, exclusive of fees and costs, based upon initial appraisals of \$25,700.00. Prior counsel for the owner rejected the offer on the ground that his client would only convey by quitclaim deed, not the warranty deed required by Seminole County to obtain good title. Owner's replacement counsel responded to the filing of Seminole County's eminent domain lawsuit and offered to settle for \$33,380.00, inclusive of fees and costs, which County staff agreed to accept subject to BCC approval. Owner's counsel based his offer on a prior offer by the County to settle for \$31,880.00, inclusive of fees and costs, plus the \$1,500.00 allocation for his legal fees recommended by the responsible

Assistant County Attorney. The problem in getting good title was solved by the Order of Taking entered by the court on July 1, 2003.

VI. SETTLEMENT ANALYSIS AND COST AVOIDANCE

By agreeing to accept the County's recommended numbers for compensation, damages, attorney's fees and costs, the owner has entered into a proposed settlement that is favorable to the County and fulfills the owner's need to receive a reasonable amount of compensation without further litigation. The County Attorney's Office policy of making reasonable offers up front to encourage owners to settle before incurring substantial attorney's fees and costs is therefore fulfilled.

Seminole County benefits by avoiding the higher litigation costs of owners' attorneys and expert witnesses, for which a condemning authority is liable by statute. The result is also perceived as being fairer by the owners whose property is condemned, when they share in the benefit of the cost savings that accrue to Seminole County from an early settlement without prolonged litigation. Seminole County's litigating resources are also thereby conserved for litigating other cases where it is necessary to defend the public treasury by going to trial to resist truly unreasonable demands by a limited number of owners.

VII. RECOMMENDATION

For the foregoing reasons, County staff recommends that the BCC authorize the County Attorney's Office to enter into the appropriate stipulations and arrangements for entry of final judgment by the court as to Parcel Nos. 131A, 131B, 131C and 731 in the total amount of \$33,380.00, inclusive of attorney's fees and costs.

HZ/dre

Attachments

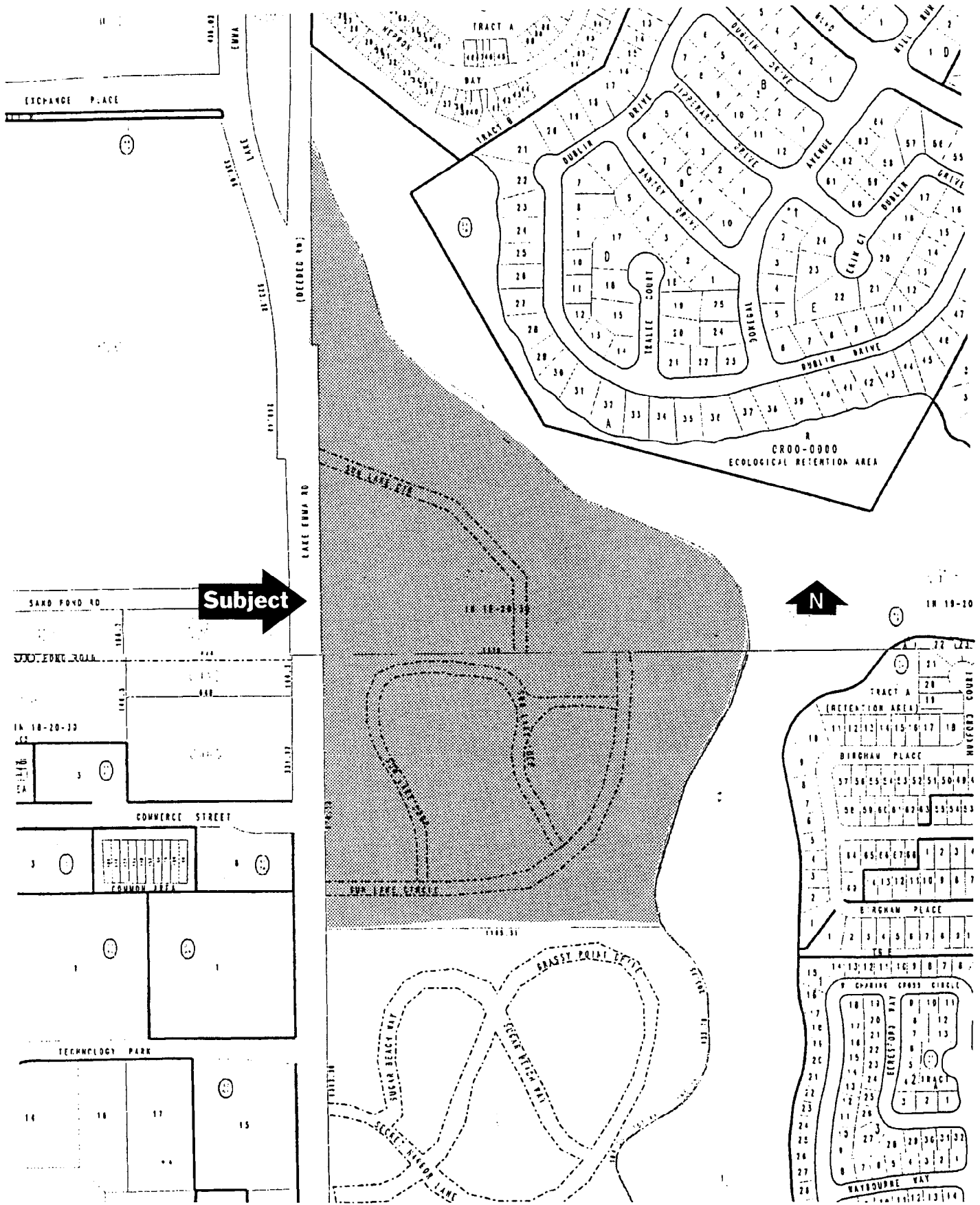
Exhibit A – Location Map

Exhibit B – Parcel Sketches

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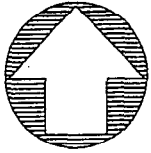
ADDITIONAL DATA SHEET

APPRAISER: HASTINGS & SPIVEY, INC.



APPRAISAL SKETCH

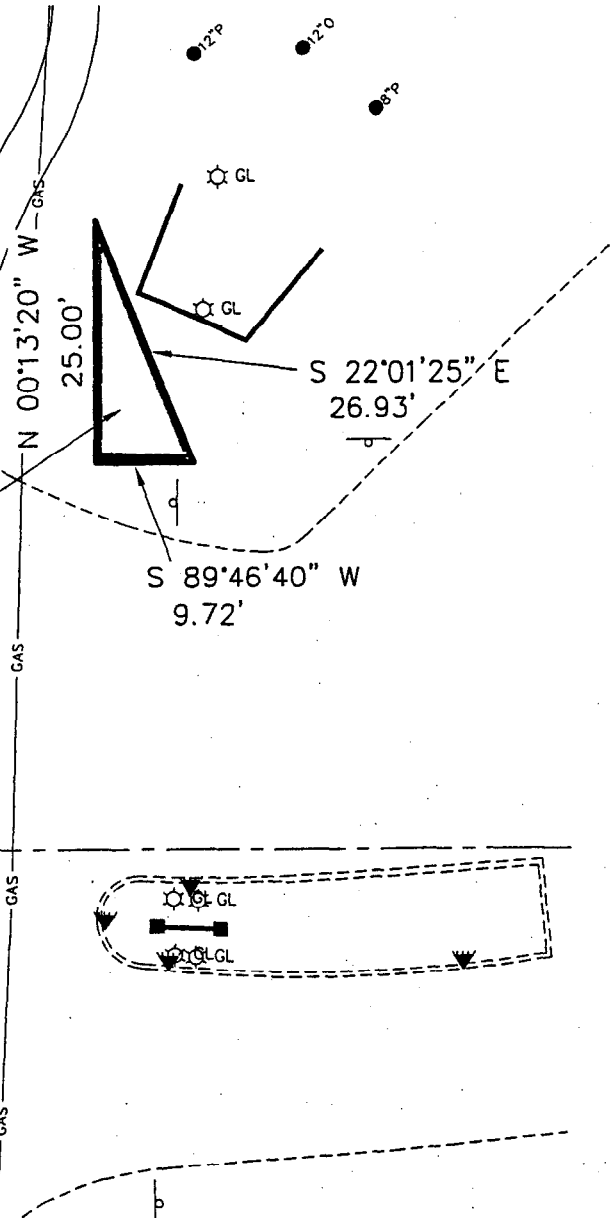
FOR
 HASTINGS & SPIVEY, INC.
 PARCEL 131A - RIGHT OF WAY
 TAKING PARCEL
 122 SQUARE FEET



SCALE: 1" = 20'

LAKE EMMA ROAD

131
PART A



TRASH
COMPACTOR

- 10" P PINE TREE - SIZE AS NOTED
- 10" O OAK TREE - SIZE AS NOTED
- 10" M MAPLE TREE - SIZE AS NOTED
- 10" Z PALM TREE - SIZE AS NOTED
- 10" CB CHINABERRY TREE - SIZE AS NOTED
- 10" L LAUREL TREE - SIZE AS NOTED

LEGEND

- | | | | |
|---------|-----------------------|-------|------------------------------|
| • BFP | BACKFLOW PREVENTOR | • MB | MAILBOX |
| • CATV | CABLE TV RISER | • RWV | RECLAIMED WATER VALVE |
| ⊙ | STORM MANHOLE | ▼ | SPRINKLER HEAD |
| ⊙ | SANITARY MANHOLE | — | SIGN |
| ⊙ | FIRE HYDRANT | • TR | TELEPHONE RISER |
| • EM | ELECTRIC METER | • TSB | TRAFFIC SIGNAL BOX |
| • ER | ELECTRIC RISER | ⊙ | UTILITY POLE |
| • FOM | FIBER OPTIC MARKER | • UR | UTILITY RISER |
| ⊙ GL | GROUND LIGHT | • UTM | UNDERGROUND TELEPHONE MARKER |
| ← | GUY ANCHOR | • WM | WATER METER |
| • IV | IRRIGATION VALVE | • WV | WATER VALVE |
| ⊙ | LIGHT POLE | R/W | RIGHT-OF-WAY |
| — | FENCE LINE | S.F. | SQUARE FEET |
| — OHU — | OVERHEAD UTILITY LINE | CMP | CORRUGATED METAL PIPE |

THIS IS NOT A BOUNDARY SURVEY

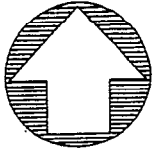
SHEET 1 OF 1

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 SCALE: 1" = 20'
 APPROVED BY: BAM
 JOB NO. ASM31066
 DRAWN BY: J.H.

REVISED:



AMERICAN SURVEYING & MAPPING
 CERTIFICATION OF AUTHORIZATION NUMBER LB#6393
 320 EAST SOUTH STREET, SUITE 180
 ORLANDO, FLORIDA
 32801 (407) 426-7879



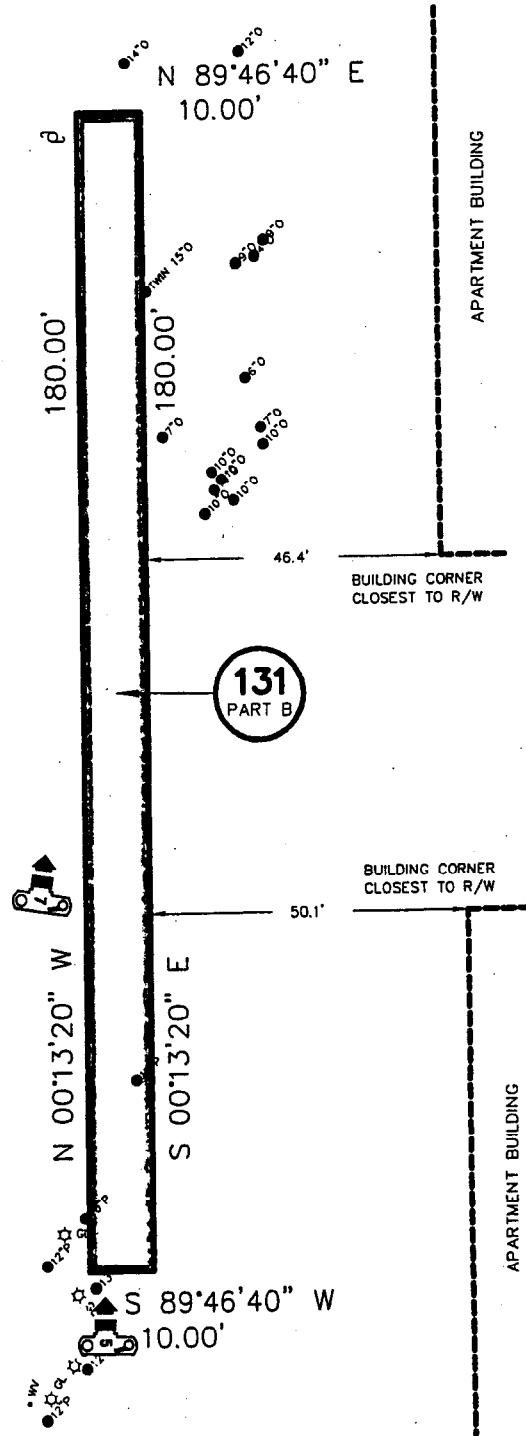
SCALE: 1" = 20'

APPRAISAL SKETCH
 FOR
 HASTINGS & SPIVEY, INC.
 PARCEL 131B - RIGHT OF WAY
 TAKING PARCEL
 1800 SQUARE FEET

LAKE EMMA ROAD

110+00

109+00



- 10" P PINE TREE - SIZE AS NOTED
- 10" O OAK TREE - SIZE AS NOTED
- 10" M MAPLE TREE - SIZE AS NOTED
- 10" Z PALM TREE - SIZE AS NOTED
- 10" CB CHINABERRY TREE - SIZE AS NOTED
- 10" L LAUREL TREE - SIZE AS NOTED

LEGEND

- | | | | |
|---------|-----------------------|-------|------------------------------|
| • BFP | BACKFLOW PREVENTOR | • MB | MAILBOX |
| • CATV | CABLE TV RISER | • RWV | RECLAIMED WATER VALVE |
| ⊙ | STORM MANHOLE | ▽ | SPRINKLER HEAD |
| ⊙ | SANITARY MANHOLE | — | SIGN |
| ⊙ | FIRE HYDRANT | • TR | TELEPHONE RISER |
| ⊙ | ELECTRIC METER | • TSB | TRAFFIC SIGNAL BOX |
| • ER | ELECTRIC RISER | ⊙ | UTILITY POLE |
| • FOM | FIBER OPTIC MARKER | • UR | UTILITY RISER |
| ⊙ GL | GROUND LIGHT | • UTM | UNDERGROUND TELEPHONE MARKER |
| ← | GUY ANCHOR | • WM | WATER METER |
| • IV | IRRIGATION VALVE | • WV | WATER VALVE |
| ⊙ | LIGHT POLE | R/W | RIGHT-OF-WAY |
| — | FENCE LINE | S.F. | SQUARE FEET |
| — OHU — | OVERHEAD UTILITY LINE | CMP | CORRUGATED METAL PIPE |

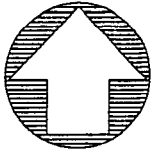
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SHEET 1 OF 1

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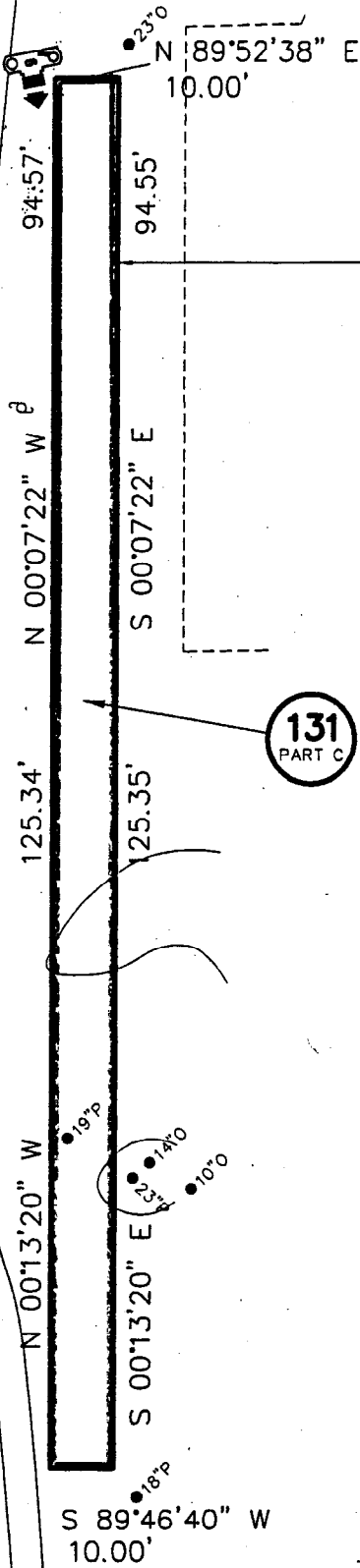
SCALE: 1" = 30'

APPRAISAL SKETCH
 FOR
 HASTINGS & SPIVEY, INC.
 PARCEL 131C - RIGHT OF WAY
 TAKING PARCEL
 2209 SQUARE FEET

113+00

LAKE EMMA ROAD

112+00



131
PART C

BUILDING CORNER
CLOSEST TO R/W

APARTMENT BUILDING

- 10" P PINE TREE - SIZE AS NOTED
- 10" O OAK TREE - SIZE AS NOTED
- 10" M MAPLE TREE - SIZE AS NOTED
- 10" Z PALM TREE - SIZE AS NOTED
- 10" CB CHINABERRY TREE - SIZE AS NOTED
- 10" L LAUREL TREE - SIZE AS NOTED

S 89°46'40" W
10.00'

LEGEND

- | | | | |
|--------|-----------------------|-------|------------------------------|
| • BFP | BACKFLOW PREVENTOR | • MB | MAILBOX |
| • CATV | CABLE TV RISER | • RWV | RECLAIMED WATER VALVE |
| ⊙ | STORM MANHOLE | ▼ | SPRINKLER HEAD SIGN |
| ⊙ | SANITARY MANHOLE | • TR | TELEPHONE RISER |
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| ⌋ | GUY ANCHOR | • WV | WATER VALVE |
| • IV | IRRIGATION VALVE | R/W | RIGHT-OF-WAY |
| ⊙ | LIGHT POLE | S.F. | SQUARE FEET |
| —○— | FENCE LINE | CMP | CORRUGATED METAL PIPE |
| —OHU— | OVERHEAD UTILITY LINE | | |

THIS IS NOT A BOUNDARY SURVEY

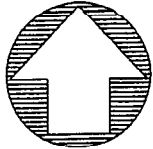
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SCALE: 1" = 300'

APPRAISAL SKETCH

FOR

HASTINGS & SPIVEY, INC.

PARCEL 131A, B, C & 731 - REMAINDER TRACT

AREA OF REMAINDER = 45.828 ACRES

LAKE EMMA ROAD

PARENT TRACT

PER

OFFICIAL RECORDS BOOK 3162, PAGE 1270

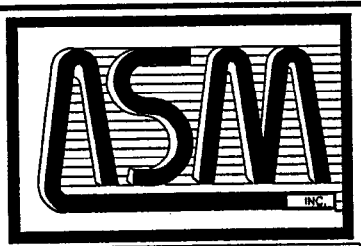
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THIS IS NOT A BOUNDARY SURVEY

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