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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]*

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

DATE: April 14, 2004 *[Handwritten: 4/14/04]*

SUBJECT: First Amended Resolution of Necessity
 C-15 Road Improvement Project/Elder Creek Regional Stormwater Facility Project

Due to a revision of a legal description of a parcel needed for the above project, this First Amended Resolution of Necessity is submitted for approval by the Board of County Commissioners.

SPL/LV/dre

RESOLUTION NO. 2004-R-____

SEMINOLE COUNTY, FLORIDA

**FIRST AMENDED RESOLUTION
(C-15 Road Improvement Project/Elder Creek Regional Stormwater Facility Project)**

**THE FOLLOWING RESOLUTION WAS ADOPTED BY THE
BOARD OF COUNTY COMMISSIONERS OF SEMINOLE
COUNTY, FLORIDA, AT ITS REGULARLY SCHEDULED
MEETING OF _____, 2004.**

WHEREAS, the Board of County Commissioners of Seminole County desires to accomplish and implement sound transportation planning and provide a sound transportation system in Seminole County for the benefit of the citizens of Seminole County; and

WHEREAS, the safe, efficient and uninterrupted transportation of people and property from place to place on the County Road System of Seminole County is a matter of great concern to the people of the County and is necessary to ensure the smooth operation of commerce and other activities within Seminole County; and

WHEREAS, the constitutional home rule powers of Seminole County, the *Florida Transportation Code (Chapters 334-339 and other provisions of the Florida Statutes as established in Section 334.01, Florida Statutes)* and other applicable law including, but not limited to, *Chapter 125, Florida Statutes*, invest authority over the County road system of Seminole County in the County; and

WHEREAS, the elimination of safety hazards and flooding in existing and future transportation facilities within Seminole County is of utmost concern and encourages the full utilization of such facilities by the traveling public; and

WHEREAS, it is necessary, beneficial and desirable that vehicular traffic within any transportation facility in developed or developing areas of the County has an adequate right-of-way in order to accommodate the roadway and its appurtenant facilities to decrease the likelihood of accidents and to increase the safety of travel within and upon such facilities; and

WHEREAS, the Elder Creek study area (See map of area –Exhibit A) has a history of road flooding and subsequent closures. Many culverts and open channel segments in Elder Creek do not meet the County’s desired level of service for flooding; and

WHEREAS, C-15 (from S.R. 46 to U.S. Highway 17-92) is an existing road in the County Road System through a developing area within the Elder Creek study area with a high volume of traffic; and

WHEREAS, this First Amended Resolution of Necessity is necessary to amend Resolution of Necessity Number 2003-R-121 that was approved and adopted by the Board of County Commissioners of Seminole County on July 22, 2003, and pertains to parcels to be acquired for the C-15 Road Improvement Project/Elder Creek Regional Stormwater Facility Project; and

WHEREAS, the existing right-of-way along the proposed roadway is inadequate for proper utilization as required by vehicular traffic volumes and additional traffic lanes and improved drainage facilities are necessary to reduce safety hazards and improve traffic flow.

WHEREAS, the Monroe Basin, which contains the Elder Creek study area and C-15, has been identified by the Florida Department of Environmental Protection as being

impaired as to water quality. The Florida Department of Environmental Protection is in the process of establishing a total maximum daily load for the Basin, which will require the County to reduce pollutants; and

WHEREAS, the construction of a regional stormwater facility will provide flood relief and retrofit treatment to the variety of land uses in the area including residential, commercial and agricultural, and will also provide water quality treatment for a portion of the C-15 improvement project; and

WHEREAS, Seminole County has heretofore caused the system and the roadway's areas of construction to be located and surveyed and has caused right-of-way maps to be prepared, based upon and incorporating the survey and location data; and

WHEREAS, modified, or revised legal descriptions of the property needed for the said improvements to the roadway and the improvement of its drainage system have been prepared based upon the aforementioned survey and location data and the right-of-way map; and

WHEREAS, the Board of County Commissioners of Seminole County desires to adopt this First Amended Resolution for the Project hereinabove described and to add, modify or revise the parcels needed for improvements to the roadway and improvements of its drainage system; and

WHEREAS, the Board of County Commissioners of Seminole County desires to utilize the provisions of Florida law to the fullest extent possible in order to accomplish the public purpose of acquiring necessary parcels of real property at prices that are both fair

to property owners and prudent in terms of spending the tax revenues and other public funds which fund the transportation projects of the County; and

WHEREAS, the Board of County Commissioners of Seminole County hereby determines that the actions taken herein are consistent with the goals, policies and objectives of the Seminole County Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA;

Section 1. The above recitals are adopted as findings and incorporated into the text of this Resolution.

Section 2. It is necessary, serves a County and public purpose, and is in the best interests of the citizens of Seminole County and the traveling public to widen the road and improve the appurtenant drainage facilities on or relating to C-15 as well as the Elder Creek system in order to enhance public transportation within Seminole County, to alleviate traffic congestion and to increase the safety of travel, as well as to alleviate flooding and improve water quality.

Section 3. That the acquisition of the property described in Exhibit "A" attached hereto consisting of 2 pages and identified as Exhibit B, 000001-000002, is hereby ratified and confirmed and found to be necessary for said improvements to the extent of the estate or interest set forth as a part of each parcel's description. The Board of County Commissioners of Seminole County hereby finds and determines that the acquisition of the parcels is necessary and serves a County and public purpose. The Board of County Commissioners of Seminole County further determines that the acquisition of the Elder

Creek Ponds are necessary to serve the drainage needs of the C-15 road improvement project.

Section 4. The estates or interests sought to be condemned by these proceedings designated C-15 Road Improvement Project/Elder Creek Regional Stormwater Facility Project as Parcel No. 16-19-30-5AC-0000-00G0 is to be acquired in fee simple for road construction and related purposes all being associated with roadway improvements for the C-15 Road Improvement Project/Elder Creek Regional Stormwater Facility Project road Improvement Project.

Section 5. The County Engineer or his designee is hereby delegated the authority to amend the construction plans for Lake Drive and is authorized to bind the County to construct Lake Drive in accordance with the construction plans as amended from time to time. This authority shall encompass any change considered necessary in the discretion of the County Engineer or his designee, but shall not include changes in the typical section or alignment approved by the Board of County Commissioners of Seminole County.

Section 6. That the County Attorney's Office is hereby authorized and directed to institute a suit or suits in the name of Seminole County and fully exercise Seminole County's power of eminent domain for the purpose of acquiring the parcels described in Exhibit B attached hereto to the extent of the estate or interest set forth as a part of each parcel's description and is further authorized and directed to do all things necessary to prosecute such suit or suits to final judgment by settlement or adjudication. In pursuit of such authorization and direction, the County Attorney's Office is specifically authorized to

sign and file a Declaration of Taking so that Seminole County may avail itself of the provisions of *Chapter 74, Florida Statutes*, and is further authorized to accomplish the acquisition of each parcel by settlement and compromise at such terms that it may deem advisable under the circumstances of the litigation in those instances where same can be effected in accordance with any terms, conditions and limitations as established from time to time by the Board of County Commissioners of Seminole County. The County Attorney's Office is authorized and directed to utilize and assert any and all constitutional and statutory authority of Seminole County and the Board of County Commissioners of Seminole County relative to the acquisition of the subject parcels including, but not limited to, the provisions of *Chapters 73, 74, 127, 332, Florida Statutes*, as well as the provisions of the *Florida Transportation Code* referred to in the recitals to this First Amended Resolution.

Section 7. Prior to the institution of any suits filed by the County Attorney's Office, the County Attorney or his designee is authorized to negotiate for the purchase and sale of any of the property described in Exhibit B at a value consistent with the authority granted by the Board of County Commissioners of Seminole County and to bring back for execution by the Chairman or, in his absence, the Vice Chairman, without further Board action, the Agreement to consummate the sale to Seminole County.

Section 8. This Resolution amends Resolution of Necessity Number 2003-R-121 to delete the legal description depicted in Exhibit B 000014 and 000015 and substituting therefore the legal description attached hereto as Exhibit B 000001 and

000002. The remaining provisions of Resolution of Necessity Number 2003-R-121 are hereby ratified and affirmed.

ADOPTED this ___ day of _____, 2004.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

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

By: _____
DARYL G. McLAIN, Chairman

Date: _____

LMV/dre

04/14/04

Attachments

Exhibit A – Map of Elder Creek Study area

Exhibit B - Legal Descriptions 000001-000002

P:\USERS\EDGEWY DOCUMENTS\RESO\ELDER CREEK C-15 FIRST AMENDED RON.DOC

EXHIBIT B
000001

DESCRIPTION:

A portion of Section 28, Township 19 South, Range 30 East, Seminole County, Florida, being more particularly described as follows:

Commencing at the Northwest corner of the Northeast 1/4 of the Northwest 1/4 of said Section 28, thence along the North line of said Section 28, N 89°58'08" E, 14.98 feet; thence departing said North line S 00°01'52" E along the Easterly right-of-way line of Elder Road, W.B. Cardall's Map of St. Joseph's, Plat Book 1, Page 114, Seminole County, Florida, 15.00 feet to a point on the Southerly right-of-way line of Narcissus Avenue, of said W.B. Cardall's Map of St. Joseph's; thence along said Southerly right-of-way N 89°58'08" E, 400.67 feet to a point on the centerline of a creek running Southerly as recorded in Official Records Book 4316, Page 1707 of the Public Records of Seminole County, Florida said point also being the POINT OF BEGINNING; thence continuing along said Southerly right-of-way N 89°58'08" E, 878.44 feet to a point on the Westerly right-of-way of County Road 15, Map Book 8, Page 3, Seminole County, Florida thence along said right-of-way line S 03°52'31" W, 15.00 feet; thence S 89°38'41" W, 889.83 feet to the centerline of said creek; thence along said centerline N 31°46'41" E, 23.53 feet to the Point of Beginning.

Containing 15440 square feet, more or less.

SURVEYOR'S NOTE:

The Bearing shown hereon are based on the Southerly right-of-way of Narcissus Avenue, being N 89°58'08" E, established from the Florida State Plane Coordinate NAD 83, Florida East Zone.

<p>Sketch & Description</p> <p>FOR</p> <p>Seminole County</p>	Date:		June 11, 2003 DC		<p>CERT. NO. LB2108 46795031</p>  <p>SOUTHEASTERN SURVEYING & MAPPING CORP. 6500 All American Boulevard Orlando, Florida 32810-4350 (407)292-8580 fax(407)292-0141 email: info@southeasternsurveying.com</p> <p><i>Gary C. Krick</i> GARY C. KRICK P.S.M. REGISTERED LAND SURVEYOR NO. 4245</p>
	Job No.:	Scale:	46795 Not to Scale		
	<p>CH. 61G17-6, Florida Administrative Code requires that a legal description drawing bear the notation that</p> <p style="text-align: center;">THIS IS NOT A SURVEY.</p> <p>REVISED: 04/07/2004 DC</p>				
	<p>SHEET 1 OF 2 SEE SHEET 2 FOR SKETCH</p>				

SKETCH OF DESCRIPTION

EXHIBIT B

000002

ELDER ROAD
RIGHT-OF-WAY VARIES

EASTERLY R/W LINE
ELDER ROAD PER
W.B. CARDALL'S MAP
OF ST. JOSEPH'S,
PLAT BOOK 1, PAGE 114

OWNER: BJ'S WHOLESALE CLUB, INC.
PARCEL ID: 16-19-30-5AC-0000-0980

CENTERLINE OF CREEK
PER OFFICIAL RECORDS
BOOK 4316, PAGE 1707

OWNER: SEMINOLE COUNTY STATE ROAD 46 LTD.
PARCEL ID: 16-19-30-5AC-0000-00G0

ABBREVIATIONS:
R/W = RIGHT OF WAY
SEC = SECTION
TWP = TOWNSHIP
RNG = RANGE

WESTERLY R/W LINE
COUNTY ROAD 15
MAP BOOK 8, PAGE 3

C.R. 15
RIGHT-OF-WAY VARIES (MAP BOOK 8, PAGE 3)

POINT OF COMMENCEMENT
NORTHWEST CORNER OF THE
NORTHEAST 1/4 OF THE
NORTHWEST 1/4 OF SEC 28,
TWP 19 SOUTH, RNG 30 EAST

N89°58'08"E
14.98'
S00°01'52"E
15.00'

NARCISSUS AVENUE
30' RIGHT-OF-WAY

N89°58'08"E

400.67'

N31°46'41"E
23.53'

POINT OF BEGINNING

S89°38'41"W

889.83'

N89°58'08"E

878.44'

CENTERLINE OF NARCISSUS
AVENUE AND THE NORTH LINE
OF SEC 28, TWP 19 SOUTH,
RNG 30 EAST

SOUTHERLY R/W LINE
PER W.B. CARDALL'S MAP
OF ST. JOSEPH'S,
PLAT BOOK 1, PAGE 114



NOT TO SCALE



SOUTHEASTERN SURVEYING & MAPPING CORP.
6500 All American Boulevard
Orlando, Florida 32810-4350
(407)292-8580 fax(407)292-0141
email: info@southeasternsurveying.com

Drawing No.46795031
Date: June 11,2003
Sheet 2 of 2
See Sheet 1 for Description
& Surveyors Report

S03°52'31"W
15.00'