



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## New Business - Development and Environmental Services Group

J.1.

12/10/2019

### Subject:

Approval Re: Contract for Sale and Purchase with Addendum from property owner Humphries, for the C-09 Lift Station Improvement Project - District 2.

### Fiscal Impact:

FY 2019-2020: \$192,200.00

Water and Wastewater CIP/Sykes Creek CIP/ Construction/C-09 Lift Station Fund / Cost Center - 4153/365310

### Dept/Office:

Public Works Department / Land Acquisition Section / Utility Services Department

### Requested Action:

It is requested that the Board of County Commissioners approve and authorize the Chair to execute: 1) the Contract for Sale and Purchase, and 2) the Addendum.

### Summary Explanation and Background:

The subject property is located in Section 14, Township 24 South, Range 36 East, on North Courtenay Parkway, north of Pioneer Road and south of Via Del La Reina in Merritt Island.

The Brevard County Utility Services Department is planning an improvement project to benefit C-09 Lift Station. With the acquisition of this parcel, the department will be able to relocate the existing C-09 Lift Station, which cannot be accessed by service specific vehicles due to the present location. The new construction of C-09 Lift Station will serve the existing service area and permit the re-routing and decommissioning of C-10 Lift Station.

Staff has verified with Planning and Zoning that there are no restrictions preventing the intended use of the parcel by the Department.

This acquisition is in compliance with Administrative Order 37.

### Clerk to the Board Instructions:

Upon execution by the Chair, please contact Public Works Department (321-617-7202) to make delivery arrangements for the original executed Contract for Sale and Purchase and the original executed Addendum.

343



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

December 11, 2019

**M E M O R A N D U M**

**TO:** Corrina Gumm, Interim Public Works Director

**RE:** Item J.1., Approval of a Contract for Sale and Purchase with Addendum from Property Owner Humphries, for the C-09 Lift Station Improvement Project

The Board of County Commissioners, in regular session on December 10, 2019, approved and authorized the Chair to execute the Contract for Sale and Purchase and the Addendum with Melinda K. Wren Humphries for interest in the Water and Wastewater CIP/Sykes Creek CIP/Construction/C-09 Lift Station for property located in Section 14, Township 24 South, Range 36 East, on North Courtenay Parkway, north of Pioneer Road and south of Via Del Reina in Merritt Island. Enclosed is a fully-executed Contract.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

/cmw

Encl. (1)

**CONTRACT FOR SALE AND PURCHASE**

**Seller: Melinda K. Wren Humphries**

**Buyer: Brevard County, Florida, a Political Subdivision of the State of Florida**  
2725 Judge Fran Jamleson Way, Viera, Florida 32940

**Legal description of property being transferred: See attached Exhibit "A"**

The transfer shall be made pursuant to the following terms and conditions and the Standards for Real Estate Transactions, on the reverse side of this contract.

**Purchase price: One hundred Ninety-Two Thousand Two Hundred Dollars and No/100----(\$192,200.00)**

**Deposit:** \$100 to be transferred to an escrow account established and held by the Brevard County Clerk, such deposit to be applied to the purchase price.

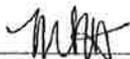
**Time for acceptance of offer; effective date; facsimile:** If this offer is not executed by and delivered to all parties OR FACT OF EXECUTION communicated in writing between the parties **on or before December 10, 2019**, deposit(s) will, at Buyer's option, be returned and this offer withdrawn. The date of Contract ("Effective Date") will be the date when the last one of the Buyer and Seller has signed this offer. A facsimile copy of this Contract and any signatures hereon shall be considered for all purposes as originals.

**Title evidence:** At least 15 days before closing date,  Seller shall, at Seller's expense, deliver to Buyer or Buyer's attorney or  Buyer shall at Buyer's expense obtain  a title search and/or  title insurance commitment (with legible copies of instruments listed as exceptions attached thereto) and, after closing, an owner's policy of title insurance.

**Closing Date:** This transaction shall be closed and the deed and other closing papers delivered **on or before February 28, 2020**, unless modified by other provisions of this Contract.

**Warranties:** The following warranties are made and shall survive closing.

- a. SELLER warrants that there are no parties in occupancy other than Seller.
- b. SELLER warrants there is no hazardous waste or other environmental contamination located in or upon the property being acquired by the County. Seller shall indemnify and defend Buyer from any and all claims or expenses resulting from hazardous waste or environmental contamination located in or upon the property provided such waste or contamination was not placed on the property by the Buyer.
- c. SELLER warrants that he/she has no knowledge of any fact or restriction which would prevent use of the property for lift station purposes.
- d. SELLER hereby represents and warrants to COUNTY that SELLER has not engaged or dealt with any agent, broker or finder, in regard to this Agreement or to the sale and purchase of the property contemplated hereby. SELLER hereby acknowledges and covenants that SELLER is solely responsible for any and all commissions due arising out of or connected within the sale or transfer of the property. SELLER hereby indemnifies COUNTY and agrees to hold COUNTY free and harmless from and against any and all liability, loss, costs, damage and expense, including but not limited to attorney's fees and costs of litigation both prior to and on appeal, which COUNTY shall ever suffer or incur because of any claim by any agent, broker or finder engaged by SELLER, including broker, whether or not

 Seller's Initial

meritorious, for any fee, commission or other compensation with respect to this Agreement or to the sale and purchase of the property contemplated hereby.

**Inspections:** The BUYER shall have 60 days after the Brevard County Board of County Commissioners executes the contract within which to complete physical inspection and evaluation of the property for environmental, hazardous materials, developability, access, drainage and subsurface conditions. In the event a Phase I environmental assessment meeting ASTM standards is prepared and environmental issues objectionable to BUYER are detected, SELLER shall 1) take all steps necessary to remove BUYER'S objections prior to the expiration of the 60 day inspection period, if possible or 2) if acceptable to BUYER, SELLER shall allow an additional 90 days to provide adequate time to conduct a Phase II assessment meeting ASTM standards. If the Phase I assessment reveals contamination this agreement may be terminated by BUYER and BUYER may decline to allow SELLER to clean up or to proceed to a Phase II assessment. Likewise, if the Phase II assessment reveals contamination objectionable to BUYER, BUYER may terminate this agreement. Alternatively, BUYER may grant SELLER an additional 90 days to clean up the site after the Phase II assessment, but BUYER is not required to do so. SELLER shall allow the BUYER or its agents reasonable right of entry upon the property for inspection purposes. Before the expiration of the initial 60-day inspection period or the additional 90-day extension for a Phase II assessment, BUYER shall have the right to terminate this agreement with a full refund of any deposits, should the results of the inspection indicate the property cannot be used for its intended purpose or that mitigation of conditions would be required. If clean up after a Phase II assessment is attempted but unacceptable to BUYER, the BUYER shall receive a full refund of its deposit.

**Condemnation:** This property  is  is not being acquired under threat of condemnation. If so, this agreement includes and settles all issues of full compensation for the property being acquired, including fees and costs.

SELLER shall comply with §196.295, Fla. Stat.

SELLER hereby agrees to provide the necessary information and execute a beneficial interest and disclosure affidavit as required by §286.23, Fla. Stat.

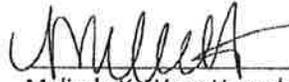
**Special Clauses:**  See attached addendum

~~NOT APPLICABLE~~

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

SELLER

 Date 12/10/19  
Bryan Lober, Chair

 Date 11.12.19  
Melinda K. Wren Humphries

Agenda Item # J.1.

As approved by the Board 12/10/19

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 taxes will be prorated on the prior year's tax. If there are completed improvements on the Real Property by January 1st of year of closing, which improvements were not in existence on January 1st of the prior year, then taxes shall be prorated based upon the prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, request will be made to the County Property Appraiser for an informal assessment taking into consideration available exemptions. Any tax proration based on an estimate shall, at request of either Buyer or Seller, be subsequently readjusted upon receipt of tax bill on condition that a statement to that effect is in the closing statement.

**I. SPECIAL ASSESSMENT LIENS:** Certified, confirmed and ratified special assessment liens as of date of closing (not as of Effective Date) are to be paid by Seller. Pending liens as of date of closing shall be assumed by Buyer. If the improvement has been substantially completed as of Effective Date, any pending lien shall be considered certified, confirmed or ratified and Seller shall, at closing, be charged an amount equal to the last estimate of assessment for the improvement by the public body.

**J. PROCEEDS OF SALE; CLOSING PROCEDURE:** The deed shall be recorded upon clearance of funds. If abstract of title has been furnished, evidence of title shall be continued at Buyer'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. Proceeds of the sale shall be held in escrow by Seller's attorney or by another mutually acceptable escrow agent for a period of not more than 5 days after closing date. If Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 5-day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect. If Seller fails to timely cure the defect, all deposit(s) and closing funds shall, upon written demand by Buyer and within 5 days after demand, be returned to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and re-convey the Property to Seller by special warranty deed and bill of sale. If Buyer fails to make timely demand for refund, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale. The escrow and closing procedure required by this Standard shall be waived if title agent insures adverse matters pursuant to Section 627.7841, F.S. (1993), as amended.

**K. FAILURE OF PERFORMANCE:** If Buyer fails to perform this Contract within the time specified, including payment of all deposit(s), the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be retained by or for the account of Seller as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under this Contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this Contract. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects or refuses to perform this Contract, the Buyer may seek specific performance or elect to receive the return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach. In the event of any litigation arising out of this contract, each party shall bear its own attorney's fees and costs. The parties hereby agree to waive trial by jury.

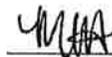
**L. CONVEYANCE:** Seller shall convey title to the Real Property by statutory warranty, trustee's, personal representative's or guardian's deed, as appropriate to the status of Seller. Personal Property shall, at request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

**M. OTHER AGREEMENTS:** No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

**N. WARRANTY:** 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.

Reviewed for legal form and content:

 (Assistant) County Attorney

 Seller's Initial

## STANDARDS FOR REAL ESTATE TRANSACTIONS

**A. EVIDENCE OF TITLE:** A title insurance commitment issued by a Florida licensed title insurer 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 insuring Buyer's title to the Real Property, subject only to liens, encumbrances, exceptions or qualifications set forth in this Contract and those which shall be discharged by Seller at or before closing. Seller shall convey marketable title subject only to liens, encumbrances, exceptions or qualifications specified in this Contract. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Buyer shall have 5 days from date of receiving evidence of title to examine it. If title is found defective, Buyer shall within 3 days thereafter, notify Seller in writing specifying defect(s). If the defect(s) render title unmarketable, Seller will have 30 days from receipt of notice to remove the defects, failing which Buyer shall, within five (5) days after expiration of the thirty (30) day period, deliver written notice to Seller either: (1) extending the time for a reasonable period not to exceed 120 days within which Seller shall use diligent effort to remove the defects; or (2) requesting a refund of deposit(s) paid which shall immediately be returned to Buyer. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the title as it then is. Seller shall, if title is found unmarketable, use diligent effort to correct defect(s) in the title within the time provided therefor. If Seller is unable to remove the defects within the times allowed therefor, Buyer shall either waive the defects or receive a refund of deposit(s), thereby releasing Buyer and Seller from all further obligations under this Contract

**B. SURVEY:** Buyer, at Buyer's expense, within time allowed to deliver evidence of title and to examine same, may have the Real Property surveyed and certified by a registered Florida surveyor. If survey shows encroachment on Real Property or that improvements located on Real Property encroach on setback lines, easements, lands of others or violate any restrictions, Contract covenants or applicable governmental regulation, the same shall constitute a title defect.

**C. INGRESS AND EGRESS:** Seller warrants and represents that there is ingress and egress to the Real Property sufficient for its intended use as described in the Warranties section of the agreement.

**D. LIENS:** Seller shall furnish to Buyer at time of closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statement, claims of lien or potential lienors known to Seller and further attesting that there have been no improvements or repairs to the Property for 90 days immediately preceding date of closing. If Property has been improved or repaired within that time Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen and further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at closing of this Contract.

**E. TIME PERIOD:** Time is of the essence in this Contract.

**F. DOCUMENTS FOR CLOSING:** Seller shall furnish the deed, bill of sale, construction lien affidavit, owner's possession affidavit, assignments of leases, tenant and mortgagee estoppel letters and corrective instruments. Buyer shall furnish closing statement.

**G. EXPENSES:** Documentary stamps on the deed, if required, and recording of corrective instruments shall be paid by Seller. Buyer will pay for the cost of recording the deed.

**H. PRORATIONS; CREDITS:** Taxes, assessments, rent, interest, insurance and other expenses and revenue of Property shall be prorated through day before closing. Buyer shall have the option of taking over any existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at closing shall be increased or decreased as may be required by prorations. Prorations will be made through day prior to occupancy if occupancy occurs before closing. Advance rent and security deposits will be credited to Buyer and escrow deposits held by mortgagee will be credited to Seller. Taxes shall be prorated based on the current year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If closing occurs at a date when the current year's millage is not fixed

 Seller's Initial

**EXHIBIT A**

A parcel of land lying in Section 14, Township 24 South, Range 36 East, Brevard County, Florida, being more particularly described as follows:

Commence at the West 1/4 corner of said Section 14, and run N.89 50'57"B., along the South line of the Northwest 1/4 and along the centerline of Pioneer Road, a distance of 1319.72 feet (1316.50 feet by plat); thence N.00 19'32"W., along the East line of the West 1/2 of said Northwest 1/4, a distance of 887.63 feet (887.91 feet by plat) to a concrete monument, the POINT OF BEGINNING: thence N.89 49'26"W., a distance of 199.45 feet to a point on the East right of way line of North Courtenay Parkway (a 100 foot wide right of way), said point being on a 11409.20 foot radius curve to the right having a tangent bearing of N.06 02'17"W.: thence Northwesterly. Along the arc of said curve and along said right of way, thru a central angle of 00 22'36" a distance of 75.00 feet: thence N.78 49,00"E., a distance of 110.00 feet: thence S.89 49'26"E., a distance of 153.03 feet: thence S.00 10'34"W., a distance of 76.26 feet: thence S.89 49'26"E., a distance of 226.93 feet: thence N.00 03'58"W., parallel to the West line of Block "E" of VILLA DE PALMAS, UNIT NO. 1, recorded in Plat Book 20, Page 45 of the public records of Brevard County, Florida, a distance of 29.92 feet.; thence N.89 56'03"E., a distance of 20.00 feet to a point on said West line: thence S.00 03'58"E., along said West line, a distance of 50.00 feet to the Southwest corner of said Block "E": thence N.89 49'26"W., a distance of 300.56 feet (300.00 feet by plat) to the POINT OF BEGINNING: containing 0.670 acres.

Subject to a Florida Power and Light Co. Easement recorded in O.R. 858, Page 304: subject to a 7-foot Sidewalk Easement recorded in O.R. 1034, Page 524: and subject to all other easements and rights of way of record.

*Handwritten signature*

**ADDENDUM**

THIS ADDENDUM to Contract, ("Contract") is entered into this 12<sup>th</sup> day of November, 2019, by and between MELINDA K. WREN HUMPHRIES ("Seller") and BREVARD COUNTY, FLORIDA, a Political Subdivision of the State of Florida ("Buyer").

Notwithstanding language to the contrary contained within the Contract, the parties agree to the following modifications, to wit:

**Warranties**

1. Sub-paragraph b is deleted.
2. The following provision is added to the end of sub-paragraph d:

BUYER hereby represents and warrants to SELLER that BUYER has not engaged or dealt with any agent, broker or finder, in regard to this Agreement or to the sale and purchase of the property contemplated hereby. BUYER hereby acknowledges and covenants that BUYER is solely responsible for any and all commissions due to any agent, broker or finder, with whom BUYER has engaged or dealt with arising out of or connected within the sale or transfer of the property.

**Inspections:**

The following provisions are added:

1. Notwithstanding language to the contrary. SELLER may, agree to, but is not be obligated to remove any objectionable issues detected during a Phase I or Phase II assessment. Should SELLER refuse to remove any objectionable issues detected during a Phase I or Phase II assessment, BUYERS sole recourse shall be to terminate this Agreement and receive a full refund of its deposit, or close the transaction, notwithstanding the objectionable issues, without any reduction of the purchase price.

*CMAA*

2. All inspections shall be at the sole expense of BUYER. If BUYER elects to terminate this Agreement, Buyer shall repair any damage caused by such testing or inspections. The foregoing repair obligation shall survive the termination of this Agreement.
3. Buyer shall use its best efforts to insure that any contract between BUYER and any contractor, or entity entering or performing activities on the Property on behalf of BUYER, contain a provision requiring contractor to indemnify and hold harmless SELLER, her successors, and assigns, as third party beneficiaries, from and against any and all loss, claim, damage, liability or lien suffered or incurred by SELLER, her successors, or assigns (and all of them) which results from or arises out of contractors' entry or activities on the Property, including, without limitation, during the Inspection Period and the Approval Period. In the alternative BUYER shall use its best efforts to have SELLER named as an additional insured on the insurance policy for any contractor or entity entering or performing activities on the Property on behalf of BUYER. The foregoing provision shall survive the termination of this Agreement.

**Standards For Real Estate Transactions:**

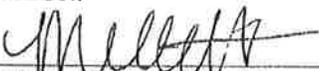
Paragraph G shall be modified to provide as follows:

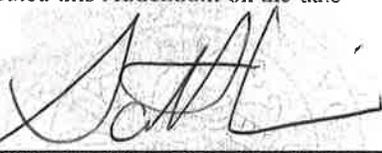
Title insurance commitment and policy and recording of the deed shall be paid by BUYER. SELLER will pay for the cost of recording of any corrective instruments.

Except as modified herein or in the Contract for Sale and Purchase, all other terms and provisions shall remain in full force and effect.

IN WITNESS WHEREOF, Buyer and Seller have executed this Addendum on the date indicated above.

SELLER:

  
\_\_\_\_\_  
Melinda K. Wren Humphries

  
\_\_\_\_\_  
SCOTT ELLIS, CLERK

BUYER:  
BOARD OF COUNTY COMMISSIONS  
BREVARD COUNTY, FLORIDA

BY:   
\_\_\_\_\_  
Bryan Lober, Chair

Agenda Item # J.1.  
As approved by the Board 12/10/19

## PROPERTY FACT SHEET

PROJECT: C-09 Lift Station Improvement

OWNER: Humphries

PARCEL LOCATION: On North Courtenay Parkway north of Pioneer Road and south Via Del La Reina in Merritt Island.

PARCEL SIZE: 0.67 acre (more or less)

ZONING/LANDUSE: BU-1, General Retail

IMPROVEMENTS: None, vacant land

TOPOGRAPHY: heavily wooded

FLOOD ZONE: X, area of minimal flooding

TAX PARCEL ID#: 24-36-14-00-291

MARKET VALUE: Property Appraiser Records-2019 Assessment \$153,220.00

PUBLIC UTILITIES: Utilities available

PROPERTY TRANSACTION- Clerk of the Court Records:  
Date: June 30, 1990, Sale Amount: \$88,000.00

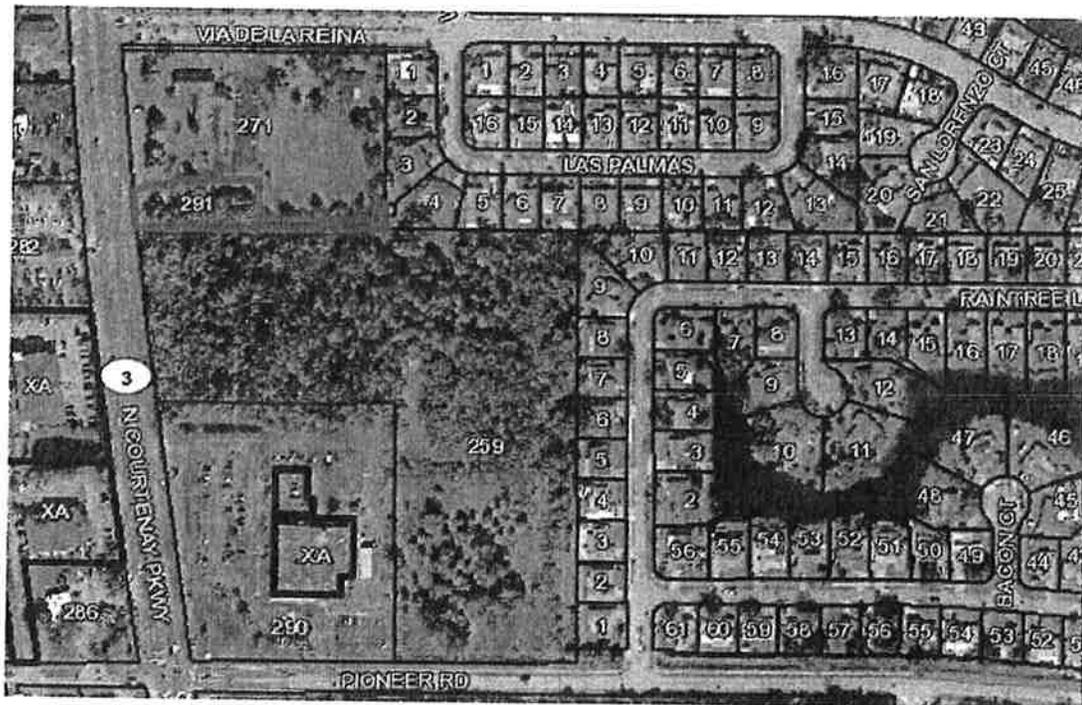
APPRAISAL: The Appraisal Group of Central Florida:  
Date: 08/09/2019, Appraisal Amount: \$192,200.00

# LOCATION MAP

Section 14, Township 24 South, Range 36 East, District: 2

LOCATION: Parcel is located on North Courtenay Parkway north of Pioneer Road and south of Via Del La Reina in Merritt Island.

OWNERS NAME: Humphries



**BOARD OF COUNTY COMMISSIONERS**

**AGENDA REVIEW SHEET**

**AGENDA:** Contract for Sale and Purchase with Addendum from property owner Humphries, for the C-09 Lift Station Improvement Project – District 2.

**AGENCY:** Public Works Department / Land Acquisition / Utility Services Department

**AGENCY CONTACT:** Lucy Hamelers, Land Acquisition Supervisor

**CONTACT PHONE:** 321-690-6847 extension 58336

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Lucy Hamelers, Supervisor	 _____	_____	<u>11-18-19</u>
COUNTY ATTORNEY Jad Brewer Assistant County Attorney	 _____	_____	<u>11-21-19</u>

**AGENDA DUE DATE:** November 26, 2019 for the December 10, 2019 Board meeting

10-10-17  
J.1

# BOARD OF COUNTY COMMISSIONERS

## AGENDA REVIEW SHEET

**AGENDA:** Contract for Sale and Purchase with Addendum from property owner Humphries, for the C-09 Lift Station Improvement Project – District 2.

**AGENCY:** Public Works Department / Land Acquisition / Utility Services Department

**AGENCY CONTACT:** Lucy Hamelers, Land Acquisition Supervisor

**CONTACT PHONE:** 321-690-6847 extension 58336

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Lucy Hamelers, Supervisor	<u>JA</u>	_____	<u>11-18-19</u>
COUNTY ATTORNEY Jad Brewer Assistant County Attorney	<u>JMB</u>	_____	<u>11-21-19</u>

**AGENDA DUE DATE:** November 26, 2019 for the December 10, 2019 Board meeting