SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: Gallagher property

DEPARTMENT: County Attorney's Office **DIVISION:** Property Acquisition

AUTHORIZED BY: Lola Pfeil **CONTACT:** Sharon Sharrer **EXT:** 7257

MOTION/RECOMMENDATION:
Approve and execute the purchase agreement relating to Parcel Number 134 of the road improvement project for Chapman Road, for $32,000.00, for full settlement of all claims for compensation from which Seminole County might be obligated to pay relating to this parcel.

District 1 Bob Dallari Robert A. McMillan

BACKGROUND:
see attached

STAFF RECOMMENDATION:

Staff recommends that the Board approve and execute the purchase agreement relating to Parcel Number 134 of the road improvement project for Chapman Road, for $32,000.00, for full settlement of all claims for compensation from which Seminole County might be obligated to pay relating to this parcel.

ATTACHMENTS:

1. Gallagher property

Additionally Reviewed By:
No additional reviews

SEMINOLE COUNTY
FLORIDA'S NATURAL CHOICE

COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Matthew G. Minter, Deputy County Attorney MG Minter

FROM: Neil Newton, Major Project Acquisition Coordinator NN

CONCUR: Antoine Khoury, P.E./Assistant County Engineer AIK 11-6-09

DATE: November 6, 2009

SUBJECT: Purchase Agreement Authorization
Owner: Donald Gallagher Trust
Parcel No.: 134
Chapman Road

This memorandum requests authorization by the Board of County Commissioners (BCC) and execution by the Chairman of a purchase agreement for Parcel No. 134. The parcel is required for the Chapman Road improvement project. The purchase price is $32,000.00, for full settlement of all claims for compensation from which Seminole County might be obligated to pay relating to this parcel.

I THE PROPERTY

A. Location Data

The subject property is located on the south side of Chapman Road, east of Chapman Woods Drive and west of Alafaya Trail within Seminole County, Florida.

1. Location Map (Exhibit A);
2. Purchase Agreement (Exhibit B)

B. Address

121 Chapman Road
Oviedo, Florida 32765

C. Description

The subject property contains approximately 42,870 square feet. The property is unimproved and vacant.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No.: 2008-R-140 on June 10, 2008, authorizing the acquisition of Parcel No. 134, and finding that the improvements are necessary and serve a County and public purpose and are in the best interests of the citizens of Seminole County.

III ACQUISITION/REMAINDER

The fee taking is a rectangular shaped parcel of land from the north side of the property abutting the south side of Chapman Road. The taking contains 1,662 square feet leaving a remainder of 41,208 square feet. There are no site improvements within the taking area.

IV APPRAISED VALUE

The County's appraised value amount is $18,500.00. Clayton, Roper & Marshall, Inc. prepared the County's appraisal and the County's review appraiser, Mark Sawyer, MAI with HDR Engineering, Inc., approved the report.

V BINDING OFFER/NEGOTIATIONS

On March 10, 2009, the BCC authorized a binding written offer at $24,000.00. Thereafter, County staff, through its acquisition consultant, negotiated this proposed purchase agreement settlement with the owner to purchase the needed property for $32,000.00.

Settlement of this matter by acceptance of the property owner's proposal will reduce the potential expenses and compensation that the County may incur if the offer is rejected and the County elects to implement condemnation to acquire the property.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

This proposed settlement amount, although $8,000.00 more than the County's binding written offer amount, is reasonable under the circumstances inherent in the condemnation process. The owner is represented by an attorney. The negotiated amount is inclusive of all fees and costs. If this property proceeds to condemnation, litigation costs and appraisal and expert costs will have to be paid by the County. These costs would easily exceed the difference in additional settlement funds proposed to be paid.

The cooperative purchase of the property through this proposed settlement is in the best interests of the citizens of Seminole County.

VII RECOMMENDATION

County staff recommends that the BCC authorize settlement in the amount of $32,000.00, for full settlement of all claims for compensation from which Seminole County might be obligated to pay relating to this parcel.

NN/lpk

Attachments:
Location Map (Exhibit A)
Purchase Agreement (Exhibit B)
P:\Users\lkennedy\My Documents\ACQ\Chapman Road\AGENDA ITEM 134 Gallagher.doc

CHAPMAN ROAD

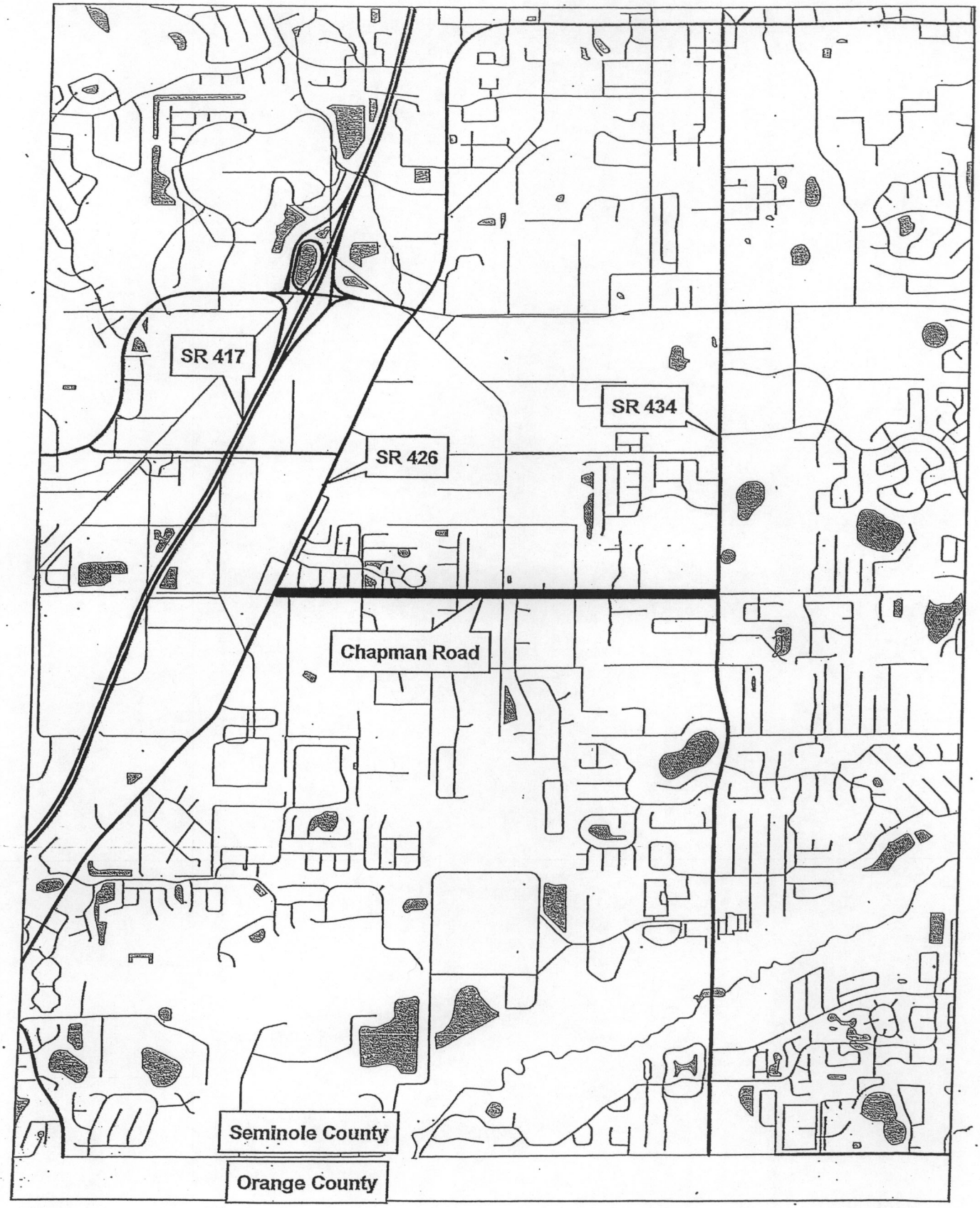

EXHIBIT A

PURCHASE AGREEMENT
FEE SIMPLE

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this 3rd day of August, 2009, by and between **DONALD GALLAGHER TRUST**, whose address is 40 Minnehaha Circle, Maitland, Florida 32715, hereinafter referred to as "OWNER," and **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY."

W I T N E S S E T H:

WHEREAS, the COUNTY requires the hereinafter described property for a road project in Seminole County;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, OWNER hereby agrees to sell and COUNTY hereby agrees to buy the following property upon the following terms and conditions:

I. LEGAL DESCRIPTION

PARCEL NO. 134 **CHAPMAN ROAD**
FEE SIMPLE

A PORTION OF LOT 6, CABELL ESTATES, IN SECTION 27, TOWNSHIP 21 SOUTH, RANGE 31 EAST, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 21, PAGE 87, PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.

BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 27; THENCE NORTH 00°05'27" EAST ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 27, A DISTANCE OF 2654.36 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 27; THENCE SOUTH 89°20'06" EAST ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 27, A DISTANCE OF 240.01 FEET; THENCE SOUTH 00°05'27" WEST, A DISTANCE OF 47.38 FEET TO AN INTERSECTION POINT OF THE WEST LINE OF SAID LOT 6 AND THE SOUTH RIGHT-OF-WAY LINE OF SEMINOLE COUNTY ROAD, CHAPMAN ROAD, PER OFFICIAL RECORDS BOOK 4009, PAGE 1428, PUBLIC RECORDS OF

SEMINOLE COUNTY, FLORIDA, AND THE POINT OF BEGINNING; THENCE SOUTH 89°20'06" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 150.78 FEET TO A POINT ON THE EAST LINE OF SAID LOT 6; THENCE SOUTH 00°05'27" WEST ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 9.77 FEET; THENCE SOUTH 89°42'37" WEST A DISTANCE OF 150.78 FEET TO A POINT ON THE WEST LINE OF SAID LOT 6; THENCE NORTH 00°05'27" EAST ALONG THE WEST LINE OF SAID LOT 6, A DISTANCE OF 12.28 FEET TO AN INTERSECTION POINT OF THE WEST LINE OF SAID LOT 6 AND SAID SOUTH RIGHT-OF-WAY LINE AND THE POINT OF BEGINNING.

CONTAINING 1,662 SQUARE FEET OR 0.038 ACRES, MORE OR LESS.

Parcel I. D. Number: 27-21-31-507-0000-0060

II. PURCHASE PRICE

(a) OWNER agrees to sell and convey the above described property by Warranty Deed, free of liens and encumbrances, unto COUNTY for the sum of THIRTY-TWO THOUSAND AND NO/100 DOLLARS ($32,000.00). The above amount includes all compensation due as a result of this acquisition to the OWNER for any reason and for any account whatsoever.

(b) COUNTY shall be responsible for the following closing costs: recording fees for Warranty Deed and Title Insurance Policy issued to the COUNTY by a title insurance company of the COUNTY's choice.

(c) OWNER shall be responsible for OWNER's own attorney's fees, cost to prepare and all expenses to record instruments necessary to provide title unto COUNTY, free and clear of all liens and encumbrances, and OWNER's share of the pro-rata property taxes outstanding, up to and including the date of closing. The before mentioned closing costs and pro-rata real estate taxes shall be withheld by the COUNTY's closing agent from the proceeds of this sale and paid to the proper authority on behalf of the OWNER.

(d) OWNER covenants that there are no real estate commissions due any licensed real estate broker and further agrees to defend against and pay any valid claims made in regard to this purchase relating to covenants made herein by the OWNER.

III. CONDITIONS

(a) COUNTY shall pay to the Trust Account of OWNER's attorney, Lowndes, Drosdick, Kantor & Reed, P.A., the sum as described in Item II., above, upon the proper execution and delivery of all the instruments required to complete the above purchase and sale to the designated closing agent. OWNER's attorney shall be responsible for the

proper disbursement of those funds. The OWNER agrees to close within seven (7) days of notice by the COUNTY or the COUNTY's closing agent that a closing is ready to occur.

(b) OWNER agrees to vacate and surrender possession of the property upon the date of delivery of the instruments and closing of this Agreement. COUNTY may, but is not obligated to, extend possession of the property by OWNER; provided, however, that such approval will be evidenced by a written document of equal dignity herewith. During the period from the date of the execution of this Agreement by both parties and the closing, OWNER agrees to exercise diligent care in protecting the property from theft and vandalism. All windows, doors, bathroom fixtures, electrical outlets, heaters and other similar items included in the purchase price, as well as the land itself, shall be preserved in normal conditions and turned over to the COUNTY by the OWNER, intact, if applicable.

(c) Any and all encroachments existing upon the property, other than those improvements included in the purchase price, are to be removed by the OWNER at the expense of the OWNER prior to closing.

(d) OWNER warrants that there are no facts known to OWNER materially affecting the value of the property which are not readily observable by COUNTY or which have not been disclosed to COUNTY.

(e) The instrument(s) of conveyance to be utilized at closing shall, in addition to containing all other common law covenants through the use of a warranty deed, also include the covenant of further assurances.

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

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

(h) In the event that difficulties arise as to clearing title sufficient to consummate a closing of this Purchase Agreement or difficulties occur in the issuance of a title insurance commitment which is acceptable to the COUNTY, this Agreement shall survive the filing of any eminent domain action by the COUNTY and shall serve as a joint stipulation regarding all valuation issues and fees and costs matters in any condemnation proceeding initiated by the COUNTY relating to the real property herein described. The OWNER agrees that, in accordance with any request made by the COUNTY, the OWNER shall execute any and all instruments, pleadings, documents and agreements upon litigation reflecting the full settlement as set forth herein. The OWNER agrees not to oppose the COUNTY's condemnation proceedings in any way. The OWNER, may however, assert OWNER's rights against other claimants in apportionment proceedings.

(i) The OWNER shall indemnify and save the COUNTY harmless from and against all liability, claims for damages, and suits for any injury to any person or persons,

or damages to any property of any kind whatsoever arising out of or in any way connected with this Agreement or in any act or omission in any manner related to said Agreement.

(j) The COUNTY shall be solely responsible for all of COUNTY activities conducted on the property. OWNER shall not be considered an agent or employee of COUNTY for any reason whatsoever on account of the Agreement.

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

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

WITNESSES:

SIGNATURE

Andrew W McIver
PRINT NAME

Celia Myres
SIGNATURE

Celia Myres
PRINT NAME

PROPERTY OWNER:

Donald George Gallagher
DONALD GEORGE GALLAGHER, Trustee of
Donald Gallagher Trust

ADDRESS: 40 Minnehaha Circle
Maitland, FL 32751

ATTEST:

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

For the use and reliance of Seminole County only. Approved as to form and legal sufficiency.

County Attorney

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By:_____
BOB DALLARI, Chairman

Date:_____

As authorized for execution by the Board of of County Commissioners at its _____, 2009, regular meeting.

NN/lpk
7/29/09
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