

12/25



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]*

DATE: August 25, 2003

SUBJECT: Purchase Agreement Settlement Authorization
 East Lake Mary Boulevard, Phase IIB
 Parcel Nos. 218/818
 Owners: Donald G. & Georgann Harman

This Memorandum requests purchase agreement authorization by the Board of County Commissioners (BCC) for Parcel Nos. 218/818 on the East Lake Mary Boulevard, Phase IIB road improvement project for \$53,000.00, with no attorney's fees or expert costs incurred.

I THE PROPERTY

A. Location Data

The property is located on the south side of unpaved Bridges Road, where it terminates at the abandoned railroad right of way. The property is unimproved and is used for pasturing horses.

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

B. Address

3740 Bridges Road
Sanford, FL 32773

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2003-R-47 on February 11, 2003 for the East Lake Mary Boulevard, Phase IIB road improvement project, authorizing the acquisition of the above-referenced property, and finding that the construction of the East Lake Mary Boulevard, Phase IIB road improvement project is necessary and serves a county and public purpose and is in the best interest of the citizens of Seminole County.

III ACQUISITION/REMAINDER

Parcel No. 218 is a fee simple acquisition of 1.1154 acres from the 12.5671 acre parent tract. Parcel No. 818 is a 16,071 square foot permanent drainage easement. The remainder is 11.4517 acres.

IV APPRAISED VALUE

The County's appraised value for the fee simple acquisition is \$28,900.00 and \$5,700.00 for the permanent drainage easement, combining for a total of \$34,600.00.

V BINDING OFFERS/NEGOTIATIONS

The County extended a BCC approved settlement offer proposal to the property owners in the amount of \$43,000.00. The owners first countered at \$66,000.00. Through negotiations the parties reached the proposed settlement amount of \$53,000.00. The owners will also receive a 24-foot driveway apron so that their trucks and horse trailer can access the property. Since the negotiated settlement is reasonable, it makes sense from a cost avoidance standpoint for the County to accept it.

VII RECOMMENDATION

County staff recommends that the BCC approve and execute the Purchase Agreement in the amount of \$53,000.00, with no attorney fees or expert's costs incurred.

LV/

Attachments

Location map (Exhibit A)

Sketch (Exhibit B); and

Purchase Agreement (Exhibit C)

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EXHIBIT A

PURCHASE AGREEMENT
FEE SIMPLE/PERMANENT EASEMENT

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this 4th day of August, 2003, by and between DONALD G. HARMAN and GEORGANN HARMAN, husband and wife, whose address is 313 East Orange Street, Altamonte Springs, Florida 32714, 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 sell and convey, and COUNTY hereby agrees to purchase the following property upon the following terms and conditions:

I. LEGAL DESCRIPTION

See attached Exhibits "A"

Parcel I.D. Number: 03-20-31-5AY-0000-0550

II. PURCHASE PRICE

(a) OWNER agrees to sell and convey the above-described property of the above referenced project by Warranty Deed on Parcel No. 218, and by Permanent Easement on Parcel No. 818, free of liens and encumbrances, unto COUNTY for the sum of FIFTY THREE THOUSAND DOLLARS (\$53,000.00). 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 only be responsible for the following closing costs: recording fees for Warranty Deed, Permanent Easement, 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, all costs to prepare and all expenses to record instruments necessary to provide title unto COUNTY, free and clear of all liens and encumbrances, and the 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 COUNTY's designated closing agent. The OWNER agrees to close within seven (7) days of notice by 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 on this purchase. 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 the normal conditions and turned over to the COUNTY by the OWNER, in tact, if applicable.

(c) Any and all encroachments existing upon the property other than those improvements included in the purchase price are to be removed 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) OWNER represents and warrants that the properties are not now being used and have not been used, by any business or other activity which uses or used toxic chemicals, hazardous substances (including hazardous wastes) or substances likely to infiltrate the soil or groundwater and is not now being used and has not been used in the past as a hazardous or toxic chemical storage facility or dumpsite. OWNER further represents and warrants that the property is not now being used and has not been used in the past as a garbage dump or landfill area.

(f) OWNER represents and warrants that the properties are not in violation of any federal, state or local law, rule, ordinance or regulation relating to hazardous

substances or hazardous wastes, or to environmental conditions on, under or about the property, including, but not limited to, soil and groundwater conditions, since OWNER took title.

(g) COUNTY shall have the right, prior to each closing, to come upon the Parcel(s) at reasonable times with its employees, engineers and other personnel to inspect and conduct testing upon the property. If COUNTY determines that the Parcel contains any toxic waste or chemical contamination, or has been used as a hazardous waste or chemical storage facility or dumpsite or as a garbage dump or landfill site. COUNTY may elect to cancel this Purchase Agreement and have all sums paid hereunder returned to it. This Purchase Agreement is specifically made contingent upon the respective Parcel being free of contamination and as represented above.

(h) OWNER shall indemnify, reimburse, defend and hold harmless the COUNTY from and against all demands, claims, liabilities, fines, fees, losses or expenses (including attorney fees and costs, cleanup costs and fines) by reason of liability, including any strict or statutory liability, imposed upon COUNTY, arising out of or as a consequence of the use of the properties by OWNER (or any prior owner or operator) as a hazardous waste or toxic chemical storage facility or dumpsite, or the use of the properties by OWNER or any prior owner or operator as a garbage dump or landfill. In addition, 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.

(i) 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.

(j) 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.

(k) The OWNER shall fully comply with *Section 286.23, Florida Statutes*, to the extent that said statute is applicable.

(l) In the event that COUNTY subsequently abandons this project after execution of this Agreement, but before closing, this Agreement shall be null and void.

(m) 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.

(n) 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 East Lake Mary Boulevard, Phase II-B 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.

(o) 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.

(p) 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.

(q) It is understood and agreed that the COUNTY will construct a 24 foot wide concrete driveway with a drainage culvert for the purpose of ingress and egress at the location of the existing driveway.

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

WITNESSES:

Lynnda Lusk
SIGNATURE

LYNDA RUSH
PRINT NAME

Robert Dragonette
SIGNATURE

ROBERT DRAGONETTE
PRINT NAME

Donald G. Harman ^{Dist. 9}
DONALD G. HARMAN 8/24/03

Georgann Harman ^{Dist. 9}
GEORGINN HARMAN 8/24/03

ADDRESS: 313 East Orange Street
Altamonte Springs, FL 32714

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 County Commissioners at its _____,
2003, regular meeting

Shirley Van
County Attorney

EXHIBIT "A"

RIGHT-OF-WAY FEE SIMPLE

PROJECT: East Lake Mary Boulevard Extension

OWNER: Donald G. Harman and Georgann Harman, husband and wife

TITLE SEARCH NO.: 218

R/W PARCEL NO.: 218

TAX I.D. NO.: 03-20-31-5AY-0000-0550

CONSULTANT: Lochrane Engineering, Inc.

THAT PORTION OF THE PROPERTY DESCRIBED IN OFFICIAL RECORD BOOK 2900, PAGE 1779 OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 20 SOUTH, RANGE 31 EAST, AS SHOWN ON THE FLORIDA DEPARTMENT OF NATURAL RESOURCES CERTIFIED CORNER RECORDS DOCUMENT NO. 0058529; THENCE RUN $N00^{\circ}02'30''E$ ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER OF SECTION 9, A DISTANCE OF 1266.38 FEET TO A POINT ON THE CENTERLINE OF SURVEY OF EAST LAKE MARY BOULEVARD EXTENSION ACCORDING TO SEMINOLE COUNTY RIGHT-OF-WAY MAP, PROJECT NUMBER PS-0137; THENCE CONTINUING ALONG SAID CENTERLINE OF SURVEY, RUN $S88^{\circ}48'25''E$ A DISTANCE OF 372.35 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 3400.00 FEET AND A CHORD BEARING OF $N88^{\circ}43'08''E$; THENCE RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 293.62 FEET THROUGH A CENTRAL ANGLE OF $04^{\circ}56'53''$ TO A POINT ON THE WEST LINE OF LOT 55 OF THE PLAT OF SANFORD CELERY DELTA AS RECORDED IN PLAT BOOK 1, PAGES 75 AND 76 OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA FOR A POINT OF BEGINNING; THENCE DEPARTING SAID CURVE AND SAID CENTERLINE OF SURVEY, RUN $N00^{\circ}00'19''W$ ALONG SAID WEST LINE A DISTANCE OF 43.61 FEET TO THE NORTHWEST CORNER OF LOT 55; THENCE RUN $N89^{\circ}27'54''E$ ALONG THE NORTH LINE OF LOT 55 A DISTANCE OF 383.62 FEET TO A POINT ON THE AFORESAID CENTERLINE OF SURVEY; THENCE CONTINUE $N89^{\circ}27'54''E$ A DISTANCE OF 250.50 FEET TO A POINT OF INTERSECTION OF SAID NORTH LINE AND THE WEST LINE OF AN ABANDONED RAILROAD RIGHT-OF-WAY; THENCE RUN $S00^{\circ}01'25''E$ ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 19.39 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 3470.00 FEET AND A CHORD BEARING OF $S81^{\circ}00'47''W$; THENCE FROM A RADIAL BEARING OF $N14^{\circ}17'40''W$, RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 642.89 FEET THROUGH A CENTRAL ANGLE OF $10^{\circ}36'55''$ TO A POINT ON THE WEST LINE OF LOT 55; THENCE DEPARTING SAID CURVE FROM A RADIAL BEARING OF $N03^{\circ}40'45''W$, RUN $N00^{\circ}00'19''W$ A LONG THE WEST LINE OF LOT 55 A DISTANCE OF 70.15 FEET TO THE POINT OF BEGINNING.

CONTAINING THEREIN 1.115 ACRES, MORE OR LESS.

THE SKETCH FOR THIS DESCRIPTION IS SHOWN ON SHEETS 2 AND 12 OF THE RIGHT OF WAY MAPS FOR EAST LAKE MARY BOULEVARD EXTENSION, SEMINOLE COUNTY PROJECT NO. PS-0137.

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 SET FORTH IN CHAPTER 61G17-6 OF THE FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES.


Michael J. Cavallera DATE 9-24-02
Florida Registered Land Surveyor #3701
NOT VALID WITHOUT SURVEYOR'S EMBOSSED SEAL

Lochrane Engineering
201 South Bumby Avenue
Orlando, Florida 32803

EXHIBIT "A"

PERMANENT DRAINAGE EASEMENT

PROJECT: East Lake Mary Boulevard Extension

OWNER: Donald G. Harman and Georgann Harman, husband and wife

TITLE SEARCH NO.: 218

R/W PARCEL NO.: 818

TAX I.D. NO.: 03-20-31-5AY-0000-0550

CONSULTANT: Lochrane Engineering, Inc.

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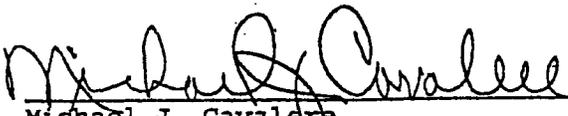
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CONTAINING THEREIN 16,071 SQUARE FEET, MORE OR LESS.

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