

**PRELITIGATION BUSINESS DAMAGE CLAIM SETTLEMENT AGREEMENT**  
**PURSUANT TO SECTION 73.015, FLORIDA STATUTES**

**THIS PRELITIGATION BUSINESS DAMAGE CLAIM SETTLEMENT AGREEMENT (Agreement)** is made and entered into between El Perico, Inc., a Florida corporation, d/b/a Country Deli Store (**Business**), whose mailing address is 9608 U.S. Highway 41 North, Palmetto, Florida 34321, and Manatee County, a political subdivision of the State of Florida (**County**), whose mailing address is Post Office Box 1000, Bradenton, Florida 34206, and whose street address is 1112 Manatee Avenue West, Bradenton, Florida 34205, and is intended to settle all claims by Business against County relative to business damages as a result of the taking of Parcels 130 and 130.03 in furtherance of the Moccasin Wallow Road Improvement Project, from U.S. Highway 41 North to Gateway Boulevard. Business and County are sometimes collectively referred to herein as Parties and individually as Party.

1. **SETTLEMENT**: It is agreed and understood that this settles all claims for compensation for the taking of the **Property** (as defined in paragraph 4 below) by County, and for business damages, and all other damages claimed by Business, its heirs, successors, and assigns, now and in the future. Through this Agreement the Parties have agreed to avoid the distractions, inconvenience, and inherent uncertainties associated with legal proceedings, as well as the corresponding costs, fees, and expenses.

2. **EFFECTIVE DATE**: For purposes of this Agreement, the Effective Date shall be the date upon which the Agreement is executed by County.

3. **EXHIBITS**: The following exhibits are attached, incorporated, and made a part of this Agreement:

- Exhibit A – Legal Description and Sketch of Parcel 130
- Exhibit B – Legal Description and Sketch of Parcel 130.03
- Exhibit C – Quitclaim Deed
- Exhibit D – Construction Plans

4. **PROPERTY**: The **Property** means the combination of fee simple title to the land described in Exhibit A and a nonexclusive temporary right of ingress and egress, and to enter upon, place, and use as a staging and work area for personnel, and for storage of equipment, supplies, and materials and for grading, site preparation, and sloping and to harmonize existing conditions with the proposed roadway improvements, including, but not limited to reconnecting existing driveways, and for other purposes reasonably related to construction of the Moccasin Wallow Road Improvement Project, from U.S. Highway 41 to Gateway Boulevard, across, in, on, over, through, under, and upon the land described in Exhibit B for five years.

5. **BUSINESS DAMAGE CLAIM:** County shall pay to Business \$250,000 in full settlement of all claims by Business against County relative to business damages as a result of the taking of the Property in furtherance of the Moccasin Wallow Road Improvement Project, from U.S. Highway 41 North to Gateway Boulevard, but excluding attorneys' fees and costs, and experts' fees and costs. Unless otherwise specified in this Agreement, all references to currency, monetary values, and dollars set forth herein shall mean United States dollars and all payments hereunder shall be made in United States dollars.

6. **ATTORNEYS' FEES AND COSTS:** County shall also pay \$31,020 in full settlement of all claims for attorneys' fees and costs incurred during the representation of Business, in this case, including fees for all representation relative to monetary benefits, non-monetary benefits and all apportionment-related matters.

7. **EXPERTS' FEES AND COSTS:** County shall also pay \$35,270 in full settlement of all claims for experts' fees and costs in this case on behalf of Business, including fees for all accountants, appraisers, consultants, engineers, general contractors, land planners, landscape architects and surveyors.

8. **IRS FORMS:** Within 30 days after the Effective Date of this Agreement, Business shall cause a current Form W-9 Request for Taxpayer Identification Number and Certification for Business's counsel, Trenam Law, to be completed and submitted to County. Within 30 days after receipt of same, County shall issue a check for \$316,290 payable to Trust Account of Trenam Law and send same via U.S. Mail to Trenam Law, Attention: Paul D. Bain, P.O. Box 1102, Tampa, Florida 33601-1102 for appropriate disbursement to Business and its attorneys and experts.

9. **QUITCLAIM DEED; RECORDING:** Within 15 days after the Effective Date of this Agreement, Business shall convey and grant unto County its interest in the Property by delivery of a good, sufficient, and properly recordable Quitclaim Deed executed by Business in substantially similar form as Exhibit C. The Quitclaim Deed shall be sent to Manatee County Attorney's Office, Attention: Pamela D'Agostino, 1112 Manatee Avenue West, Suite 969, Bradenton, Florida 34205. After issuance of the check by County pursuant to paragraph 8, above, County may record the Quitclaim Deed in the Official Public Records of Manatee County at County's sole cost and expense.

10. **CONSTRUCTION PLANS:** County shall construct the Moccasin Wallow Road Improvement Project, from U.S. Highway 41 to Gateway Boulevard, in substantial conformance with Exhibit D. Consistent with Section 73.015(5), Florida Statutes, Business and County shall have the same legal rights that would have been available under law if this matter had been resolved through eminent domain proceedings in circuit court with the construction plans having been made a part of the record. This provision

shall survive delivery and recording of the quitclaim deed.

11. **AMENDMENTS**: This Agreement may not be amended, canceled, changed, discharged, modified, rescinded, supplemented, or terminated other than as expressly provided herein, except by an instrument in writing executed by both Parties.

12. **ASSIGNABILITY**: The Parties may not assign this Agreement or any right or obligation of this Agreement without prior written consent of the other Party.

13. **AUTHORIZATION**: Each Party represents to the other that such Party has the requisite power and authority under all applicable laws to enter into this Agreement, that all of the procedural requirements imposed by law upon each Party for the approval and authorization of this Agreement have been properly completed, and that the persons who have executed this Agreement on behalf of each Party are authorized and empowered to execute this Agreement.

14. **BINDING EFFECT**: This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors, and permitted assigns.

15. **CLERK AUTHORIZATION**: The Manatee County Clerk of the Circuit Court Finance Department is hereby authorized to issue any checks in furtherance of this Agreement and its terms.

16. **ENTIRE AGREEMENT**: This Agreement and the exhibits attached hereto contain the final and entire understanding between the Parties with respect to the subject matter contained herein and are intended to be an integration of all prior negotiations and understandings. This Agreement supersedes all prior negotiations, understandings, representations, or agreements, both written and oral. The Parties shall not be bound by any terms, conditions, statements, warranties, or representations, written or oral, not contained herein.

17. **FLORIDA LAW AND MANATEE COUNTY VENUE**: This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Florida. Venue for resolution of all disputes, whether by arbitration, litigation, or mediation, shall lie in Manatee County, Florida.

18. **FORCE MAJEURE**: The Parties shall be excused from performing any obligations pursuant to this Agreement so long as performance is delayed, hindered, or prevented by a Force Majeure Event and provided such Force Majeure Event does not continue to prevent performance for more than 30 days. The following shall be deemed a Force Majeure Event: an act of God, an act of terrorism, a civil commotion, an

earthquake, an epidemic, a failure or disruption of utility services, a fire, a flood, a hurricane, an insurrection, a pandemic, a sinkhole, a tornado, an unusual transportation delay, or other like cause, and which by exercise of reasonable diligent effort, the non-performing party is unable in whole or in part to prevent or overcome. If a Force Majeure Event continues to prevent performance under this Agreement for more than 30 days, then either Party may terminate this Agreement by (1) delivering written notice of termination to the other and (2) returning all payments made pursuant to this Agreement in full to the other.

19. **HEADINGS**: The headings contained in this Agreement are for convenience and reference and shall not affect the meaning or interpretation of this Agreement.

20. **INPUT AND INTERPRETATION**: Each Party has had equal input into the drafting of this Agreement and has been represented by counsel in negotiating this Agreement's terms. Neither this Agreement nor any ambiguity or uncertainty in this Agreement shall be construed against Business or County, whether under any rule of construction or otherwise. This Agreement shall be construed and interpreted according to the ordinary meaning of the words used so as to accomplish fairly the purposes and intentions of the Parties. The Parties have each carefully read the terms and conditions of this Agreement and know and understand the contents and effect of this Agreement.

21. **SEVERABILITY**: If any one or more of the provisions of this Agreement should be held contrary to law or public policy, or should for any reason whatsoever be held invalid or unenforceable by a court of competent jurisdiction, then such provision or provisions shall be null and void and shall be deemed separate from the remaining provisions of this Agreement, which remaining provisions shall continue in full force and effect, provided that the rights and obligations of the Parties contained herein are not materially prejudiced and the intentions of the Parties continue to be effective.

22. **TIME OF THE ESSENCE**: Time is of the essence with regard to all dates and times set forth in this Agreement. Any time period provided for herein which shall end on a Saturday, Sunday, or legal holiday under the laws of the State of Florida or the United States of America, shall extend to five P.M. of the next day that is not a Saturday, Sunday, or legal holiday under the laws of the State of Florida or the United States of America. All references herein to times of day shall mean Eastern Standard Time or Eastern Daylight Time, whichever is in effect in Manatee County, Florida, at the relevant time. The term "day" as used herein shall in all cases mean a consecutive 24-hour day running from midnight to midnight (also known as a calendar day).

23. **WAIVER**: The failure or neglect by any Party to enforce any right under this Agreement shall not be deemed to be a waiver of that Party's rights. A waiver shall not

be effective unless it is in writing and signed by the Party who possesses the right to waive enforcement of same.

SIGNATURES AND ACKNOWLEDGMENTS APPEAR ON FOLLOWING PAGES.

The Parties hereto have executed this Agreement, by and through their duly authorized representatives, on the day, month, and year set forth below.

**BUSINESS:**

El Perico, Inc., a Florida corporation, d/b/a Country Deli Store



By: \_\_\_\_\_  
Signature of Ali H. Iraq, as President

Date: 8-11-2021



Attest: \_\_\_\_\_  
Signature of Saad M. Iraq, as  
Vice President

**COUNTY:**

**MANATEE COUNTY, a political  
subdivision of the State of Florida**

**By: its Board of County Commissioners**



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

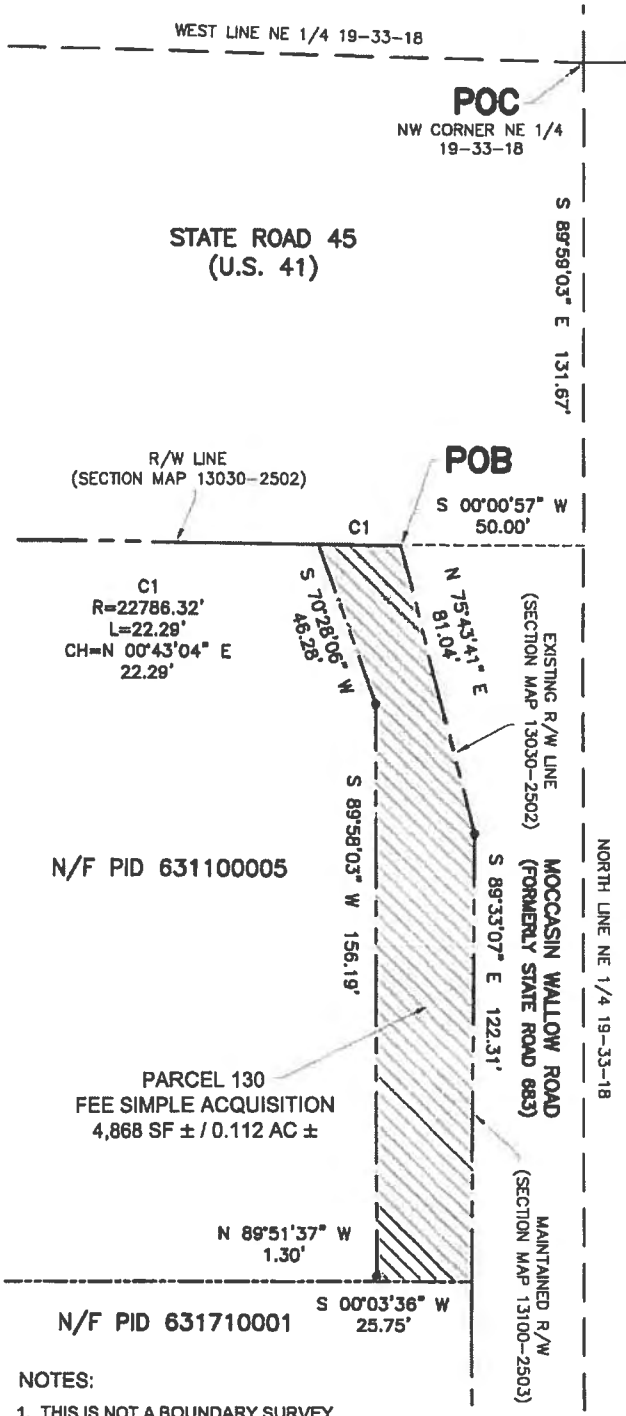
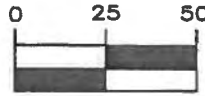
Date: September 14, 2021

ATTEST: ANGELINA COLONNESO  
CLERK OF THE CIRCUIT COURT AND COMPTROLLER



By: \_\_\_\_\_  
Deputy Clerk

**SKETCH**



**DESCRIPTION**

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA; THENCE ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, S 89°58'03" E, A DISTANCE OF 131.67 FEET; THENCE DEPARTING SAID NORTH LINE, S 00°00'57" W, A DISTANCE OF 50.00 FEET TO A POINT ON THE EXISTING RIGHT-OF-WAY LINE OF MOCCASIN WALLOW ROAD PER SECTION MAP 13030-2502 AND A POINT OF BEGINNING; THENCE ALONG SAID EXISTING RIGHT-OF-WAY LINE, N 75°43'41" E, A DISTANCE OF 81.04 FEET TO A POINT OF INTERSECTION WITH THE MAINTAINED RIGHT-OF-WAY OF MOCCASIN WALLOW ROAD; THENCE ALONG SAID MAINTAINED RIGHT-OF-WAY, S 89°33'07" E, A DISTANCE OF 122.31 FEET; THENCE S 00°03'36" W, A DISTANCE OF 25.75 FEET; THENCE N 89°51'37" W, A DISTANCE OF 1.30 FEET; THENCE S 89°58'03" W, A DISTANCE OF 156.19 FEET; THENCE S 70°28'06" W, A DISTANCE OF 46.28 FEET TO A POINT ON THE RIGHT-OF-WAY LINE OF STATE ROAD 45 (U.S. 41) PER AFORESAID SECTION MAP; THENCE NORTHERLY ALONG SAID RIGHT-OF-WAY LINE BY A CURVE TO THE RIGHT WITH A RADIUS OF 22786.32' AND CHORD OF N 00°43'04" E 22.29', A DISTANCE OF 22.29 FEET TO THE POINT OF BEGINNING.

CONTAINING A DESCRIBED AREA OF 4,868 SQUARE FEET OR 0.112 ACRES MORE OR LESS.

R/W	RIGHT-OF-WAY
ORB	OFFICIAL RECORDS BOOK
PB	PLAT BOOK
PG	PAGE
SF	SQUARE FEET
AC	ACRES
POC	POINT OF COMMENCEMENT
POB	POINT OF BEGINNING
PID	PARCEL IDENTIFICATION
N/F	NOW OR FORMERLY
+/-	MORE OR LESS
CCR	CERTIFIED CORNER RECORD
R	RADIUS
L	ARC LENGTH
CH	CHORD
D	CENTRAL ANGLE

REVISED: 10-21-20  
REVISED: 4-11-20  
REVISED 2-25-20

**Russell P Hyatt**  
Digitally signed by  
Russell P Hyatt  
Date: 2021.05.14  
17:09:02 -04'00'

RUSSELL P. HYATT, P.S.M.

Florida Surveyor's Registration. No. LS 5303  
NOT VALID WITHOUT THE ORIGINAL SIGNATURE  
AND THE RAISED SEAL OF A FLORIDA LICENSED  
SURVEYOR AND MAPPER.

**NOTES:**

1. THIS IS NOT A BOUNDARY SURVEY.
2. BEARINGS ARE BASED ON NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 19-33-18 BEING N 89°59'03" W.
3. A TITLE COMMITMENT NUMBERED 570493 DATED 10/29/19 WAS PROVIDED BY STEWART TITLE GUARANTY COMPANY FOR THE SUBJECT PROPERTY.

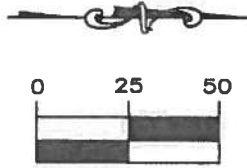
SKETCH & DESCRIPTION  
N/F PID 631100005 PARCEL 130  
FEE SIMPLE ACQUISITION  
MANATEE COUNTY, FLORIDA

**Hyatt Survey Services, Inc.**

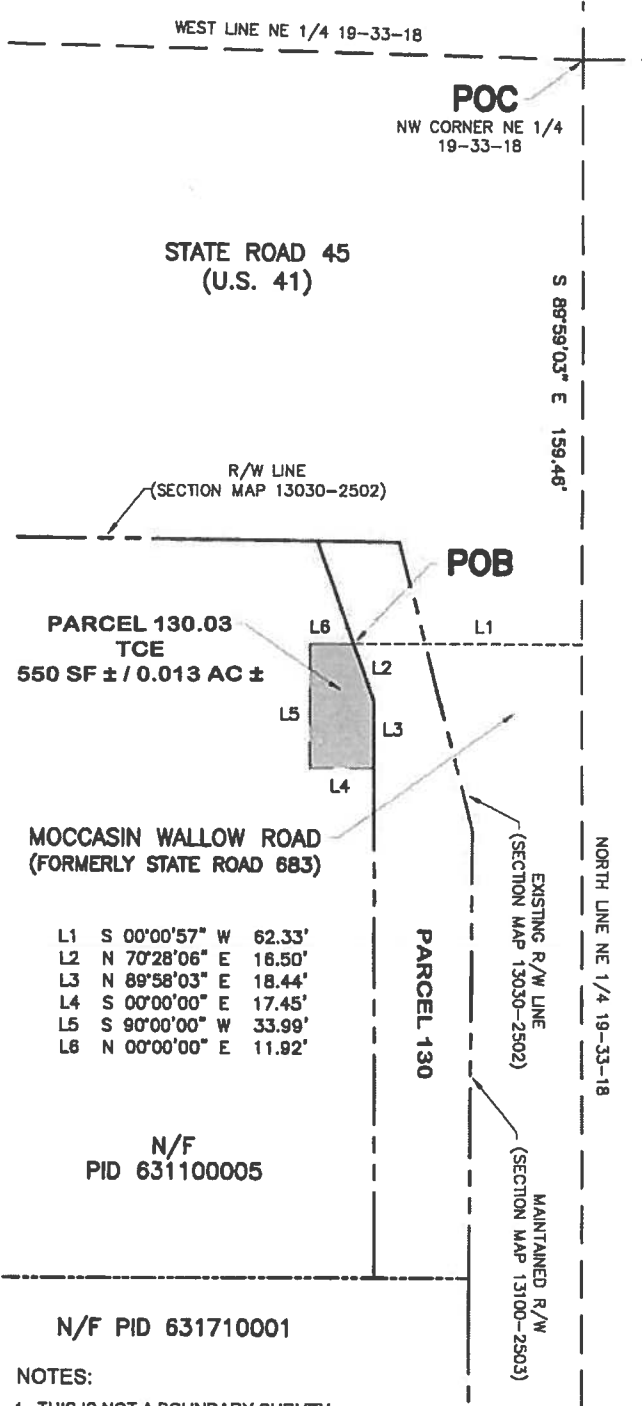
LB No.: 7203 Geographic Data Specialists  
2012 Lena Road Bradenton, Florida 34211  
Phone (941) 748-4693 Fax (941) 744-1643

JOB NUMBER 18-2243	SECTION 19, TOWNSHIP 33 SOUTH, RANGE 18 EAST	SCALE 1"=50'	DATE 11/2019	DRAWN BY JM	FILE NAME 130	SHEET 1 OF 1
-----------------------	--	-----------------	-----------------	----------------	------------------	-----------------

**SKETCH**



**EXHIBIT**  
**B**



**DESCRIPTION**

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA; THENCE ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, S 89°59'03" E, A DISTANCE OF 159.46 FEET; THENCE DEPARTING SAID NORTH LINE, S 00°00'57" W, A DISTANCE OF 62.33 FEET TO THE POINT OF BEGINNING; THENCE N 70°28'06" E, A DISTANCE OF 16.50 FEET; THENCE N 89°58'03" E, A DISTANCE OF 18.44 FEET; THENCE S 00°00'00" E, A DISTANCE OF 17.45 FEET; THENCE S 90°00'00" W, A DISTANCE OF 33.99 FEET; THENCE N 00°00'00" E, A DISTANCE OF 11.92 FEET TO THE POINT OF BEGINNING.

CONTAINING A DESCRIBED AREA OF 550 SQUARE FEET OR 0.013 ACRES MORE OR LESS.

R/W	RIGHT-OF-WAY
TCE	TEMPORARY CONSTRUCTION EASEMENT
ORB	OFFICIAL RECORDS BOOK
PB	PLAT BOOK
PG	PAGE
SF	SQUARE FEET
AC	ACRES
POC	POINT OF COMMENCEMENT
POB	POINT OF BEGINNING
PID	PARCEL IDENTIFICATION
N/F	NOW OR FORMERLY
+/-	MORE OR LESS
CCR	CERTIFIED CORNER RECORD
R	RADIUS
L	ARC LENGTH
CH	CHORD
D	CENTRAL ANGLE

- L1 S 00°00'57" W 62.33'
- L2 N 70°28'06" E 16.50'
- L3 N 89°58'03" E 18.44'
- L4 S 00°00'00" E 17.45'
- L5 S 90°00'00" W 33.99'
- L6 N 00°00'00" E 11.92'

N/F  
PID 631100005

N/F PID 631710001

REVISED: 10-21-20  
REVISED: 4-11-20

**Russell P Hyatt** Digitally signed  
by Russell P Hyatt  
Date: 2021.05.14  
17:09:36 -04'00'

RUSSELL P. HYATT, P.S.M.

Florida Surveyor's Registration, No. LS 5303  
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

**NOTES:**

1. THIS IS NOT A BOUNDARY SURVEY.
2. BEARINGS ARE BASED ON NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 19-33-18 BEING N 89°59'03" W.
3. A TITLE COMMITMENT NUMBERED 570493 DATED 10/29/19 WAS PROVIDED BY STEWART TITLE GUARANTY COMPANY FOR THE SUBJECT PROPERTY.

SKETCH & DESCRIPTION  
N/F PID 631100005 PARCEL 130.03  
TEMPORARY CONSTRUCTION EASEMENT  
MANATEE COUNTY, FLORIDA

**Hyatt Survey Services, Inc.**

LB No.: 7203 Geographic Data Specialists  
2012 Lena Road Bradenton, Florida 34211  
Phone (941) 748-4693 Fax (941) 744-1643

JOB NUMBER 18-2243	SECTION 19, TOWNSHIP 33 SOUTH, RANGE 18 EAST	SCALE 1"=50'	DATE 11/2019	DRAWN BY JM	FILE NAME 130.03	SHEET 1 OF 1
-----------------------	--	-----------------	-----------------	----------------	---------------------	-----------------



**PREPARED BY:**

Pamela J. D'Agostino, Assistant County Attorney  
Manatee County Government  
Office of the County Attorney  
1112 Manatee Avenue West  
Bradenton, Florida 34205

SPACE ABOVE THIS LINE FOR RECORDING DATA

---

**QUITCLAIM DEED**

**THIS QUITCLAIM DEED** is made and given by El Perico, Inc., a Florida corporation, d/b/a Country Deli Store (**Grantor**), whose mailing address is 9608 U.S. Highway 41 North, Palmetto, Florida 34321, and Manatee County, a political subdivision of the State of Florida (**Grantee**), whose mailing address is Post Office Box 1000, Bradenton, Florida 34206, and whose street address is 1112 Manatee Avenue West, Bradenton, Florida 34205.

As used herein, the term Grantor shall include any and all heirs, legal representatives, successors or assigns of the Grantor, and all subsequent owners of the Property (as hereinafter defined) and the term Grantee shall include any successor or assignee of Grantee.

Grantor, for and in consideration of the sum of \$1 and other valuable consideration paid by Grantee, the receipt whereof is hereby acknowledged, does hereby remise, release and quitclaim to Grantee forever, all right, title, interest, claim and demand, which Grantor has in and to the following described land lying and being in Manatee County, Florida (**Property**):

**See legal description in Exhibit A, attached to and incorporated in this Quitclaim Deed by reference.**

To have and to hold the same together with all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or equity, to Grantee forever.

The individual signing below on behalf of Grantor is authorized to execute this conveyance on behalf of Grantor in accordance with Florida law.

**IN WITNESS WHEREOF**, Grantor has caused this quitclaim deed to be executed in its name and its corporate seal to be hereunto affixed by its proper officer thereunto duly authorized, on the day, month, and year written below.

SIGNATURES AND ACKNOWLEDGMENTS APPEAR ON FOLLOWING PAGE.



Signed, sealed, and delivered in the presence of two witnesses as required by law

**GRANTOR:**

El Perico, Inc., a Florida corporation, d/b/a Country Deli Store

*Ali H. Iraq*

By: \_\_\_\_\_  
Signature of Ali H. Iraq, as President

Date: 8-11-2021

Attest: *Saad M. Iraq*  
Signature of Saad M. Iraq, as Vice President

*Aracely Mejia*  
First Witness Signature

*Aracely Mejia*  
First Witness Printed Name

*Andy Perez*  
Second Witness Signature

*Andy Perez*  
Second Witness Printed Name

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

Before me, a Notary Public, the foregoing instrument was acknowledged by means of  
 physical presence or  
 online notarization  
this 11 day of AUGUST 2021, by Ali H. Iraq, who,  
 is personally known to me, or  
 has produced \_\_\_\_\_ as identification.

[CHECK APPLICABLE BOXES TO SATISFY IDENTIFICATION REQUIREMENT OF SECTION 117.05, FLORIDA STATUTES]

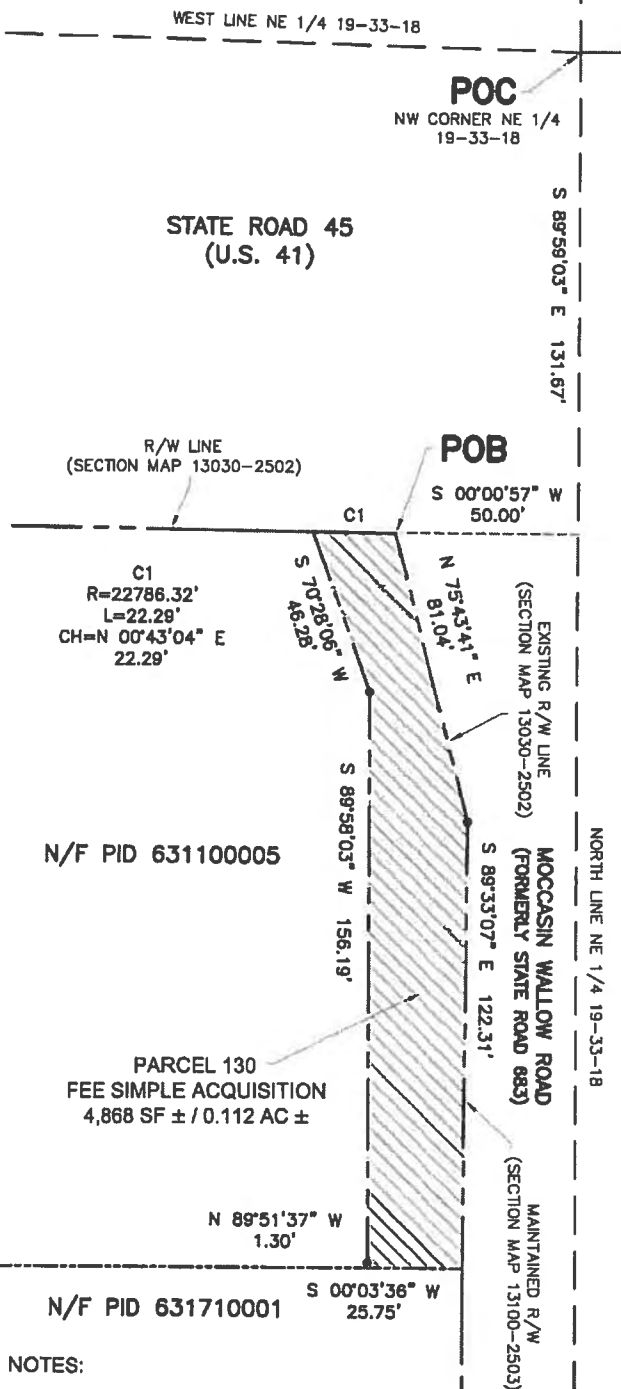
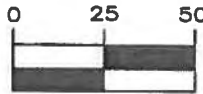
*[Signature]*  
Signature of Notary Public

My Commission Expires: 9/2/2021

(Legibly print, type, or stamp commissioned name of Notary Public and affix official notary seal below.)



**SKETCH**



**DESCRIPTION**

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA; THENCE ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, S 89°59'03" E, A DISTANCE OF 131.67 FEET; THENCE DEPARTING SAID NORTH LINE, S 00°00'57" W, A DISTANCE OF 50.00 FEET TO A POINT ON THE EXISTING RIGHT-OF-WAY LINE OF MOCCASIN WALLOW ROAD PER SECTION MAP 13030-2502 AND A POINT OF BEGINNING; THENCE ALONG SAID EXISTING RIGHT-OF-WAY LINE, N 75°43'41" E, A DISTANCE OF 81.04 FEET TO A POINT OF INTERSECTION WITH THE MAINTAINED RIGHT-OF-WAY OF MOCCASIN WALLOW ROAD; THENCE ALONG SAID MAINTAINED RIGHT-OF-WAY, S 89°33'07" E, A DISTANCE OF 122.31 FEET; THENCE S 00°03'36" W, A DISTANCE OF 25.75 FEET; THENCE N 89°51'37" W, A DISTANCE OF 1.30 FEET; THENCE S 89°58'03" W, A DISTANCE OF 156.19 FEET; THENCE S 70°28'06" W, A DISTANCE OF 46.28 FEET TO A POINT ON THE RIGHT-OF-WAY LINE OF STATE ROAD 45 (U.S. 41) PER AFORESAID SECTION MAP; THENCE NORTHERLY ALONG SAID RIGHT-OF-WAY LINE BY A CURVE TO THE RIGHT WITH A RADIUS OF 22786.32' AND CHORD OF N 00°43'04" E 22.29', A DISTANCE OF 22.29 FEET TO THE POINT OF BEGINNING.

CONTAINING A DESCRIBED AREA OF 4,868 SQUARE FEET OR 0.112 ACRES MORE OR LESS.

R/W	RIGHT-OF-WAY
ORB	OFFICIAL RECORDS BOOK
PB	PLAT BOOK
PG	PAGE
SF	SQUARE FEET
AC	ACRES
POC	POINT OF COMMENCEMENT
POB	POINT OF BEGINNING
PID	PARCEL IDENTIFICATION
N/F	NOW OR FORMERLY
+/-	MORE OR LESS
CCR	CERTIFIED CORNER RECORD
R	RADIUS
L	ARC LENGTH
CH	CHORD
D	CENTRAL ANGLE

REVISED: 10-21-20  
REVISED: 4-11-20  
REVISED 2-25-20

**Russell P Hyatt**

Digitally signed by  
Russell P Hyatt  
Date: 2021.05.14  
17:09:02 -04'00'

RUSSELL P. HYATT, P.S.M.

Florida Surveyor's Registration, No. LS 5303  
NOT VALID WITHOUT THE ORIGINAL SIGNATURE  
AND THE RAISED SEAL OF A FLORIDA LICENSED  
SURVEYOR AND MAPPER.

**NOTES:**

1. THIS IS NOT A BOUNDARY SURVEY.
2. BEARINGS ARE BASED ON NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 19-33-18 BEING N 89°59'03" W.
3. A TITLE COMMITMENT NUMBERED 570493 DATED 10/29/19 WAS PROVIDED BY STEWART TITLE GUARANTY COMPANY FOR THE SUBJECT PROPERTY.

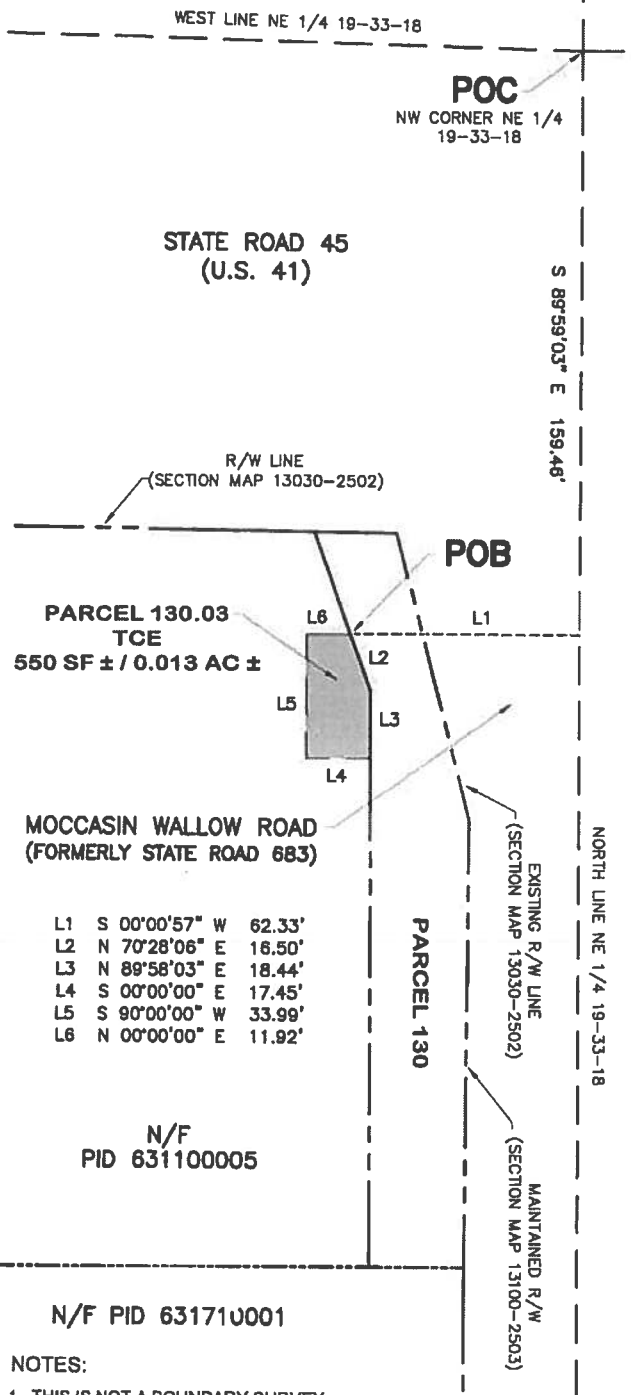
SKETCH & DESCRIPTION  
N/F PID 631100005 PARCEL 130  
FEE SIMPLE ACQUISITION  
MANATEE COUNTY, FLORIDA

**Hyatt Survey Services, Inc.**

LB No.: 7203 Geographic Data Specialists  
2012 Lena Road Bradenton, Florida 34211  
Phone (941) 748-4693 Fax (941) 744-1643

JOB NUMBER 18-2243	SECTION 19, TOWNSHIP 33 SOUTH, RANGE 18 EAST	SCALE 1"=50'	DATE 11/2019	DRAWN BY JM	FILE NAME 130	SHEET 1 OF 1
-----------------------	--	-----------------	-----------------	----------------	------------------	-----------------

**SKETCH**



- L1 S 00°00'57" W 62.33'
- L2 N 70°28'06" E 18.50'
- L3 N 89°58'03" E 18.44'
- L4 S 00°00'00" E 17.45'
- L5 S 90°00'00" W 33.99'
- L6 N 00°00'00" E 11.92'

N/F  
PID 631100005

N/F PID 631710001

**NOTES:**

1. THIS IS NOT A BOUNDARY SURVEY.
2. BEARINGS ARE BASED ON NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 19-33-18 BEING N 89°59'03" W.
3. A TITLE COMMITMENT NUMBERED 570493 DATED 10/29/19 WAS PROVIDED BY STEWART TITLE GUARANTY COMPANY FOR THE SUBJECT PROPERTY.

**DESCRIPTION**

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA; THENCE ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, S 89°59'03" E, A DISTANCE OF 159.46 FEET; THENCE DEPARTING SAID NORTH LINE, S 00°00'57" W, A DISTANCE OF 62.33 FEET TO THE POINT OF BEGINNING; THENCE N 70°28'06" E, A DISTANCE OF 18.50 FEET; THENCE N 89°58'03" E, A DISTANCE OF 18.44 FEET; THENCE S 00°00'00" E, A DISTANCE OF 17.45 FEET; THENCE S 90°00'00" W, A DISTANCE OF 33.99 FEET; THENCE N 00°00'00" E, A DISTANCE OF 11.92 FEET TO THE POINT OF BEGINNING.

CONTAINING A DESCRIBED AREA OF 550 SQUARE FEET OR 0.013 ACRES MORE OR LESS.

R/W	RIGHT-OF-WAY
TCE	TEMPORARY CONSTRUCTION EASEMENT
ORB	OFFICIAL RECORDS BOOK
PB	PLAT BOOK
PG	PAGE
SF	SQUARE FEET
AC	ACRES
POC	POINT OF COMMENCEMENT
POB	POINT OF BEGINNING
PID	PARCEL IDENTIFICATION
N/F	NOW OR FORMERLY
+/-	MORE OR LESS
CCR	CERTIFIED CORNER RECORD
R	RADIUS
L	ARC LENGTH
CH	CHORD
D	CENTRAL ANGLE

REVISED: 10-21-20  
REVISED: 4-11-20

**Russell P Hyatt** Digitally signed  
by Russell P Hyatt  
Date: 2021.05.14  
17:09:36 -04'00'

RUSSELL P. HYATT, P.S.M.

Florida Surveyor's Registration, No. LS 5303  
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SKETCH & DESCRIPTION  
N/F PID 631100005 PARCEL 130.03  
TEMPORARY CONSTRUCTION EASEMENT  
MANATEE COUNTY, FLORIDA

**Hyatt Survey Services, Inc.**  
Geographic Data Specialists  
LB No.: 7203  
2012 Lena Road Bradenton, Florida 34211  
Phone (941) 748-4693 Fax (941) 744-1643

JOB NUMBER 18-2243	SECTION 19, TOWNSHIP 33 SOUTH, RANGE 18 EAST	SCALE 1"=50'	DATE 11/2019	DRAWN BY JM	FILE NAME 130.03	SHEET 1 OF 1
-----------------------	--	-----------------	-----------------	----------------	---------------------	-----------------







Approved in Open Session 9/14/21  
Manatee County  
Board of County Commissioners

## Board of County Commissioners September 14, 2021 - Regular Meeting

### **SUBJECT**

PRELITIGATION BUSINESS DAMAGE CLAIM SETTLEMENT AGREEMENT WITH EL PERICO, INC.;  
MOCCASIN WALLOW ROAD IMPROVEMENT PROJECT FROM U.S. HIGHWAY 41 NORTH TO  
GATEWAY BOULEVARD

### **Category**

CONSENT AGENDA

### **Briefings**

Briefing Provided Upon Request

### **Contact and/or Presenter Information**

Pamela J. D'Agostino, Assistant County Attorney, County Attorney's Office, and Scott May,  
County Engineer, Public Works Department

### **Action Requested**

I move to:

1. Approve the proposed Prelitigation Business Damage Claim Settlement Agreement, pursuant to Section 73.015, Florida Statutes, and authorize the Chairperson or Vice Chair of the Board to execute the attached agreement; and
2. Authorize the County Attorney or his designee to accept, deliver, and record deeds of conveyance and related documents on behalf of the County and take any other action on behalf of the County in accordance with the terms of the agreement and to enforce the terms of the agreement.

### **Enabling/Regulating Authority**

Article X, Section 6 of the Florida Constitution; Chapters 73, 74 and 127, Florida Statutes; and Resolution R-21-146

### **Background Discussion**

The County needs to acquire fee simple title to Parcel 130 and certain temporary easement rights in Parcel 130.03 to improve and widen Moccasin Wallow Road from U.S. Highway 41 North to Gateway Boulevard. Parcels 130 and 130.03 are located at the southeast corner of the intersection of Moccasin Wallow Road and U.S. Highway 41 North and have a physical address of 9608 U.S. Highway 41 North, Palmetto, Florida 34221. Parcels 130 and 130.03 are 0.112 acres and 0.013 acres in size, respectively. Swackhamer Investments II, LLC, a Florida limited liability company, and Meehan Investments II, LLC, a Florida limited liability company, are the owners of the parent parcel (which includes Parcels 130 and 130.03 as well as other land). The property is zoned Neighborhood Commercial Medium (NC-M) and has a future land use of Residential-9 Dwelling Units Per Gross Acre (RES-9).

The parent parcel is improved with a 2,400 square foot commercial building operating as a deli and convenience store with a kitchen and outdoor seating for dining. Other site improvements include an asphalt paved parking lot with 11 parking spaces including a handicap stall, a business sign, a dumpster pad, a well, lighting, and wood fencing. The owner of this business is El Perico, Inc., a Florida corporation, doing business as Country Deli Store (El Perico). The proposed acquisition of Parcel 130 includes the following site improvements: plastic pallet decking, asphalt pavement, parking striping, wheel stop, painted handicap parking space with signage, elevated business sign, other signs, sod, trees, native vegetation, and gas piping.

Before the County can file an eminent domain proceeding, the County must make a good faith effort to notify business owners who operate a business on the property to be acquired. Staff provided this required notice to El Perico. El Perico timely responded with its business damage claim in the amount of \$386,618. El Perico's expert, who is a certified public accountant (CPA), has opined that the taking of Parcels 130 and 130.03 will result in reduction in width of the driveway along Moccasin Wallow Road and loss of circulation and vehicle staging area which will restrict the ability of large delivery vehicles to use the site. He concluded that without adequate site circulation and delivery vehicle staging areas, El Perico will no longer be able to operate on these premises.

The County hired a CPA to evaluate the business damage claim made by El Perico. In May of 2021, after consulting with that CPA, County staff recommended, and this Board authorized, the County Attorney to convey to El Perico a binding counteroffer of \$156,000 in response to the business damage claim received from El Perico. Although El Perico rejected that offer, Public Works staff, with the assistance of the County Attorney's Office, has continued to negotiate with counsel for El Perico to resolve the business damage claim.

Originally, El Perico sought the following:

\$386,618.00 for business damages



\$ 76,103.94 in statutory attorneys' fees  
\$ 41,681.25 for CPA expert services; and  
\$ 3,770.00 for engineering expert services  
\$508,173.19 (Total Original Settlement Offer)

Now, El Perico has agreed to accept the following:

\$250,000 for business damages  
\$ 31,020 in statutory attorneys' fees  
\$ 31,500 for CPA expert services; and  
\$ 3,770 for engineering expert services  
\$316,290 (Total Current Settlement Offer)

The Public Works Department believes that accepting this proposed settlement is in the best interests of the County and therefore recommends that the Board approve this settlement in accordance with the terms outlined in the attached Prelitigation Business Damage Claim Settlement Agreement. The recommendation to accept the terms of this agreement considers the business damage claim originally made by El Perico, the input of the County's expert CPA, the estimated costs associated with litigating the business damage claim, including a jury trial, and the relative strengths and weaknesses in the case. As in all eminent domain matters, the County is ultimately responsible for paying the reasonable fees (per the statutory formula) and costs for the business's attorneys and reasonable fees and costs for the business's experts.

By approving this agreement, the County will not need to include El Perico in any litigation filed to acquire Parcels 130 and 130.03 and the County will incur no additional expenses relative to business damages for Parcels 130 and 130.03. If the County were to reject this agreement and proceed with litigating business damages with El Perico, the County's maximum exposure is estimated to be approximately \$625,000. For comparison purposes, the County's total minimum exposure is estimated to be at least \$300,000.

This agreement is limited to business damages relative to Parcels 130 and 130.03. To date, the owners of Parcels 130 and 130.03 have been unwilling to convey or sell these parcels to the County.

If any Commissioners have questions regarding this item, we respectfully advise that private briefings with the Public Works staff and the County Attorney's Office be requested and that the Commissioners refrain from discussing this matter publicly.

**Attorney Review**

Other (Requires explanation in field below)

**Other (if applicable)**

This is a County Attorney item.

**Reviewing Attorney**

D'Agostino

**Instructions to Board Records**

If approved by the Board, please e-mail an approved copy of this agenda item and the executed Agreement to Pamela J. D'Agostino, Assistant County Attorney, at [pamela.dagostino@mymanatee.org](mailto:pamela.dagostino@mymanatee.org), and Alicia M. Stull, Paralegal, at [alicia.stull@mymanatee.org](mailto:alicia.stull@mymanatee.org). **Distributed 9/16/21, RT**

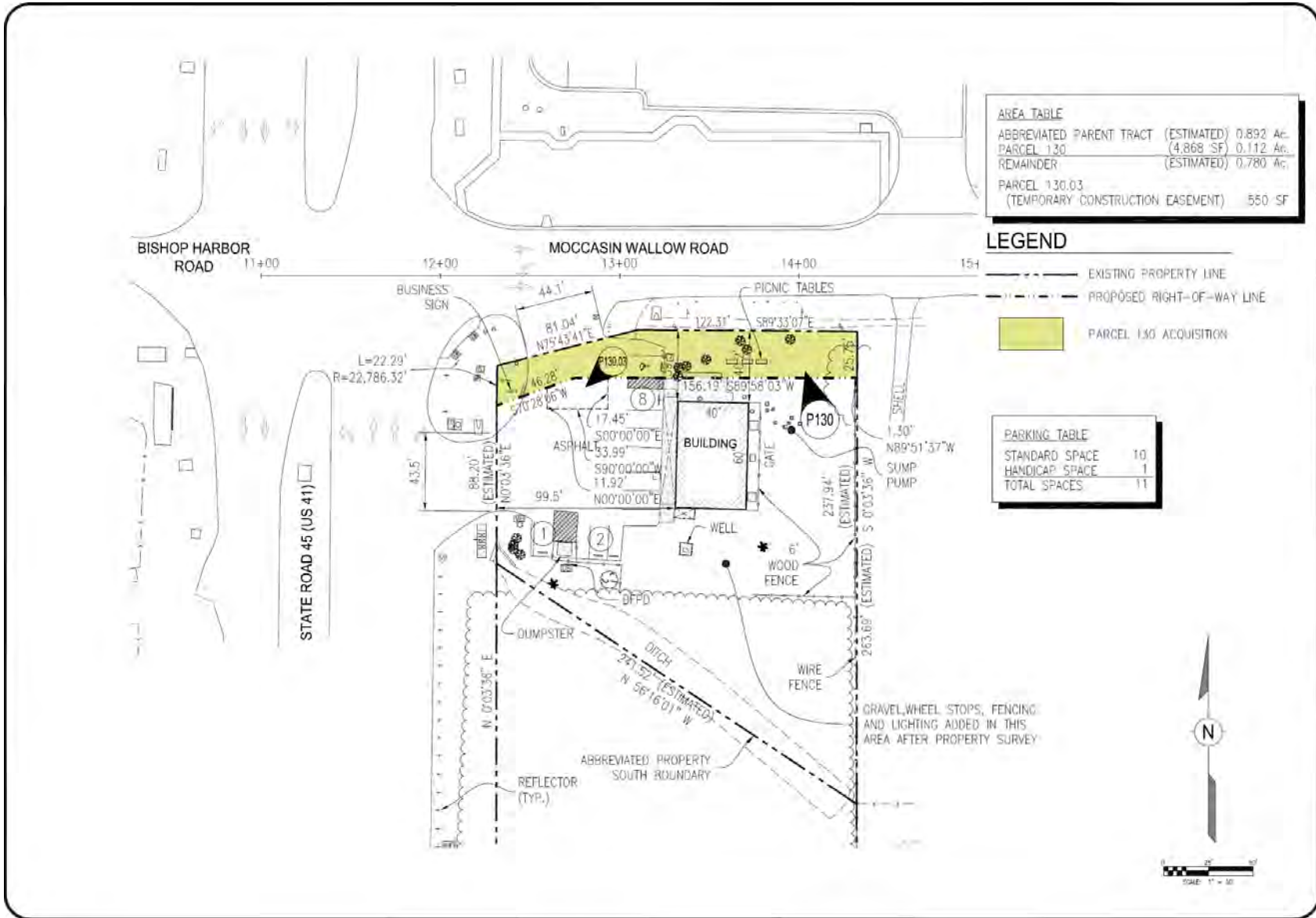
**Cost and Funds Source Account Number and Name**

\$316,290; 850-6092560; Transportation Infrastructure Sales Tax

**Amount and Frequency of Recurring Costs**

Approval of this agreement would require the County to furnish a single, one-time payment of \$316,290. There are no additional or recurring costs.

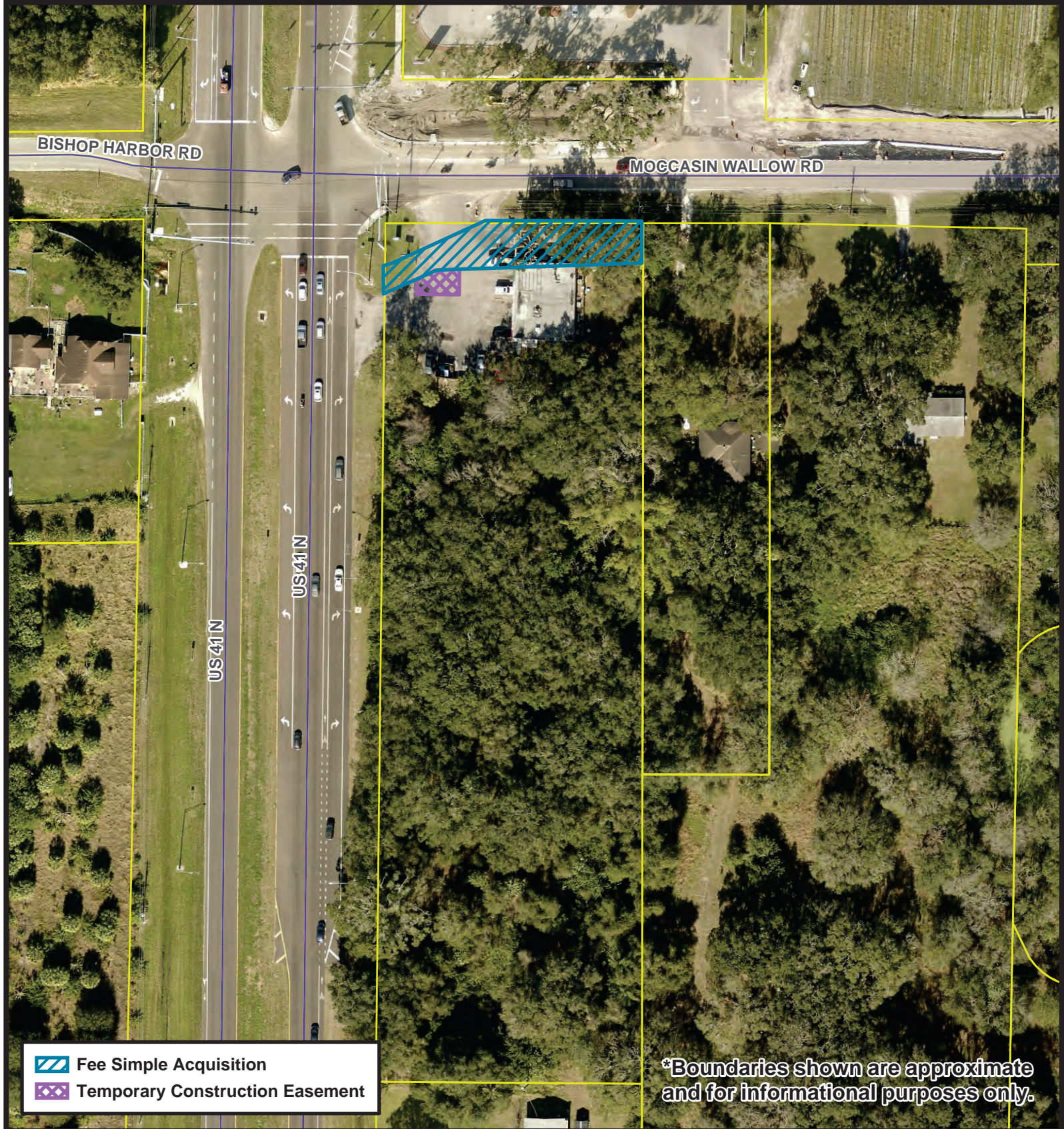
Engineering Aerial Showing Parcels 130 and 130.03 and Existing Improvements



**BEFORE PLAN WITH ACQUISITION**  
 PROJ. NO.: 20826 (20/02) SHEET NO.: 2  
 SCALE: AS NOTED  
 DATE: 05/08/2021 FILE: 201002\_RATEC\_P130.dwg

**PARCEL 130/130.03**  
 MOCCASIN WALLOW ROAD  
 MANATEE COUNTY, FLORIDA

**RATEC Engineering, Inc.**  
 P.O. Box 67281  
 St. Pete Beach, Florida 33736  
 Phone: 727.914.7711



BISHOP HARBOR RD

MOCCASIN WALLOW RD

US 41 N

US 41 N

-  Fee Simple Acquisition
-  Temporary Construction Easement

\*Boundaries shown are approximate and for informational purposes only.



PARCEL 130 & 130.03

SWACKHAMER INVESTMENTS II LLC &  
MEEHAN INVESTMENTS II LLC  
9608 US 41 NORTH  
PALMETTO, FLORIDA 34221



DISTRICT 1- JAMES SATCHER