



**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/Major Projects *[Signature]*

DATE: May 21, 2004

RE: Purchase Agreement Acquisition Authorization
 Lake Drive
 Parcel No. 152
 Owner: Frank Dietrick

This memorandum requests authorization by the Board of County Commissioners (BCC) and execution by the Chairman of a purchase agreement for a negotiated whole take of the parent tract of Parcel No. 152 and related extended possession agreement on the Lake Drive road improvement project in the amount of \$210,000.00 with no fees or costs incurred.

I THE PROPERTY

A. Location Data

The parent tract lies on the west side of Azalea Avenue, approximately 509 feet north of Lake Drive, in unincorporated Seminole County. The parent tract contains a single, detached contemporary style home with appurtenances.

- (1) Location Map (Exhibit A);
- (2) Sketch (Exhibit B); and,
- (3) Purchase Agreement (Exhibit C).

B. Address

1452 Azalea Avenue
 Casselberry, FL 32707

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2003-R-201 on November 18, 2003, for the Lake Drive road improvement project, authorizing the acquisition of the above referenced property, and finding that the construction of the Lake Drive road

AGENDA ITEM

Purchase Agreement Authorization

Frank Dietrick property. Approve and execute Purchase Agreement and related Extended Possession Agreement relating to Parcel No. 152 on the Lake Drive road improvement project, located on the west side of Azalea Avenue, approximately 509 feet north of Lake Drive, in unincorporated Seminole County. The proposed settlement is for a negotiated whole take in the amount of \$210,000.00, with no fees or expenses incurred. **Lynn Vouis, Assistant County Attorney.**

A handwritten signature in black ink, appearing to be the name 'Lynn Vouis', located in the bottom right corner of the page.

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

Parcel No. 152 is a fee simple acquisition of 10,785 square feet, which encompasses nearly the entire parent tract but for a 1,797 square foot triangular piece in the southwest quadrant. The proposed acquisition includes the remainder portion which has limited utility.

IV APPRAISED VALUES

The County's appraised value for the fee simple acquisition of the partial take is \$144,900.00. The County's appraisal was prepared by Clayton, Roper & Marshall, P.A., and was approved by the County's MAI designated staff appraiser.

V BINDING OFFERS/NEGOTIATIONS

On April 13, 2004, the BCC authorized a binding written offer in the amount of \$175,000.00. Thereafter, the County's Acquisition Coordinator negotiated acquisition of the entire parent tract with the owner at \$210,000.00, with the owner being allowed extended possession of the premises until no later than November 30, 2004.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

The remainder property would have been non-conforming and non-developable after the acquisition, causing it to have only nominal value. The property owner and the County negotiated the purchase of the entire property. The proposed settlement amount is cost effective since it is only \$35,000.00 over the County's binding written offer for the partial take and it avoids additional costs and attorney's fees. Additionally, this settlement will allow the property owner to relocate to a comparable location. The property owner had hired an attorney, but dismissed him prior to negotiation with the County's Acquisition Coordinator.

VII RECOMMENDATION

County staff recommends that the BCC authorize purchase of the entire parcel and settlement in the amount of \$210,000.00, with no fees or costs incurred.

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Attachments:

Location Map (Exhibit A)

Sketch (Exhibit B)

Purchase Agreement with Extended Possession Agreement (Exhibit C)

SKETCH(S): PROPERTY SKETCH - TAKING

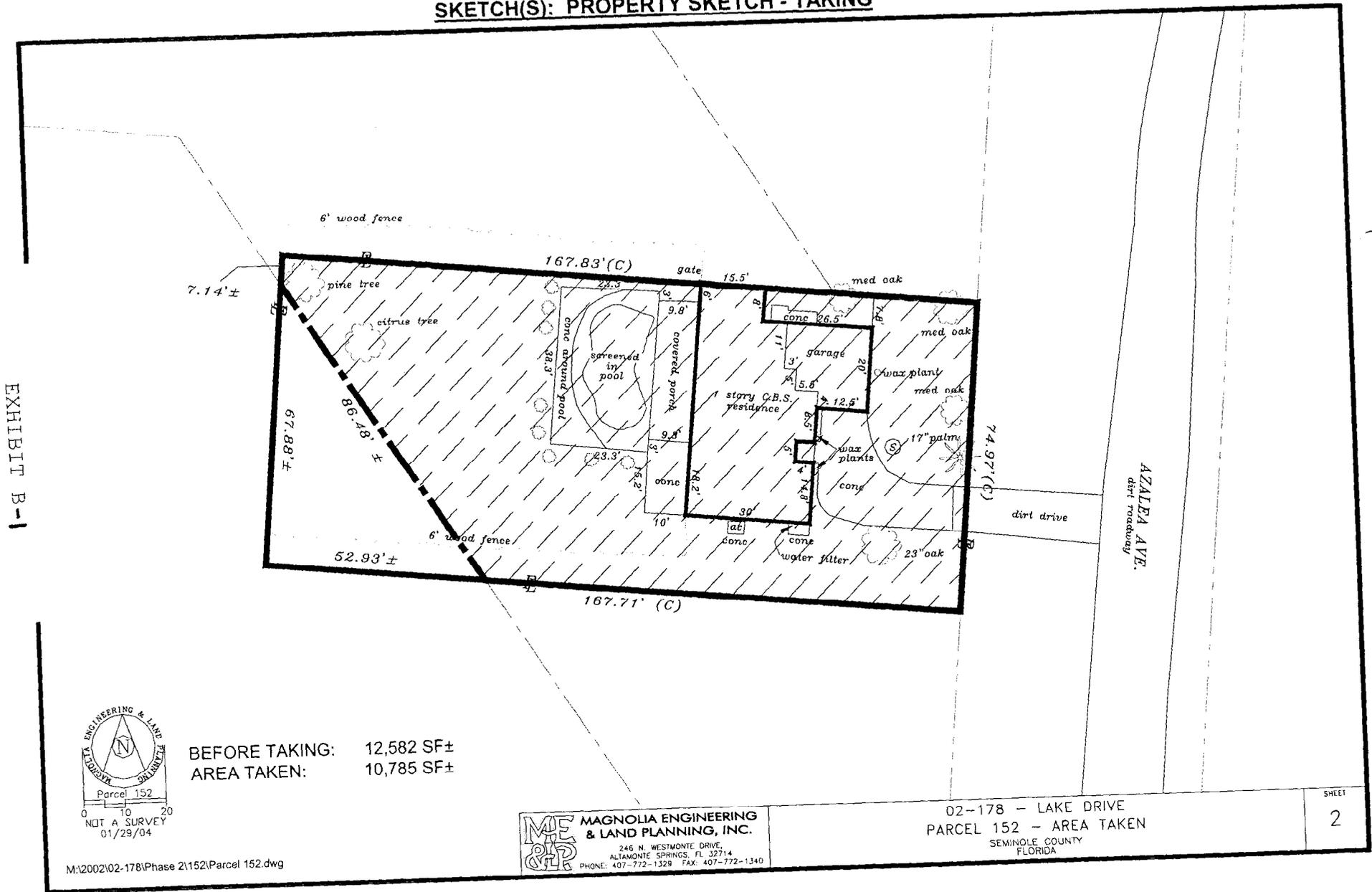
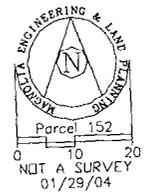


EXHIBIT B-1



BEFORE TAKING: 12,582 SF±
 AREA TAKEN: 10,785 SF±

M:\2002\02-178\Phase 2\152\Parcel 152.dwg

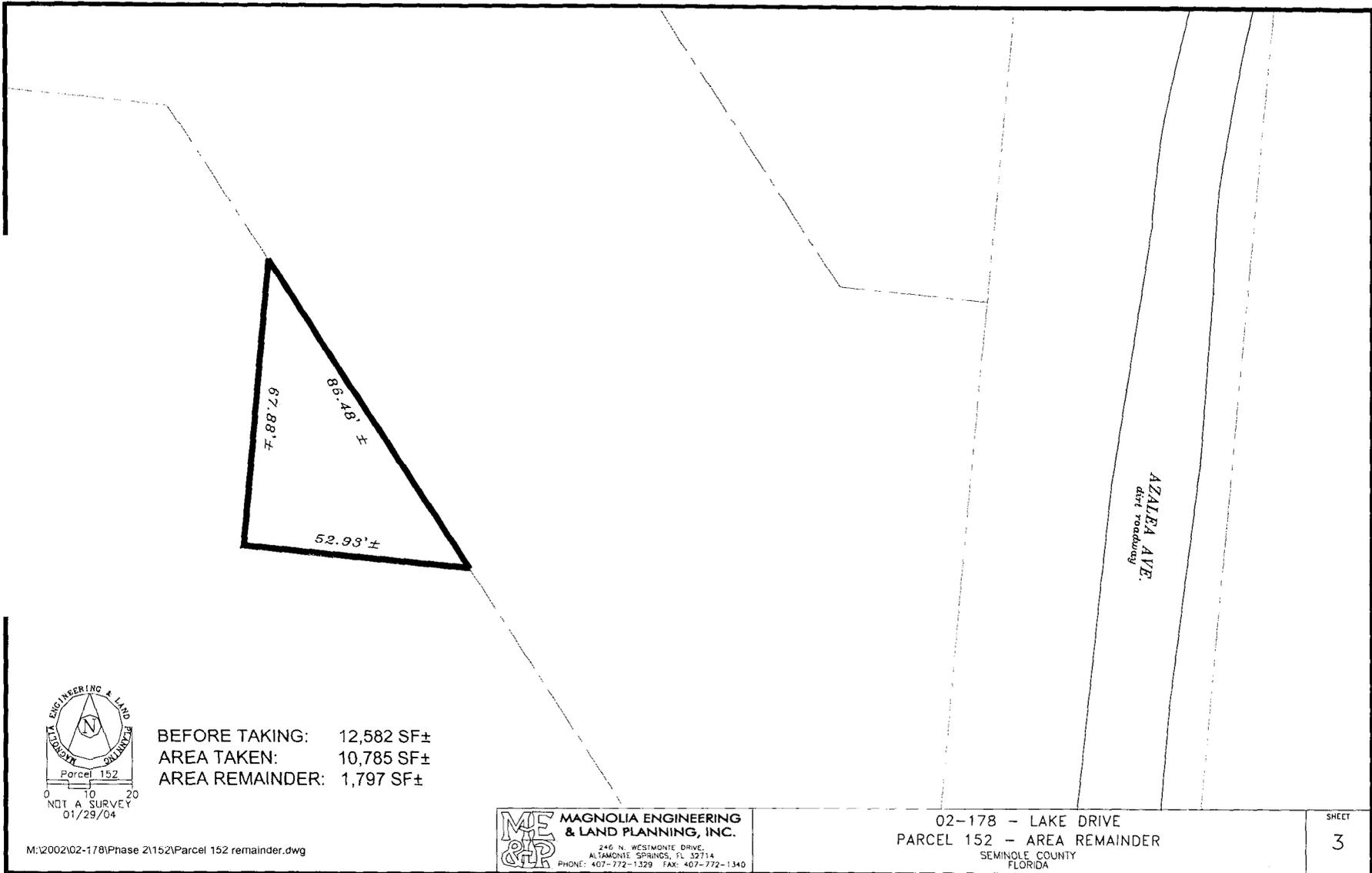
MAGNOLIA ENGINEERING & LAND PLANNING, INC.
 246 N. WESTMONTE DRIVE,
 ALTAMONTE SPRINGS, FL 32714
 PHONE: 407-772-1328 FAX: 407-772-1340

02-178 - LAKE DRIVE
 PARCEL 152 - AREA TAKEN
 SEMINOLE COUNTY
 FLORIDA

SHEET
 2

SKETCH(S): PROPERTY SKETCH-UNCURED REMAINDER

EXHIBIT B-2



**PURCHASE AGREEMENT
FEE SIMPLE**

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this _____ day of _____, 2004, by and between FRANK DIETRICK, whose address is 1452 Azalea Avenue, Casselberry, Florida 32707 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 improvement 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

Tax I.D. No.: 10-21-30-5BR-0A00-0080

Described as follows:

All of Lot 10 and the North 25 feet of Lot 8, Block A, Amended Plat of Button's Subdivision, according to the plat thereof as recorded in Plat Book 9, Page 25, Public Records of Seminole County, Florida.

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 TWO HUNDRED TEN THOUSAND AND NO/100 DOLLARS (\$210,000.00). 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. 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.

IV. EXTENDED POSSESSION

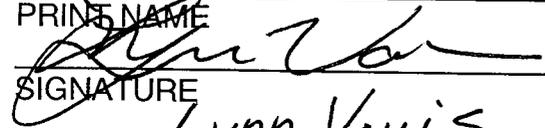
(a) COUNTY has agreed to extend possession of the property to OWNER until November 30, 2004, in accordance with the terms and conditions of the Agreement for Extended Possession entered into simultaneously herewith.

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
Mark D. Gisclair

PRINT NAME


SIGNATURE
Lynn Vouis

PRINT NAME

PROPERTY OWNER:



FRANK DIETRICK

ADDRESS: 1452 Azalea Avenue
Casselberry, FL 32707

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

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

By: _____
DARYL 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
of County Commissioners at its _____,
2004, regular meeting.

County Attorney

AGREEMENT FOR EXTENDED POSSESSION

THIS AGREEMENT is made and entered into this ___ day of _____, 2004, by and between SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as COUNTY, and FRANK DIETRICK , whose address is 1452 Azalea Avenue, Casselberry, Florida 32707, hereinafter referred to as DIETRICK.

WITNESSETH:

WHEREAS, COUNTY requires the property located at 1452 Azalea Avenue, Casselberry Florida, 32707, hereinafter referred to as the PROPERTY as part of the Lake Drive Road Improvement Project; and

WHEREAS, COUNTY intends to demolish the single family residence and out buildings located on the property; and

WHEREAS, COUNTY is willing to allow DIETRICK extended possession of the PROPERTY until November 30, 2004, in accordance with the terms of this AGREEMENT; and

WHEREAS, DIETRICK is desirous of maintaining possession of the PROPERTY until November 30, 2004, and agrees that he will vacate the premises on or before that date;

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, COUNTY and DIETRICK agree as follows:

1. **RECITALS.** The parties agree that the above recitals are true and correct and constitute a material part of this Agreement upon which the parties have relied.

2. **PROPERTY.** The PROPERTY subject to this Agreement is located at 1452 Azalea Avenue, Casselberry, Florida 32707. A legal description of the PROPERTY is attached as Exhibit A to this Agreement.

3. **TERM.** The term of this Agreement shall be from the date of execution by the parties through November 30, 2004, unless earlier terminated as provided herein.

4. **RENT.** COUNTY agrees to allow DIETRICK exclusive use of the property without payment of rent by DIETRICK, in consideration of the fact that DIETRICK agrees to vacate the premises in a timely manner, as provided for in this Agreement.

5. **USE OF PROPERTY.** DIETRICK shall have the exclusive use of PROPERTY for use as a family residence during the term of this Agreement. DIETRICK covenants that he will not use or permit PROPERTY to be used for any purpose prohibited by the laws of the United States of America, the State of Florida, or any ordinance of Seminole County, nor shall he permit any nuisance on the PROPERTY.

6. **MAINTENANCE OF PROPERTY.** COUNTY purchased PROPERTY "as-is" and has no actual knowledge of its current condition. To the extent permitted by law, pursuant to § 83.51, *Florida Statutes*, COUNTY has not and does not intend to provide the following:

- a) Extermination of pests, including termites;
- b) Locks and keys;
- c) Heat, air conditioning, hot water, running water; and
- d) Smoke detection devices.

7. **UTILITIES.** DIETRICK shall during the term hereof be responsible for payment for electricity, sewage and water used and for the removal of rubbish from the

PROPERTY. This AGREEMENT shall in no way obligate COUNTY as to the payment or non-payment of these items.

8. **ASSIGNMENT AND SUBLETTING.** DIETRICK shall not assign or sublet the PROPERTY, or any part thereof.

9. **HOLD HARMLESS.** DIETRICK agrees to hold harmless, indemnify and defend COUNTY, its commissioners, officers, employees, and agents from and against any and all claims, liability, loss or damage COUNTY may sustain as a result of claims, demands, costs or judgments arising from, allegedly arising from or related to injury or damages of whatsoever nature to persons or property from use of the premises by DIETRICK.

10. **CANCELLATION AND TERMINATION.** This Agreement may be terminated by DIETRICK by vacating the premises at any time, upon notice to the COUNTY or, at the option of the COUNTY, immediately in the event any of the terms or covenants of this Agreement have been violated.

11. **SURRENDER OF POSSESSION.** DIETRICK agrees to deliver up and surrender to the COUNTY possession of the PROPERTY at the expiration or termination of this Agreement. Any personal property not removed at this time shall be deemed to have been abandoned by DIETRICK and may be retained or disposed of by COUNTY. Notwithstanding anything to the contrary contained herein, it is acknowledged and agreed that COUNTY'S closing agent will hold the sum of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) in escrow from purchase price proceeds relating to COUNTY'S prior purchase of the PREMISES from DIETRICK to secure DIETRICK obligations to

timely surrender possession of the PREMISES in accordance with the terms and conditions of this Agreement.

12. **WAIVER.** No waiver of any breach of any one or more of the conditions or covenants of this Agreement by the COUNTY or by the DIETRICK shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.

13. **NOTICES.** Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered, transmitted electronically (i.e., by telecopy device) or within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

| | |
|-----------|---|
| COUNTY: | Seminole County 1101 East First Street Sanford, FL 32771 Attn: Lynn Vous Telephone: (407) 665-5736 Facsimile: (407) 665-5749 |
| DIETRICK: | Frank Dietrick 1452 Azalea Avenue Casselberry, FL 32707 Cell Phone: (321) 279-6345 |

IN WITNESS WHEREOF, DIETRICK has executed this Agreement For Extended

Possession on the date set forth below.

WITNESSES:

Frank Dietrick
FRANK DIETRICK

[Signature]
SIGNATURE

Lynn Kouis
PRINT NAME

ADDRESS:
1452 Azalea Avenue
Casselberry, Florida 32707

[Signature]
SIGNATURE

Mark D. Giscuan
PRINT NAME

Date: 5-19-04

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

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

By: Daryl G. McLain
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 _____,
200~~X~~4, regular meeting.

4

[Signature]
County Attorney
LMV/sb

Attachment:
Exhibit A

I. LEGAL DESCRIPTION

Tax I.D. No.: 10-21-30-5BR-0A00-0080

Described as follows:

All of Lot 10 and the North 25 feet of Lot 8, Block A, Amended Plat of Button's Subdivision, according to the plat thereof as recorded in Plat Book 9, Page 25, Public Records of Seminole County, Florida.

EXHIBIT A