



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 3

DATE: June 3, 2020

TO: Mayor Jerry L. Demings
and the
Board of County Commissioners

THROUGH: Paul Sladek, Manager *PS*
Real Estate Management Division

FROM: Erica Guidroz, Acquisition Agent *PS*
Real Estate Management Division *For E*

CONTACT PERSON: Paul Sladek, Manager

DIVISION: Real Estate Management
Phone: (407) 836-7090

ACTION REQUESTED: Approval and execution of Agreement for Sale and Purchase by and between Carl D. Summers and Ardis E. Summers and Orange County, Florida, approval of Special Warranty Deed from Carl D. Summers and Ardis E. Summers to Orange County, Florida, delegation of authority to the Manager of the Real Estate Management Division to exercise all delegations of authority expressly provided for by the Agreement for Sale and Purchase, and authorization to disburse funds to pay purchase price and closing costs and perform all actions necessary and incidental to closing

PROJECT: Mosquito Control Facility

District 6

PURPOSE: To provide for acquisition, construction, operation, and maintenance of a new mosquito control facility.

ITEMS: Agreement for Sale and Purchase (Parcel 101)

Special Warranty Deed (Instrument 101.1)
Cost: \$1,500,000
Size: 4.07 acres

BUDGET: Account No.: 1023-060-2472-6210

FUNDS: \$1,507,675 Payable to First American Title Insurance Company
(purchase price and closing costs)

APPROVALS: Real Estate Management Division
Mosquito Control Division

REMARKS: The subject property, containing approximately 4.07 acres, is located on the south side of Silver Star Road and the west side of North Powers Drive, in unincorporated Orange County, (Property) and is improved with a warehouse, parking lot, and other improvements currently operated as a auto repair store and previously operated as a Scotty's hardware store.

The Property is being acquired at the request of the Mosquito Control Division to provide land for the construction of a new mosquito control facility and relocation of the Mosquito Control Division's primary offices from their current location on Conroy Road near the Mall at Millenia.

Closing is contingent on the acceptability of the due diligence investigations of the Property to be undertaken by County during the inspection period. Closing is also contingent on the purchase price neither exceeding by more than five percent the average of two appraisals to be obtained by the Real Estate Management Division, nor exceeding the value of the Property established by the appraisal having the higher valuation.

REQUEST FOR FUNDS FOR LAND ACQUISITION

Under BCC Approval

Under Ordinance Approval

Date: April 24, 2020

Total Amount: \$1,507,675.00

Project: Mosquito Control Facility

Parcels: 101

Charge to Account #1023-060-2472-6210

Controlling Agency Approval Signature _____ Date _____

Printed Name: _____

Fiscal Approval Signature _____ Date _____

Printed Name _____

TYPE TRANSACTION (Check appropriate block(s))
 Pre-Condemnation Post-Condemnation

N/A District # 6

- Acquisition at Approved Appraisal
- Acquisition at Below Approved Appraisal
- Acquisition at Above Approved Appraisal
- Acquisition Subject to Approved Appraisal

First American Title Insurance Company
 Purchase Price: \$1,500,000.00
 Closing Costs/Title Insurance: \$7,675.00
 Total \$1,507,675.00

DOCUMENTATION ATTACHED (Check appropriate block(s))

- Contract/ Agreement
- Copy of Executed Instruments
- Certificate of Value
- Settlement Analysis

Payable to: First American Title Insurance Company (\$1,507,675.00)

SPECIAL NOTE: Payment of \$1,507,675.00 to be made by Wire Transfer Only

Recommended by Erica Guidroz 6-4-2020
Erica Guidroz, Acquisition Agent Real Estate Management Div. Date

Payment Approved _____
William Blackham, Assistant Manager, Real Estate Management Div. Date

or
Payment Approved Paul Sladek 6/3/2020
Paul Sladek, Manager, Real Estate Management Division Date

Certified _____
Approved by BCC Deputy Clerk to the Board Date

Examined/Approved _____
Comptroller/Government Grants Check No. / Date

REMARKS: This parcel will close by Wire Transfer for the payment of \$1,507,675.00. Instructions will be sent once the closing date is determined. Please Contact the Agent, Erica Guidroz @ 836-7036 if there are any questions.

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Under BCC Approval

Under Ordinance Approval

Date: April 24, 2020

Project: Mosquito Control Facility

Charge to Account #1023-060-2472-6210

Total Amount: \$1,507,675.00

Parcels: 101

[Signature] 6/4/20
Controlling Agency Approval Signature Date

STEVE HARRISON

Printed Name:

[Signature] 6/4/20
Fiscal Approval Signature Date

Claudia Yabrody
Printed Name

TYPE TRANSACTION (Check appropriate block(s))
 Pre-Condemnation Post-Condemnation

- Acquisition at Approved Appraisal
- Acquisition at Below Approved Appraisal
- Acquisition at Above Approved Appraisal
- Acquisition Subject to Approved Appraisal

N/A District #6

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Payment Approved *[Signature]* 6/3/2020
Paul Sladek, Manager, Real Estate Management Division Date

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Approved by BCC Deputy Clerk to the Board Date

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REMARKS: This parcel will close by Wire Transfer for the payment of \$1,507,675.00. Instructions will be sent once the closing date is determined. Please Contact the Agent, Erica Guidroz @ 836-7038 if there are any questions.

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AGREEMENT FOR SALE AND PURCHASE

THIS AGREEMENT FOR SALE AND PURCHASE (this "**Agreement**") is made and entered into as the Effective Date (hereinafter defined) by and between CARL D. SUMMERS and ARDIS E. SUMMERS, husband and wife, (collectively "**Seller**") and ORANGE COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida ("**Purchaser**").

RECITALS

A. Seller is the sole owner in fee simple owner of that certain real property located at 6330 Silver Star Road, Orlando, Florida, 32818 in unincorporated Orange County, Florida, containing approximately 4.07 acres, bearing Orange County Property Appraiser's Parcel Identification Number 13-22-28-5844-00-411 and more particularly described on **Exhibit "A"** attached hereto and incorporated herein by this reference (the "**Property**").

B. On the terms and conditions set forth herein, Seller wishes to sell to Purchaser, and Purchaser wishes to buy from Seller, the Property.

C. The conveyance of the Property from Seller to Purchaser shall include: (i) all tenements, hereditaments, and appurtenances relating thereto or associated with such Property; (ii) all improvements, buildings, and fixtures, if any, situated on such Property; (iii) all permits, approvals, authorizations, entitlements, and licenses relating to or affecting any such Property which Purchaser approves; (iv) all rights, titles, and interests of Seller in any street, road, alley, or avenue adjoining such Property to the center line thereof; (v) all of Seller's rights, titles, and interests in any strip, hiatus, gore, gap, or boundary adjustment area adjoining or affecting such Property; and (vi) all riparian and other water rights relating to such Property and all rights, titles or interests of Seller in any body of water situated on, under, or adjacent to such Property.

NOW, THEREFORE, in consideration of the Purchase Price (hereinafter defined), the mutual covenants and agreements set forth herein, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller agree as follows:

1. **Recitals**. The above recitals are true and correct and are incorporated herein by this reference.

2. **Agreement**. Seller agrees to sell the Property to Purchaser, and Purchaser agrees to

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purchase the Property from Seller, for the Purchase Price and on the terms and conditions set forth in this Agreement.

3. Effective Date. The effective date of this Agreement (the “**Effective Date**”) shall be latest of: (i) the date this Agreement is executed by Seller; (ii) the date this Agreement is executed by Purchaser; and (iii) the date this Agreement is approved by the Orange County Board of County Commissioners.

4. Purchase Price. Subject to such credits, adjustments, and prorations, if any, for which provisions are hereinafter made, the total purchase price to be paid by Purchaser to Seller for the Property shall be One Million Five Hundred Thousand and No/100 U.S. Dollars (\$1,500,000.00) (the “**Purchase Price**”).

5. Title and Survey.

5.1 Within thirty (30) days after the Effective Date, Purchaser may, at Purchaser’s expense, obtain an ALTA title insurance commitment for an Owner’s Title Insurance Policy (Form 2006), in the amount of the Purchase Price, with an effective date on or after the Effective Date, together with copies of all instruments referred to in both Schedule A and Schedule B thereof (collectively, the “**Commitment**”) issued by First American Title Insurance Company (the “**Title Company**”) The Commitment shall evidence that, upon execution, delivery, and recordation of the Deed (hereinafter defined), and the satisfaction of all requirements specified in Schedule B, Section I, of the Commitment, Purchaser shall acquire indefeasible fee simple and marketable title to the Property, subject only to the Permitted Exceptions (hereinafter defined).

5.2 Within ninety (90) days after the Effective Date, Purchaser may, at Purchaser’s expense, obtain and deliver to Seller a boundary survey of the Property (the “**Survey**”), prepared by a licensed Florida registered land surveyor in accordance with the minimum technical requirements and standards promulgated by the Florida Board of Professional Surveyor and Mappers, Chapter 5J-17, of the Florida Administrative Code, Section 472.027, Florida Statutes and ALTA/NSPS Land Title Survey Standards, including a metes and bounds legal description of the Property. The Survey, if obtained, shall be in the form required by the Title Company to delete the standard survey exception in the Commitment and shall show all improvements, setbacks, easements, encroachments, or overlaps on the Property and all matters affecting title which are capable of being shown on the Survey and are set forth on Schedule B, Section II, of the Commitment. The Survey, if obtained, shall, at a minimum, be certified to the following parties: Purchaser, Seller, and the Title Company. At Purchaser’s election, Seller agrees to utilize the metes and bounds legal description created by the Survey when conveying the Property pursuant to the Deed at the Closing (hereinafter defined).

5.3 Within one hundred (100) days after the Effective Date (the “**Objection Period**”), Purchaser may deliver to Seller written notice of any title or survey matters which are not acceptable to Purchaser in its sole and absolute discretion (the “**Objections**”). If Purchaser raises any Objections, then Seller shall, within fifteen (15) days after receipt of Purchaser’s Objections, (the “**Response Period**”) notify Purchaser in writing as to whether or not Seller, at Seller’s expense, agrees to cure any of the Objections and, if so, which Objections Seller agrees to

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cure. If Seller does not provide Purchaser with a written response to the Objections on or before the expiration of the Response Period, it shall be presumed that Seller is unwilling to attempt to cure any of the Objections. If Seller agrees to cure any of the Objections, then Seller, at Seller's expense, shall undertake reasonable and diligent efforts to cure and remove such Objections on or before five (5) business days prior to Closing (the "**Cure Period**"). As Seller completes the cure of any Objection, Seller shall notify Purchaser in writing of the same; if Seller does not notify Purchaser on or before expiration of the Cure Period that Seller has cured a particular Objection that Seller has agreed to cure, it shall be presumed Seller has been unable to do so. If, after the exercise of reasonable and diligent efforts, Seller has been unable (or deemed to be unable) to cure any Objection (that Seller has agreed to cure) within the Cure Period, then Purchaser shall elect, by written notice to Seller delivered at or prior to Closing, to either: (i) terminate this Agreement; or (ii) waive such uncured Objections and accept title and survey as it then is without setoff or reduction in the Purchase Price. The Manager of the Orange County Real Estate Management Division is hereby authorized, on behalf of Purchaser, to furnish any notice required or allowed under, and/or to terminate this Agreement pursuant to, this Section 5.3.

5.4 Any defect in title or survey which Purchaser does not object to on or before the expiration of the Objection Period, together with any and all uncured Objections which Purchaser elects to waive in writing, shall be deemed permitted exceptions ("**Permitted Exceptions**").

5.5 Not later than five (5) business days prior to Closing, Purchaser may cause the Title Company to endorse the Commitment to update the effective date of the Commitment. If the endorsement to the Commitment includes any additional requirements in Schedule B, Section I, Seller must satisfy the same prior to Closing at Seller's sole cost and expense unless said new requirements were caused by an action of Purchaser. If the endorsement to the Commitment includes any exceptions in Schedule B, Section II, that are not already Permitted Exceptions, Seller must take all action necessary to delete the same prior to Closing at Seller's sole cost and expense unless: (i) said new exceptions were caused by an action of Purchaser; or (ii) Purchaser consents in writing to the same as Permitted Exceptions prior to the Closing. Failure to satisfy said new requirements and/or delete said new exceptions shall be a default under this Agreement by Seller.

5.6 In the event that Purchaser terminates this Agreement under any right of termination granted by this Section 5, the parties hereto shall thereafter be relieved of all rights and obligations hereunder, except for those rights and obligations which expressly survive the termination of this Agreement.

6. Inspection Period.

6.1 Purchaser shall have one hundred and twenty (120) days from the Effective Date (the "**Inspection Period**") within which to investigate the physical, legal, and economic feasibility of acquiring, owning, improving, developing, using, occupying, operating, and maintaining the Property for Purchaser's intended uses. For the purposes of conducting this investigation, Purchaser shall have the right, both during the Inspection Period, and at all other times that this Agreement is in effect, during normal business hours to personally or through its agents, employees, and independent contractors, to enter upon the Property (including any

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buildings, structures, or other improvements located thereon) for the purposes of inspecting the Property (including any buildings, structures, or other improvements located thereon), making additional surveys, soil tests, environmental tests, test borings, topographical studies, and conducting such other investigations of the Property (including any buildings, structures, or other improvements located thereon), which Purchaser deems appropriate, in Purchaser's sole and absolute discretion. Notwithstanding the foregoing, prior to any entry pursuant to this Section 6.1 into/within any buildings or structures located upon the Property, Purchaser shall provide Seller with reasonable prior notice of any intended entry so that Seller may arrange to provide Purchaser (and/or Purchasers' agents, employees, and independent contractors) access to said buildings or structures and to have a representative present during any time that Purchaser has entered into/within any buildings or structures located upon the Property; notwithstanding the notice provisions of Section 12 below, the "prior notice" required by this Section 6.1 need not be in writing, may be provided by Purchaser to Seller's representative and owner Carl Summers at Phone: 407-448-2676 or Email: ardcarsunny@aol.com, and shall be considered "reasonable prior notice" if it is provided not less than 24 hours prior to Purchaser's intended entry.

6.2 The Due Diligence Contingency, set forth in **Exhibit "B"** attached hereto and incorporated herein by this reference, is a material condition of this Agreement.

6.3 In the event Purchaser determines, in its sole and absolute discretion, which may be exercised for any reason or no reason at all, that it is not desirable or feasible for Purchaser to acquire the Property – or that Purchaser is not satisfied with any other matter (including without limitation those other matters set forth in this Section 6 above or any other matter(s) which Purchaser deems relevant) – then, in such event, Purchaser may, in Purchaser's sole and absolute discretion, elect to terminate this Agreement by furnishing written notice thereof to Seller prior to the expiration of the Inspection Period and in such event the parties hereto shall thereafter be relieved of all rights and obligations hereunder except for those rights and obligations which expressly survive the termination of this Agreement. The Manager of the Orange County Real Estate Management Division is hereby authorized, on behalf of Purchaser, to furnish any notice required or allowed under, and/or to terminate this Agreement pursuant to, this Section 6.3.

6.4 After the Effective Date (and until this Agreement is terminated, if ever), Seller shall not change or cause the physical condition of the Property to change relative to its condition on the Effective Date, absent the prior written consent of Purchaser to any such change.

7. Closing.

7.1 Unless otherwise agreed in writing between Purchaser and Seller, the closing of the purchase and sale of the Property contemplated herein ("**Closing**") shall be a "mail away" closing and all documents and funds necessary for the Closing shall be received by the Title Company (the "**Closing Agent**") on or before thirty (30) days after the expiration of the Inspection Period (the "**Closing Date**") (except to the extent that the Closing Date is extended by other provisions of this Agreement).

7.2 At Closing:

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7.2.1 Purchaser shall pay to Seller the Purchase Price, subject to the adjustments and prorations herein provided.

7.2.2 Seller shall execute and deliver to Purchaser a special warranty deed (a "**Deed**") conveying, in accordance with all applicable laws and ordinances, title to the Property free and clear of all liens, special assessments, easements, reservations, restrictions, and encumbrances whatsoever except for the Permitted Exceptions. The Deed shall also transfer all of Seller's right, title, and interest in and to all improvements, buildings, and fixtures, if any, situated in, over, under, on, upon, through, or across the Property.

7.2.3 Seller shall also execute and deliver, in such form reasonably acceptable to Purchaser, Seller, and the Title Company, as applicable:

- (a) a closing statement;
- (b) an affidavit and/or such other instruments as shall be required for Seller to comply with Section 286.23, Florida Statutes, pertaining to disclosure of beneficial ownership;
- (c) an owner's affidavit in the form required by the Title Company to delete the standard exceptions on an owner's title policy; and
- (d) a non-foreign person affidavit pursuant to Section 1445(b)(2) of the Internal Revenue Code.

7.2.4 All taxes to the Closing Date shall be paid by Seller at Closing pursuant to Section 196.295, Florida Statutes, unless the conveyance occurs between November 1 and December 31 of the year of conveyance, in which case ad valorem taxes shall be paid by Seller for the year of conveyance.

7.2.5 Seller shall pay all pending, certified, confirmed, and ratified charges or assessments against the Property existing as of the day before the Closing Date.

7.2.6 Seller shall pay for the cost of recording the Deed, state documentary stamp tax on the Deed, the costs of recording of any corrective instruments necessary to cure any Objections, and the costs of recording any other instruments to be recorded in connection with this Agreement and/or the Closing.

7.2.7 Purchaser shall pay for the Commitment and the title insurance premium for the owner's policy for the Property (and any endorsements thereto).

7.2.8 Purchaser shall pay for the Survey and the Appraisals (hereinafter defined).

7.2.9 Each party shall bear its own attorney's fees and expenses in connection with Closing.

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7.2.10 Seller shall execute and deliver such other documents and instruments as are helpful or reasonably necessary to evidence or effectuate the transactions contemplated hereby.

7.3 Possession of the Property shall be delivered to Purchaser at Closing.

8. Contingencies.

8.1 Contingencies Defined. The Closing is contingent upon and subject to those matters specifically set forth hereinafter in this Section 8.1 (the “**Contingencies**”):

8.1.1 Title Cures. At or before Closing, Seller shall have cured all Objections that Seller agreed to cure pursuant to Section 5.3 above.

8.1.2 Marked-Up Commitment. At or before Closing, Title Company shall have provided Purchaser with a “marked-up” version of the Commitment unconditionally obligating Title Company to issue an owner’s policy to Purchaser in the condition required by this Agreement.

8.1.3 Appraisals. Prior to the expiration of the Inspection Period, Purchaser, at Purchaser’s expense, shall have received, reviewed, and approved two (2) real estate appraisals of the Property, (the “**Appraisals**”) prepared by MAI appraisers selected by Purchaser (in Purchaser’s sole discretion) – which approval shall be evidenced by issuance of one or more review appraiser’s statements, prepared by staff of the Orange County Real Estate Management Division, concluding that the Appraisals meet current Uniform Standards of Professional Appraisal Practice and applicable Orange County standard procedures.

8.1.4 Purchase Price Cap. The Purchase Price neither: (i) exceeds the value of the Property established by the County-approved Appraisal having the higher valuation of the Property; nor (ii) exceeds, by more than five percent (5%), the average of the two valuations of the Property established by the two County-approved Appraisals.

8.2 Waiver of Contingencies. Any Contingency may be waived, lessened, or otherwise removed from this Agreement by Purchaser at any time by delivery of written notification from Purchaser to Seller. The Manager of the Orange County Real Estate Management Division is hereby authorized, on behalf of Purchaser, to waive Contingencies and furnish notices pursuant to this paragraph.

8.3 Effect of Failure of Contingency. If all Contingencies have not been satisfied (by the person responsible for the satisfaction of the same) or waived in writing by Purchaser on or before the Closing Date (or on or before such earlier date as may be specified for the satisfaction of any particular Contingency in Section 8.1 above), then this Agreement shall automatically terminate and be of no further force or effect. In the event this Agreement terminates pursuant to this Section 8.3 due to a failure of any Contingency, the parties shall thereafter be relieved of all rights and obligations hereunder except for those rights and obligations which expressly survive the termination of this Agreement.

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8.4 Extension of the Closing Date. In the event that any (or all) of the Contingencies are not satisfied or waived on or before thirty (30) days following the end of the Inspection Period, then the Parties may mutually agree to extend the Closing Date through one or more written extensions executed by Purchaser and Seller; provided, however, in no event shall the Closing Date be extended to a time later than one hundred twenty (120) days from the end of the Inspection Period (i.e. the aggregate total of all extensions to the Closing Date may not exceed ninety (90) additional days). The Manager of the Orange County Real Estate Management Division is hereby authorized, on behalf of County, to execute written extensions pursuant to this paragraph.

9. Seller's Representations and Warranties.

9.1 Seller hereby represents and warrants to Purchaser that each of the following are true and correct as of the Effective Date, and that each of the following shall be true and correct as of the Closing Date as if such representations and warranties were made again on the Closing Date:

9.1.1 This Agreement constitutes a valid and binding obligation of Seller and is enforceable against Seller in accordance with its terms.

9.1.2 The execution and delivery of all instruments and documents required hereunder to be obtained or authorized by Seller in order to consummate this transaction have been or will be obtained and authorized as so required.

9.1.3 To Seller's actual knowledge, there are no actions, suits, claims, demands, or proceedings of any kind or nature, legal or equitable, affecting the Property or any portion thereof, and that to Seller's actual knowledge there are no liens, special assessments, easements, reservations, restrictions, covenants, or encumbrances affecting the Property – other than matters of public record that will be reflected on the Commitment.

9.1.4 There are no other persons or entities known to Seller who have any rights to acquire the Property or have any rights or claims therein or thereto or for any portion thereof – other than matters of public record that will be reflected on the Commitment.

9.1.5 The Property is not any type of security or collateral for any obligation – other than matters of public record that will be reflected on the Commitment.

9.1.6 The Property is not subject to any recorded or unrecorded licenses, leases, or other occupancy agreements of any kind or nature.

9.1.7 There are no outstanding state or federal tax liens, claims, or demands against Seller which constitute or will constitute a lien against the Property or any portion thereof.

9.1.8 After the Effective Date, Seller shall not convey, transfer, or encumber the Property, take any action to cause the Property to be conveyed, transferred, or encumbered, or grant any interest in the Property to any person or entity other than to Purchaser

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as contemplated in this Agreement.

9.1.9 Seller will notify Purchaser promptly of any occurrence, notification, or variation in the representations or warranties contained herein.

9.1.10 Seller has received no written notification and, to Seller's actual knowledge, has received no other notification from any individual, corporation, governmental agency, bureau, or authority which pertains to or concerns a violation or suspected violation of any environmental or ecological law or regulation relating to the Property.

9.1.11 To Seller's actual knowledge, there presently does not exist and there has never existed on, above, or under the Property any Hazardous Material, and that, to Seller's actual knowledge, neither Seller, nor any other person, has ever caused or permitted any Hazardous Materials to be placed, held, located, or disposed of, on, under, or at the Property or any part thereof. To Seller's actual knowledge, no part of the Property has ever been used as a manufacturing, storage, or dumpsite for Hazardous Materials, nor is any part of the Property affected by any Hazardous Materials Contamination.

(a) "Hazardous Materials" shall mean: (a) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), as amended from time to time, and regulations promulgated thereunder; (b) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), as amended from time to time, and the Superfund Amendments and Reorganization Act of 1986, as amended from time to time, and regulations promulgated thereunder; (c) asbestos; (d) polychlorinated biphenyls; (e) petroleum, petroleum by-products or petroleum constituents; (f) any substance the presence of which is prohibited by any governmental requirement; and (g) any other substance which by any governmental requirement requires special handling in its collection, storage, treatment or disposal.

(b) "Hazardous Materials Contamination" shall mean the contamination (whether presently existing or hereafter occurring) of any improvements, facilities, soil, ground water, ambient air, subsurface strata, biota, or other elements on, or of, the Property by Hazardous Materials, or the contamination of any improvements, facilities, soil, ground water, ambient air, subsurface strata, biota, or other elements on, or of, any other property as a result of Hazardous Materials emanating from the Property.

9.1.12 To Seller's actual knowledge, there are no underground storage tanks located on the Property, other than septic tanks, and no portion of the Property has ever been used for a garbage dump, landfill, or service station or other business selling petroleum or petroleum products.

9.1.13 Seller is not in default under any indenture, mortgage, deed of trust, loan agreement, or other agreement that affects any portion of the Property.

9.2 The failure of any of the representations, warranties, or covenants contained

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in Section 9.1 to be true and correct on the Effective Date and on the Closing Date shall be a Seller's default under this Agreement. In addition, if, after Closing, Purchaser becomes aware that any of the representations or warranties are not true or correct, Purchaser shall have all remedies at law, in equity, and under this Agreement with respect thereto, however, in no event shall Seller be liable for any consequential, indirect, special, or punitive damages; provided, however, that the terms of this Section 9 shall only survive Closing for a period of one (1) year after the Closing.

For purposes of this Agreement whenever the phrase "to Seller's actual knowledge" or words of similar import are used, they shall be deemed to refer to facts within the actual knowledge of Carl Summers, without any investigation or inquiry.

10. Brokers and Commission. Seller and Purchaser represent to each other that neither party is aware of any person or entity which would be entitled to a commission, finder's fee, compensation, or brokerage fee upon the consummation of this transaction. The terms of this provision shall survive Closing, or termination of this Agreement, for a period of one (1) year after the date of Closing or such termination.

11. Default and Remedies.

11.1 In the event either party fails to comply with or perform any of the conditions, covenants, or agreements contained in this Agreement and prior to the exercise of the rights hereinafter provided to either party, the defaulting party shall be entitled to written notice of the specific noncompliance, breach, or other problem and to ten (10) days after the receipt of that written notice in which to cure said noncompliance, breach, or other problem, except the parties shall only have three (3) days to cure a failure to timely close the transaction contemplated hereby. If such noncompliance, breach, or other problem is not corrected within the applicable period, then an event of default shall have occurred and the parties shall be entitled to the rights and remedies hereinafter set forth.

11.2 In the event of a default by Seller, then Purchaser may, at Purchaser's election, either: (i) terminate this Agreement by written notice to Seller whereupon the parties hereto shall thereafter be relieved of all rights and obligations hereunder except for those rights and obligations which expressly survive the termination of this Agreement; or (ii) pursue any and all remedies available to Purchaser at law or in equity, including without limitation an action against Seller for specific performance.

11.3 In the event of a default by Purchaser, then Seller, as Seller's sole and exclusive remedy, shall be entitled to terminate this Agreement. Thereafter, all rights, liabilities, and obligations of Purchaser and Seller under this Agreement shall terminate except for those rights and obligations which expressly survive the termination of this Agreement. In no event shall Seller be entitled to initiate litigation seeking legal or equitable remedies, including but not limited to the right of specific performance, against Purchaser.

11.4 The Manager of the Orange County Real Estate Management Division is hereby authorized, on behalf of Purchaser, to furnish any notice required or allowed under, and/or to terminate this Agreement pursuant to, this Section 11.

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12. Notices.

12.1 Any notices which may be permitted or required under this Agreement must be in writing, sent to the appropriate notice address(es) for such party set forth below, and may be given by hand delivery; certified mail, return receipt requested; or guaranteed overnight delivery service. Notices shall be deemed given and received upon receipt by the party to whom the notices are sent, as evidenced by the notation on the records of the courier, U.S. Postal Service, or overnight delivery service, as applicable.

As to Seller: Carl D. Summers and Ardis E. Summers
PO BOX 848
Orlando, FL 34760

As to Purchaser: Orange County, Florida
Real Estate Management Division
Attn: Manager
400 E. South St.
5th Floor
Orlando, FL 32801

with a copy to: Orange County, Florida
County Attorney's Office
Attn: County Attorney
201 S. Rosalind Ave.
3rd Floor
Orlando, FL 32801

12.2 Failure to conform to the requirement of the forms of notices above shall not defeat the effectiveness of notice actually received by the addressee, but such notice shall be deemed given only upon such actual receipt. Addresses for notice may be changed by giving notice hereunder.

12.3 Notwithstanding any provisions hereof to the contrary, legal counsel for either party may provide any notice required or permitted hereunder by communication from said party's legal counsel pursuant to methods of notice permitted under this Section 12.

12.4 The Manager of the Orange County Real Estate Management Division is hereby authorized, on behalf of Purchaser, to furnish any notice required or allowed under this Section 12.

13. Miscellaneous.

13.1 No Waiver. Neither the failure of either party to exercise any power or right herein provided or to insist upon strict compliance with any obligation herein specified, nor any custom, use, or practice at variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms and provisions of this Agreement.

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13.2 Entire Agreement; Modification. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and no representations, inducements, promises, or other agreements, oral, written, or otherwise, between the parties which are not embodied within this Agreement shall be of any force or effect. Any amendment to this Agreement shall not be binding upon any of the parties hereto unless such amendment is in writing and fully executed by all parties hereto.

13.3 Survival. This Agreement and each of the provisions hereof shall not survive the Closing hereunder, except as specifically provided herein.

13.4 Binding Effect. The provisions of this Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and permitted assigns.

13.5 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same Agreement. Signature pages may be detached from the various counterparts and attached to a single copy of this document to physically form one document.

13.6 Headings; Gender. The headings inserted at the beginning of each section are for the convenience of the parties only and do not add to or subtract from the meaning and contents of each section. Words of any gender used in this Agreement should be held and construed to include any other gender, and words of a singular number shall be held to include the plural, and vice-versa, unless the context requires otherwise.

13.7 Further Assurances. After the Effective Date, Seller shall, at the request of Purchaser, make, execute, and deliver or obtain and deliver all such affidavits, deeds, approvals, certificates, resolutions, and other instruments and documents, and shall do or cause to be done all such other things which Purchaser may reasonably request and which are reasonably required to effectuate the provisions and intention of this Agreement.

13.8 Severability. This Agreement is intended to be performed in accordance with and only to the extent permitted by all applicable laws, ordinances, rules, and regulations. If any of the provisions of this Agreement or the application thereof to any person or circumstances shall for any reason and to any extent be invalid or unenforceable, then the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by law.

13.9 Time of the Essence. Time is of the essence of this Agreement.

13.10 Choice of Law. This Agreement shall be governed by and construed and enforced in accordance with substantive laws of the State of Florida.

13.11 Calculation of Time Periods. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday, or holiday, in which event the period shall

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run until the end of the next day which is neither a Saturday, Sunday, or holiday. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. local time in Orange County, Florida. For purposes of this Agreement, "holiday" shall mean federal holidays as defined in 5 U.S.C. 6103.

13.12 Assignment. Neither Seller nor Purchaser shall assign its rights or obligations under this Agreement without the prior written consent of the other party.

13.13 Attorney's Fees. Both parties expressly agree that each party shall bear the cost of its own attorney's fees in connection with any dispute arising out of this Agreement, or the breach, enforcement, or interpretation of this Agreement, regardless of whether such dispute results in mediation, arbitration, litigation, or none of the above, and regardless of whether such attorney's fees are incurred at trial, retrial, on appeal, at hearings or rehearings, or in administrative, bankruptcy, or reorganization proceedings.

13.14 Waiver of Jury Trial. SELLER AND PURCHASER HEREBY MUTUALLY, KNOWINGLY, VOLUNTARY, AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY AND ALL CLAIMS AND CAUSES OF ACTION OF ANY KIND WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY AFFIRMATIVE DEFENSES, COUNTERCLAIMS, OR CROSS CLAIMS, BASED ON THIS AGREEMENT OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY WITH RESPECT HERETO OR THERETO WHETHER SUCH CLAIMS OR CAUSES OF ACTION ARE KNOWN OR UNKNOWN AT THE TIME OF EXECUTION OF THIS AGREEMENT. FURTHERMORE, NONE OF THE UNDERSIGNED SHALL SEEK TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY ACTION IN WHICH A JURY TRIAL CANNOT BE WAIVED. THIS WAIVER IS A MATERIAL INDUCEMENT FOR PURCHASER ENTERING INTO THIS AGREEMENT (OR ANY AGREEMENT EXECUTED IN CONNECTION WITH THIS AGREEMENT) FROM, OR WITH SELLER.

[signature pages and exhibits follow]

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IN WITNESS WHEREOF Seller and Purchaser have caused this Agreement to be executed effective as of the Effective Date.

“SELLER”

**CARL D. SUMMERS and ARDIS E.
SUMMERS, husband and wife**

By: Carl D. Summers

Print Name: Carl D. Summers

Title: A married man

Date: 3-13-2020

By: Ardis E. Summers

Print Name: Ardis E. Summers

Title: A married woman

Date: 3-13-2020

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IN WITNESS WHEREOF Seller and Purchaser have caused this Agreement to be executed effective as of the Effective Date.

“COUNTY”

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

BY: _____
Jerry L. Demings
Orange County Mayor

DATE: _____

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

BY: _____
Deputy Clerk

Printed Name

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EXHIBIT "A"
Legal Description of the Property

A portion of Lots 41 and 42, WILLIS R. MUNGER'S SUBDIVISION of Section 13, Township 22 South, Range 28 East, as recorded in Plat Book E, Page 23, Public Records of Orange County, Florida, more particularly described as follows: From the Northeast corner of the Southeast 1/4 of the Northwest 1/4 of said Section 13, run South along the East line of said Southeast 1/4 of the Northwest 1/4 a distance of 194.00 feet; thence run South 89 degrees 25'30" W parallel to the North line of said Southeast 1/4 of the Northwest 1/4 a distance of 30.00 feet to the Point of Beginning, said point being on the West right-of-way line of Powers Drive; thence run South along said West right-of-way line 456.63 feet to the South line of aforesaid Lot 41; thence run South 89 degrees 08'37" W along South line of said Lot 41 and Lot 42 a distance of 330.00 feet; thence run North 596.25 feet to the South right-of-way line of Silver Star Road (S.R. #438 Section 75250-2505); thence run North 89 degrees 25'30" E along said South right-of-way line 168.98 feet; thence South 138.00 feet; thence North 89 degrees 25'30' E 161.00 feet to the Point of Beginning.

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EXHIBIT "B"
Due Diligence Contingency

I. As part of its investigations of the Property pursuant to Section 6 of the Agreement, Purchaser may obtain within the Inspection Period a report (an "**Environmental Survey**") by a qualified consultant or consultants, including members of Purchaser's own professional staff (the "**Consultants**"). Such Environmental Survey may include, without limitation, the following (all of which shall hereinafter be collectively referred to as the "**Environmental Exceptions**"):

- (i) contamination of the Property by hazardous materials;
- (ii) apparent violation of environmental requirements upon or associated with activities upon the Property;
- (iii) the presence of any endangered or threatened species or plant life on the Property;
- (iv) whether the Property has any historical or archeological significance; and/or
- (v) potential incurrence of environmental damages by the owner(s) or operator(s) of the Property.

The Environmental Survey may also include, without limitation, the results of:

- a) a site inspection;
- b) interviews of present occupants of the Property, if any;
- c) a review of public records concerning the Property and other properties in the vicinity of the Property;
- d) a review of aerial photographs of the Property and other evidence of historic land uses;
- e) soil and/or ground water testing and/or analysis;
- f) asbestos testing and/or analysis;
- g) testing and/or analysis of any other apparently applicable environmental hazard or condition; and/or
- h) building inspection.

The Environmental Survey shall include (if determined by the Consultants) the estimated cost of cure and period of time required to remediate any Environmental Exceptions.

II. The consultants are hereby authorized to enter upon the Property for such purposes and to perform such testing and take such samples as may be necessary in the reasonable opinion of the Consultants to conduct the Environmental Survey.

III. Seller will cooperate with the Consultants and supply to the Consultants such historical and operational information as may be reasonably requested by the Consultants, including any notices, permits, or other written communications pertaining to possible Environmental Exceptions, and including without limitation, any studies or reports prepared by or for Seller, or furnished to Seller, or its agents or consultants, and Seller will make available to the Consultants any persons known to have knowledge of such matters.

IV. If the Environmental Survey reveals any Environmental Exceptions, or if the other testing performed by Purchaser reveals any condition of the Property which Purchaser deems to require further evaluation, then, upon written notice of such fact to Seller, the Inspection Period shall be automatically extended an additional ninety (90) days for further testing. If the Environmental Survey or other testing results are unacceptable to Purchaser, then this Agreement shall be terminated upon written notice to Seller of such unacceptability and no party to this Agreement shall have any further liability to any other.

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 Name of Owners: Carl D. Summers and Ardis E. Summers
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SETTLEMENT ANALYSIS

_____	Pre-Condemnation
<u> X </u>	Not Under Threat

County's Appraised Value

Land: 4.07± acres	\$Pending
Improvements: Parking lot, concrete wall, metal roofed building, accessory building, any fixtures	\$Pending
Cost-to-Cure:	\$
Other Damages:	\$
Total Appraisal Value	\$

Owner's Requested Amount—Initial

Owner's Counter Offer (Global):	\$ 1,500,000
Total Owner's Requested Amount—Initial:	<u>\$ 1,500,000</u>

Owner's Requested Amount—After Negotiations

Owner's Counter Offer (Global):	\$ 1,500,000
Total Owner's Requested Amount—After Negotiations:	<u>\$ 1,500,000</u>

Recommended Settlement Amount	<u>\$ 1,500,000</u>
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EXPLANATION OF RECOMMENDED SETTLEMENT

(Memorandum to File pursuant to Section 4 of Ordinance 92-29)

The property at 6330 Silver Star Road is being acquired for construction of a new mosquito control facility. The property is not under threat. The subject is located on the south side of Silver Star Road and the West side of North Powers Drive, in unincorporated Orange County, Florida. The property, containing approximately 4.07 acres of improved land, features a metal warehouse building, accessory building, and a concrete wall containing two fences. The exterior of the warehouse building is improved with metal siding and the interior is inexpensive with minimal materials.

The landowner contacted the County to inquire if the County would be interested in buying his warehouse. The property had not been for sale and landowner had just closed his business in December of 2019. During negotiations, the County made a verbal offer in the amount of \$1,317,000 which was the Orange County Property Appraiser's assessed value in 2019. The landowner counteroffered at

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\$1,500,000 for the property and said he would work directly with the County and not seek representation by legal counsel or a broker.

The contract was signed by the property owner on March 13, 2020, pending BCC approval, and is contingent on the purchase price of \$1,500,000 neither: (i) exceeding by more than five percent (5%) the average of two appraisals to be obtained by the Real Estate Management Division; nor (ii) exceeding the value of the property established by the appraisal having the higher valuation.

The purchase of this property is needed for a new mosquito control facility. Because of the scarcity of similar sites, the property's unique physical characteristics, and its geographic location, this acquisition will enable the Mosquito Control Division to move into a new facility. I recommend and request approval of the \$1,500,000 to ensure the continuing public health and safety of Orange County residents and businesses.

Recommended by: Erica Guidroz Date: 6-4-2020
Erica Guidroz, Acquisition Agent, Real Estate Mgmt. Division

Recommended by: Robert K. Babcock Date: 6-4-2020
Robert K. Babcock, Acquisition Supervisor, Real Estate Mgmt. Division

Approved by: _____ Date: _____
William Blackham, Assistant Manager, Real Estate Mgmt. Division

or
Approved by: Paul Sladen Date: 6/4/2020
Paul Sladen, Manager, Real Estate Mgmt. Division