



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

001:04

TO: Board of County Commissioners
THROUGH: Stephen P. Lee, Deputy County Attorney
FROM: Lynn Vouis, Assistant County Attorney *lv*
CONCUR: Pam Hastings, Administrative Manager/Public Works Department
Kathleen Myer, Principal Engineer/Major Projects *KM*
DATE: February 24, 2004
SUBJECT: Purchase Agreement Authorization
Lake Drive Road Improvement Project

This memorandum requests authorization by the Board of County Commissioners (BCC) and execution by the Chairman of a purchase agreement for the Lake Drive road improvement project, in the amount of \$20,000.00, with no fees, costs or expenses incurred.

I THE PROPERTY

A. Location Data

The property is located approximately 85 feet west of Sunset Drive in Casselberry.

- Location Map (Exhibit A)
- Sketch Map (Composite Exhibit B)
- Purchase Agreement (Exhibit C)

B. Address

1531 Seminola Boulevard
Casselberry, Florida

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2002-R-70 on April 23, 2002 and First Supplemental and First Amended Resolution No. 2003-R-133 on August 26, 2003, authorizing the acquisition of the referenced properties, and finding that the construction of the Lake Drive road improvement project is necessary and serves a county and public purpose and is in the best interest of the citizens of Seminole County.

III ACQUISITIONS AND REMAINDERS

Parcel No. 173 consists of 3,109 square feet to be acquired from the 66,560 square foot parent tract, with Parcel No. 773 to be used as a 750 square foot temporary construction easement. The parent tract is currently improved with a single family residence which is rented. The property's highest and best use is light industrial/commercial with the single-family residence as an interim use.

IV APPRAISED VALUES

Clayton, Roper & Marshall, Inc. completed an appraisal of the referenced parcels. The County's staff appraiser reviewed and approved the appraisals. The County's appraised values for these parcels total \$16,900.00. The property owner did not obtain an appraisal of the parcels to be acquired.

V NEGOTIATIONS/BINDING WRITTEN OFFER

The County extended a binding written offer to the property owner on January 16, 2004 in the amount of \$18,800.00. The property owners made a counteroffer of \$20,000.00. The counteroffer was accepted by County staff, contingent on BCC approval.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

This settlement proposal makes sense based on cost avoidance. The difference between the County's written offer amount and the proposed settlement amount (\$1,200.00) is paid to the property owner rather than attorney's and experts. It simply would not be cost effective to litigate over such a small difference in amounts.

VII RECOMMENDATION

County staff recommends that the BCC authorize settlement in the amount of \$20,000.00, with no attorney's fees, expert costs or expenses incurred.

LV/la

Attachments:

Location Map (Exhibit A)

Sketch Map (Composite Exhibit B)

Purchase Agreement (Exhibit C)

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LAKE DRIVE\AGENDA ITEM LAKE DRIVE 163 763.DOC

Seminole County, Florida

Property Appraiser Services

Your Source for Property Information... Quick, Convenient, Accurate

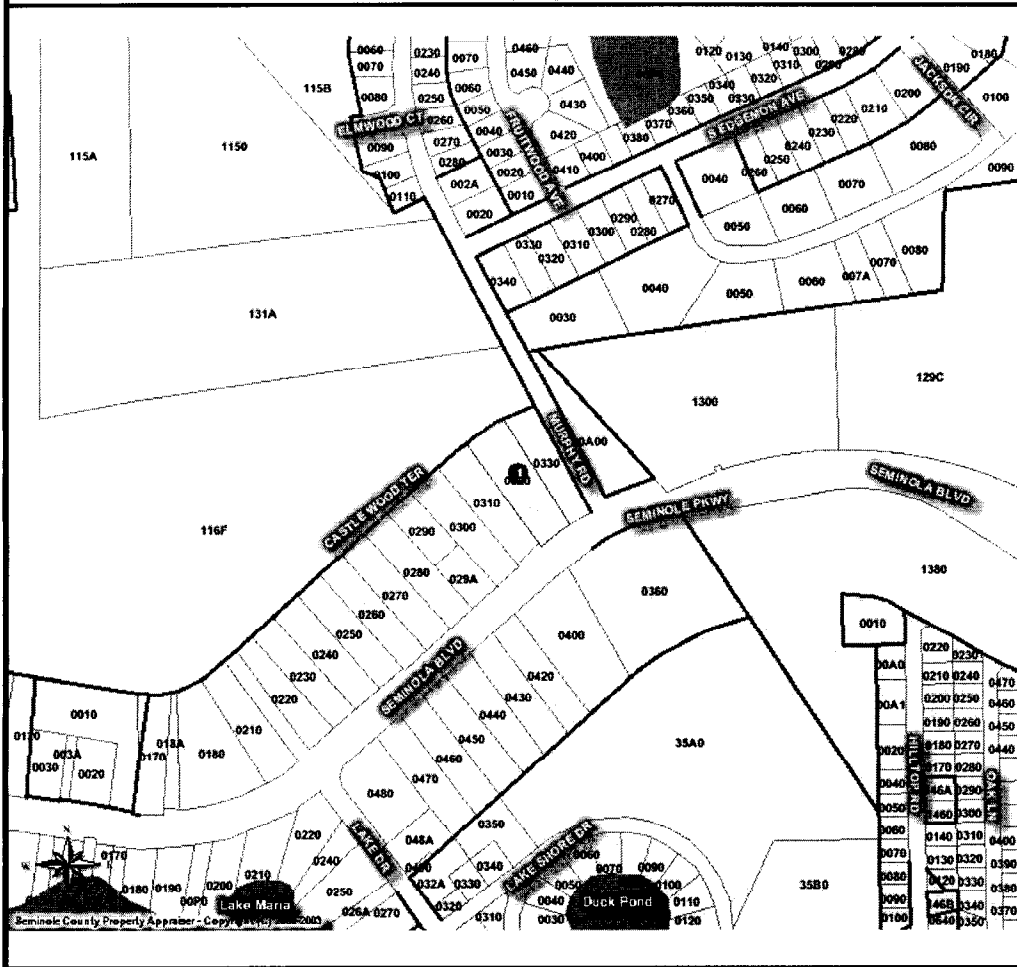
H. W. "Bill" Suber CFA, ASA



Seminole County

*Property Appraiser
Services*

1101 E. First St.
Sanford FL 32771
407-665-7506

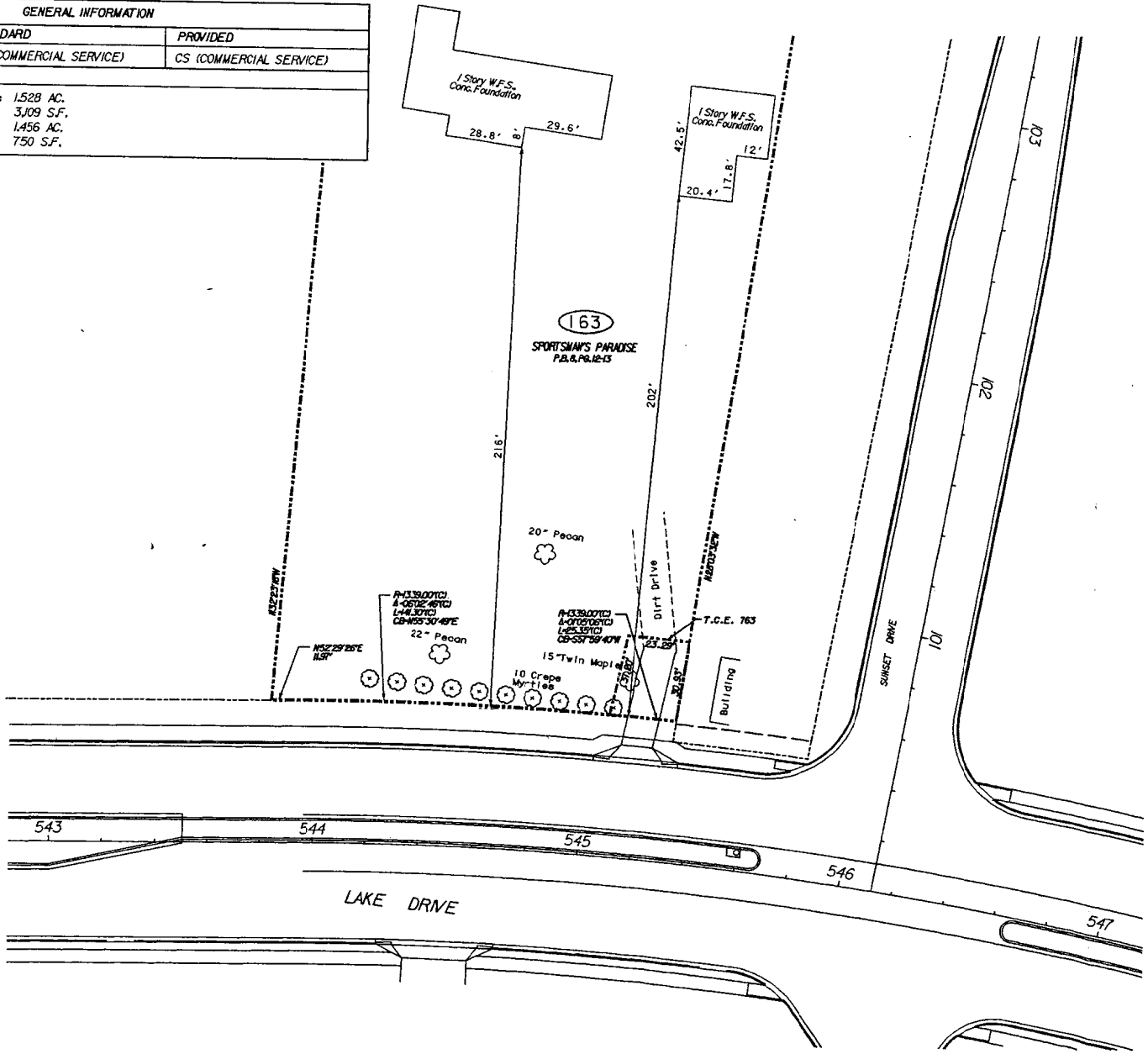


Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	0921305BM0B000320	MALCOMB AUSTIN N & VIRGINIA L	780 ARAPAHO TRL	MAITLAND	FL	32751

EXHIBIT A

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GENERAL INFORMATION		
ZONING	STANDARD	PROVIDED
ZONED:	CS (COMMERCIAL SERVICE)	CS (COMMERCIAL SERVICE)
ACREAGE		
TOTAL PARENT TRACT:	1,528 AC.	
AREA OF TAKING:	3,109 S.F.	
AREA OF REMAINDER:	1,456 AC.	
AREA OF T.C.E.:	750 S.F.	



NO.	REVISION	DATE

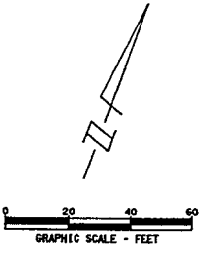


EXHIBIT B

SHEET 4 OF 4	LOCHRANE ENGINEERS • SURVEYORS <small>REGISTERED PROFESSIONAL ENGINEERS AND SURVEYORS STATE OF FLORIDA</small>	PARCEL 163 T.C.E. 763 AFTER TAKING	SEMINOLE COUNTY	PROJECT NUMBER: 02044 DATE: JULY, 2003 SCALE: AS SHOWN PROJ. MAN. R. E. M. CHECKED: T. B. L.
		LAKE DRIVE FOR SEMINOLE COUNTY	SEMINOLE COUNTY	

PURCHASE AGREEMENT
FEE SIMPLE/TEMPORARY CONSTRUCTION EASEMENT

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this 20 day of January, 2004, by and between **AUSTIN N. MALCOMB** and **VIRGINIA L. MALCOMB**, his wife, whose address is 780 Arapaho Trail, Maitland, Florida 32751, hereinafter referred to as "OWNER," and **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY."

WITNESSETH:

WHEREAS, the COUNTY requires the hereinafter described property for construction and maintenance of an authorized road project in Seminole County;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained OWNER hereby agrees to sell and convey, and COUNTY hereby agrees to purchase the following property upon the following terms and conditions:

I. LEGAL DESCRIPTION – Parcels 163 and 763

See, attached Exhibit "A"

Parcel I.D. Number: 09-21-30-5BM-0B00-0320

II. PURCHASE PRICE

(a) OWNER agrees to sell and convey the above-described property of the above referenced project by Warranty Deed on Parcel No. 163, free of liens and encumbrances, and by Temporary Construction Easement on Parcel No. 763 unto COUNTY for the sum of TWENTY THOUSAND DOLLARS (\$20,000.00). The above amount includes all compensation due as a result of this acquisition to the OWNER for any reason and for any account whatsoever. OWNER agrees to execute a Temporary Construction Easement for a period of five (5) years from date of commencement of construction on Parcel No. 763.

(b) COUNTY shall only be responsible for the following closing costs: recording fees for Warranty Deed and Title Insurance Policy issued to the COUNTY by a title insurance company of the COUNTY's choice.

(c) OWNER shall be responsible for OWNER's own attorney's fees, all costs to prepare and all expenses to record instruments necessary to provide title unto COUNTY, free and clear of all liens and encumbrances, and the OWNER's share of the pro-rata property taxes outstanding, up to and including the date of closing. The before mentioned closing costs and pro-rata real estate taxes shall be withheld by the COUNTY's closing

EXHIBIT C

agent from the proceeds of this sale and paid to the proper authority on behalf of the OWNER.

(d) OWNER covenants that there are no real estate commissions due any licensed real estate broker and further agrees to defend against and pay any valid claims made in regard to this purchase relating to covenants made herein by the OWNER.

III. CONDITIONS

(a) COUNTY shall pay to the OWNER the sum as described in Item II. above, upon the proper execution and delivery of all the instruments required to complete the above purchase and sale to the COUNTY's designated closing agent. The OWNER agrees to close within seven (7) days of notice by the COUNTY's closing agent that a closing is ready to occur.

(b) OWNER agrees to vacate and surrender possession of the property upon the date of delivery of the instruments and closing on this purchase. COUNTY may, but is not obligated to, extend possession of the property by OWNER; provided, however, that such approval will be evidenced by a written document of equal dignity herewith. During the period from the date of the execution of this Agreement by both parties and the closing, OWNER agrees to exercise diligent care in protecting the property from theft and vandalism. All windows, doors, bathroom fixtures, electrical outlets, heaters and other similar items included in the purchase price, as well as the land itself, shall be preserved in the normal conditions and turned over to the COUNTY by the OWNER, intact, if applicable.

(c) Any and all encroachments existing upon the property other than those improvements included in the purchase price are to be removed at the expense of the OWNER prior to closing.

(d) OWNER warrants that there are no facts known to OWNER materially affecting the value of the properties which are not readily observable by COUNTY or which have not been disclosed to COUNTY.

(e) The instrument(s) of conveyance to be utilized at closing shall, in addition to containing all other common law covenants through the use of a warranty deed, also include the covenant of further assurances.

(f) The OWNER shall fully comply with *Section 286.23, Florida Statutes*, to the extent that said statute is applicable.

(g) In the event that COUNTY subsequently abandons this project after execution of this Agreement, but before closing, this Agreement shall be null and void.

(h) In the event that difficulties arise as to clearing title sufficient to consummate a closing of this Purchase Agreement or difficulties occur in the issuance of a title insurance commitment which is acceptable to the COUNTY; this Agreement shall survive the filing of any eminent domain action by the COUNTY and shall serve as a joint

stipulation regarding all valuation issues and fees and costs matters in any condemnation proceeding initiated by the COUNTY relating to the real property herein described. The OWNER agrees that, in accordance with any request made by the COUNTY, the OWNER shall execute any and all instruments, pleadings, documents and agreements upon litigation reflecting the full settlement as set forth herein. The OWNER agrees not to oppose the COUNTY's condemnation proceedings in any way. The OWNER, may however, assert OWNER's rights against other claimants in apportionment proceedings.

(i) As part of the consideration for this Purchase Agreement, OWNER hereby grants to COUNTY, its employees, agents, consulting engineers, contractors and other representatives the right to enter upon and to have exclusive possession of the property described in Exhibit A to this Agreement. The right of entry shall commence ninety (90) days after the execution of this Agreement by COUNTY, and shall continue until closing occurs, or if closing cannot occur, until the condemnation proceedings to acquire the property have been completed. Aside from this Agreement, no further notification of COUNTY's intent to enter the property is required. This right of entry is for the purpose of construction of the Lake Drive road improvement project and so that the COUNTY's construction schedule can be maintained notwithstanding issues which may delay closing in a timely manner. OWNER will not receive from COUNTY any additional compensation beyond that set forth in this Purchase Agreement during the period of time the COUNTY occupies the above described property for the purpose set forth above for the right to enter and possess the property before conveyance of title.

(j) The OWNER shall indemnify and save the COUNTY harmless from and against all liability, claims for damages, and suits for any injury to any person or persons, or damages to any property of any kind whatsoever arising out of or in any way connected with this Agreement or in any act or omission in any manner related to said Agreement.

(k) The COUNTY shall be solely responsible for all of COUNTY activities conducted on the property. OWNER shall not be considered an agent or employee of COUNTY for any reason whatsoever on account of the Agreement.

(l) The OWNER states that the OWNER has not engaged in any action that would create a conflict of interest in the performance of OWNER's obligations under this Agreement with the COUNTY which would violate or cause others to violate the provisions of *Part III, Chapter 112, Florida Statutes*, relating to ethics in government.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective name on the date first above written.

WITNESSES:

Wanda Mazyck
SIGNATURE

Wanda Mazyck
PRINT NAME

Mary Cruz
SIGNATURE

Mary Cruz
PRINT NAME

Wanda Mazyck
SIGNATURE

Wanda Mazyck
PRINT NAME

Mary Cruz
SIGNATURE

Mary Cruz
PRINT NAME

ATTEST:

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

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: _____
Daryl G. McLain, Chairman

Date: _____

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

As authorized for execution by the Board
of County Commissioners at its _____,
2004, regular meeting.

[Signature]
County Attorney

 / / file name and path

EXHIBIT "A" (1 of 2)
LEGAL DESCRIPTION

RIGHT-OF-WAY FEE SIMPLE

PROJECT: Lake Drive

OWNER: Austin N. Malcomb and Virginia L. Malcomb, His Wife

R/W PARCEL NO.: 163

TAX I.D. NO.: 09-21-30-5BM-0B00-0320

CONSULTANT: Lochrane Engineering, Inc.

A portion of Lot 32 and a portion of the Southwesterly ½ of Lot 33, Block "B", Sportsman's Paradise, according to the plat thereof recorded in Plat Book 8, pages 12 and 13 and a part of that parcel of land described in Official Record Book 2985, Page 107 as recorded in the Public Records of Seminole County, Florida, being that portion of Section 10, Township 21 South, Range 30 East of Seminole County, Florida,

described as follows:

Begin at the Southwest corner of Lot 32, Block "B", Sportsman's Paradise, according to the Plat thereof, as recorded in Plat Book 8, Pages 12 and 13, Public Records of Seminole County, Florida; thence N32°23'18"W along the West line of said Lot 32 a distance of 13.96 feet; thence, departing said West line, N52°29'26"E a distance of 11.97 feet to the Point of Curvature of a curve concave Southeasterly and having a radius of 1339.00 feet; thence along said curve an arc length 141.30 feet through a central angle of 06°02'46" to a point on the East line of the West 1/2 of Lot 33, Block "B" of said Sportsman's Paradise; thence S28°03'32"E along said East line a distance of 26.03 feet to the Northerly Right of Way line of Seminola Boulevard as shown and recorded in said Plat of Sportsman's Paradise, being curved concave Southeasterly and having a radius of 1985.08 feet; thence, from a chord bearing of S59°47'39"W, run along said Northerly Right of Way line an arc length of 151.25 feet through a central angle 04°21'56" to the Point of Beginning.

Exhibit "A" (2 of 2)

TEMPORARY CONSTRUCTION EASEMENT

PROJECT: Lake Drive

OWNER: Austin N. Malcomb and Virginia L. Malcomb, His Wife

TEMPORARY CONSTRUCTION EASEMENT NO.: 763

TAX I.D. NO.: 09-21-30-5BM-0B00-0320

CONSULTANT: Lochrane Engineering, Inc.

A portion of Lot 32 and a portion of the Southwesterly ½ of Lot 33, Block "B", Sportsman's Paradise, according to the plat thereof recorded in Plat Book 8, pages 12 and 13 and a part of that parcel of land described in Official Record Book 2985, Page 107 as recorded in the Pubic Records of Seminole County, Florida, being that portion of Section 10, Township 21 South, Range 30 East of Seminole County, Florida,

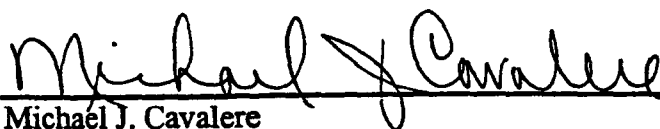
described as follows:

Commence at the Southwest corner of Lot 32, Block "B", Sportsman's Paradise, according to the Plat thereof, as recorded in Plat Book 8, Pages 12 and 13, Public Records of Seminole County, Florida; thence N32°23'18"W along the West line of said Lot 32 a distance of 13.96 feet; thence, departing said West line, N52°29'26"E a distance of 11.97 feet to the Point of Curvature of a curve concave Southeasterly and having a radius of 1339.00 feet; thence along said curve an arc length 115.95 feet through a central angle of 04°57'40" for a Point of Beginning; thence, departing said curve, run N24°17'23"W, a distance of 31.20 feet; thence run N58°07'35"E, a distance of 23.29 feet to a point on the West line of the East 1/2 of Lot 33, Block "B" of said Sportsman's Paradise; thence run S28°03'32"E along said West line a distance of 30.93 feet to a point on a non-tangent curve concave Southeasterly having a radius of 1339.00 feet; thence, departing said West line, run along the arc of said curve an arc length of 25.35 feet through a central angle of 01°05'06" at a chord bearing of S57°59'40"W to the Point of Beginning.

Containing 750 square feet, more or less.

The sketch for this description is shown on sheets 2 and 5 of the right-of-way maps of Lake Drive.

I hereby certify that this legal description is true, accurate and complete to the best of my knowledge and is in compliance with the Minimum Technical Standards as set forth in Chapter 61G17-6 Florida Administrative Code.



Michael J. Cavallere

Florida Registered Land Surveyor #5062

2-13-2003

DATE

- NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A
FLORIDA LICENSED SURVEYOR AND MAPPER -

Lochrane Engineering, Inc.
201 South Bumby Avenue
Orlando, Florida 32803
407-896-3317