

03



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]*
 David V. Nichols, P.E., Principal Engineer/Engineering *[Signature]*

DATE: May 16, 2005

SUBJECT: Purchase Agreement Authorization
 Owner: Hans Hoeh, Trustee of the Hans Hoeh Revocable Living Trust
 Parcel No. 704
 Bunnell Road improvement project

This memorandum requests authorization by the Board of County Commissioners (BCC) and execution by the Chairman of a purchase agreement for Parcel No. 704. The parcel is required for the Bunnell Road improvement project. The purchase price is \$5,000.00, with no fees or costs incurred by the property owner.

I THE PROPERTY

A. Location Data

The subject property is located due south of the intersection of Bunnell Road and Sunshine Lane in Altamonte Springs, Seminole County, Florida.

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

B. Address

1050 Bunnell Road
Altamonte Springs, Florida 32714

C. Description

The property contains 74,608 sf. The property is improved with a 4,000 sf. concrete block, 5 bay auto repair shop (circa 1983 construction).

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2004-R-72 on April 13, 2004, First Amended Resolution No. 2005-R-5 on January 11, 2005 and Second Amended Resolution No. 2005-R-70 on April 12, 2005, authorizing the acquisition of the referenced property, and finding that construction of the Bunnell 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 proposed acquisition is a rectangular shaped temporary construction easement containing 703 square feet, that overlays the entrance to the subject property. The easement is for the County to harmonize the grade of the new roadway with the existing driveway.

IV APPRAISED VALUE

The County's appraised value amount is \$2,300.00. 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 OFFER/NEGOTIATIONS

On March 22, 2005, the BCC authorized a binding written offer in the amount of \$2,300.00. Thereafter, County staff negotiated this proposed settlement agreement with the property owner in the amount of \$5,000.00.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

Settlement in the amount of \$5,000.00 is reasonable for this easement. Even though the easement is temporary, the property owner could hire an attorney and an appraiser at the County's expense. Also, the County has obtained a release from the tenant who operates the auto repair shop on the property, preventing any future business damage claim based on grade changes made to the driveway.

VII RECOMMENDATION

County staff recommends that the BCC authorize settlement in the amount of \$5,000.00, with no fees or costs incurred by the property owner.

LV/krc

Attachments:

Location Map (Exhibit A)

Sketch (Exhibit B)

Purchase Agreement (Exhibit C)

P:\USERS\LV\VOUIS\SETTLEMENT MEMOS\BUNNELL ROAD\AGENDA ITEM BUNNELL RD 704 HOEH.DOC

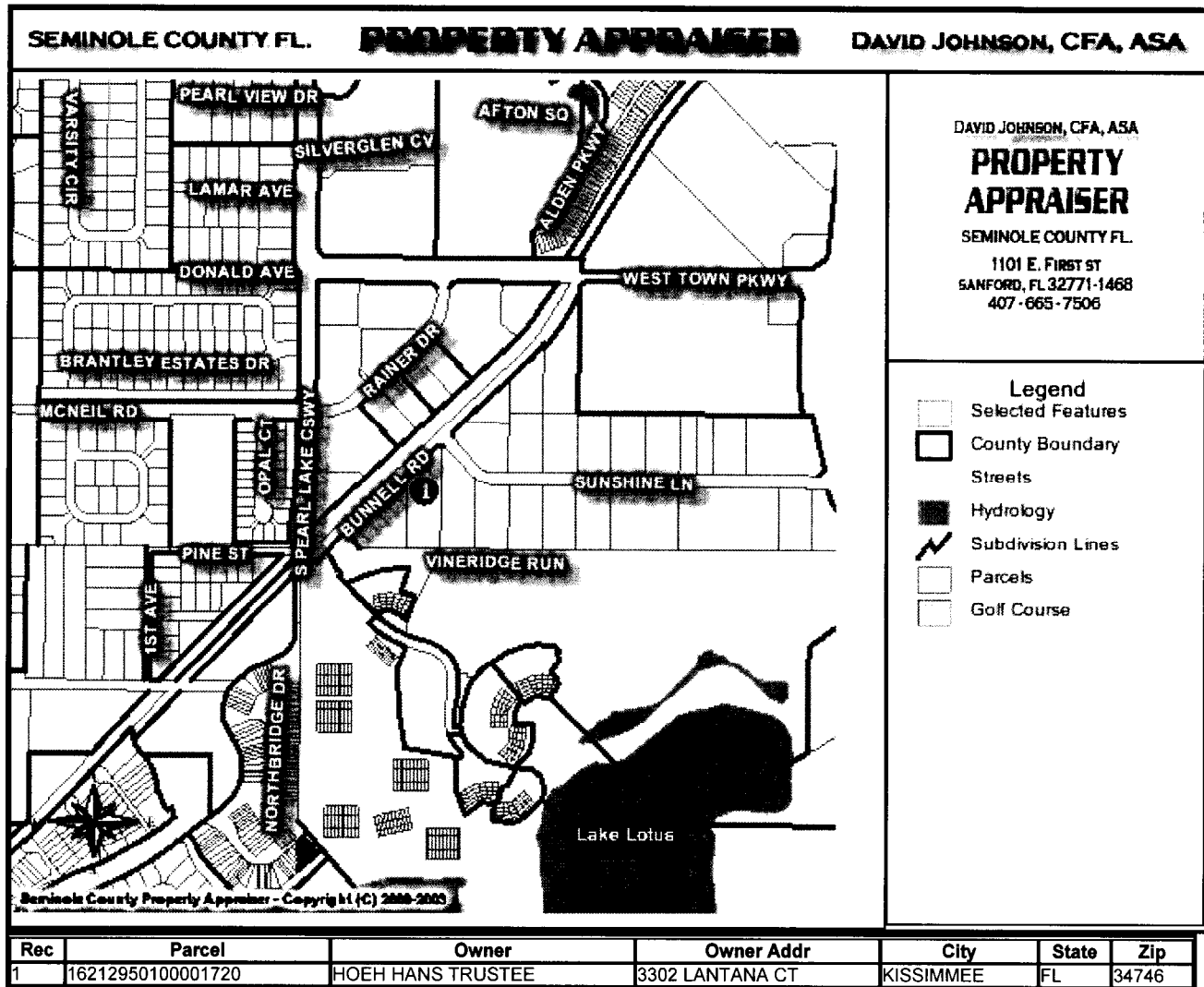
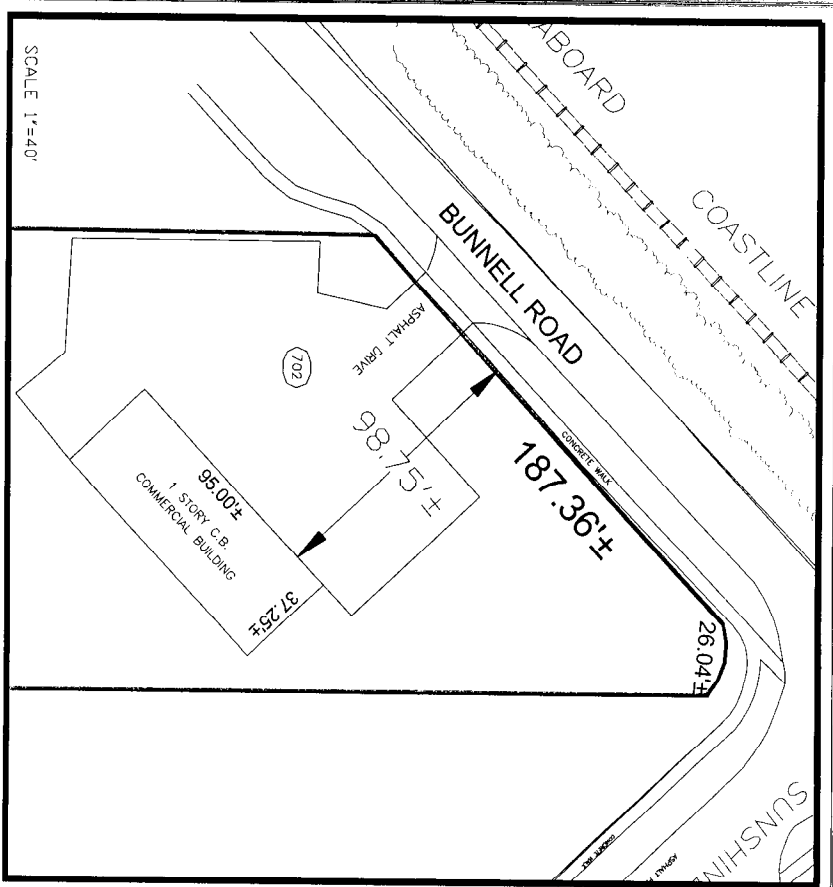
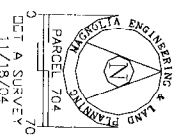


EXHIBIT A

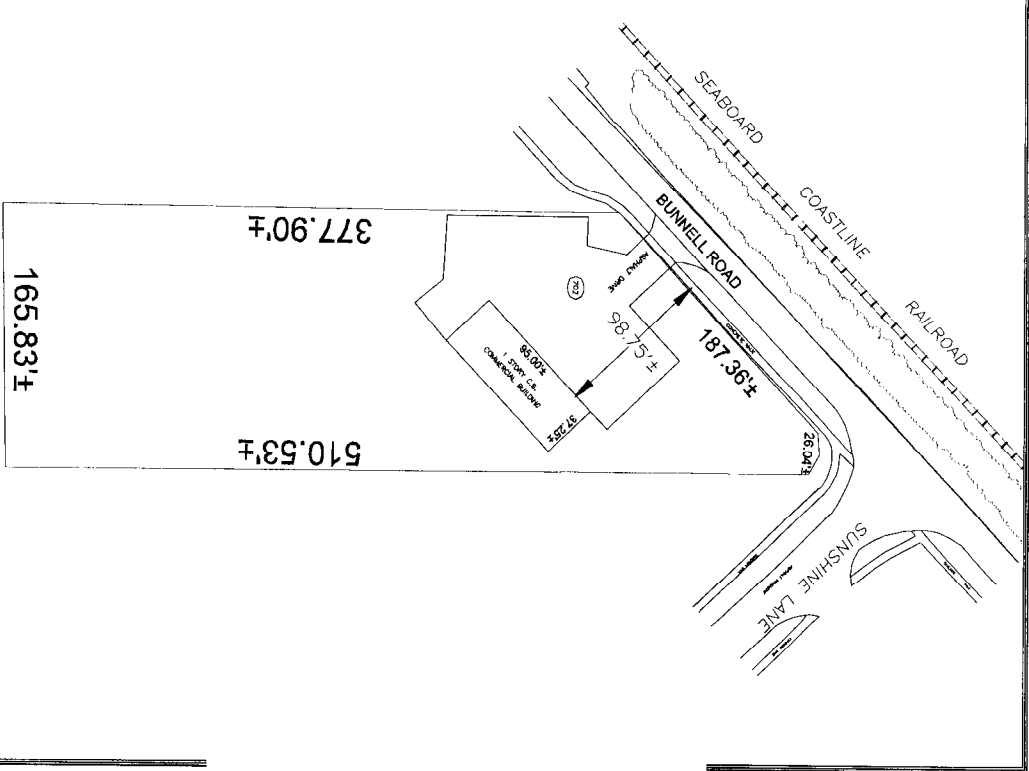


BEFORE TAKING: 74,608 SF±



DCT. A SURVEY
11/18/04
M:\2004\04-263 Bunnell\704\parcel\704.DWG

MES
OTT
& LAND PLANNING, INC.
246 D. WESTMONT PEAK
A. TAVOITE SERVICES, FL 32714
PHONES 407-772-1228 FAX 407-772-1340



04-263 BUNNELL ROAD
PARCEL 704 - BEFORE TAKING
SEMIWOLE COUNTY
FLORIDA

SHEET
1

EXHIBIT B

**PURCHASE AGREEMENT
TEMPORARY CONSTRUCTION EASEMENT**

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this 4th day of May, 2005, by and between HANS HOEH, TRUSTEE of the Hans Hoeh Revocable Living Trust and as an Individual, whose address is 3302 Lantana Court, Kissimmee, Florida 34746, 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 execute a Temporary Construction Easement and COUNTY hereby agrees to purchase the Temporary Construction Easement described below upon the following terms and conditions:

I. LEGAL DESCRIPTION

Bunnell Road
Temporary Construction Easement
Parcel No. 704

"See attached Exhibit A"

Parcel I. D. Number: 16-21-29-501-0000-1720

II. PURCHASE PRICE

\$5,000.00 (Five Thousand Dollars) net to Owner, County to pay all closing costs including mortgage release costs/fees.

(a) OWNER agrees to convey the above-described property of the above referenced project by Temporary Construction Easement, unto COUNTY for the sum of ~~TWO THOUSAND THREE HUNDRED DOLLARS (\$ 2,300.00)~~. 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. 704.

HH
OWNER

W
COUNTY

EXHIBIT C

HH

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) The OWNER at the expense of the OWNER prior to closing shall remove any and all encroachments existing upon the required property other than those improvements included in the purchase price.

(c) 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 temporary construction easement, also include the covenant of further assurances.

(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 Bunnell 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.~~


OWNER

COUNTY

(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) TEMPORARY CONSTRUCTION EASEMENT in the form and content to be used by the parties at closing on this purchase is attached to this agreement as Exhibit "B".

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


HH

WITNESSES:



SIGNATURE

RONALD M. RIVARD
PRINT NAME



SIGNATURE

Steven M. Trice
PRINT NAME

PROPERTY OWNERS:



HANS HOEH, Trustee of the Hans Hoeh Revocable Living Trust, and as an Individual

ADDRESS: 3302 Lantana Court
Kissimmee, Florida 34746

JOINDER AND CONSENT TO SALE OF TEMPORARY CONSTRUCTION EASEMENT

The undersigned tenant hereby consents and approves the sale of the Temporary Construction Easement and the Grant of Temporary Construction Easement described herein by the Seller to the Buyer in accordance to the price, terms and conditions contained herein. Any apportionment of the purchase price paid by the Buyer to the Seller for the Temporary Construction Easement shall be determined by the Seller and Tenant. Buyer shall have no further obligation to the Tenant for the payment of any amount.

WITNESSES:



SIGNATURE

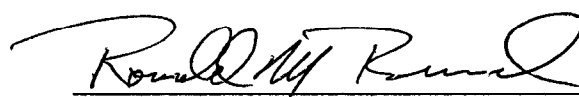
Hans Hoeh
PRINT NAME



SIGNATURE

Steven M. Trice
PRINT NAME

**TENANT: RIVARD AUTOMOTIVE
MARKETING, INC., a Florida Corp.**



Ronald M. Rivard, President

ADDRESS: 1050 Bunnell Road
Altamonte Springs, Florida 32714

DATED: May, 4, 2005

ATTEST:

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

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

By: _____
CARLTON D. HENLEY, 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 _____,
2005, regular meeting.



County Attorney

TTC/03/14/2005

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT

PROJECT: Bunnell Road
R/W PARCEL NO.: 704

ID# 16-21-29-501-0000-1720

A part of the property described in Official Records Book 4078, Page 61 as recorded in Public Records of Seminole County, Florida, being that portion of Section 16, Township 21 South, Range 29 East.

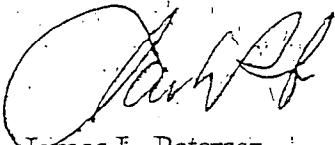
described as follows:

COMMENCE at the Northwesterly corner of Lot 172, Forest City Orange Park according to the plat thereof as recorded in Plat Book 2, Page 60, Public Records of Seminole County, Florida; thence North 47°14'01" East, a distance of 12.79 feet along the Southeasterly Right-of-Way line of Bunnell Road to the POINT OF BEGINNING; thence continue North 47°14'01" East, a distance of 43.91 feet along said Right-of-Way line; thence South 42°45'59" East, a distance of 16.00 feet; thence South 47°14'01" West, a distance of 43.91 feet; thence North 42°45'59" West, a distance of 16.00 feet to the POINT OF BEGINNING.

Containing 703 square feet, more or less.

The sketch for this description is shown on sheet 10 of 17 on the right-of-way maps for Bunnell Road.

I hereby certify that this 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.



James L. Petersen

Date 9/18/2003

Florida Registered Land Surveyor #4791

NOT VALID WITHOUT SURVEYOR'S EMBOSSED SEAL

Southeastern Surveying & Mapping Corp.
6500 All American Boulevard
Orlando, Florida 32810
407-292-8580

EXHIBIT NUMBER

Parcel 704
Bunnell Road Project
Seminole County, Florida

This Document Prepared By:

EXHIBIT " B "

TEMPORARY CONSTRUCTION EASEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, between _____, whose address is _____, hereinafter referred to as GRANTOR, 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 GRANTEE.

WITNESSETH: That the GRANTOR, for and in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00), and other valuable considerations paid, receipt of which is hereby acknowledged, does hereby grant unto the GRANTEE permission, to be exercised during the period of construction, to enter upon the following described lands:

Property Appraiser's Parcel #

Further Described in the Attached Exhibit " " .

for the purpose of tying in and harmonizing said property thereon with the construction to be undertaken by the County on the Bunnell Road/Eden Park Avenue Road Projects, and for the purposes of utilizing said property for all other purposes that the GRANTEE deems or may subsequently deem necessary or desirable during the course of the road construction project.

THIS EASEMENT is granted upon the condition that the sloping and/or grading upon the above land shall not extend beyond the limits outlined above, and that all grading or sloping shall conform to all existing structural improvements within the limits designated. Additionally, as to tying in, harmonizing, construction and all other uses to which the property is put by the COUNTY, as the completion of work provided herein, the easement area will be restored by the GRANTEE, to the conditions prior to this easement, except for any improvements that may be constructed by the COUNTY in connection with the use of this easement.

THIS EASEMENT shall expire upon completion of this transportation project, but not later than five (5) years from the execution by the GRANTOR; provided, however, that the GRANTEE covenants that existing structures and drainage flow ways and patterns will not be altered or impeded by the GRANTEE in any way.

GRANTOR covenants that GRANTOR is lawfully seized and possessed of the real estate above described and has the right to convey this easement. GRANTOR agrees to further assure the COUNTY if necessary.

IN WITNESS WHEREOF, the GRANTOR has hereunto set GRANTOR'S hand and seal the day and year first above written.

WITNESSES:

GRANTOR:

Signature

Print Name

Signature

Print Name

Name: _____
Title: _____

Address: _____

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____ the _____, of _____, who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC
Print Name: _____
Notary Public in and for the County and State
Aforementioned
My Commission Expires:

File: