



**COUNTY ATTORNEY'S OFFICE  
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *HMB for Steve*

FROM: Lynn Vouis, Assistant County Attorney *[Signature]*

CONCUR: Pam Hastings, <sup>*psh*</sup>Administrative Manager/Public Works Department  
 Kathleen Myer, Principal Engineer/Major Projects *[Signature]*

DATE: August 26, 2004

SUBJECT: Purchase Agreement Authorization  
 Owners: James D. and Rose Hunter  
 Parcel No. 129  
 Lake Drive 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. 129. The parcel is required for the Lake Drive road improvement project. The purchase price is \$60,000.00, with no attorney fees or expert costs incurred by the property owners.

**I THE PROPERTY**

**A. Location Data**

The property is located on the south side of Lake Drive, approximately 200± feet west of Sweetwater Lane, within unincorporated Seminole County, Florida.

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

**B. Address**

2010 Lake Drive  
 Casselberry, Florida 32707

### **C. Description**

The parent tract property contains 26,596± square feet, and is improved with a single-family residence.

## **II AUTHORITY TO ACQUIRE**

The BCC adopted Resolution No. 2002-R-70 on April 23, 2002, authorizing the acquisition of the 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 interests of the citizens of Seminole County.

## **III ACQUISITION/REMAINDER**

The proposed acquisition of Parcel No. 129 consists of 26,596 square feet of land area. The proposed acquisition is a nearly rectangular strip of land traversing the northern boundary of the subject property abutting Lake Drive. The taking consists of 8,968 square feet. The property owners will retain 17,628 square feet after the completion of the project.

## **IV APPRAISED VALUE**

The County's appraised value amount, as of the date of value April 2, 2004 was \$31,500.00. 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 June 8, 2004, the BCC authorized a binding written offer in the amount of \$50,000.00. The property owners had concerns regarding the relocation of the septic system on the property. Thereafter, County staff negotiated this contingent settlement agreement with the property owners in the amount of \$60,000.00, with no fees or costs incurred.

## **VI SETTLEMENT ANALYSIS/COST AVOIDANCE**

The main justification for this proposed settlement is the avoidance of future litigation costs. The owners have not yet employed experts to evaluate the County's offer to purchase the property. The owners have refused to accept less than the \$60,000.00 for the acquisition. The difference between the binding written offer amount of \$50,000.00 and the owners' settlement offer of \$60,000.00 is \$10,000.00. Even if the County decides to proceed to a jury trial and prevails, the costs expended by the County to reach that point would far exceed the \$10,000.00 demanded by the property owners. In a case like this,

where no experts have been employed, it simply makes sense to settle early and pay the additional amount to the property owners directly.

Also, the property owners are providing the County a quit claim deed for their potential interest in parcel no. 242, since the homeownership interest in that parcel is unclear.

## **VII RECOMMENDATION**

County staff recommends that the BCC authorize settlement in the amount of \$60,000.00, with no fees, costs, or expenses incurred.

LV/kc

Attachments:

Location Map (Exhibit A)

Sketch (Exhibit B)

Purchase Agreement (Exhibit C)

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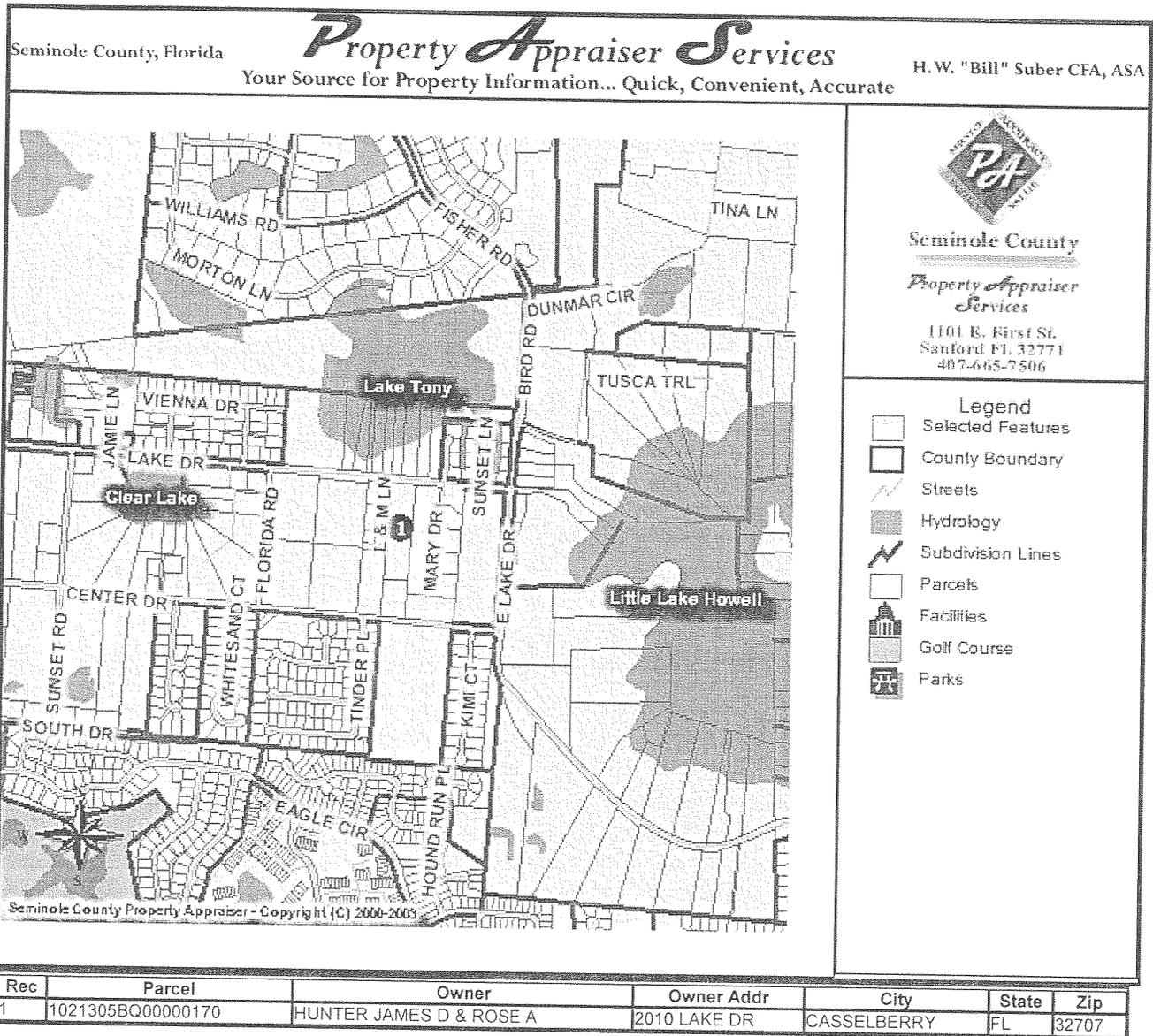
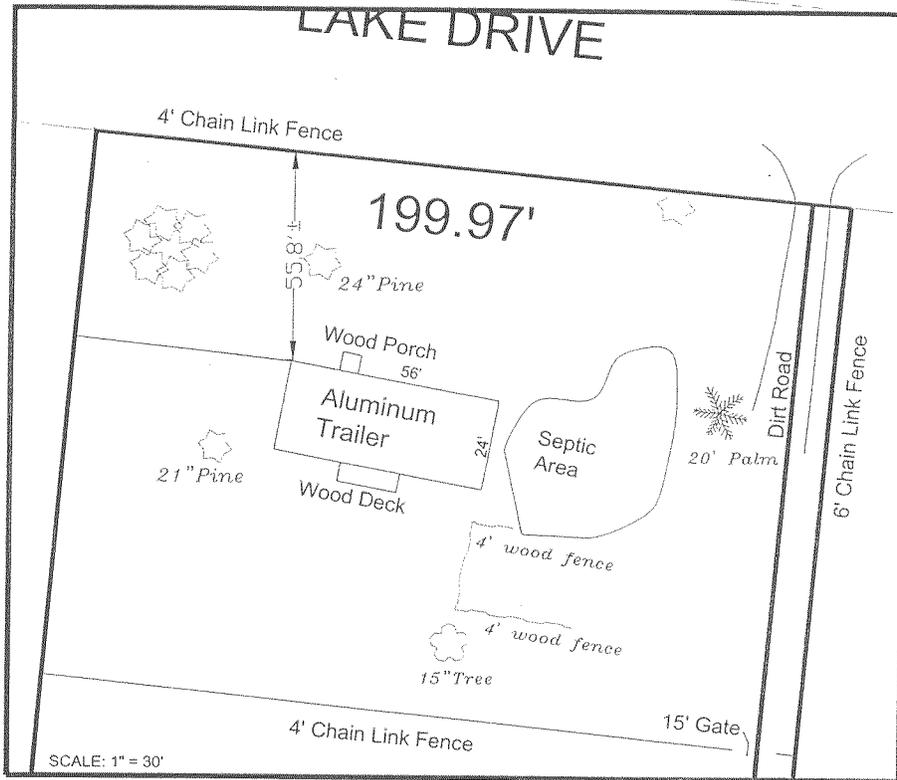


EXHIBIT A



SCALE: 1" = 30'

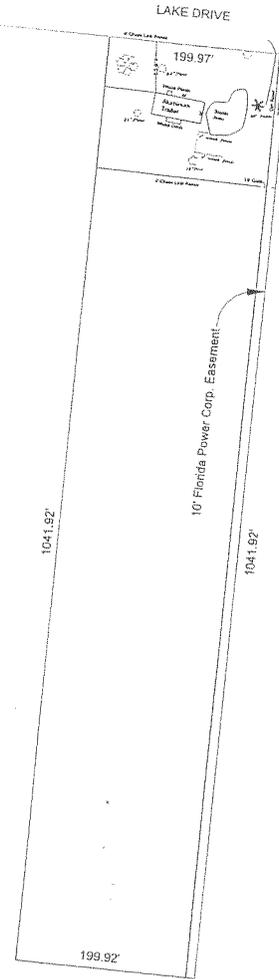


EXHIBIT B



BEFORE TAKING: 4.782 AC±

0 60 120  
DOT A SURVEY  
04/12/04

M:/2002/02-178/PHASE 2/GRUOP 1/129/PARCEL 129.dwg

**ME & LP**  
MAGNOLIA ENGINEERING  
& LAND PLANNING, INC.  
246 O. WESTMOORE DRIVE,  
ALTA MOOTE SPRINGS, FL 32714  
PHONE: 407-772-1329 FAX: 407-772-1340

02-178 LAKE DRIVE  
PARCEL 129 - BEFORE TAKING  
SEMIWOLE COUNTY  
FLORIDA

SHEET  
1

**PURCHASE AGREEMENT  
FEE SIMPLE**

STATE OF FLORIDA        )  
COUNTY OF SEMINOLE    )

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and between JAMES D. HUNTER and ROSE A. HUNTER, whose address is 2010 Lake Drive, Casselberry, Florida 32707, hereinafter collectively 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**

**RIGHT-OF-WAY FEE SIMPLE**

**PROJECT:** Lake Drive

**R/W PARCEL NO.:** 129

A part of Lot 17, Watts' Farms, according to the plat thereof recorded in Plat Book 6, page 80 and a part of that parcel of land described in Official Record Book 1523, page 1845 as recorded in the Public Records of Seminole County, Florida being that portion of Section 11, Township 21 South, Range 30 East of Seminole County, Florida,

described as follows:

Commence at the Northeast corner of Lot 17, Watts' Farms Subdivision, according to the Plat thereof as recorded in Plat Book 6, page 80 Public Records of Seminole County, Florida; thence S05°00'46"W along the East line of said Lot 17 a distance of 8.00 feet to the Right of Way line of Lake Drive as recorded in Official Record Book 187, page 7 Public Records of Seminole County, Florida for a Point of Beginning; thence continue S05°00'46"W along said East lot line a distance of 51.84 feet to a point on a non-tangent curve concave Southwesterly having a radius of 900.93 feet; thence, from a chord bearing of N80°33'44"W, run along said curve an arc length of 126.29 feet through a central angle of 08°01'54" to the Point of

Tangency; thence N84°34'41"W a distance of 74.15 feet to a point on the West line of the East half of said Lot 17; thence N05°00'37"E along said West line a distance of 43.00 feet to the aforesaid Right of Way line of Lake Drive; thence S84°34'41"E along said Right of Way line a distance of 199.97 feet to the Point of Beginning.

Containing 8,968 square feet, more or less.

**Parcel I. D. Number: 10-21-30-5BQ-0000-0170**

## **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 SIXTY THOUSAND AND NO/100 (\$60,000.00). 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.

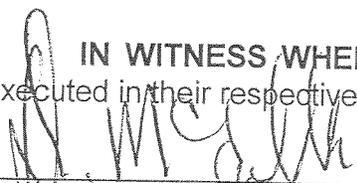
(i) As part of the consideration for this Purchase Agreement, OWNER hereby grants to COUNTY, its employees, agents, consulting engineers, contractors and other representatives the right to enter upon and to have exclusive possession of the property described in paragraph I of this Agreement. The right 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.

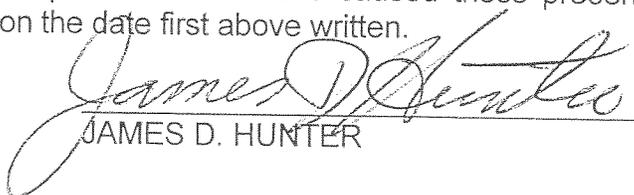
(j) The OWNER shall indemnify and save the COUNTY harmless from and against all liability, claims for damages, and suits for any injury to any person or persons, or damages to any property of any kind whatsoever arising out of or in any way connected with this Agreement or in any act or omission in any 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.

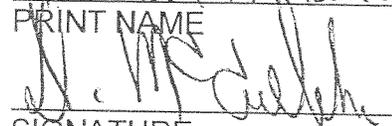
(l) The OWNER states that the OWNER has not engaged in any action that would create a conflict of interest in the performance of OWNER's obligations under this Agreement with the COUNTY which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.

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

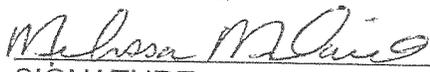
  
\_\_\_\_\_  
SIGNATURE  
Deborah McCulloch  
\_\_\_\_\_  
PRINT NAME

  
\_\_\_\_\_  
JAMES D. HUNTER

  
\_\_\_\_\_  
SIGNATURE  
Melissa Milano  
\_\_\_\_\_  
PRINT NAME

  
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SIGNATURE  
Deborah McCulloch  
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PRINT NAME

  
\_\_\_\_\_  
ROSE A. HUNTER

  
\_\_\_\_\_  
SIGNATURE  
Melissa Milano  
\_\_\_\_\_  
PRINT NAME

2010 LAKE DRIVE  
CASSELBERRY, FLORIDA 32707

ATTEST:

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

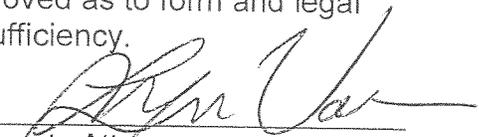
\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida.

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  
County Commissioners at its \_\_\_\_\_,  
2004, regular meeting.

  
\_\_\_\_\_  
County Attorney

LW/krc

08/11/04

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