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**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

To: Board of County Commissioners

Through: Robert A. McMillan, County Attorney

From: Stephen P. Lee, Deputy County Attorney

Date: November 5, 2004

Subject: Kring v. Seminole County, Case No. 02-CA-1069-16-W
Khoshnou v. Seminole County, Case No. 04-CA-822-16-W

RECOMMENDATION: Approve settlement of the captioned lawsuits. If approved, the settlement will accomplished by filing a stipulated final judgment in each case.

BACKGROUND: The plaintiffs in the Kring case are owners of three parcels located on the west side of Markham Woods Road, just north of SR 434. A general location map is attached for your reference. Their complaints in this case relate to the presence of a large drainage pipe running underground from the west side of Markham Woods Road to a point in the wetlands adjacent to the Little Wekiva River, where it discharges to the surface. Plaintiffs claim that the County lacks the necessary property rights to authorize the drainage onto their properties and ask the court to compel the County to condemn those rights and pay compensation for them. The plaintiffs in the Khoshnou case are two of the same owners involved in the Kring case. Their complaints relate to the exfiltration drainage system the County installed when Markham Woods Road was widened to three lanes which they claim raised the water table causing seepage into their homes.

The Kring case was filed in 2002 and proceeded to a mediation session in April of this year. The Khoshnou case was filed in March, 2004, shortly before the mediation in Kring. As part of trial preparation the County retained expert drainage engineers and an expert on underground water issues. Although the County's exposure to money damages in the Kring case was considered relatively small--perhaps no more than ten to fifteen thousand dollars (\$10,000-15,000)--it was likely that achieving a jury verdict in that range would cost over one hundred thousand dollars (\$100,000) in attorneys and expert witness fees. The exposure in the Khoshnou case was quite a bit more substantial and could have involved purchasing one or both residences, one assessed for property tax purposes at over four hundred thousand dollars (\$400,000), the other at

almost three hundred thousand dollars (\$300,000), again involving substantial amounts of fees and costs.

MEDIATION: At mediation the County's experts and representatives from the Stormwater Division identified a possible solution to the complaints raised in both cases involving removal of the underground drainage pipe and installation of additional drainage facilities to take stormwater to the south of the plaintiff's properties. Plaintiffs responded favorably to the suggestion and the mediation was adjourned for ninety (90) days to investigate the feasibility and cost of the proposed project. The details took longer than expected due to the nature of the proposed project and the intervention of the hurricane season. Ultimately, all parties have concurred that the project is feasible, will relieve the problems complained of and, most importantly for the County, economically achievable. The details of the proposed settlement follow.

PROPOSED SETTLEMENT: The proposed settlement includes the following:

Removing the underground drainage pipe running west towards the river from plaintiffs property. The affected area will be filled in, graded and resodded and a swale area created to channel the surface water that will inevitably flow over plaintiffs' properties.

Installing a new drainage system running south along Markham Woods Road. This system will include an underdrain to capture the water from the exfiltration system and carry it, along with the water from the existing drainage system, to a new drainage pipe located much closer to the Little Wekiva River and approximately six hundred feet (600') from plaintiffs' properties.

Purchase of a lot on the south end of the subdivision which is required to locate the new underground pipe system running towards the river. Note: also included in this agenda package is an option agreement covering the lot.

Payment of two hundred seventy five thousand dollars (\$275,000) in settlement of all claims for money damages, fees of attorneys and experts and all costs. Plaintiffs will apportion this amount between and among themselves.

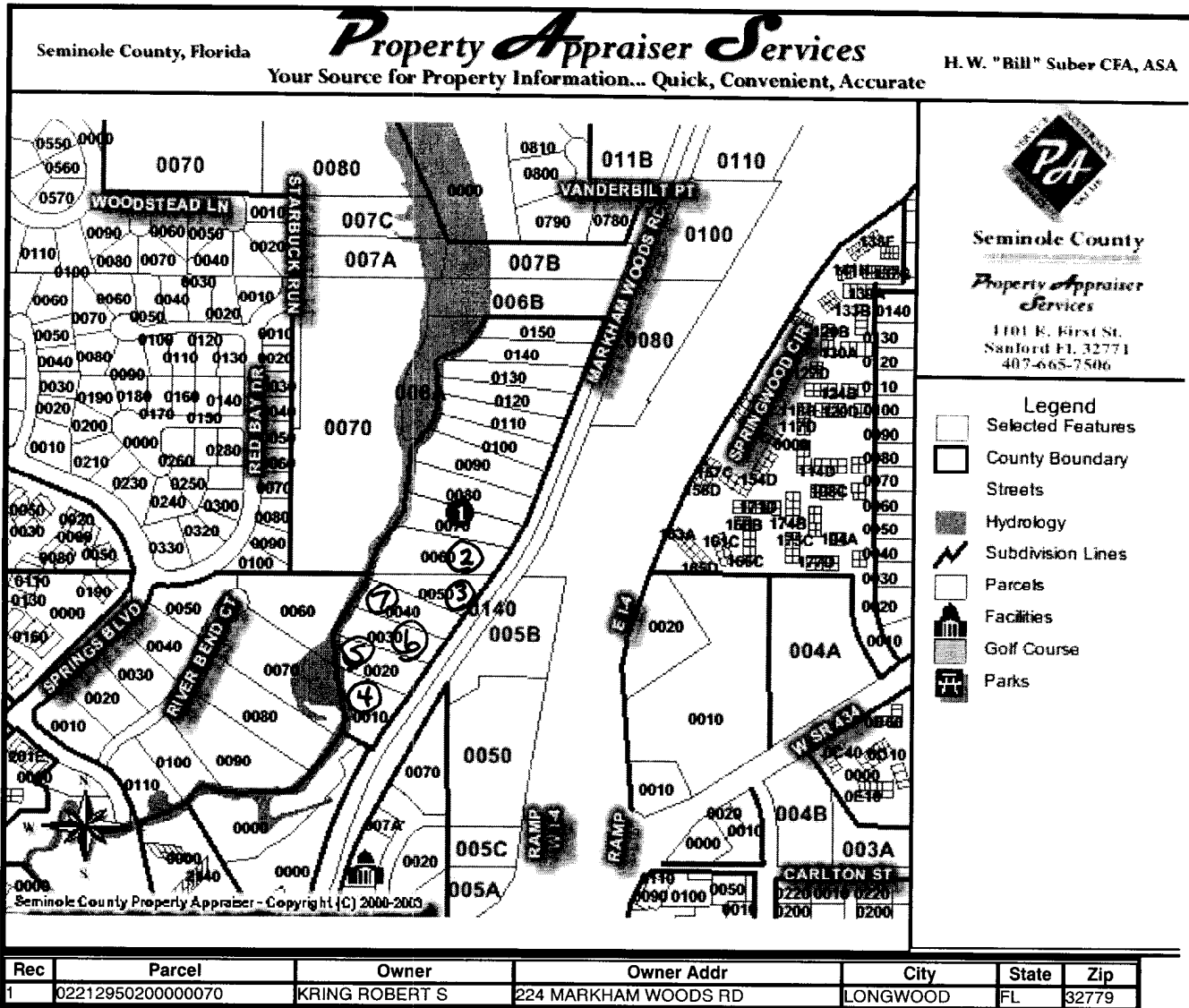
Providing some type of notice that a County project is underway. We propose to provide the standard notice used for every County project of this size and magnitude.

The total cost of this proposed settlement is approximately one million one hundred thousand dollars (\$1,100,000), consisting of \$107,500 to purchase the necessary lot, \$275,000 in damages, fees and costs with the balance representing the design and construction (\$700,000) of the actual drainage project.

THE OPTION AGREEMENT: Also included with this package is a proposed option agreement covering the lot that is required to construct the new drainage system at the southern end of the project. The owners of the lot required for the project (Lot 1) also own the 3 remaining lots between Markham Woods Road and the river. The option agreement allows the County to purchase the lot needed for the project and, at the County's discretion, the remaining 3 lots. The purchase price for Lot 1 is \$107,500.00 and for all 4 lots \$412,500.00. The option agreement requires payment of \$5,000 upon signing the agreement. The option payment will be applied to the purchase price. The County will have 90 days to exercise the option on Lot 1 and, if Lot 1 is purchased, an additional 90 days to exercise the option on the 3 remaining lots if a funding source for those lots can be identified.

RECOMMENDATION: Staff recommends approval of the proposed settlement and the option agreement, including the authority to make all payments and execute all necessary documents to accomplish the same, except for the actual construction contract, which will be competitively bid and awarded in accordance with normal purchasing procedures.

This is recommended as a prudent settlement. The exposure in both cases (excluding fees and costs, which could be substantial) approximates the cost of the proposed settlement, however, the benefit to the County favors the settlement. First, the Plaintiffs' property will remain on the tax rolls and the County will not have to deal with the issue of what to do with the two residential structures. Second, the drainage fix should end the County's involvement in this area. Earlier projects and fixes have not been as effective as planned and, particularly in the case of the exfiltration system, have sometimes made things worse. This area receives drainage from a very large area, including properties east of I-4, I-4 itself and many residential and commercial properties. Finally, plaintiffs will execute a full and complete release which should foreclose any future claims, thus ending a long and fractious relationship with them.



- ① = KRING PROPERTY
- ② = KHOSHNOU PROPERTY
- ③ = VERMILIO PROPERTY
- ④ = TRAN OPTION (LOT 1)
- ⑤-7 = TRAN OPTION (LOTS 2-4)

SEMINOLE COUNTY GOVERNMENT

OPTION CONTRACT FOR SALE AND PURCHASE

PARTIES: MINH D. TRAN and THU A. TRAN, whose address is 15615 E. Colonial Drive, Orlando, Florida 32820 and telephone number (407) 579-8557, hereinafter referred to as the "SELLER/OPTIONOR", 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 "BUYER/OPTIONEE", hereby agree that the SELLER/OPTIONOR shall sell and the BUYER/OPTIONEE shall buy the right and option to purchase the following real property upon the terms and conditions which include the negotiated Standards for Real Estate Transactions set forth in this contract.

RECITALS:

SELLER/OPTIONOR is the owner of certain real property located, adjacent, contiguous and parallel to Markham Woods Road and the Little Wekiva River, in Seminole County, Florida.

The real property is identified as:

Lots 1, 2, 3 and 4, RIVERSIDE AT THE SPRINGS,
according to the plat thereof as recorded in
Plat Book 21 at pages 68 through 69 of the
Public Records of Seminole County, Florida.

Seminole County Property Appraiser's Tax Parcel Number(s):

02-21-29-502-0000-0010
02-21-29-502-0000-0020
02-21-29-502-0000-0030
02-21-29-502-0000-0040

The above property does not constitute the homestead of the SELLER/OPTIONOR.

BUYER/OPTIONEE desires to obtain an Option to purchase Lot 1 or, in the alternative, Lots 1, 2, 3 and 4 as described above, (said described real property hereinafter called "Property").

NOW, THEREFORE, in consideration of a sum of FIVE THOUSAND DOLLARS (\$5,000.00), hereinafter referred to as "Option Money", to be paid by BUYER/OPTIONEE to the SELLER/OPTIONOR, which BUYER/OPTIONEE will provide no later than ten (10) business days following its execution of this Agreement, the SELLER/OPTIONOR hereby grants to BUYER/OPTIONEE the right and option to purchase one or all of the lots described above for the price, terms and in accordance with the covenants and conditions set forth herein. The Option Money shall apply to the purchase price if BUYER/OPTIONEE elects to purchase one or more of the lots.

The Option may be exercised, with respect to Lot 1, at any time within NINETY (90) days from the date of final execution of this Agreement by BUYER/OPTIONEE. If BUYER/OPTIONEE exercises the option to purchase Lot 1 then BUYER/OPTIONEE shall have an additional option period of NINETY (90)

days (a total of ONE HUNDRED EIGHTY (180) days) in which to exercise the option to purchase the remainder of the lots (Lots 2, 3 and 4) with no additional option money being required. If BUYER/OPTIONEE fails to exercise the option to purchase Lot 1 then the entire option shall expire and be of no further force or effect. It is the intent of the parties that BUYER/OPTIONEE will decide whether to purchase Lot 1 within the first ninety (90) days after final execution of this Agreement and, if Lot 1 is purchased, decide whether to buy the remaining lots within an additional ninety (90) day period. If Lot 1 is not purchased then there is no further option on the remaining lots.

The time during which the Option may be exercised may be further extended by mutual agreement in writing. The time during which the option or options are viable is known as the "Option Period". If during said Option Period, the SELLER/OPTIONOR decides to change the status of the Property or property contiguous thereto, SELLER/OPTIONOR shall immediately notify BUYER/OPTIONEE in writing so that BUYER/OPTIONEE can take steps necessary to protect BUYER/OPTIONEE'S interest in the Property.

SELLER/OPTIONOR covenants that SELLER/OPTIONOR is seized of good and sufficient marketable title and interest to the Property and has full authority to enter into and execute this Agreement. SELLER/OPTIONOR further covenants that there are no other contracts for sale and purchase, option agreement(s), liens, easements, judgments or impediments of title on the Property.

This Option may be sold, assigned or transferred at any time by BUYER/OPTIONEE to any other state, local or governmental agency. As to other parties, this Option may not be sold, assigned or transferred without the written consent of the SELLER/OPTIONOR, such consent in the sole discretion of SELLER/OPTIONOR.

Should BUYER/OPTIONEE fail to exercise this Option or any extension thereof within the time herein specified, all rights and privileges granted hereunder shall be deemed completely surrendered, this Option terminated, and SELLER/OPTIONOR shall retain all money paid for the Option, and no additional money shall be payable by either party to the other.

The SELLER/OPTIONOR shall permit BUYER/OPTIONEE during the Option Period free ingress and egress to the Property to conduct such surveys, appraisals, environmental studies, planning studies and other activities of similar nature, as BUYER/OPTIONEE may deem necessary, at the sole cost of BUYER/OPTIONEE. In addition, BUYER/OPTIONEE shall have the right to file any applications for certificates, permits and other approvals that may be required by any federal, state or local authorities. SELLER/OPTIONOR agrees to cooperate with BUYER/OPTIONEE in its efforts to obtain such approvals and sign such papers as may be required to file applications with the appropriate authorities.

Notice of the exercise of any Option granted hereunder shall be given by BUYER/OPTIONEE to the SELLER/OPTIONOR, in writing by certified mail, return receipt requested. The first notice shall specify whether Lot 1 or all the lots are being purchased, SELLER/OPTIONOR agreeing that BUYER/OPTIONEE may purchase Lot 1 or all four lots. Notice shall be deemed effective on the date it is posted.

On the date of each notice given hereunder, the following Agreement shall take effect with respect to the lot or lots specified in the notice:

TERMS OF THE CONTRACT FOR SALE AND PURCHASE

THE PARTIES hereby agree that the SELLER/OPTIONOR shall sell and the BUYER/OPTIONEE shall buy the following property upon the terms and conditions which include the negotiated Standards for Real Estate Transactions set forth in this contract.

1. LOCATION/LEGAL DESCRIPTION.

The real property is identified as one or all of the following lots:

Lots 1, 2, 3 and 4, RIVERSIDE AT THE SPRINGS,
according to the plat thereof as recorded in
Plat Book 21 at pages 68 through 69 of the
Public Records of Seminole County, Florida.

Seminole County Property Appraiser's Tax Parcel Number(s):

02-21-29-502-0000-0010
02-21-29-502-0000-0020
02-21-29-502-0000-0030
02-21-29-502-0000-0040

The above property does not constitute the homestead of the SELLER/OPTIONOR.

2. PURCHASE PRICE: The purchase price shall be ONE HUNDRED SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$107,500.00) if BUYER/OPTIONEE elects to purchase Lot 1 or FOUR HUNDRED TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$412,500.00) if BUYER/OPTIONEE elects to purchase all four lots. If BUYER/OPTIONEE purchases Lot 1 and later elects to purchase the remaining three lots then the purchase price of the remaining three lots shall be THREE HUNDRED FIVE THOUSAND DOLLARS (\$305,000.00). The Option Money shall apply to the purchase price. Payment of the purchase price, as adjusted in accordance with the terms and conditions of this Agreement, to be made at Closing. If said payment is desired to be received by wire transfer then SELLER/OPTIONOR must give the BUYER/OPTIONEE all account information at least twenty-four (24) hours in advance of Closing in order to implement a wire transfer.

3. TITLE EVIDENCE: Within fifteen (15) days from date of the exercise of each of the options granted hereunder (if each of them is exercised), BUYER/OPTIONEE shall obtain, at SELLER/OPTIONOR's expense, an ALTA Form B Marketability title insurance commitment with fee owner's title policy to be paid for by SELLER/OPTIONOR at Closing. SELLER/OPTIONOR's expenses for title insurance shall be the minimum promulgated rate as established by the Florida Insurance Commissioner less available credits, if any.

4. ACCEPTANCE AND EFFECTIVE DATE: The acceptance and effective date shall be the date each option is exercised by the BUYER/OPTIONEE.

5. CLOSING DATE: This contract shall be closed and the deed(s) and other Closing papers shall be delivered on or before thirty (30) days from the acceptance and effective date as stated in item 4, above, unless extended by the parties, and SELLER/OPTIONOR agrees to deliver possession on the date of Closing. Time is of the essence as to the Closing date.

6. **RESTRICTIONS, EASEMENTS, LIMITATIONS AND ENVIRONMENTAL MATTERS:** The BUYER/OPTIONEE shall take title subject to: restrictions, prohibitions and other requirements imposed by governmental authority, restrictions and matters appearing on the plat or otherwise common to the subdivision, zoning, public utility easements of record, taxes for year of Closing and subsequent years. The SELLER/OPTIONOR shall provide an affidavit, at or before Closing, stating that, to the best of SELLER/OPTIONOR's knowledge, no hazardous waste or materials or environmental contaminations or violations, are located, on, upon or within the Property. The form of the affidavit is attached hereto as Exhibit "1" to this Agreement. In the event that an environmental audit confirms the presence of hazardous wastes or materials or environmental contamination on the Property, the BUYER/OPTIONEE, at its sole option, may elect to terminate this Agreement and neither party shall have any further obligations under this Agreement. If this Agreement is not terminated, SELLER/OPTIONOR may, at its sole cost and expense and prior to the Closing, promptly commence and diligently pursue any assessment, clean up and monitoring of the Property necessary to bring the Property into full compliance with any and all applicable Federal, State or local laws, statutes, ordinances, rules, regulations or other governmental restrictions regulating, relating to, or imposing liability or standards of conduct concerning hazardous waste or materials or environmental contamination ("Environmental Law"). If SELLER/OPTIONOR elects not to pursue any further assessment, clean up and monitoring of the Property as set forth herein, BUYER/OPTIONEE may, in its sole discretion, elect not to acquire the Property as a whole or any portion of the Property which contains hazardous waste or materials or environmental contamination, and the Purchase Price shall be accordingly reduced by an amount mutually agreed to by the parties.

7. **OCCUPANCY:** SELLER/OPTIONOR represents that there are no parties in occupancy other than SELLER/OPTIONOR and that the Property shall not be rented or occupied beyond Closing. SELLER/OPTIONOR agrees to deliver occupancy of Property at time of Closing. If occupancy is to be delivered prior to Closing, BUYER/OPTIONEE assumes all risk of loss to Property from date of occupancy, shall be responsible and liable for maintenance thereof from said date, and shall be deemed to have accepted the Property, real and personal, in its existing condition as of time of taking occupancy unless otherwise noted in writing; provided, however, SELLER/OPTIONOR recognizes that the BUYER/OPTIONEE is relying upon the affidavit referred to in paragraph 6, above.

8. **ASSIGNABILITY:** BUYER/OPTIONEE may assign this Contract or any right derived thereunder to any other state, and/or local governmental agency. As to other parties, this Contract may not be sold, assigned or transferred without the written consent of the SELLER/OPTIONOR, such consent in the sole discretion of SELLER/OPTIONOR.

9. **TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Typewritten or handwritten provisions inserted herein or attached hereto as Addenda, if any, shall control all printed provisions in conflict therewith if initialed by both parties.

10. **SPECIAL CLAUSES:**

I. The parties represent and warrant that no real estate brokers represent either party in this transaction.

II. SELLER/OPTIONOR shall fully comply with the provisions of Section 286.23, Florida Statutes. SELLER/OPTIONOR warrants that no persons, firms, corporations or other entities are entitled to a real estate commission or other fees as a result of this Agreement or subsequent Closing. SELLER/OPTIONOR shall indemnify and hold BUYER/OPTIONEE harmless from any and all such claims, whether disclosed or undisclosed.

STANDARDS FOR REAL ESTATE TRANSACTIONS

A. EVIDENCE OF TITLE: An ALTA Form B Marketability title insurance commitment shall be obtained by BUYER/OPTIONEE at SELLER/OPTIONOR's expense and be issued by a title insurance company selected by and acceptable to BUYER/OPTIONEE agreeing to issue to BUYER/OPTIONEE, upon recording of the deed(s), an Owner's policy of title insurance in the amount of the purchase price, insuring title of the BUYER/OPTIONEE to the Property, subject only to liens, encumbrances, exceptions or qualifications set forth specifically in this Contract and all others, if any shall be discharged by SELLER/OPTIONOR at or before Closing. BUYER/OPTIONEE shall have 10 days from date of receiving evidence of title to examine same. If title is found defective, BUYER/OPTIONEE shall, within 5 days thereafter, notify SELLER/OPTIONOR in writing specifying any defect.

If said defect(s) render title unmarketable, SELLER/OPTIONOR shall have 5 days from receipt of notice within which to undertake removal of said defect(s) and, if SELLER/OPTIONOR is unsuccessful in removing them within a reasonable time thereafter, BUYER/OPTIONEE shall have the option of either (1) accepting the title as it then is, or (2) canceling this Agreement. SELLER/OPTIONOR agrees they will, if title is found to be unmarketable, use and exercise diligent efforts to correct the defect(s) in title, however, shall not be obligated to bring suit to clear the title defect(s).

B. EXISTING MORTGAGES: SELLER/OPTIONOR shall furnish a statement from the mortgagee(s), if any, setting forth principal balance, method of payment, interest rate and whether the mortgage(s) is/are in good standing. The SELLER/OPTIONOR shall cause all mortgages to be released and/or satisfied prior to or at Closing as to the Property.

C. SURVEY: The BUYER/OPTIONEE may have surveys of the Property accomplished at its expense. The SELLER/OPTIONOR agrees to provide to the BUYER/OPTIONEE, at no expense, a copy of any and all existing surveys on the Property over which the SELLER/OPTIONOR exercises ownership, control or dominion. If the survey, certified by registered Florida surveyor, shows any encroachment of said Property or that improvements intended to be located on the Property in fact encroach on lands of others, or violate any of the Contract covenants, the same shall be treated as a title defect. SELLER/OPTIONOR agrees that from the date this Option Agreement is executed by SELLER/OPTIONOR, BUYER/OPTIONEE and its agents, upon reasonable notice, shall have the right to enter the Property for all lawful purposes in connection with this Agreement. BUYER/OPTIONEE agrees: to assume all responsibility for injuries or damages incurred by any employee, contractor or agent of BUYER/OPTIONEE while making any such entry onto the Property; not to make any claim against SELLER/OPTIONOR on account of any such entry upon the Property, and to repair any damage to the property caused by any such entry.

D. LIENS: SELLER/OPTIONOR shall, both as to the Property and personalty being sold hereunder, furnish to BUYER/OPTIONEE at time of Closing, an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statements, claims of liens or potential lienors known to SELLER/OPTIONOR and further attesting that there have been no improvements to the Property for 90 days immediately preceding date of Closing. If the Property has been improved within said time, SELLER/OPTIONOR shall deliver releases or waivers of all mechanic's liens, executed by general contractors, subcontractors, suppliers, and materialmen, in addition to a SELLER/OPTIONOR's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen and further reciting that in fact all bills for work to the Property which could serve as a basis for a mechanic's lien have been paid or will be paid at Closing.

E. PLACE OF CLOSING: Closing shall be held at the Office of the Seminole County Attorney, or such other office as the County Attorney may direct.

F. TIME: Time is of the essence of this Contract. Any reference herein to time periods of less than 6 days shall in the computation thereof exclude Saturdays, Sundays and legal holidays including County holidays, and any time period provided for herein which shall be on a Saturday, Sunday or legal holiday including County holidays shall extend to 5:00 p.m. of the next full County business day.

G. DOCUMENTS FOR CLOSING: SELLER/OPTIONOR shall furnish deed(s), mechanic's and/or construction lien affidavit(s), estoppel letter(s), mortgage satisfaction(s) and/or release(s), satisfaction(s) of judgment(s), Court Order(s), the no hazardous waste or environmental contamination or violation affidavit(s) as required by paragraph 6, above, and any and all corrective instrument(s) that may be required in connection with perfecting the title all of which shall survive Closing. Copies of the proposed Closing documents shall be furnished to BUYER/OPTIONEE 5 working days prior to Closing. The Statutory Warranty Deed, in addition to all common law covenants shall include the covenant of further assurances. All grantors shall be deemed to be subject to enforcement or action as to each and every covenant.

H. EXPENSES: State documentary stamps which are required to be affixed to the deed(s) and other instrument(s) of conveyance shall be paid by the SELLER/OPTIONOR. The costs of recording any and all corrective instruments shall be paid by SELLER/OPTIONOR (See, Section 201.01, Florida Statutes). SELLER/OPTIONOR shall pay all costs of providing an Owner's Title Insurance Commitment and the Owner's Title Insurance Policy, as outlined in item A above. SELLER/OPTIONOR shall pay all costs of recording the deeds of conveyance, including state documentary stamp taxes, as well as any and all other closing costs, provided, however, that BUYER/OPTIONEE shall pay for its own appraisals, survey, planning studies and environmental reports/audits.

I. PRORATION OF TAXES (REAL AND PERSONAL): Taxes shall be prorated based on the current year's tax. If Closing occurs at a date when the current year's millage is not fixed, and a current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If current year's assessment is not available, then taxes will be prorated on the prior year's taxes; provided, however, that if there are complete, improvements on the Property by January 1st of the year of Closing, which improvements were not in existence on January 1st of the prior year,

then taxes shall be prorated based upon the prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, request will be made to the County Property Appraiser for an informal assessment taking into consideration homestead exemption, if any. However, any tax proration; based on an estimate may, at request of either party to the transaction, be subsequently readjusted upon receipt of tax bill on condition that a statement to that effect is set forth in the Closing statement.

J. SPECIAL ASSESSMENT LIENS: Any and all certified, confirmed and ratified special assessment liens as of the date of Closing shall be paid by SELLER/OPTIONOR. Pending liens as of date of Closing shall be assumed by BUYER/OPTIONEE; provided, however, that where the improvement has been substantially completed as of the Effective Date, such pending lien shall be considered as certified, confirmed or ratified and SELLER/OPTIONOR shall, at Closing, be charged an amount equal to the last estimate by the public body, of the assessment for the improvement. If "BUYER/OPTIONEE" is subject to such matters as a governmental entity all matters subsequent to Closing shall be applicable only if applicable to such an entity.

K. PERSONAL PROPERTY: Ownership of the personal property located on the Property, if any, shall be transferred to the BUYER/OPTIONEE by means of an absolute Bill of Sale. SELLER/OPTIONOR shall remove all personal property not sold to BUYER/OPTIONEE from the Property prior to the Closing.

L. INTENTIONALLY OMITTED.

M. INTENTIONALLY OMITTED.

N. ESCROW: Only the Clerk of the Circuit Court (Finance) for Seminole County shall serve as escrow agent as to money deposits. The Clerk shall promptly deposit and hold same in escrow and disburse same subject to clearance thereof in accordance with terms and conditions of this Contract. Failure of clearance of funds shall not excuse performance by the BUYER/OPTIONEE. In the event of doubt as to her duties or liabilities under the provisions of this Contract, the escrow agent may in her sole discretion, continue to hold the monies which are the subject of this escrow until the parties mutually agree to the disbursement thereof, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties thereto. In the event of any suit wherein escrow agent interpleads the subject matter of this escrow, the escrow agent shall be entitled to recover a reasonable attorney's fee and costs incurred, said fees and costs to be charged and assessed as court costs in favor of the prevailing party.

All parties agree that the escrow agent shall not be liable to any party or person whomsoever for misdelivery to BUYER/OPTIONEE or SELLER/OPTIONOR of monies subject to this escrow, unless such misdelivery shall be due to willful breach of this Contract or gross negligence on the part of the escrow agent.

O. DEFAULT WAIVER: If BUYER/OPTIONEE fails to perform this Contract within the time specified, SELLER/OPTIONOR, at its option, may proceed at law or in equity to enforce his legal rights under this Contract. If, for any reason other than failure of SELLER/OPTIONOR to render title marketable after diligent effort, SELLER/OPTIONOR fails, neglects or refuses to perform this Contract, the BUYER/OPTIONEE may seek specific performance without thereby waiving any action for damages resulting from

SELLER/OPTIONOR's breach. Failure of BUYER/OPTIONEE to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right; but the same shall remain in full force and effect.

P. CONTRACT RECORDABLE, PERSONS BOUND AND NOTICE: This Contract shall be recorded in the Board of County Commissioner's public records and not recorded in the official land records. This Contract shall bind and inure to the benefit of the parties hereto and their successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice given by or to the attorney for either party shall be as effective as if given by or to said party. The agreements expressed herein shall survive Closing.

Q. PRORATIONS AND INSURANCE: Taxes, assessments, rent, interest, insurance and other expenses and revenue of the Property shall be prorated as of date of Closing under the provisions of this Contract. BUYER/OPTIONEE shall have the option of taking over any existing policies of insurance on the Property, if assumable, in which extent premiums shall be prorated. The cash at Closing shall be decreased as may be required by said prorations. All references in this Contract to prorations as of date of Closing will be deemed "date of occupancy" if occupancy occurs prior to Closing, unless otherwise provided for herein.

R. CONVEYANCE: SELLER/OPTIONOR shall convey title to the Property by Special Warranty Deed which shall include all common law covenants of title and seisin and the covenant of further assurances. Title shall be conveyed free and clear of all liens and encumbrances subject only to matters contained in Paragraph 6 hereof and those otherwise accepted in writing by BUYER/OPTIONEE. The deed(s) must be in a form that will provide for insuring marketable title in accordance with the terms of this Contract.

S. HAZARDOUS MATERIALS/POLLUTION: BUYER/OPTIONEE shall have the right, prior to Closing, to come upon the Property with its employees, engineers and other personnel to inspect and conduct testing upon the Property. If BUYER/OPTIONEE determines that the Property contains any hazardous wastes or materials or environmental contamination, or has been used as a hazardous waste or chemical storage facility or dumpsite or as a garbage dump or landfill site, BUYER/OPTIONEE may elect to cancel this Agreement and have all sums paid hereunder returned to it. This Agreement is specifically made contingent upon the respective Property being free of contamination and as represented above. BUYER/OPTIONEE agrees: to assume all responsibility for injuries or damages incurred by any employee, contractor or agent of BUYER/OPTIONEE while making any such entry onto the Property; not to make any claim against SELLER/OPTIONOR on account of any such entry upon the Property, and to repair any damage to the property caused by any such entry.

T. SURVIVAL: Notwithstanding anything to the contrary in this Agreement, it is understood and agreed that SELLER/OPTIONOR's representations, warranties, covenants and agreements shall survive Closing and all of the same shall not merge into the Deed(s) to be given by SELLER/OPTIONOR but shall be independently actionable. The covenants, warranties, representations, indemnities and undertakings of SELLER/OPTIONOR set forth in this Agreement shall survive the Closing, the delivery and recording of the

deed and possession of the Property. All elements of this Agreement are consideration relative to this purchase and sale.

U. AGREEMENT EFFECTIVE: Any modification, amendment or alteration to this Agreement shall not be effective or binding upon any of the parties hereto until it has been executed by all of the parties hereto.

V. ADDENDUM: Any addendum attached hereto that is signed by the parties shall be deemed a part of this Agreement.

W. NOTICE: Whenever a party desires or is required to give notice unto the other, it must be given by written notice, and either delivered personally or mailed to the appropriate address indicated on the first page of this Agreement, or such other address as is designated in writing by a party to this Agreement.


X. RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.


Y. OTHER AGREEMENTS: No prior or present agreements or representations shall be binding upon any of the parties hereto unless incorporated in this Contract. No modification or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the parties to be bound thereby.

IN WITNESS WHEREOF, the parties hereto have made and executed this Option Contract for Sale and Purchase on the date written below.

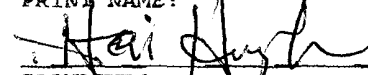
SELLER(S): Minh D. Tran and Thu A. Tran

WITNESSES:


SIGNATURE



MINH D. TRAN

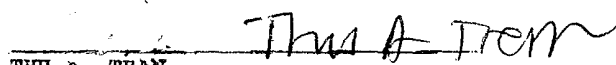
PRINT NAME:


SIGNATURE

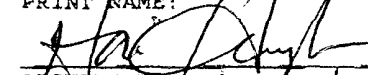
ADDRESS: 15615 E. Colonial Drive
Orlando, FL 32820

PRINT NAME:


SIGNATURE


THU A. TRAN

PRINT NAME:


SIGNATURE
HAI HUYNH

ADDRESS: 15615 E. Colonial Drive
Orlando, FL 32820

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.
Approved as to form and legal
sufficiency.

As authorized for execution by the Board
of County Commissioners at their
_____, 2004, regular meeting.

County Attorney

THIS DOCUMENT IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY
UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

SPL
11/02/04
P:\Users\slee\Agreements\Tran Option Contract2.doc

EXHIBIT "1"

SEMINOLE COUNTY GOVERNMENT
CONTRACT FOR SALE AND PURCHASE

HAZARDOUS MATERIALS OR WASTE
AND ENVIRONMENTAL
CONTAMINATION AFFIDAVIT

(STATE OF FLORIDA)
(COUNTY OF ORANGE)

COME NOW, Minh D. and Thu A. Tran, as SELLERS and, pursuant to the Contract For Sale and Purchase between SELLERS and SEMINOLE COUNTY, a political subdivision of the State of Florida (BUYER), dated _____, 2004, swear and affirm that the following facts are true:

(1) That they are the owners of the property as described in the above-referenced Contract For Sale And Purchase.

(2) There are no facts known to the SELLERS materially affecting the value of the real property which is the subject of the above-referenced Contract which materially affect the value of the Property. There are no liabilities associated with the Property which have been observed by or which are known to the SELLERS. To the best of SELLERS' knowledge and belief, there are no hazardous materials or wastes or any other form of environmental contamination located upon or within the Property.

(4) SELLERS represent and warrant that the Property is not now being used and, to the best of their knowledge and belief, has not been used, by any business or other activity which uses or used environmental contaminants, toxic chemicals, hazardous substances (including hazardous wastes) or substances likely to infiltrate the soil or groundwater and is not now being used and, to the best of their knowledge and belief, has not been used in the past as a hazardous waste or toxic chemical storage facility or dumpsite. SELLERS further represent and warrant that the Property is not now being used and, to the best of their knowledge and belief, has not been used in the past as a garbage dump or landfill area.

(5) SELLERS represent and warrant that to the best of their knowledge and belief, since the time that SELLERS took title to the Property it has not been and is not now in violation of any Federal, State or local law, rule, ordinance or regulation relating to hazardous substances or hazardous wastes, or including, but not limited to, soil and groundwater conditions. SELLERS are not aware that any such violation existed before SELLERS took title to the Property.

(6) SELLERS have obtained any and all necessary permits, registrations, approvals and licenses necessary to generate, manufacture,

transport, treat, store, handle, dispose or process any of the materials and substances referred to herein.

(7) SELLERS shall obtain any and all necessary permits, registrations, approvals and licenses necessary to cleanup, remediate and decontaminate the Property.

(8) SELLERS warrant that they have no knowledge of any Federal, State, or local government agency filing a lien with regard to the property.

(9) To the best of their knowledge and belief, there is no environmental condition, situation or incident on, at or concerning or in any way related to the property that could possibly give rise to any type of action, proceeding or investigation under any law, rule, regulation or common law theory.

(10) To the best of their knowledge and belief, there are not underground storage tanks of any type or of any sort or similar lines or facilities located in anyway on the property.

(11) To the best of their knowledge and belief, the property is not identified on the current or proposed (a) National Priorities List under 40 C.F.R. Part 300, Appendix B; (b) Comprehensive Environmental Response Compensation, and Liability Inventory System ("CERCLIS"); or (c) any list maintained by any Federal, State, or local authority relating in any way to environmental contamination.

(12) To the best of their knowledge and belief, there are no impending changes or events that will substantially affect the property's compliance with environmental legal requirements or the ability to obtain and maintain in effect the non-violation status of the property.

(13) As with all other terms, conditions, covenants and warranties in the underlying Contract for Sale and Purchase, all of the matters set forth herein shall survive closing and burden the SELLERS and their agents and properties wheresoever located.

(14) SELLERS agree to indemnify, reimburse, defend and hold harmless the BUYER from and against all demands, claims, liabilities, fines, fees, losses or expenses including, but not limited to, attorney fees and costs, cleanup costs and fines) by reason of liability, including any strict or statutory liability, imposed upon BUYER, arising out of or as a consequence of the use of the Property by the SELLERS (or any prior owner or operator) which used environmental contaminants, toxic chemicals, hazardous substances (including, but not limited to, hazardous wastes), or substance likely to infiltrate the soil or groundwater, the use of the Property by SELLERS (or any prior owner or operator) as a hazardous waste or toxic chemical storage facility or dumpsite, or the use of the Property by SELLERS or any prior owner or operator as a garbage dump or landfill.

This indemnification specifically includes any and all future or contingent demands, claims, liabilities, fines, fees, losses or expenses. This indemnification includes any and all attorney's fees and legal costs that may be reasonably incurred by the BUYER.

FURTHER AFFIANT(S) SAYETH NAUGHT.

MINH D. TRAN

THU A. TRAN

ADDRESS: 15615 E. Colonial Drive
Orlando, FL 32820

(STATE OF FLORIDA)
(COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2004, by _____, and _____ who are personally known to me or have produced _____ as identification and who did take an oath.

Notary

Print Notary Name

Notary Public in and For the County
and State Aforementioned
My Commission No. _____
My Commission Expires: _____

Notary Seal:

EXHIBIT " 2 "

AFFIDAVIT OF INTEREST IN REAL PROPERTY- F.S. 286.23(2)

THIS AFFIDAVIT OF INTEREST IN REAL PROPERTY is made and entered into this 12th day of November, 2004, for the sole purpose of compliance with Section 286.23(2) of the Florida Statutes.

The undersigned hereby swears and affirms that the following is true:

The name(s) and address(es) of the Grantor(s) of the before named real property is/are:

MINH D. TRAN and THU A. TRAN

The names(s) and addressees) of every person having a beneficial interest in the above named real property that is the subject to negotiations for purchase by Seminole County, a political subdivision of the State of Florida is/are:

- 1.
2.
3.
4.
5.
6.
7. Additional Names and Addresses attached as Exhibit "B" (if any).

FURTHER AFFIANT(S) SAYETH NAUGHT.

Signature of Minh D. Tran
MINH D. TRAN

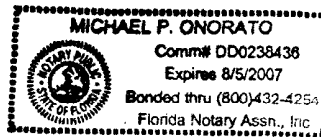
Signature of Thu A. Tran
THU A. TRAN

ADDRESS: 15615 E. Colonial Drive
Orlando, FL 32820

(STATE OF FLORIDA)
(COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this 12 day of November, 2004, by Thu Anh Tran and Minh D. Tran who are personally known to me or have produced Florida Drivers License as identification and who did take an oath.

Signature of Michael P. Onorato
Notary
Michael P. ONORATO
Print Notary Name



Notary Public in and For the County and State Aforementioned
My Commission No. DD0238436
My Commission Expires: 8/5/2007

Notary Seal: