



#28

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: August 25, 2003

RE: Purchase Agreement Acquisition Authorization
 Lake Drive
 Parent Tract-Parcel No. 145
 Owners: Florence Rokowski, Robert Pooser & Ann Pooser

This memorandum requests authorization by the Board of County Commissioners (BCC) and execution by the Chairman of a purchase agreement for the parent tract of Parcel No. 145 on the Lake Drive road improvement project in the amount of \$132,500.00 with no fees or costs incurred.

I THE PROPERTY

A. Location Data

The parent tract lies on the north side of Lake Drive, approximately 50 feet west of Sunset Road, in unincorporated Seminole County. The parent tract is improved with a single family residence, used as rental property.

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

B. Address

1821 Lake Drive
Casselberry, FL 32707

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2002-R-70 on April 23, 2002 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 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. 145 is a fee simple acquisition of 18,368 square feet. The parent tract (prior to the proposed acquisition) contains 42,571 square feet. The remainder area after the acquisition is 24,203 square feet. The single family residence is located entirely within the property to be acquired, requiring it to be demolished. Due to the difference in grade between the roadway and the property, as well as the irregular shape of the property after the acquisition, the County's appraiser found that the remainder could not be redeveloped and therefore was reduced to only nominal value.

IV APPRAISED VALUES

The County's appraised value for the fee simple acquisition of the partial take is \$129,575.00. The appraised value of the entire parent tract (prior to the proposed acquisition) is \$130,000.00.

V BINDING OFFERS/NEGOTIATIONS

The County has not yet extended binding written offers to the property owners on the Lake Drive project. The owners of the property have been negotiating with the County's acquisition agents without having received a written offer.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

The remainder property will be non-conforming and non-developable after the acquisition, causing it to have only nominal value. The County's appraiser determined the value of the 18,368 square feet to be acquired, as well as the improvements in the take area to be \$79,600. An additional \$49,975.00 was designated by the appraiser as damages to the remainder which cannot be mitigated. Because of the damage amount which must be paid to the property owners, the value of the partial acquisition is only \$425.00 less than the value of the entire property. The property owner wanted to negotiate with the County for the purchase of the entire property, since the remainder has such limited value. Since the difference in the values is so slight, this is a cost-effective settlement for the County. The property owner has not yet retained an attorney, or incurred any expert costs.

VII RECOMMENDATION

County staff recommends that the BCC authorize purchase of the entire parcel and settlement in the amount of \$132,500.00, with no fees or costs incurred.

LV/la

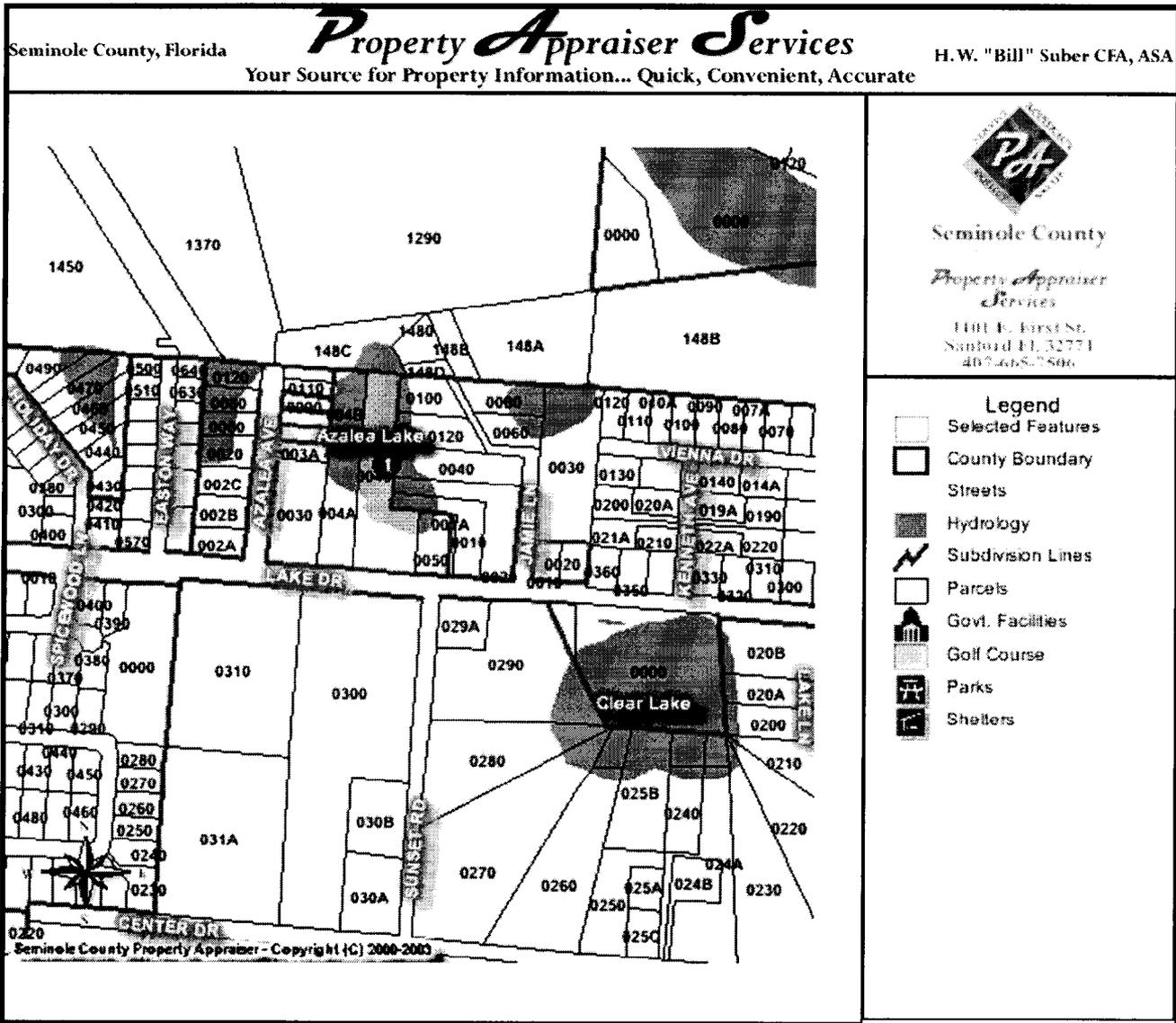
Attachments:

Location Map (Exhibit A)

Sketch (Exhibit B)

Purchase Agreement (Exhibit C)

P:\USERS\CALV01\SETTLEMENT MEMOS\LAKE DRIVE\145 ROKOWSKI POOSER LAKE SETMEM.DOC



Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	1021305BQ00000040	ROKOWSKI FLORENCE &	5321 APPLETON AVE	JACKSONVILLE	FL	32210

EXHIBIT A

**PURCHASE AGREEMENT
FEE SIMPLE**

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this 21st day of July, 2003, by and between **FLORENCE ROKOWSKI, ROBERT W. POOSER and ANNE C. POOSER**, husband and wife, as joint tenants with rights of survivorship, whose address is 5321 Appleton Ave., Jacksonville, FL 32210, 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 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 - Parcel 145

See, attached Exhibit A

Parcel I. D. Number: 10-21-30-5BQ-0000-0040

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 ONE HUNDRED THIRTY-TWO THOUSAND, FIVE HUNDRED DOLLARS (\$132,500). 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) 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 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.

(o) 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.

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

WITNESSES:

Rufina Ramos
SIGNATURE
Rufina Ramos
PRINT NAME

Florence Rokowski
Florence Rokowski

Cathy M. Morton
SIGNATURE
Cathy M. Morton
PRINT NAME

ADDRESS: 11 Amadell Rd
Norwich, Ct. 06360

Rufina Ramos
SIGNATURE
Rufina Ramos
PRINT NAME

Robert W. Pooser
Robert W. Pooser

Cathy M. Morton
SIGNATURE
Cathy M. Morton
PRINT NAME

ADDRESS: 5321 APPLETON A
JEKESVILLE, N.C. 27212

Cathy M. Morton
SIGNATURE
Cathy M. Morton
PRINT NAME

Anne C. Pooser
Anne C. Pooser

Rafina Ramas
SIGNATURE
Rafina Ramas
PRINT NAME

ADDRESS: 5321 Appleton Ave
Jacksonville FL 32210
Subscribed and sworn to before me
this 21st day of July, 2003
Mary E. Fuchs
Notary Public
Date Commission Expires: 6/30/08

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 _____,
2003, regular meeting.

[Signature]
County Attorney

EXHIBIT A

**Lake Dr.
Parcel 145**

East ½ of Lot 4 and the West ½ of Lot 5 of WATTS FARM SUBDIVISION according to the Plat thereof as recorded in the Public Records of Seminole County, Florida, Less: The Southerly 8 feet for road right-of-way purposes.