

RESOLUTION NO. 2012- 260

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT TO SELL AND PURCHASE REAL ESTATE BETWEEN ST. JOHNS COUNTY, FLORIDA, AND LOWE'S HOME CENTERS, INC.

RECITALS

WHEREAS, on November 1, 2011, in accordance with Florida Statute Section 125.045(3), the Board approved an Agreement to sell the County-owned Health and Human Services Center property on U.S. 1 South to Lowe's Home Centers, Inc., for a public purpose of economic development; and

WHEREAS, on May 1, 2012, the Board approved a First Amendment to the Agreement to Sell and Purchase Real Estate (the "Agreement") to increase the due diligence and cure time periods, and replace the legal description; and

WHEREAS, in compliance with the terms of the Agreement, a Second Amendment to the Agreement is hereby presented to the Board, attached hereto as Exhibit "A," incorporated by reference and made a part hereof; and

WHEREAS, the Second Amendment shall (1) amend the purchase price by \$250,000 to reflect the removal of the Bartola Genovar Right-of-way that decreases the acreage and overall fee acquisition; (2) increase the deposit amount by \$175,000 thus bringing the total deposit to \$325,000 (3) extend the Inspection Period to October 31, 2012; (4) replace the Legal description with new acreage total of 13.474 as depicted on Exhibit A-2; and

WHEREAS, is understood and agreed that all other terms and conditions of the Agreement to Sell and Purchase Real Estate shall continue in full force and effect; and

WHEREAS, it is in the best interest of the County and Lowe's Home Centers, Inc. to execute the Second Amendment to the Agreement in order to keep the transaction moving forward in an effort to promote economic development.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the terms of the Second Amendment to Agreement to Purchase and authorizes the County Administrator, or designee, to execute the original Second Amendment, in substantially the form attached, and take all steps necessary to move forward to close this transaction.

Section 3. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

Section 4. The Clerk is instructed to file the original Second Amendment to the Agreement in the Clerk's Office.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 18 day of September, 2012.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: 

J. Ken Bryan, Chair

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk

RENDITION DATE 9/20/12



SECOND AMENDMENT TO
AGREEMENT TO SELL AND PURCHASE REAL ESTATE

THIS SECOND AMENDMENT TO AGREEMENT TO SELL AND PURCHASE REAL ESTATE (this "Amendment") is made effective as of the 4th day of September, 2012 by and between, ST. JOHNS COUNTY, a political subdivision of the State of Florida (hereinafter referred to as "Seller"), and LOWE'S HOME CENTERS, INC., a North Carolina corporation (hereinafter referred to as "Buyer").

REFERENCE is made to the Agreement to Sell and Purchase Real Estate, dated as of December 8, 2011, as amended by that First Amendment to Agreement to Sell and Purchase Real Estate, dated May 18, 2012 (collectively, the "Agreement") by and between Seller and Buyer, together with the buildings and improvements thereon. Capitalized terms used herein without definition shall have the meanings ascribed to them in the Agreement.

WHEREAS, Seller and Buyer desire to amend the Agreement in certain respects as hereinafter more particularly provided;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Paragraph 1 is hereby amended for the purpose of reflecting the Seller retaining the fee of the Bartola Genovar Road right of way at any Closing hereunder by deleting the "14.90 acres" reference in the first sentence and inserting in its place "13.474 acres".

2. Paragraph 3 is hereby deleted in its entirety and the following is hereby substituted therefor:

3. PURCHASE PRICE. The total purchase price for the Premises shall be Seven Million Seven Hundred Fifty Thousand and No Dollars (\$7,750,000.00); plus Two Hundred Fifty Thousand and No Dollars (\$250,000.00) payment for relocation reimbursement; and up to Four Hundred Twelve Thousand and No Dollars (\$412,000.00) payment for utility and impact fees for the new County building (These utility and impact fees are hereinafter referred to as the "County Impact Fee," which amount shall be determined under Paragraph 11.), for a total up to Eight Million Four Hundred Twelve Thousand and No Dollars (\$8,412,000.00) (the "Purchase Price").

3. In consideration for Seller entering this Amendment, Buyer has agreed to make an additional payment as part of the Deposit, such that Paragraph 4 is hereby

amended and modified by inserting the following at the end of the first grammatical sentence and paragraph:

On or before September 28, 2012, Buyer shall deposit an additional One Hundred Seventy-five Thousand and No/100 Dollars (\$175,000.00) with the Title Company, which amount shall become part of the Deposit, thus bringing the total of the Deposit to Three Hundred Twenty-five Thousand and No/100 Dollars (\$325,000.00).

4. Paragraph 5 is hereby amended and modified by deleting in its entirety the third sentence of the first grammatical paragraph and inserting in its place the following:

Buyer shall have until October 31, 2012 to notify Seller of its termination of this Agreement due to Buyer's determination in its sole discretion that the Premises are unsuitable (the "Inspection Period").

5. Paragraph 6(a) is hereby amended for the purpose of reflecting the adjustment in the acreage described above by deleting the "14.90 acres" reference in the last sentence and inserting in its place "13.474 acres".

6. Paragraph 7(d) is hereby amended and modified by deleting in its entirety the first sentence of the first grammatical paragraph and inserting in its place the following:

Buyer shall have until October 31, 2012, to notify the Seller of its termination of this Agreement due to Buyer's determination, in its sole and absolute discretion, that it has not obtained Governmental Approvals (or has obtained Governmental Approvals with conditions that in Buyer's sole and absolute discretion adversely impact on Buyer's Intended Use) (the "Governmental Approvals Period").

7. The legal description (Exhibit A-1) in the Agreement is hereby deleted in its entirety and the attached Exhibit A-2 is hereby substituted therefor.

8. This Agreement may be executed in counterpart originals, each of which when duly executed and delivered shall be deemed an original and all of which when taken together shall constitute one instrument. For purposes of expediting the execution of this Amendment only, the parties agree that the exchange of electronic signatures, by either email or fax with originals sent overnight for next day delivery, shall satisfy the delivery requirements of the Agreement.

9. As amended hereby, the Agreement is hereby ratified, confirmed and approved in all respects.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as an instrument under seal as of the day and date first written above.

SELLER:

ST. JOHNS COUNTY, a political
subdivision of the State of Florida

By: _____
Michael D. Wanchick
County Administrator

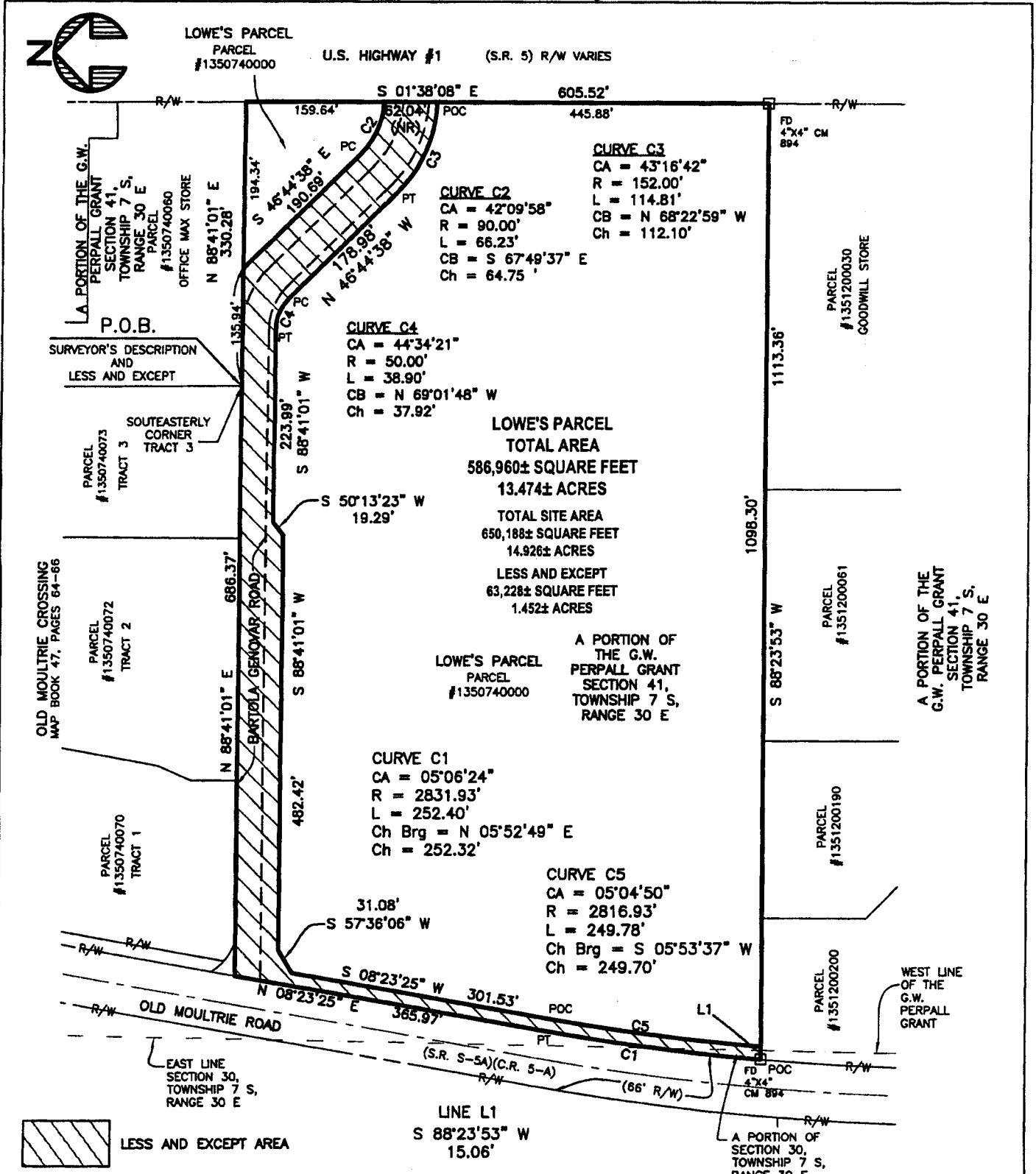
Signatures continue on following page

BUYER:

**LOWE'S HOME CENTERS, INC.,
a North Carolina corporation**

By: _____
Name:
Title:

Exhibit A-2 to Second Amendment to Agreement to Sell and Purchase Real Estate



LESS AND EXCEPT AREA

<p>LOWE'S BOUNDARY THIS IS NOT A SURVEY SHEET 1 OF 2</p> <p>THIS MAP IS INTENDED TO BE DISPLAYED AT A SCALE OF 1" = 150 FEET OR SMALLER. ANY USE OF THIS FILE AT A SCALE LARGER THAN STATED SHALL BE AT YOUR RISK.</p>	<p>TYPE OF SURVEY SKETCH & LEGAL</p>	<p>UPHAM CIVIL ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE 265 Kenilworth Avenue Ormond Beach, Florida 32174 Voice: 386.672.9515 - Fax: 386.673.6554 - uphaminc.com LB # 0003612 LC # 0000357</p>	
	<p>WO# 110905 DRAFTER: AM</p>		
<p>P.S.M. NO. 3905 LB NO. 3612</p>	<p>DATE: 08/21/12</p>	<p>SCALE: 1" = 150'</p>	<p>FILE: ST JOHNS COUNTY SS-70-30-01</p>

LEGAL DESCRIPTION:

A PARCEL OF LAND IN SECTION 30, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA AND A PARCEL OF LAND IN THE G.W. PERPALL GRANT, SECTION 41, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGIN AT THE SOUTHEASTERLY CORNER OF TRACT 3, OLD MOULTRIE CROSSING, AS RECORDED IN MAP BOOK 47, PAGES 64 THROUGH 66, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA. RUN THENCE NORTH 88 DEGREES 41 MINUTES 01 SECONDS EAST ALONG THE SOUTHERLY LINE EXTENSION OF SAID OLD MOULTRIE CROSSING FOR A DISTANCE OF 330.28 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY #1 (S.R. 5) (A RIGHT-OF-WAY THAT VARIES); THENCE SOUTH 01 DEGREES 38 MINUTES 08 SECONDS EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 605.52 FEET TO A 4 INCH BY 4 INCH CONCRETE MONUMENT (894); THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE SOUTH 88 DEGREES 23 MINUTES 53 SECONDS WEST FOR A DISTANCE OF 1113.35 FEET TO A 4 INCH BY 4 INCH CONCRETE MONUMENT (894), POINT BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF OLD MOULTRIE ROAD (A 66 FOOT RIGHT-OF-WAY), SAID POINT ALSO BEING ON A CURVE, CONCAVE EASTERLY AND TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE 05 DEGREES 06 MINUTES 24 SECONDS, A RADIUS OF 2831.93 FEET, A CHORD BEARING OF NORTH 05 DEGREES 52 MINUTES 49 SECONDS EAST, A CHORD DISTANCE OF 252.32 FEET; THENCE ALONG THE ARC OF SAID CURVE AND ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 252.40 FEET; THENCE NORTH 08 DEGREES 23 MINUTES 25 SECONDS EAST AND BEING NON TANGENT TO SAID CURVE FOR A DISTANCE OF 365.97 FEET TO A POINT OF INTERSECT WITH THE SOUTHERLY LINE OF AFORESAID OLD MOULTRIE CROSSING EXTENDING WESTERLY TO SAID EASTERLY RIGHT-OF-WAY LINE; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE NORTH 88 DEGREES 41 MINUTES 01 SECONDS EAST ALONG SAID SOUTHERLY LINE FOR A DISTANCE OF 686.37 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 14.926 ACRES MORE OR LESS.

LESS AND EXCEPT:

A PARCEL OF LAND IN THE G.W. PERPALL GRANT, SECTION 41, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGIN AT THE SOUTHEASTERLY CORNER OF TRACT 3, OLD MOULTRIE CROSSING, AS RECORDED IN MAP BOOK 47, PAGES 64 THROUGH 66, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA. RUN THENCE NORTH 88 DEGREES 41 MINUTES 01 SECONDS EAST ALONG THE SOUTHERLY LINE EXTENSION OF SAID OLD MOULTRIE CROSSING FOR A DISTANCE OF 135.94 FEET; THENCE DEPARTING SAID SOUTHERLY LINE SOUTH 46 DEGREES 44 MINUTES 38 SECONDS EAST FOR A DISTANCE OF 190.69 FEET TO A POINT OF CURVE, CONCAVE NORTHERLY AND TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 42 DEGREES 09 MINUTES 58 SECONDS, A RADIUS OF 90.00 FEET, A CHORD BEARING OF SOUTH 67 DEGREES 49 MINUTES 37 SECONDS EAST, A CHORD DISTANCE OF 64.75 FEET; THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 66.23 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY #1 (S.R. 5) (A RIGHT-OF-WAY THAT VARIES); THENCE SOUTH 01 DEGREES 38 MINUTES 08 SECONDS EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND BEING NON RADIAL TO SAID CURVE FOR A DISTANCE OF 62.04 FEET TO A POINT ON A CURVE, CONCAVE NORTHERLY AND TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 43 DEGREES 16 MINUTES 42 SECONDS, A RADIUS OF 152.00 FEET, A CHORD BEARING OF NORTH 68 DEGREES 22 MINUTES 59 SECONDS WEST, A CHORD DISTANCE OF 112.10 FEET; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 114.81 FEET; THENCE NORTH 46 DEGREES 44 MINUTES 38 SECONDS WEST FOR A DISTANCE OF 178.98 FEET TO A POINT OF CURVE, CONCAVE SOUTHERLY AND TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 44 DEGREES 34 MINUTES 21 SECONDS, A RADIUS OF 50.00 FEET, A CHORD BEARING OF NORTH 69 DEGREES 01 MINUTES 48 SECONDS WEST, A CHORD DISTANCE OF 37.92 FEET; THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 38.90 FEET; THENCE SOUTH 88 DEGREES 41 MINUTES 01 SECONDS WEST FOR A DISTANCE OF 223.99 FEET; THENCE SOUTH 50 DEGREES 13 MINUTES 23 SECONDS WEST FOR A DISTANCE OF 19.29 FEET; THENCE SOUTH 88 DEGREES 41 MINUTES 01 SECONDS WEST FOR A DISTANCE OF 482.42 FEET; THENCE SOUTH 57 DEGREES 36 MINUTES 06 SECONDS WEST FOR A DISTANCE OF 31.08 FEET; THENCE SOUTH 08 DEGREES 23 MINUTES 25 SECONDS WEST FOR A DISTANCE OF 301.53 FEET TO A POINT OF CURVE, CONCAVE EASTERLY AND TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 05 DEGREES 04 MINUTES 50 SECONDS, A RADIUS OF 2816.93 FEET, A CHORD BEARING OF SOUTH 05 DEGREES 53 MINUTES 37 SECONDS WEST, A CHORD DISTANCE OF 249.70 FEET; THENCE ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 249.78 FEET; THENCE SOUTH 88 DEGREES 23 MINUTES 53 SECONDS WEST FOR A DISTANCE OF 15.06 FEET TO A 4 INCH BY 4 INCH CONCRETE MONUMENT (894), POINT BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF OLD MOULTRIE ROAD (A 66 FOOT RIGHT-OF-WAY), SAID POINT ALSO BEING ON A CURVE, CONCAVE EASTERLY AND TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 05 DEGREES 06 MINUTES 24 SECONDS, A RADIUS OF 2831.93 FEET, A CHORD BEARING OF NORTH 05 DEGREES 52 MINUTES 49 SECONDS EAST, A CHORD DISTANCE OF 252.32 FEET; THENCE ALONG THE ARC OF SAID CURVE AND ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 252.40 FEET; THENCE NORTH 08 DEGREES 23 MINUTES 25 SECONDS EAST FOR A DISTANCE OF 365.97 FEET TO A POINT OF INTERSECT WITH THE SOUTHERLY LINE OF AFORESAID OLD MOULTRIE CROSSING EXTENDING WESTERLY TO SAID EASTERLY RIGHT-OF-WAY LINE; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE NORTH 88 DEGREES 41 MINUTES 01 SECONDS EAST FOR A DISTANCE OF 686.37 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 1.452 ACRES MORE OR LESS.

LOWE'S PARCEL CONTAINS A TOTAL OF 13.474 ACRES MORE OR LESS.

GENERAL NOTES:

1. BEARING STRUCTURE (N 00°28'00" W) ALONG THE WESTERLY LINE OF G.W. PERPALL, SECTION 41, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA, AS RECORDED IN OFFICIAL RECORD BOOK 1446, PAGES 200 THROUGH 204, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA
2. LEGAL DESCRIPTION NEW PER UPHAM INC.
3. THE LEGAL DESCRIPTION CLOSURE IS: 1:151,200 FEET.

LEGEND:

R/W.... RIGHT OF WAY	SQ.FT..... SQUARE FEET	PNT POINT OF NON TANGENT	PSM.... PROFESSIONAL SURVEYOR & MAPPER
LS LICENSED SURVEYOR	CA CENTRAL ANGLE / DELTA	(NR) NON RADIAL	
LB LICENSED BUSINESS	R RADIUS	POC POINT OF CURVE / POINT ON A CURVE	
M.B. MAP BOOK	CB.... CHORD BEARING	P.O.B. POINT OF BEGINNING	
PC.... POINT OF CURVE	CH CHORD DISTANCE		
PT POINT OF TANGENT	L LENGTH		

LOWE'S BOUNDARY

THIS IS NOT A SURVEY
SHEET 2 OF 2

TYPE OF SURVEY
SKETCH &
LEGAL

WO# 110905
DRAFTER: AM

P.S.M. NO. 3905
LB NO. 3612

DATE:
08/21/12

SCALE: N/A

FILE: ST JOHNS COUNTY
SS-70-30-01



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