

014

58



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *[Signature]*

FROM: Lynn Vouis, Assistant County Attorney *[Signature]*
Ext. 5736

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

DATE: April 1, 2004

SUBJECT: Eden Park Avenue
Parcel No. 108
Purchase Agreement Settlement Authorization
Jim Cannon

This Memorandum requests purchase agreement authorization in the amount of \$78,000.00 by the Board of County Commissioners (BCC) for Parcel No. 108 on the Eden Park Avenue road improvement project.

I PROPERTY

The property needed to be acquired consists of 2,447 square feet along the frontage of a newly constructed luxury home located on the west side of Eden Park Avenue. The acquisition is approximately 15 feet in depth along the entire frontage of the property.

- A. Location Map Exhibit A
Copy of pertinent row map sheet 7 Exhibit B
- B. Address: 628 Eden Park Avenue
Altamonte Springs, Florida

II AUTHORITY TO ACQUIRE

The BCC has not yet adopted a Resolution of Necessity for the Eden Park Avenue road improvement project. The Resolution of Necessity is on the April 13, 2004, BCC agenda for approval. The BCC authorized the Eden Park Avenue project and approved

the preliminary engineering study in August, 2001, according to the Engineering Division's most recent major project schedule. Through this authorization, the BCC determined that the construction of the Eden Park Avenue road improvement project is necessary, serves a county and public purpose, and is in the best interest of the citizens of Seminole County.

III APPRAISED VALUES/BINDING OFFERS

The County has not begun professional appraisal or right-of-way services for property negotiation purposes, nor has the County extended binding written offers to the property owners on this roadway project. The property owner contacted County staff directly to request consideration of an early acquisition of the property. County staff met with the property owner and the County's MAI designated appraiser, Robert Risner, prepared an opinion of value of the acquisition and damages. Mr. Risner valued the 2,447 square foot acquisition at \$6.42 per square foot for a value of \$15,710.00. He then added the cost of minor improvements in the acquisition area (irrigation, landscaping, etc.) of about \$2,500.00. The total came to \$18,210.00, rounded to \$18,500.00.

Mr. Risner then proceeded to calculate the severance damages to the remainder property caused by the acquisition. The damages he found are based on the proximity of the new roadway to the home. The distance from the right of way to the home's garage door will be reduced from 20.5 to 6 feet. Based on proximity studies prepared by appraisers hired by the County in the past, the proximity damage in this situation is about 20% of the home's value. Through the sales comparison approach, Mr. Risner calculated that the new, 2,700 square foot home is worth approximately \$322,000.00. Applying a proximity damages factor of 20% yields an after value of \$257,600.00. The remainder value after subtracting the acquisition value of \$18,500 is \$303,500.00. The difference between the remainder value as part of the whole (\$303,500.00), and the remainder value less proximity damages (\$257,600.00) is the amount of severance damages, \$45,900.00.

Adding the value of the part taken (\$18,500.00) to the severance damages (\$45,900.00) resulted in the contingent settlement offer to the property owner in the amount of \$64,400.00.

IV NEGOTIATIONS/ANALYSIS

The property owner strongly believed that damages to the remainder property based on the proximity of the new roadway would be greater than 20%. The County's appraiser believes that a damage study with higher than 20% damages would be presented to the County by an appraiser hired by the owner. Eventually, through negotiations, the property owner agreed to accept \$78,000.00 for the property, which County staff agreed to present to the BCC for acceptance. The County would incur costs exceeding this amount if this property is acquired during the normal acquisition

process. In addition, attorney's fees and appraisal costs on both sides would be incurred if settlement is not approved now.

V RECOMMENDATION

County staff recommends that the BCC approve and execute the Purchase Agreement in the amount of \$78,000.00, with no attorney fees or expert's costs incurred.

LV/sb

P:\USERS\LV\OUIS\SETTLEMENT MEMO\EDEN PARK AVENUE\CANNON 108 EDEN PARK EARLY ACQUISITION.DOC

**PURCHASE AGREEMENT
FEE SIMPLE**

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this _____ day of _____, 20___, by and between JIM CANNON, whose address is 211 SANDLEWOOD TRAIL, WINTER PARK, FL 32789, 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 a 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 COUNTY hereby agrees to buy the following property upon the following terms and conditions:

I. LEGAL DESCRIPTION

See, attached Exhibit A

Parcel I. D. Number: 108

II. PURCHASE PRICE

(a) OWNER agrees to sell and convey the above described property of the above referenced project by Warranty Deed, free of liens and encumbrances, unto COUNTY for the sum of SEVENTY EIGHT THOUSAND AND NO/100 DOLLARS (\$78,000.00). The above amount includes all compensation due as a result of this acquisition to the OWNER for any reason and for any account whatsoever.

(b) COUNTY shall 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, cost to prepare and all expenses to record instruments necessary to provide title unto COUNTY, free and clear of all liens and encumbrances, and 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 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 designated closing agent. The OWNER agrees to close within seven (7) days of notice by the COUNTY or 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 of this Agreement. 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 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 by the OWNER 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. Additionally, as part of the consideration for this Purchase Agreement, OWNER hereby grants to COUNTY, and or its agents, a Right-of-Entry, to enter upon the fee simple remainder of the property, approximately FIVE (5) feet past the limits of the property acquired, in order to construct the improvements associated with the Eden Park Avenue Road Improvement Project, ensuring that the COUNTY's construction schedule can be maintained notwithstanding issues which may delay closing in a timely manner. Aside from this Agreement, no further notification of COUNTY's intent to enter the property is required. 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.

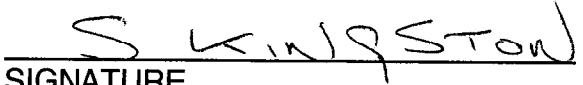
(l) The OWNER states that the OWNER has not engaged in any action that would create a conflict of interest in the performance of OWNER's obligations under this Agreement with the COUNTY which would violate or cause others to violate the provisions of *Part III, Chapter 112, Florida Statutes*, relating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

(m) OWNER may relocate existing trees, located inside the area of the legal description for Parcel Number 108, at any time prior to the start of construction activities associated with the Eden Park Avenue Road Improvement Project.

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

WITNESSES:

SIGNATURE
J. FRANKLIN
PRINT NAME

PROPERTY OWNER:

James Cannon


SIGNATURE
S. KINGSTON
PRINT NAME

ADDRESS: 211 Sandlewood Trail
Winter Park, FL 32789.

ATTEST: BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA


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

By: _____, 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
of County Commissioners at its _____,
20__, regular meeting.


County Attorney

ID# 20-21-29-522-0000-0180

Eden Park Avenue
Right of Way Parcel number 108
Fee simple taking

That portion of:
the following described parcel as recorded in Official Records Book 4390, page 1425, subject to Right of Way deeds and agreements as shown in the plat of PARK PLACE as recorded in Plat Book 55, Page 40 and QuitClaim deed as recorded in Deed Book 46, Page 219 of the Public Records of Seminole County, Florida,
Lot 18, PARK PLACE, according to the plat thereof as recorded in Plat Book 55, Page 40, Public Records of Seminole County, Florida.

Being more particularly described as follows:

Begin at a 4 inch by 4 inch concrete monument stamped "P.R.M. LS 4714" at the northeast corner of Lot 18, PARK PLACE, according to the plat thereof as recorded in Plat Book 55, Page 40, Public Records of Seminole County, Florida; thence run S 00°01'16" E along the west Right of Way line of Eden Park Avenue, for a distance of 90.00 feet to the southeast corner of said Lot 18; thence run N 89°34'57" W along the south line of said Lot 18 for a distance of 27.25 feet; Thence run N 00°02'55" E for a distance of 90.00 feet; thence run S 89°34'53" E along the north line of said Lot 18 for a distance of 27.14 feet to the Point of Beginning.

Containing 2447 square feet, more or less.

The sketch for this description is shown on sheet 7 of 10 of the Seminole County, Eden Park Avenue Right of Way Map, work project number PS-569-00/BJC
THIS SKETCH IS NOT A SURVEY.

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 of the Florida Administrative code.

Daniel A. Groves 7-14-03
Daniel A. Groves signature date
Florida Professional Surveyor and Mapper no. 4625
METRIC ENGINEERING INC.
2269 Lee Road, Suite 101
Winter Park, Florida 32789

EXHIBIT A

EXHIBIT B

PARK PLACE

MCNEIL'S ORANGE VILLA
P.B. 2, PAGES 99-101

PARK PLACE
P.B. 55, PAGE 40

TRACT "A"
(RETENTION POND)

TRACT "C"
(RETENTION POND)

R/W LINE

R/W LINE

R/W LINE

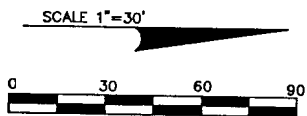
R/W LINE

EXHIBIT B

PART OF LOT 72

PART OF LOT 72

ROW MAP SHEET 7



638.8'(P)
FND. AXLE NO. ID.
0.64' S., 0.00' E.
S89°34'48"E 50.01'(F) 50.00'(D)
FND. 1/2" I.B. NO. ID.
0.54' S., 0.00' E.

S.W. CORNER OF PA
N89°34'48"W 161.81'
CENTERLINE OF PAF
FND. PK N.&D. STA
N89°34'48"W 251.70

136.80'(F)(P)
N13°16'49"E
31.67'(F)(P)
N00°00'05"W 329.17'(F) 329.14'(F)
N00°00'05"W 150.00'(F)
150.00'(D)

EXISTING R/W
AS MONUMENTED
P.B. 2, PAGE 99-101
D.B. 46, PAGE 191

R/W LINE
N00°02'55"E

500°02'55"W
218.04'(F)
218.045'(D)

18" RCP

42

6" CLF
500°00'26"E
239.22'(F)

EXISTING R/W
AS MONUMENTED
P.B. 2, PAGE 99-101
D.B. 46, PAGES 192-193

R/W LINE

500°00'26"E
239.22'(F)

114

PART OF LOT 75

DIRT DWY

6" CLF

500°00'26"E

174.16'(F)

6" CLF

500°00'26"E

185.00'(F)(P)

+43.27
53.00' LT.
198.04'(F)

104

N44°45'56"W
28.35'(F)

43.00'(F)

15" RCP

44

DIRT DWY

6" CLF

500°00'26"E

174.16'(F)

6" CLF

500°00'26"E

185.00'(F)(P)

EXISTING R/W
AS MONUMENTED
P.B. 2, PAGE 99-101
D.B. 46, PAGES 192

R/W LINE

500°01'16"E 124.50'(F) 124.49'(P)

15" RCP

45

EAST LINE OF
S.W. 1/4 OF SECTION 20

+18.27
53.00' LT.
64.82'(F)

105

N00°02'55"E

53.00' LT.

15" RCP

44

DIRT DWY

6" CLF

500°00'26"E

174.16'(F)

6" CLF

500°00'26"E

185.00'(F)(P)

EXISTING R/W
AS MONUMENTED
P.B. 2, PAGE 99-101
D.B. 46, PAGES 192

R/W LINE

500°01'16"E 124.50'(F) 124.49'(P)

15" RCP

45

EAST LINE OF
S.W. 1/4 OF SECTION 20

+27.42
53.00' LT.
64.82'(F)

106

N00°02'55"E

53.00' LT.

15" RCP

44

DIRT DWY

6" CLF

500°00'26"E

174.16'(F)

6" CLF

500°00'26"E

185.00'(F)(P)

EXISTING R/W
AS MONUMENTED
P.B. 2, PAGE 99-101
D.B. 46, PAGES 192

R/W LINE

500°01'16"E 124.50'(F) 124.49'(P)

15" RCP

45

EAST LINE OF
S.W. 1/4 OF SECTION 20

+07.83
53.00' LT.
64.82'(F)

107

N00°02'55"E

53.00' LT.

15" RCP

44

DIRT DWY

6" CLF

500°00'26"E

174.16'(F)

6" CLF

500°00'26"E

185.00'(F)(P)

EXISTING R/W
AS MONUMENTED
P.B. 2, PAGE 99-101
D.B. 46, PAGES 192

R/W LINE

500°01'16"E 124.50'(F) 124.49'(P)

15" RCP

45

EAST LINE OF
S.W. 1/4 OF SECTION 20

+22.83
53.00' LT.
64.82'(F)

108

N00°02'55"E

53.00' LT.

15" RCP

44

DIRT DWY

6" CLF

500°00'26"E

174.16'(F)

6" CLF

500°00'26"E

185.00'(F)(P)

EXISTING R/W
AS MONUMENTED
P.B. 2, PAGE 99-101
D.B. 46, PAGES 192

R/W LINE

500°01'16"E 124.50'(F) 124.49'(P)

15" RCP

45

EAST LINE OF
S.W. 1/4 OF SECTION 20

+12.83
53.00' LT.
64.82'(F)

109

N00°02'55"E

53.00' LT.

15" RCP

44

DIRT DWY

6" CLF

500°00'26"E

174.16'(F)

6" CLF

500°00'26"E

185.00'(F)(P)

EXISTING R/W
AS MONUMENTED
P.B. 2, PAGE 99-101
D.B. 46, PAGES 192

R/W LINE

500°01'16"E 124.50'(F) 124.49'(P)

15" RCP

45

EAST LINE OF
S.W. 1/4 OF SECTION 20

+12.83
53.00' LT.
64.82'(F)

110

N00°02'55"E

53.00' LT.

15" RCP

44

DIRT DWY

6" CLF

500°00'26"E

174.16'(F)

6" CLF

500°00'26"E

185.00'(F)(P)

EXISTING R/W
AS MONUMENTED
P.B. 2, PAGE 99-101
D.B. 46, PAGES 192

R/W LINE

500°01'16"E 124.50'(F) 124.49'(P)

15" RCP

45

EAST LINE OF
S.W. 1/4 OF SECTION 20

+12.83
53.00' LT.
64.82'(F)

111

N00°02'55"E

53.00' LT.

15" RCP

44

DIRT DWY

6" CLF

500°00'26"E

174.16'(F)

6" CLF

500°00'26"E

185.00'(F)(P)

EXISTING R/W
AS MONUMENTED
P.B. 2, PAGE 99-101
D.B. 46, PAGES 192

R/W LINE

500°01'16"E 124.50'(F) 124.49'(P)

15" RCP

45

EAST LINE OF
S.W. 1/4 OF SECTION 20

CUB LAKE DRIVE (40' R/W)

TRACT "A" (RETENTION POND)

TRACT "C" (RETENTION POND)

TRACT "B" (RETENTION POND)

TRACT "D" (RETENTION POND)

TRACT "E" (RETENTION POND)

TRACT "F" (RETENTION POND)

TRACT "G" (RETENTION POND)

TRACT "H" (RETENTION POND)

TRACT "I" (RETENTION POND)

TRACT "J" (RETENTION POND)

TRACT "K" (RETENTION POND)

TRACT "L" (RETENTION POND)

TRACT "M" (RETENTION POND)

TRACT "N" (RETENTION POND)

104

105

106

107

108

109

114

714

39

7