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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/Major Projects *[Signature]*

DATE: July 14, 2004

RE: Early Acquisition Purchase Agreement Authorization
 Bunnell Road
 Owner: CSX Railroad

This memorandum requests authorization by the Seminole County Board of County Commissioners (BCC) and execution by the Chairman of an agreement to purchase the fee interest in property owned by CSX, to be used for improvements to Bunnell Road and for a public trail project, for the amount of \$2,819,738.00, inclusive of all fees, costs and expenses.

I THE PROPERTY

A. Location Data

The property to be acquired is a CSX-owned railroad line located in Altamonte Springs, known as the "Trilby Branch" from the Orange County line to State Road 434. The approximate mile markers are from milepost 785.0 (Orange/Seminole line) to milepost 787.2, totaling 2.2 miles in length. The railroad corridor varies from 50 to 60 feet in width. The total amount of property proposed to be purchased by the County is approximately 14.7 acres.

- (1) Location Map (Exhibit A)
- (2) Agreement (Exhibit B).

B. Address

N/A

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2004-R-72 on April 13, 2004 for the Bunnell Road improvement project. The railroad property was not included in this Resolution because it was anticipated to be acquired through early acquisition. The BCC

authorized the Bunnell Road project and approved commencement of design according to the Engineering Division's most recent major project schedule. Through this authorization, the BCC determined that the construction of the Bunnell Road improvement project is necessary, serves a county and public purpose, and is in the best interests of the citizens of Seminole County.

III ACQUISITION/REMAINDER

The proposed agreement would result in the acquisition by the County of the fee interest in approximately 14.7 acres of railroad right-of-way. The entire width of railroad right-of-way is proposed to be acquired, with no remainder. CSX is only willing to provide a quit-claim deed to the County, however, the County's staff has researched CSX's interest and obtained a title policy covering the entire purchase amount.

IV APPRAISED VALUES

The County obtained an appraisal of the railroad property from Pomeroy Appraisal Associates of Florida, Inc. The appraiser, Richard C. Allen, MAI, is experienced in railroad property evaluations. Mr. Allen's updated appraisal amount for the entire property (fee ownership and leasehold interest) was \$3,514,000.00.

As an additional precautionary measure to assure the accuracy of the first appraisal obtained, County staff obtained a second appraisal of the railroad corridor property. This appraisal was prepared by C. Lee Lobban, MAI, of Diversified Property Specialists, Inc. Mr. Lobban's appraisal amount for the entire property (fee ownership and leasehold interest) was \$3,700,000.00. Both appraisers work product was reviewed and approved by the County's staff MAI designated appraiser as to methodology employed and accuracy of data relied upon.

V BINDING OFFERS/NEGOTIATIONS

This is a proposed early acquisition; no binding written offer has been forwarded to the property owner. CSX agreed to negotiate for the purchase of this property only if the entire width of the railroad line between the two mileposts was acquired. Further, CSX would not negotiate until the County purchased the existing leasehold interest from FCRC. County staff negotiated an agreement with FCRC to purchase the leasehold interest, which the BCC has approved. The County's obligations under that agreement are predicated on the County negotiating the purchase of the underlying fee property from CSX. If the County and CSX fail to reach an agreement as to the purchase, the County is under no obligation to pay FCRC under that agreement.

CSX originally insisted on its own appraised value of \$2,910,000.00 for its ownership interest in the property. Through negotiations, the parties reached a proposed settlement amount of \$2,819,738.00 for the property, subject to approval by the BCC and the appropriate authority from CSX. A copy of the proposed agreement is attached as Exhibit B. The agreement calls for a good faith deposit of \$10,000.00,

applicable to the purchase price, to be paid upon execution of the agreement by both parties. Approval of this agreement triggers the FCRC application to the Surface Transportation Board (STB) for approval of abandonment of the railroad line and a payment by the County to FCRC of \$10,000.00. This amount will also be credited to the purchase price at the closing between the County and FCRC. The purpose of this deposit is to fund the STB proceedings.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

The BCC gave staff direction to pursue the acquisition of the entirety of the railroad property at this location when it approved the Bunnell Road project. The BCC wanted to pursue the opportunity to use the property both for improvements to the roadway as well as for the recreational trail system. The amount of property needed for the roadway improvements is approximately 15 feet in width over parts of the corridor.

If the County does not purchase the railroad corridor through negotiations with CSX and FCRC, the County would be forced to either condemn the needed railroad property or redesign the project to avoid the railroad property entirely. Neither of these options is desirable.

It is unclear whether the County would be able to condemn the necessary property because of the Prior Public Use doctrine in Florida law, which prohibits condemnations between governmental agencies except in limited situations. Certainly, CSX and FCRC would oppose any condemnation attempt. If the condemnation was unsuccessful, redesign would probably be the only available option at that point, incurring still more expense and delay.

The County also has the option of redesigning the construction plans for the Bunnell project to avoid the railroad property entirely. This option would be expensive since the plans are already at 100% completion, and would also result in significant time delays. The only possible way to redesign the project would result in large acquisitions from several established businesses on Bunnell Road. The possibility of large claims for business damages is one of the main reasons the BCC decided to pursue the railroad purchase rather than shift the road to the east.

The proposed settlement is favorable for the County based on the appraised value amounts. The proposed total settlement amount is \$3,815,738.00, which is \$115,738.00 more than the County's highest appraised value. This amount includes the FCRR amount stated earlier in this agenda memorandum.

VII RECOMMENDATION

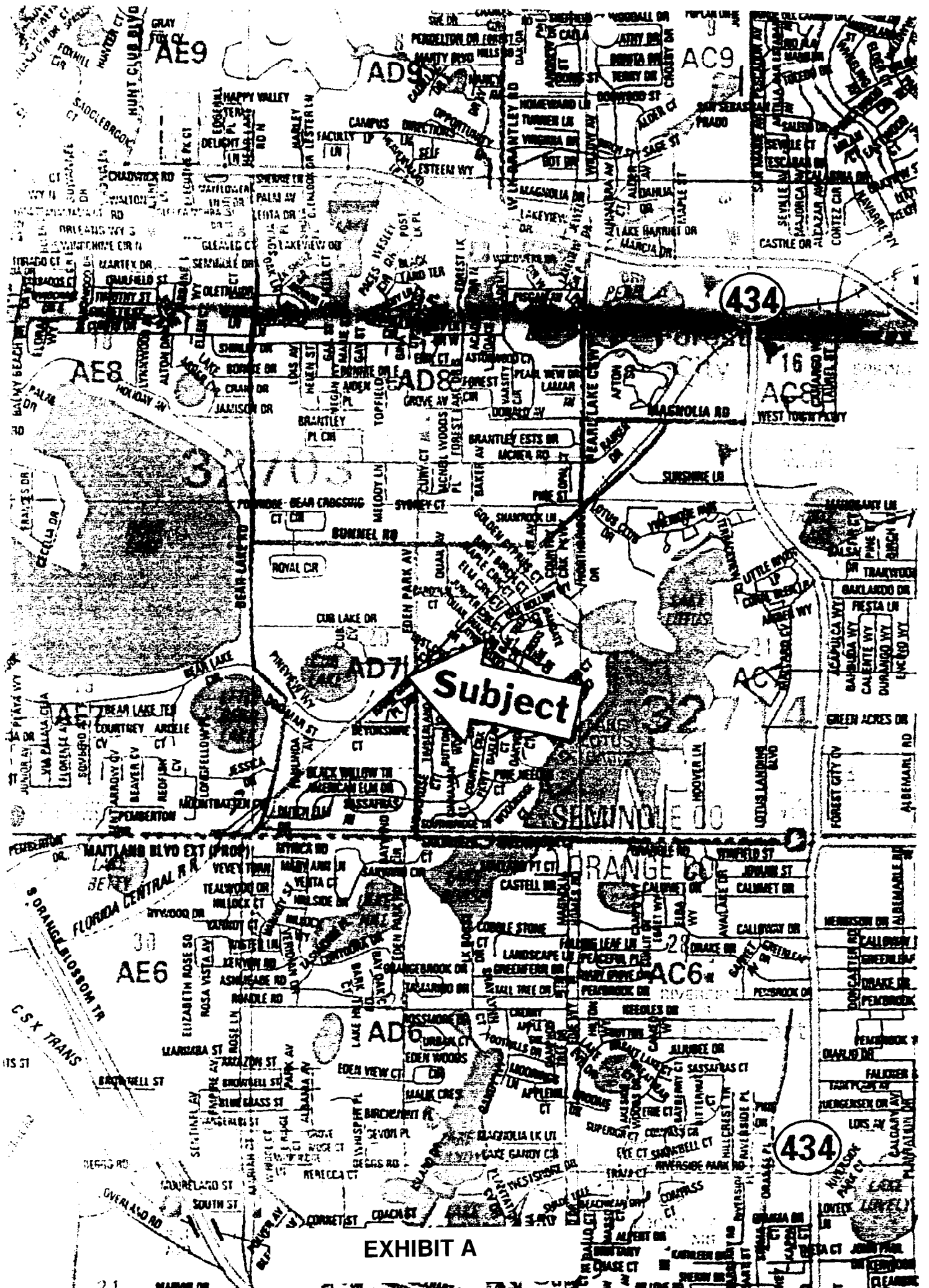
County staff recommends that the BCC authorize the purchase of the CSX fee property for the amount of \$2,819,738.00, inclusive of all attorney's fees, costs and expenses.

LV/sb

Location Map (Exhibit A)

Copy of Purchase Agreement (Exhibit B)

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Subject

EXHIBIT A

PURCHASE SALE AGREEMENT

THIS AGREEMENT, hereinafter called the "Agreement", made and entered into by and between CSX TRANSPORTATION, INC., Virginia Corporation, whose address is c/o CSX Real Property, Inc. J915, 301 West Bay Street, Suite 800, Jacksonville, Florida 32202-5184, hereinafter called the "Seller", 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 called the "Buyer", provides:

1. PURCHASE AND SALE: Buyer hereby agrees to purchase from Seller and Seller agrees to sell to Buyer, the land or property shown or identified on Exhibit "A", attached hereto and made a part hereof, hereinafter called the "Premises", excepting the ownership of all railroad tracks and other track material (including switches, signals and ballast) within or on the Premises. The Premises is/are located at Altamonte Springs, County of Seminole, State of Florida, and contains 14.72 acres, more or less.

2. PRICE:

2.1 The purchase price for the Premises is TWO MILLION EIGHT HUNDRED NINETEEN THOUSAND SEVEN HUNDRED THIRTY EIGHT AND NO/100 U.S. DOLLARS (\$2,819,738.00) (hereinafter the "Purchase Price").

3. DEPOSIT:

3.1 A non-interest bearing deposit in the amount of TEN THOUSAND AND NO/100 U.S. DOLLARS (\$10,000.00) (hereinafter the "Deposit") accompanies Buyer's execution of this Agreement. The balance of the Purchase Price shall be paid at settlement or closing of the transaction (hereinafter the "Closing"), in cash, by certified or cashier's check, or by other readily available funds acceptable to Seller.

3.2 The Deposit shall be applied to the Purchase Price at Closing. The Deposit shall be refunded to Buyer only in the event Buyer's Offer (as defined in Section 4.1) is not accepted by Seller as provided for in Section 4.1 or upon termination as provided for in Sections 7.2, 10.4, 13.4 and/or 17 hereof.

3.3 If Buyer fails to Close pursuant to Section 9 or perform in accordance with the terms hereof, Buyer agrees and consents that the Deposit may be forfeited to and retained by Seller, at Seller's sole option.

4. OFFER, ACCEPTANCE, CONTRACT:

4.1 Until accepted by Seller, Buyer's offer to purchase the Premises (hereinafter the "Offer") as evidenced by its execution and delivery of this Agreement shall be a firm offer for a period of thirty (30) days from the date of this Agreement. Seller's acceptance of the Offer is to be evidenced by its execution of this Agreement. Failure of Seller to accept the Buyer's Offer and execute this Agreement within the above mentioned period shall render the Offer null and void, and the Deposit shall be returned to the Buyer.

4.2 This Agreement, when accepted by Seller, shall constitute a contract and the entire agreement between the parties hereto, and they shall not be bound by any terms, oral or written conditions, statements or representations not contained herein or attached hereto.

4.3 Neither the Buyer's Offer nor, upon its execution by all parties, this Agreement may be changed, altered or modified except by an instrument in writing signed by Buyer and Seller.

4.4 The Buyer's Offer and this Agreement shall be executed in duplicate, each of which may be treated as an original.

5. CONTINGENCIES:

5.1 This Agreement is contingent upon the following events, if any:

The FLORIDA CENTRAL RAILROAD COMPANY obtaining abandonment authority from the Surface Transportation Board ("STB").

5.2 The contingencies listed in Section 5.1 above must be satisfied or complied with on or before **October 31, 2004** (the "Contingency Date"). If the contingencies listed in Section 5.1 are not satisfied or complied with by the Contingency Date, Buyer may, at Buyer's sole option, elect to terminate this Agreement by written notice to Seller given on or before the Contingency Date. If terminated, the Buyer shall be entitled to a refund of the Deposit, and buyer shall furnish Seller with a copy of all materials and information (including but not limited to any engineering reports, studies, maps, site characterizations and/or zoning related materials) developed by Buyer during the term of this Agreement relating to the potential use or the physical condition of the Premises. If written notice to terminate is not given by Buyer to Seller on or before the Contingency Date, the option to terminate and the contingencies shall be deemed waived and Buyer and Seller will proceed to Closing in accordance with the remaining terms of this Agreement.

6. DEED:

6.1 As early as practicable after execution of this Agreement by all parties, Seller will prepare and submit to Buyer, for Buyer's comments, a form of deed in conformance with the terms of Agreement to convey the Premises to Buyer. Buyer shall have a period of five (5) calendar days after receipt of said deed to examine same and notify Seller of any comments. If no comments are received within the five (5) day period, Buyer shall be deemed to have approved the deed in the form submitted. Seller shall have no obligation to modify the deed to conform to Buyer's comments if the deed otherwise conforms to the terms of this Agreement.

6.2 Title to the Premises shall be conveyed to:

Seminole County, a political subdivision of the State of Florida

6.3 The conveyance shall be by quitclaim deed conveying all of Seller's right, title, and interest in the Premises, if any, but shall be expressly subject to: all existing

roads, public utilities; all matters of record; any applicable zoning ordinances and subdivision regulations and laws; taxes and assessments, both general and special, which become due and payable after the date of conveyance and which Buyer assumes and agrees to pay; all matters that would be revealed by a survey meeting applicable State minimum technical requirements or by an inspection of the Premises; the items or matters identified in Section 10.1 of this Agreement; and all existing occupancies, encroachments, ways and servitudes, howsoever created and whether recorded or not. The provisions of this Section shall survive Closing.

6.4 The release of Seller's mortgage(s), if any, shall be included in the deed or, at Seller's option, by separate instrument.

6.5 The deed shall contain one or more restrictive covenants, reading substantially as follows, to run with title to the Premises, and to be binding upon Buyer, Buyer's heirs, legal representatives and assigns or corporate successors and assigns, or anyone claiming title to or holding the Premises through Buyer.

(A) Grantee acknowledges that this deed is made upon Grantee's solicitation and request, and was not in anyway initiated by Grantor. Grantor does not represent or warrant to Grantee any ownership or estate in the Premises or any specific title or interest in the Premises, which constituted a strip of Grantor's former railroad operating property; and Grantee hereby releases Grantor, its officers and agents, from any claim or demand resulting from this deed, or from any failure of or defect in Grantee's title to the Premises.

(B) Grantee hereby agrees, to the extent permitted by law, as additional consideration for the conveyance of the Premises, to defend, indemnify and hold Grantor harmless from and against any and all liability, loss, cost and/or expense, including reasonable attorney fees, arising out of or in connection with any and all suits or causes of actions instituted by third parties against Grantor or Grantee as a result of the conveyance of the Premises to Grantee or as a result of the failure of title to any portion of the Premises.

7. TITLE SEARCH, INSURANCE:

7.1 Buyer has the option of arranging and paying for such examination of title or title insurance on the Premises as Buyer may desire, at Buyer's sole cost.

7.2 Irrespective of whether Buyer obtains a title examination or insurance, Buyer shall, if Buyer closes on the Premises, accept the Premises in their AS IS, WHERE IS, WITH ALL FAULTS condition. The provisions of this Section shall survive Closing.

8. SURVEY:

8.1 Immediately upon notice of Seller's acceptance of this Agreement, Buyer shall obtain a survey of the Premises conforming to applicable State minimum technical requirements] at Buyer's expense.

8.2 Within thirty (30) days after notice of Seller's acceptance of this Agreement, Buyer shall furnish Seller with a copy of any title insurance commitment covering the Premises and three (3) copies of metes and bounds description of the Premises, a 1.44 MB diskette in Microsoft Word or Wordperfect format of the description and three (3) prints of a survey plat acceptable to Seller and to the Recorder of Deeds for the County or City in which the Premises is located, certified to Buyer and Seller, for use by Seller in preparation of the deed and other papers. If Seller does not accept Buyer's Offer by executing this Agreement, Seller shall reimburse Buyer for the cost of the survey, and Buyer shall thereupon assign all rights therein and copies thereof to Seller.

8.3 Buyer may elect not to secure a survey. In the absence of a survey, the Buyer shall furnish Seller with a description of the Premises, at Buyer's expense, in a form acceptable to Seller and the local deed recorder's office. Seller disclaims any responsibility for the accuracy of any description based on Exhibit "A" and railroad valuation maps.

9. CLOSING: Closing hereunder shall be held on or before November 30, 2004 at such time and place as Seller and Buyer shall mutually agree. If Buyer and Seller do not agree upon a time and place for Closing, Seller shall designate the time and place for Closing. The time and date for Closing may be extended only by Seller in writing, time expressly being of the essence in this Agreement.

10. POSSESSION: Buyer shall obtain possession of the Premises at Closing, subject to the limitations, terms and conditions of Section 6 of this Agreement, and such other leases, licenses, easements, occupancies or other limitations which are identified by Section 10.1, or which are discovered by Seller during the term of this Agreement (which may not necessarily be stated in the deed), unless canceled by Seller or otherwise terminated (whether by notice, expiration, nonrenewal or any other reason) prior to Closing.

10.1 Seller believes that the Premises are currently subject to the following leases, licenses, easements, occupancies and/or limitations (which may or may not be of record):

(i) Leases

(a) CSX 001138 dated November 21, 1986 with Florida Central Railroad Company, Inc.

(ii) Licenses (None)

(iii) Easements (None)

(iv) Other Occupancies or Limitations (None)

During the term of this Agreement, Seller will research its archives for, and shall advise Buyer if Seller discovers, any additional leases, licenses, easements, occupancies and limitations affecting the Premises. As to items discovered as a consequence of such research, Seller may elect, in its sole discretion, to either cancel or otherwise terminate

such items or, pursuant to Section 10.3, to assign or if such items is applicable to an area greater than the Premises, The Buyer shall be included as party as Closing.

10.2 Seller shall cancel or terminate, at or prior to Closing, the following items:
None.

10.3 At Closing, Seller shall assign to Buyer, and Buyer shall assume, Seller's right, title and interest in all items identified by Section 10.1, or which are subsequently discovered by Seller, unless canceled or otherwise terminated, at or prior to Closing. However, if such item is applicable to an area greater than the Premises, the Buyer shall be included as party to a partial assignment of the item(s), which may be executed after Closing.

10.4 If, prior to Closing, all or any portion of the Premises is taken by eminent domain (or is the subject of a pending taking which has not yet been consummated), Seller shall notify Buyer of such fact promptly after obtaining knowledge thereof and either Buyer or Seller shall have the right to terminate this Agreement by giving notice to the other not later than ten (10) days after the giving of Seller's notice. If neither Seller nor Buyer elects to terminate this Agreement as aforesaid, there shall be no abatement of the Purchase Price and Seller shall assign to Buyer (without recourse) at the Closing the rights of Seller to the awards, if any, for the taking, and Buyer shall be entitled to receive and keep all awards for the taking of the Premises or such portion thereof.

11. ANNUAL TAXES, RENTS; LIENS; CHARGES:

11.1 All annual or periodic taxes or assessments on the Premises, both general and special, shall be prorated as of the Closing. Any proration shall be based on taxes assessed against the Seller in the year of the delivery of possession to or entry by Buyer and shall allow the maximum discount permitted by law. If current taxes assessed against the Seller are not available at the time of Closing, Buyer and Seller shall agree to prorate taxes based upon the latest tax information available to the parties and equitably adjust the proration when taxes for the year of entry or possession become available.

11.2 Any certified governmental assessments or liens for improvements on the Premises which are due and payable at the time of Closing shall be paid in full by Seller, and any pending liens or assessments for improvements not yet due and payable at Closing shall be thereafter paid in full by Buyer.

11.3 Any rents and license fees (individually in excess of \$500.00 prorated amount on annual rental) accruing to the Premises shall be prorated at Closing, with rents and fees prior to the date of Closing retained by Seller.

12. TAXES ON TRANSFER; CLOSING COSTS

12.1 Buyer shall pay all recording costs or fees or any similar expense in connection with this Agreement, the conveyance of the Premises or necessary to record the deed.

12.2 Buyer shall be solely responsible for and shall pay any reassessments or taxes generated by reclassification of the Premises resulting from conveyance of the Premises.

12.3 If any state or local government authority requires, presently or in the future, the payment of any sales, use or similar tax upon the sale, acquisition, use or disposition of any portion of the Premises, (whether under statute, regulation or rule), Buyer assumes all responsibility for and shall pay the same, directly to said authority, and, to the extent permitted by law, shall hold Seller harmless from such tax(es) and any interest or penalty thereon. Seller shall cooperate (at no expense to Seller) with Buyer in the prosecution of any claim for refund, rebate or abatement of said tax(es).

12.4 Seller shall pay the cost of recording any release of Seller's mortgage(s) or lien(s). In the event Buyer finances any portion of the Purchase Price (whether through third parties or from Seller), Buyer shall pay all costs thereof, including recordation, intangible taxes, etc.

13. BUYER'S RIGHT OF ENTRY, ENVIRONMENTAL AND OTHER INSPECTIONS:

13.1 During the term of this Agreement, upon compliance with the terms of this Section 13, Buyer and/or its agents shall be permitted to have access to the Premises, subject to the rights of any tenant, licensee, utility or other third party occupying any portion of the Premises, in order to make surveys, make measurements, conduct environmental or engineering tests (including drilling and coring for preconstruction soil analysis), and to make such physical inspections and analyses thereof as Buyer shall deem necessary; PROVIDED, however, to the extent permitted by law, that Buyer hereby assumes all risks of such entry and agrees to defend, indemnify and save Seller harmless from and against any claim, cost or expense resulting from any damage to or destruction of any property (including the Premises or any improvements thereon) and any injury to or death of any person(s), arising from the acts or omissions of Buyer or its agents in the exercise of this right-of-entry. Buyer agrees to do no act which would encumber title to the Premises in exercising this right-of-entry. Any drilling and coring holes shall be filled upon completion of testing. All investigation-derived waste, including without limitation drilling waste, ground water and cuttings, shall be promptly handled, characterized and disposed of properly and in accordance with all local, State and Federal requirements, all at Buyer's sole cost.

13.2 Buyer acknowledges that Seller makes no guarantee, representation or warranty regarding the physical or environmental condition of the Premises, and Seller expressly disclaims any and all obligation and liability to Buyer regarding any defects which may exist with respect to the condition of the Premises.

13.3 Buyer shall give Seller ten (10) days prior written notice of any entry onto the Premises under this Section 13. Together with such notice, Buyer shall provide Seller with a schedule and scope of work for each of the activities Buyer proposes to undertake during such entry. Seller reserves the right to monitor and approve all procedures in the conduct of any environmental assessments, tests, studies, measurements or analyses performed by or for Buyer in, on, to or with respect to the Premises. Buyer shall provide in any contract or bids for site assessment or

environmental inspections of the Premises a "confidentiality clause", limiting disclosure of the results and any report only to Buyer (or to Seller, upon request). Buyer shall also keep Seller fully apprised of the progress of, and procedures followed with respect to, all such environmental work; and fully cooperate with all reasonable requests of Seller in undertaking and carrying out such work. Buyer shall prepare split samples (which may then be separately tested at Seller's sole option and cost) for delivery to Seller and shall deliver to Seller, at no cost to Seller, within five (5) days after receipt, copies of all results, assessments, reports and studies, whether of an environmental nature or otherwise, resulting from any tests or inspections conducted by Buyer pursuant to this Section 13 or otherwise in accordance with this Agreement. At or before Closing, Buyer shall provide Seller a reliance letter from Buyer's consultant, in form and substance reasonably acceptable to Seller, granting Seller the right to rely on the environmental data and reports generated as part of buyer's environmental due diligence, including without limitation, any Phase I and Phase II Environmental Site Assessment Reports. The reliance letter shall not impose any additional limitations or restrictions on Seller's reliance on said data and reports except as may be specified within the report document themselves.

13.4 If environmental contamination of the Premises is revealed by studies and tests conducted by Buyer pursuant to this Section 13, in an amount and/or concentration beyond the minimum acceptable levels established by current applicable governmental authorities, or, if Buyer is unwilling to accept the environmental condition of the Premises as a result of such tests or assessments, Seller's and Buyer's sole and exclusively remedy shall be to terminate this Agreement and refund the Deposit to the Buyer. Under no circumstances shall Seller be required to correct, remedy or cure any condition or environmental contamination of the Premises, which Buyer's test and studies may reveal, as a condition to Closing or other performance hereunder.

13.5 If Buyer elects not to secure environmental tests or inspections, or if Buyer does not elect to terminate after receipt of test results, Buyer shall take the Premises "as is" at Closing, and hereby, to the extent permitted by law, assumes all risks associated with the environmental condition of the Premises, regardless of the cause or date of origin of such condition, and also hereby releases all rights or claims against Seller relating to such condition or for any costs of remediation or cure of any environmental condition.

13.6 The provisions of this Article 13 shall survive Closing or termination of this Agreement.

14. SUBDIVISION APPROVAL; ZONING:

14.1 Any subdivision approval needed to complete the transaction herein contemplated shall be obtained by Buyer at Buyer's sole risk, cost, and expense. Seller shall cooperate with Buyer in obtaining said approval, to the extent necessary or required, but Buyer shall reimburse Seller for any and all charges, costs and expenses (including portions of salaries of employees of Seller assigned to such project) which Seller may incur in such operation.

14.2 Seller makes no guarantee or warranty that any subdivision approval will be granted and assumes no obligation or liability for any costs or expenses if same is not approved.

14.3 Costs and expenses shall include all fees, costs and expenses, including reasonable attorneys' fees, of obtaining subdivision plats, or filing same with the applicable governmental body(ies), or recordation thereof, including attorney's fees, and all other related and/or associated items.

14.4 Seller makes not guarantee, warranty or representation as to the permissibility of any use(s) contemplated by Buyer under existing zoning of the Premises or as to any ability to secure any rezoning for Buyer's use.

15. BROKER'S FEES: The Buyer and the Seller each represent and warrant to the other that neither has introduced into this transaction any person, firm or corporation who is entitled to compensation for services as a broker, agent or finder. The Buyer and the Seller agree, to the extent permitted by law, to indemnify the other against and hold the other harmless from any and all commissions, finder's fees, costs, expenses and other charges claimed by real estate brokers or sales persons by, through or under the indemnifying party. Seller shall be under no obligation to pay or be responsible for any broker's or finder's fees, commissions or charges in connection with handling this transaction, or Closing.

16. ASSIGNMENT, LIMITS, SURVIVAL:

16.1 This Agreement may not be assigned by Buyer without the prior written consent of Seller.

16.2 As limited above, this Agreement shall be binding upon the parties, their successors and permitted assigns, or upon their heirs, legal representatives and permitted assigns, as the case may be.

16.3 Any provision calling for obligations continuing after Closing or termination of this Agreement shall survive delivery of the deed and not be deemed merged into or replaced by any deed whether or not the deed so states.

17. DEFAULT:

17.1 In the event of a default by Buyer under this Agreement (including, but not limited to payment of the Deposit within the time specified), Seller may elect to terminate this Agreement by delivery of notice to Buyer and to retain the Deposit and any other money paid by Buyer to or for the account of Seller, as agreed-upon liquidated damages in full settlement of any and all claims arising under or in any way related to this Agreement.

17.2 In the event of a default by Seller under this Agreement, Buyer's sole and exclusive remedy shall be to terminate this Agreement by delivery of notice to Seller and to receive an immediate return of the Deposit and reimbursement for any reasonable third-party expenses incurred by Buyer pursuant to this Agreement.

17.3 Upon the termination of this Agreement pursuant to this Article 17, Buyer and Seller shall be relieved of all obligations under Agreement, including the duty to close, other than (a) any liability for breach of any of the provisions of Section 13 shall remain as obligations of Buyer and (b) Buyer shall furnish Seller with a copy of all materials and information (including but not limited to any engineering reports, studies, maps, site characterizations and/or zoning related materials) developed by Buyer during the term of this Agreement relating to the potential use or the physical condition of the Premises.

17.4 "Default" shall include not only the failure to make prompt payment of any sums when due under this Agreement, but also the failure to fully and timely perform any other acts required of Buyer under this Agreement.

18. NOTICES:

18.1 Notice under this Agreement shall be in writing and sent by Registered or Certified Mail, Return Receipt Requested, or by courier, express or overnight delivery, or by confirmed e-mail or facsimile.

18.2 The date such notice shall be deemed to have been given shall be the business day of receipt if received during business hours, the first business day after the business day of receipt if received after business hours on the preceding business day, the first business day after the date sent by courier, express or overnight ("next day delivery") service, or the third business day after the date of the postmark on the envelope if mailed, whichever occurs first.

18.3 Notices to Seller shall be sent to:

CSX Transportation, Inc.
c/o CSX Real Property, Inc. – J915
301 West Bay Street, Suite 800
Jacksonville, FL 32202-5184
Attn: Ms. Peggy Hooker
Fax: (904)633-4586
E-mail: peggy_hooker@csk.com

Notices to Buyer shall be sent to:

Seminole County Government
1101 East 1st Street
Sanford, FL 32771
Attn.: County Manager

18.4 Any party hereto may change its address or designate different or other persons or entities to receive copies by notifying the other party in a manner described in this Section.

19. RULES OF CONSTRUCTION:

19.1 In this Agreement, all singular words shall connote the plural number as well as the singular and vice versa, and the masculine shall include the feminine and the neuter.

19.2 All references herein to particular articles, sections, subsections or clauses are references to articles, sections, subsections or clauses of this Agreement.

19.3 The headings contained herein are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

19.4 Each party hereto and its counsel have had the opportunity to review and revise (or request revisions of) this Agreement, and therefore any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement or any exhibits hereto or amendments hereof.

20. TIME OF ESSENCE: Time shall be considered of the essence both to the Buyer and the Seller for all activities undertaken or required pursuant to this Agreement.

WITNESSES:

CSX TRANSPORTATION, INC.

SIGNATURE

PRINT NAME

SIGNATURE

PRINT NAME

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: _____

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.

County Attorney

LV\kc
7/14/03