

No. 38  
BCC 6-29-93  
9:33 A.M. - Barnes

*Belly & Los -  
Fyle file*

#35 CONTRACT FOR SALE AND PURCHASE OF PROPERTY BETWEEN PINELLAS COUNTY (BUYER) AND ROSA M. CHIPELLO, TRUSTEE OF THE ROSA M. CHIPELLO REVOCABLE LIVING TRUST (SELLER), FOR DRAINAGE PURPOSES - APPROVED FOR EXECUTION

County Administrator Fred E. Marquis recommended approval of a Contract for Sale and Purchase of property between Pinellas County (Buyer) and Rosa M. Chipello, Trustee of the Rosa M. Chipello Revocable Living Trust (Seller), for drainage purposes in the amount of \$475,000.00.

In his memorandum of June 22, 1993, Mr. Marquis indicated, in part, that the property which is located off U.S. Highway 19 in Section 7, Township 28 South, Range 16 East, contains a sinkhole and would be beneficial to the County for drainage purposes; that this purchase is subject to an environmental audit; that the Seller does not agree to remediation of any contamination discovered during the audit; and that both the Buyer and the Seller retain the right to terminate the contract should contamination be discovered.

Commissioner Todd moved, seconded by Commissioner Parks and carried, that the recommendation of the County Administrator be approved.

CONTRACT FOR SALE AND PURCHASE

THIS AGREEMENT made and entered into this 29<sup>th</sup> day of June, 1993 between PINELLAS COUNTY, a political subdivision of the State of Florida, which address is c/o Engineering Right-Of-Way Department, 315 Court Street, Clearwater, FL 34616, hereinafter referred to as "Buyer", and Rosa M. Chipello, Trustee of the Rosa M. Chipello Revocable Living Trust with the address of 1632 Cleveland Street, Clearwater, FL 34615-6101, hereinafter referred to as "Seller".

W I T N E S S E T H:

1. DESCRIPTION OF THE PROPERTY:

In consideration of the payment hereinafter agreed to be paid by the Buyer to the Seller, and in consideration of the covenants of the respective parties hereto, each to the other to be performed by them at the time and in the manner hereinafter provided, the Seller does hereby agree to sell and the Buyer does hereby agree to buy the following property:

SEE LEGAL DESCRIPTION OF THE PROPERTY IN EXHIBIT A  
ATTACHED HERETO AND MADE A PART HEREOF;

Subject to Easements and Restrictions of Record,  
which is hereinafter referred to as the "Property."

2. PURCHASE PRICE:

Seller agrees to sell the Property at the price of Four Hundred Seventy-Five Thousand Dollars (\$475,000), subject to adjustments and prorations, payable by County Check.

3. TIME FOR ACCEPTANCE: EFFECTIVE DATE:

If this Contract is not executed by both Seller and Buyer on or before July 1, 1993, it shall be null and void. The date of Contract ("Effective Date") shall be the date when the Contract has been both approved by the Pinellas County Board of County Commissioners.

4. CLOSING DATE:

This transaction shall be closed and the deed and other closing papers delivered on or before the 30th day of September, 1993, unless extended by other provisions of this Contract, or unless extended by written Amendment to this Contract by both parties. The closing date shall under no circumstances precede the vacating of the Property by all occupants thereof, except as set forth in paragraph 5 of this Contract. If closing has not occurred on or before the closing date, this Contract shall be null and void.

5. POSSESSION:

Seller represents that at the time of closing there will be no parties in possession other than Seller, and agrees to deliver possession of the Property to Buyer at the time of closing.

6. TITLE EVIDENCE:

Within twenty (20) days of the Effective Date or ten (10) days prior to closing, whichever occurs sooner, Seller shall, at Seller's expense, deliver to Buyer a title insurance commitment issued by a Florida licensed title insuror agreeing to

issue to Buyer, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the purchase price (with fee owner's title policy premium to be paid by Seller at closing), insuring Buyer's good and marketable title to the Property, subject only to those standard exceptions appearing in the owner's title policy, which from Buyer's standpoint do not unduly affect title, and those items which shall be discharged by Seller at or before Closing Date. Buyer shall have five (5) days from date of Buyer's receipt to examine title commitment. If title is found defective, Buyer shall, within three (3) days thereafter, notify Seller in writing specifying defect(s) or the same shall be deemed to have been accepted by Buyer. If said defect(s) render title uninsurable, Seller will have 90 days from receipt of notice within which to remove said defect(s), which shall extend the Closing Date a like amount of time, and if Seller is unsuccessful in removing them within said time, Buyer shall have the option of either accepting the title as it then is or Buyer and Seller shall be released, as to one another, of all further obligations under this Contract. However, Seller agrees that Seller will, if title is found to be unmarketable or uninsurable, use diligent effort to correct the defect(s) in title within the time provided therefore.

7. SURVEY:

Buyer may obtain at its expense a complete and accurate legal description and survey (which Survey must be recent enough to permit removal of the survey exceptions from the

title insurance policy pursuant to section 627.7842, Florida Statutes) for the Property, described in Exhibit "A" attached hereto, certified to Seller, the title insurer, and Pinellas County by a registered Florida surveyor. The survey shall clearly indicate the property owned by Seller and any easements, encroachments or improvements thereon. If the survey shows any encroachment of the 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.

8. INGRESS AND EGRESS:

Seller warrants that there is ingress and egress to the Property.

9. EXPENSES:

Seller will pay for State documentary stamps which are required to be affixed to the deed, and the cost of recording same, together with the cost of recording any corrective instruments, and such other expenses assigned to Seller in this Contract. Values for recording purposes shall be the price set out herein.

10. PROCEEDS OF SALE: CLOSING PROCEDURE:

The deed shall be recorded upon delivery of Buyer's check for Four Hundred Seventy-Five Thousand Dollars (\$475,000) at closing and evidence of title continued at Seller's expense, to show title in Buyer, without any encumbrances or change which would render Seller's title unmarketable from the date of the

last evidence, and the proceeds of the sale shall be held in escrow by Seller's attorney or by such other escrow agent as may be mutually agreed upon for a period of not longer than five (5) days from and after closing date. If Seller's title is rendered unmarketable, Buyer shall within said five (5) day period, notify Seller in writing of the defect and Seller shall have thirty (30) days from date of receipt of such notification to cure the defect. In the event Seller fails to timely cure the defect, all monies paid hereunder shall, upon written demand therefor and within five (5) days thereafter, be returned to Buyer and, simultaneously with such repayment, Buyer shall vacate the Property and reconvey same to Seller by County deed and return the Personalty, if any. In the event Buyer fails to make timely demand for refund, Buyer shall take title as is, waiving all rights against Seller as to such intervening defect except as may be available to Buyer by virtue of warranties, if any, contained in the deed. The escrow and closing procedure required by this paragraph shall be waived in the event the attorney, title agent or closing agent insures against adverse matters pursuant to Section 627.7841, F.S. (1991), as amended.

11. ESCROW:

If an escrow fund is required, Johnson, Blakely, Pope, Bokor, Ruppel & Burns, P.A. or other mutually agreed upon designee shall serve as escrow agent. Any escrow agent receiving funds or equivalent is authorized and agrees by acceptance thereof to deposit promptly and to hold same in escrow and

subject to clearance thereof to disburse same in accordance with terms and conditions of the Contract. Failure of clearance of funds shall not excuse performance by Buyer. In the event of doubt as to escrow agent's duties or liabilities under the provisions of this Contract, the escrow agent may in agent's sole discretion, continue to hold the subject matter 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, or escrow agent may deposit same with the Clerk of the Circuit Court having jurisdiction of the dispute, and upon notifying all parties concerned of such action, all liability on the part of the escrow agent shall fully terminate, except to the extent of accounting for any items theretofore delivered out of escrow. If a licensed real estate broker, the escrow agent will comply with provisions of Chapter 475, Florida Statutes (1991), as amended. In the event of any suit between Buyer and Seller wherein escrow agent interpleads the subject matter of this escrow, the agent shall be entitled to recover reasonable attorney's fees 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 or Seller of items subject to this escrow, unless such misdelivery shall be due to willful breach of this Contract or gross negligence on the part of the agent.

12. PRORATIONS:

Taxes, assessments, rent, insurance and other expenses and revenue of the property shall be prorated through the date prior to closing. Seller shall be responsible for all utility expenses accrued to the property prior to the Closing Date, and this responsibility shall survive closing. Cash received by Seller at closing shall be increased or decreased as may be required by said prorations and unpaid utility expenses; provided, however, in the event this transaction closed and title is conveyed between January 1 and November 1, Seller may be required, at or prior to closing, to pay to the County Tax Collector to be placed in escrow by the County Tax Collector pursuant to Florida Statutes, an amount equal to the prior year's taxes prorated to the date of transfer of title, based upon the current assessments and millage rates on the Property, in accordance with the provisions of Section 196.295, Florida Statutes (1991). Taxes shall be prorated based on the current year's tax, with due allowance made for maximum allowable discount and homestead or other exemptions if allowed for said year. If closing occurs at a date when the current year's millage is not fixed, and 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 the taxes will be prorated on the prior year's tax; provided, however, if there are completed improvements on the property by January 1 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 shall be readjusted upon receipt of tax bill and the Seller shall remit the increase to Buyer within ten (10) days of the receipt of the copy of the tax bill.

13. DOCUMENTS FOR CLOSING:

Five (5) days prior to closing, Seller shall furnish, for Buyer's review, a Warranty Deed, Ownership Disclosure Form, Transfer of Interest Form, Bill of Sale (if applicable), Closing Statements, Mechanics Lien and Tax Lien Affidavit, Affidavit of No Possession, and any corrective instruments that may be required in connection with perfecting the title.

Upon the Buyer meeting the terms of purchase, the Seller will promptly execute and deliver to Buyer a Statutory Warranty Deed, conveying the property to Buyer in fee simple, and all other documents necessary for the closing of this transaction.

14. PLACE OF CLOSING:

Closing shall be held in Pinellas County, at the office of the attorney or other closing agent designated by Seller, or as otherwise agreed upon by the parties.

15. TIME:

Time is of the essence of this Contract. Any

reference herein to time periods of less than seven (7) days shall, in the computation thereof, exclude Saturdays, Sundays and legal holidays, and any time period provided for herein which shall end on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m. of the next full business day.

16. RESTRICTIONS, EASEMENTS, LIMITATIONS:

Buyer shall take title subject to: zoning regulations, restrictions, prohibitions and other requirements imposed by governmental authorities; restrictions in matters appearing on the plat or otherwise common to the subdivision; public utility easements of record; taxes from the date of closing and subsequent years.

17. SUCCESSORS AND ASSIGNS:

The covenants, provisions and agreements herein contained shall in every case be binding on and inure to the benefit of the parties hereto respectively, and their respective heirs, executors, administrators, successors and assigns, except that the right of either party to assign its interest under this Contract, is and shall be subject to the written consent of the other party hereinabove provided, which provision it is not intended to waive, qualify, or alter in any manner whatsoever by this clause or any other clause herein referring to assigns, and which consent shall not be withheld unreasonably.

18. SPECIAL ASSESSMENT LIENS:

Certified, confirmed and ratified special assessment liens as of date of closing (and not as of Effective

Date) are to be paid by Seller. Pending liens as of date of closing shall be assumed by Buyer, provided, however, that if the improvement has been substantially completed as of Effective Date, such pending lien shall be considered as certified, confirmed or ratified and Seller shall, at closing, be charged an amount equal to the last estimate by the public body of assessment for the improvement. If any continuing annual lien or assessment has accrued in whole or in part buy may not be prepaid to the taxing authority, Seller shall deposit the appropriate sum with Buyer at closing, to be paid by Buyer at such time payments are accepted.

19. LIENS:

Seller shall furnish to Buyer at time of closing an affidavit attesting to the absence of any claims or lien or potential lienors known to Seller and further attesting that there have been no improvements or repairs to the Property for ninety (90) days immediately preceding date of closing (referred to in paragraph 13 as the Mechanics Lien and Tax Lien Affidavit). If the Property has been improved, or repaired before closing, Seller shall deliver releases or waivers of mechanic's liens, executed by all 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 or a claim for damages have been paid or will be paid at closing.

20. DEFAULT BY SELLER:

If, for any reason other than failure of Seller to render his title marketable after diligent effort, Seller fails, neglects or refuses to perform its obligations under this Contract, Buyer may seek specific performance, which shall not be deemed Buyer's sole remedy.

21. BROKER:

Seller warrants and represents to Buyer that it has engaged Klein & Heuchan, a real estate Broker with respect to the Property, and that it will pay all Broker's commissions. Seller agrees to hold Buyer harmless from any real estate commissions or fees which may be claimed to be due through the Seller or pursuant to acts of the Seller, and Seller further covenants and agrees to indemnify Buyer for damages, court costs, and attorney's fees incurred as a result of any such claim. The obligations of Seller hereunder shall survive the closing.

22. FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA):

The parties shall comply with the provisions of FIRPTA and applicable regulations.

23. TERMITES:

Buyer, at Buyer's expense, within time allowed to deliver evidence of title and examination thereof, may have the Property inspected by a Florida Certified Pest Control Operation to determine whether there is any visible active termite infestation or visible existing damage from termite infestation in the improvements. If Buyer is informed of either or both of the foregoing, Buyer will have five (5) days from date of written

notice thereof within which to have all damages, whether visible or not, inspected and estimated by a licensed building or general contractor. Seller shall pay valid costs of treatment and repair of all damage up to three percent (3%) of purchase price. Should such costs exceed that amount, Buyer shall have the option of cancelling Contract within five (5) days after receipt of contractor's repair estimate by giving written notice to seller or Buyer may elect to proceed with the transaction, in which event Buyer shall receive a credit at closing of an amount equal to the total of the treatment and repair estimate not in excess of three (3%) of the purchase price. "Termites" shall be deemed to include all wood destroying organisms required to be reported under the Florida Pest Control Act.

24. 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.

25. LEASES:

Seller warrants that the Property has been leased to no current or future Tenant.

26. INSPECTION; REPAIR AND MAINTENANCE:

Seller represents that, as of ten (10) days prior to closing, the roof, (including the fascia and soffits), and

walls do not and will not have any visible evidence of leaks or damage and that the septic tank, pool, all major appliances, heating, cooling, electrical, plumbing systems and machinery are in working condition. Buyer may, at Buyer's expense, have inspection made of said items by an appropriately licensed person dealing in the construction, repair and maintenance thereof and shall report in writing to Seller such items that do not meet the above representations, together with the cost of correcting same, prior to occupancy or not less than ten (10) days prior to the Closing Date, whichever occurs first. Unless Buyer reports such deficiencies within said period, Buyer shall be deemed to have waived Seller's representations as to deficiencies not reported. In the event repairs or replacements are required, Seller shall pay up to three percent (3%) of the purchase price for such repairs or replacements by an appropriately licensed person. However, if the cost for such repairs or replacements exceed three percent (3%) of the purchase price, Buyer or Seller may elect to pay such excess, failing which either party may cancel this Contract. In the event Seller is unable to correct the deficiencies prior to closing, the cost thereof shall be paid into escrow at closing. Seller agrees to provide utilities service for inspections upon reasonable notice. Between the Effective Date and the Closing Date, Seller shall maintain the Property and Personalty including, but not limited to the lawn and shrubbery, in the condition herein represented, ordinary wear and tear expected. Buyer shall be permitted access for inspection of the Property prior to closing in order to confirm compliance with the foregoing.

27. RISK OF LOSS:

If the improvements are damaged, but fire or other casualty prior to the Closing Date (or in the case of a closing in escrow pursuant to paragraph 10 of this Contract, prior to the release of funds from escrow) and costs of restoring same does not exceed ten percent (10%) of the assessed valuation of the improvements so damaged, cost of restoration shall be an obligation of the Seller and closing shall proceed pursuant to terms of Contract with cost therefor escrowed at closing. In the event the cost of repair or restoration exceeds ten percent (10%) of the assessed valuation of the improvements so damaged, Buyer shall have the option of either taking the Property as is, together with either the said ten percent (10%) or any insurance proceeds payable by virtue of such loss or damage, or of cancelling contract and receiving return of deposit(s) made hereunder.

28. WARRANTIES/AND REPRESENTATIONS:

A. Seller warrants that there are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed to Buyer.

B. (1) Seller represents that the Property is not now being used and has not been used, by any business or other activity which uses or used toxic chemicals, hazardous substances (including hazardous wastes) or substances likely to infiltrate the soil or groundwater and is not now being used and has not been used in the past as a hazardous waste or toxic chemical

storage facility or dumpsite. Seller further represents that the Property is not now being used and has not been used in the past as a garbage dump or landfill area.

(2) Seller represents that the Property is not in violation of any federal, state or local law, rule, ordinance or regulation relating hazardous substances or hazardous wastes, or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, since Seller took title.

(3) Buyer shall have the right, prior to closing, to come upon the property at reasonable times with its employees, engineers and other personnel to inspect and conduct testing upon the Property. If Buyer or Seller determines that the Property contains any toxic waste or chemical contamination, or has been used as a hazardous waste or chemical storage facility or dumpsite or as a garbage dump or landfill site, Buyer or Seller may elect to cancel this Contract and have all sums paid hereunder to the Seller by the Buyer returned to the Buyer. This Contract is specifically made contingent upon the Property being free of contamination and as represented above.

(4) Seller shall indemnify, reimburse, defend and hold harmless the Buyer from and against all demands, claims, liabilities, fines, fees, losses or expenses (including 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 Seller or any prior owner or operator which used toxic chemicals, hazardous substances (including hazardous wastes), or substances



likely to infiltrate the soil or groundwater, the use of the property by Seller or any prior owner or operator as a hazardous waste or toxic chemical storage facility or dumpsite, or the use of the property by Seller or any prior owner or operator as a garbage dump or landfill.

C. The representations, warranties and obligations of Seller contained herein shall survive the closing.

29. CONTRACT NOT RECORDABLE:

Neither this Contract nor any notice thereof shall be recorded in the public records.

30. DISCLOSURE OF BENEFICIAL INTERESTS:

If title to the Property is held by a partnership, limited partnership, corporation, trust, or any form of representative capacity whatever for others, Seller shall, upon execution and delivery of this Contract, comply with Ch. 286.23, F.S. (unless otherwise provided by state law), and simultaneous with the delivery of this Contract, shall deliver to Buyer an affidavit, made under oath and subject to the penalties prescribed for perjury, stating the name and address of the affiant and the name and address of every person having a beneficial interest in the Property, however small or minimal.

31. OTHER AGREEMENTS; CONSTRUCTION OF THIS CONTRACT:

No prior or present agreements or representations shall be binding upon Buyer or Seller unless included 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 party or parties to be bound thereby. Typewritten or

handwritten provisions inserted herein or attached hereto as addenda shall control all printed provisions of Contract in conflict therewith. Whenever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.

32. RELATIONSHIP OF THE PARTIES:

Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent, or a partnership or joint venture between the parties hereto, it being understood and agreed that neither the method of computation of purchase price, nor any other provision contained herein, nor any acts of the parties herein shall be deemed to create any relationship between the parties hereto other than the relationship of Buyer and Seller.

33. FISCAL FUNDING:

In the event that funds are not appropriated by the Buyer in any succeeding fiscal year for purposes described herein, then this Contract shall be deemed to terminate at the expiration of the fiscal year for which the funds were appropriated and expended.

34. The terms specified herein are subject to approval in open session by the Board of County Commissioners, Pinellas County, Florida.

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Contract for Sale and Purchase the day and year first above written.

Executed by Buyer on: 6-29-93

ATTEST:

KARLEEN F. DE BLAKER  
Clerk of the Circuit Court

BUYER:

PINELLAS COUNTY, FLORIDA,  
by and through its Board of  
County Commissioners

By: Norma Grant  
Deputy Clerk

By: [Signature]  
Vice-Chairman

(OFFICIAL SEAL)

Executed by Seller on: \_\_\_\_\_

WITNESSES

By: [Signature]

SELLERS:

Rosal M. Chipello, Tee  
Chipello

By: \_\_\_\_\_

Seller's Social  
Security Number:

049-16-4602

CAOSAR:47

APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY

By Sarah Richardson  
Asst. Co. Attorney

**LEGAL DESCRIPTION:**

The South 863 feet of the West 500 feet of the SE 1/4 of Section 7, Township 28 South, Range 16 East, Less the West 350 feet of the North 330 feet thereof; also less the South 33 feet and the West 100 feet for Road Rights-of-Way; also less tract deeded to State of Fla. and recorded in O.R. Book 375 Page 513 (File No. 482210A) public records of Pinellas County, Florida. Subject to restrictions, rights-of-way and easements of record.

**EXHIBIT "A"**