

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: March 13, 2007

[X] Consent [] Regular
[] Workshop [] Public Hearing

Department:

Submitted By: Department of Airports

Submitted For:

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: First Amendment to the Agreement for Purchase and Sale with Frank W. Cathey, Trustee of the FRANK W. CATHEY Revocable Trust, dated December 23, 1986, and Frank W. Cathey and Martin V. DeLisi, Co-Successor Trustees of the VIRGINIA C. CATHEY Revocable Trust, dated December 23, 1986 for property located West of Runway 9L at Palm Beach International Airport (PBIA).

Summary: On December 19, 2006 the BCC approved an Agreement for Purchase and Sale (R-2006-2718) in the amount of \$1,370,000 for property located at 383 North Military Trail, West Palm Beach, Florida. As a result of a title search conducted prior to closing, it was discovered that one of the Co-Successor Trustees of the VIRGINIA C. CATHEY Revocable Trust had been replaced as of April 9, 2003 in accordance with the requirements of the Virginia Trust and the BCC was not made aware of this change until after the original Agreement was approved. Also, the name of the Virginia Trust in the original Agreement contained a scrivener's error. Approval of this Amendment is requested to correct the aforementioned issues. Countywide (LMB)

Background and Justification: The BCC approved an Agreement for Purchase and Sale on December 19, 2006 (R-2006-2718) for the above property located West of Runway 9L at PBIA. The structure on the property was destroyed by fire several months ago and the owners agreed to sell rather than rebuilding the structure. The Federal Aviation Administration encourages Airport operators to acquire property that falls within the Runway Protection Zone when it is economically feasible. The above property which falls inside the Runway Protection Zone is being acquired in accordance with Palm Beach International Airport's approved Master Plan, which recommended the acquisition of property.

Attachments:

1. First Amendment to Agreement for Purchase and Sale (2 originals)
2. Sellers Disclosure of Beneficial Interests
3. Affidavit of Cheryl C. Crane

Recommended By: _____

Department Director

Date

Approved By: _____

County Administrator

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues (Grants)	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____
Budget Account No: Fund _____ Department _____ Unit _____ Object _____
Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no Fiscal Impact for this item.

C. Departmental Fiscal Review:

CM Simon

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

John D. 2-20-07
OFMB
2/20/2007
CN 02/20/07

John J. Jucali 2/21/07
Contract Dev. and Control
2/21/07

This amendment complies with
our review requirements.

B. Legal Sufficiency:

Paula Bubi 2/23/07
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 9/03
ADM FORM 01

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

DEPARTMENT OF AIRPORTS
FIRST AMENDMENT TO
AGREEMENT FOR PURCHASE AND SALE

THIS FIRST AMENDMENT (this "Amendment"), is made and entered into _____ by and between Frank W. Cathey, Trustee of the FRANK W. CATHEY Revocable Trust, dated December 23, 1986, and Frank W. Cathey and Martin V. DeLisi, Co-Successor Trustees of the VIRGINIA C. CATHEY Revocable Trust, dated December 23, 1986 (hereinafter collectively referred to as "Seller"), and Palm Beach County, a political subdivision of the State of Florida (hereinafter referred to as "County").

WITNESSETH:

WHEREAS, County and Seller entered into that certain Agreement for Purchase and Sale dated December 19, 2006 (R-2006-2718) (the "Agreement"); and

WHEREAS, by virtue of that certain instrument titled "VIRGINIA C. CATHEY TRUST APPOINTMENT OF SUCCESSOR CO-TRUSTEE", recorded in Official Record Book 15608, Page 1282, Cheryl C. Crane was replaced as Co-Successor Trustee of the VIRGINIA C. CATHEY Revocable Trust, dated December 23, 1986 ("Virginia Trust") by Martin V. DeLisi as of April 9, 2003, in accordance with the requirements of the Virginia Trust; and

WHEREAS, the name of the Virginia Trust in the Agreement contained a scrivener's error.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, and for such other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following:

1. The recitals set forth above are true and correct and incorporated herein by this reference. Terms not defined herein shall have the meanings ascribed to them in the Agreement.

2. Wherever the reference to "Frank W. Cathey and Cheryl C. Crane, Co-Successor Trustees of the Virginia W. Cathey Revocable Trust, dated December 23, 1986" appears in the Agreement, it shall be replaced in its entirety by the following:

Frank W. Cathey and Martin V. DeLisi, Co-Successor Trustees of the
Virginia C. Cathey Revocable Trust, dated December 23, 1986

3. Section 6.2 of the Agreement is hereby deleted in its entirety and replaced in its entirety by the following:

6.2 Closing Date. The Closing shall be on April 12, 2007, or at
such earlier date as is mutually agreed upon by the parties.

4. Martin V. DeLisi, as Co-Successor Trustee of the Virginia Trust, consents to and joins in the Agreement and agrees to be bound by the warranties, representations, terms, obligations and conditions of the Agreement, as amended hereby. The parties agree that the failure of Martin V. DeLisi, as Co-Successor Trustee of the Virginia Trust, to execute the Agreement shall not affect the validity or enforceability of the Agreement against the Virginia Trust.

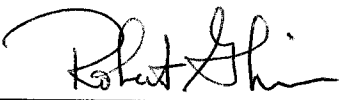
5. Except as specifically amended herein, all the terms and conditions of the Agreement are hereby confirmed and remain in full force and effect.

6. This Amendment shall become effective when executed by the parties and approved by the Palm Beach County Board of County Commissioners.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed in their respective names, on the dates set forth below.

Signed, sealed and delivered
in the presence of:

Date of Execution by Seller:

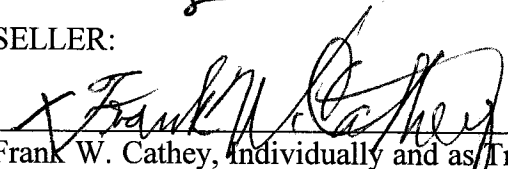


Signature ROBERT GATTINI

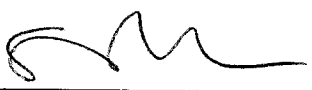
Print Name

February 6, 2007

SELLER:



Frank W. Cathey, individually and as Trustee of the
FRANK W. CATHEY Revocable Trust, dated
December 23, 1986, and as Co-Successor Trustee of
the VIRGINIA C. CATHEY Revocable Trust, dated
December 23, 1986




Signature STEVEN SAMILJAN


Print Name

Date of Execution by Seller: Feb 7, 2007

SELLER:




Signature ROBERT GATTINI

Print Name


Signature STEVEN SAMILJAN

Print Name



Martin V. DeLisi, Individually and as Co-Successor
Trustee of the VIRGINIA C. CATHEY Revocable
Trust, dated December 23, 1986

Attest:

SHARON R. BOCK, Clerk &
Comptroller

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: _____
County Attorney

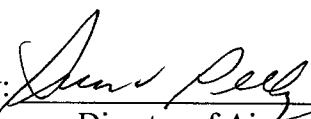
Date of Execution by County:

_____, 200__

PALM BEACH COUNTY, a political
subdivision of the State of _____,
Florida

By: _____
Addie L. Greene, Chairperson

APPROVED AS TO TERMS AND
CONDITIONS:

By: 

Director of Airports

SELLERS DISCLOSURE OF BENEFICIAL INTERESTS
(REQUIRED BY FLORIDA STATUTES 286.23)

TO: PALM BEACH COUNTY CHIEF OFFICER, OR HIS OR HER OFFICIALLY
DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared, Martin V. DeLisi, hereinafter referred to as "Affiant", who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the Co-Successor Trustee of the VIRGINIA C. CATHEY Revocable Trust, dated December 23, 1986 (the "Owner"), which entity is the owner of the real property legally described on the attached Exhibit "A" (the "Property").

2. Affiant's address is: 2000 PGA BLVD Suite 3206
Palm Beach Gardens, FL
33408

3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater beneficial interest in the Owner and the percentage interest of each such person or entity.

4. Affiant acknowledges that this Affidavit is given to comply with Florida Statutes 286.23, and will be relied upon by Palm Beach County in its purchase of the Property.

5. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

6. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

[Signature], Affiant
(Print Affiant Name)
MARTIN V. DELISI

The foregoing instrument was acknowledged before me this 7th day of Feb, 2007, by MARTIN V. DELISI
[] who is personally known to me or [] who has produced FL DR Lic as identification and who did take an oath.

[Signature]
Notary Public

Steven Samiljan
(Print Notary Name)

NOTARY PUBLIC
State of Florida at Large

My Commission Expires: _____



EXHIBIT "A"

PROPERTY

The S1/4 of the NE1/4 of the NE1/4 of the SW1/4, Section 36, Township 43 South, Range 42 East, less the right-of-way granted for State Road 809 and less the following described property: From the NW corner of said S1/4 of the NE1/4 of the NE1/4 of the SW1/4 run South 01 degrees 53' 19" West for 37.66 feet along the West line of said S1/4 of the NE1/4 of the NE1/4 of the SW1/4 to a point; thence run South 87 degrees 12' 51" East 616.94 feet to a point on a line parallel to and 53 feet West of measured at right angles to the North-South Quarter section line of said Section 36; thence run North 01 degrees 54' 39" East along said parallel line for 47.61 feet to a point on the North line of said S1/4 of the NE1/4 of the NE1/4 of the SW1/4; thence run North 88 degrees 08' 21" West along said North line to the Point of Beginning.

The foregoing description is based upon a bearing of North 01 degrees 54' 39" East of the North-South ¼ section line of Section 36.

SCHEDULE TO BENEFICIAL INTERESTS IN PROPERTY

Seller is only required to identify five percent (5%) or greater beneficial interest holders. If none, so state. Seller must identify individual owners. If, by way of example, Seller is wholly or partially owned by another entity, such as a corporation, Seller must identify such other entity, its address and percentage interest, as well as such information for the individual owners of such other entity.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

SELLER'S DISCLOSURE OF BENEFICIAL INTERESTS
(REQUIRED BY FLORIDA STATUTES 286.23)

TO: PALM BEACH COUNTY CHIEF OFFICER, OR HIS OR HER OFFICIALLY
DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared, Frank W. Cathey, hereinafter referred to as "Affiant", who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the Trustee of the FRANK W. CATHEY Revocable Trust, dated December 23, 1986, and Co-Successor Trustee of the VIRGINIA C. CATHEY Revocable Trust, dated December 23, 1986 (the "Owner"), which entity is the owner of the real property legally described on the attached Exhibit "A" (the "Property").

2. Affiant's address is: 120 Seasteppes Court
Jupiter, FL 33477

3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater beneficial interest in the Owner and the percentage interest of each such person or entity.

4. Affiant acknowledges that this Affidavit is given to comply with Florida Statutes 286.23, and will be relied upon by Palm Beach County in its purchase of the Property.

5. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

6. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

Frank W. Cathey, Affiant
(Print Affiant Name)
Frank W. Cathey

The foregoing instrument was acknowledged before me this Feb
2007, by FRANK W. CATHEY
[] who is personally known to me or [] who has produced
as identification and who did take an oath.



Steven T. Samiljan
Notary Public

Steven Samiljan
(Print Notary Name)

NOTARY PUBLIC
State of Florida at Large

My Commission Expires: _____

EXHIBIT "A"

PROPERTY

The S1/4 of the NE1/4 of the NE1/4 of the SW1/4, Section 36, Township 43 South, Range 42 East, less the right-of-way granted for State Road 809 and less the following described property: From the NW corner of said S1/4 of the NE1/4 of the NE1/4 of the SW1/4 run South 01 degrees 53' 19" West for 37.66 feet along the West line of said S1/4 of the NE1/4 of the NE1/4 of the SW1/4 to a point; thence run South 87 degrees 12' 51" East 616.94 feet to a point on a line parallel to and 53 feet West of measured at right angles to the North-South Quarter section line of said Section 36; thence run North 01 degrees 54' 39" East along said parallel line for 47.61 feet to a point on the North line of said S1/4 of the NE1/4 of the NE1/4 of the SW1/4; thence run North 88 degrees 08' 21" West along said North line to the Point of Beginning.

The foregoing description is based upon a bearing of North 01 degrees 54' 39" East of the North-South 1/4 section line of Section 36.

SCHEDULE TO BENEFICIAL INTERESTS IN PROPERTY

Seller is only required to identify five percent (5%) or greater beneficial interest holders. If none, so state. Seller must identify individual owners. If, by way of example, Seller is wholly or partially owned by another entity, such as a corporation, Seller must identify such other entity, its address and percentage interest, as well as such information for the individual owners of such other entity.

This image shows a single page of white paper with horizontal black ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

AFFIDAVIT

State of FLORIDA
County of ALACHUA

BEFORE ME, the undersigned authority, this day personally appeared CHERYL C. CRANE, "Affiant", who, after being first duly sworn, deposes and says the following:

1. Affiant is familiar with the terms and provisions of the VIRGINIA C. CATHEY Revocable Trust, dated December 23, 1986 (the "VIRGINIA C. CATHEY Revocable Trust").
2. Upon execution of the VIRGINIA C. CATHEY Revocable Trust by Virginia C. Cathey, as Grantor, Affiant was appointed Co-Successor Trustee of the VIRGINIA C. CATHEY Revocable Trust.
3. By virtue of that certain Warranty Deed dated December 23, 1986, recorded in Official Record Book 5121, Page 153, of the public records of Palm Beach County, Florida, title to the real property legally described in Exhibit "A", attached hereto and made a part hereof (the "Property"), was vested in FRANK W. CATHEY, as Trustee of the FRANK W. CATHEY Revocable Trust, dated December 23, 1986, and VIRGINIA C. CATHEY, as Trustee of the VIRGINIA C. CATHEY Revocable Trust, dated December 23, 1986, as equal tenants-in-common.
4. Under Article XI, Successor Trustees, of said VIRGINIA C. CATHEY Revocable Trust, subparagraph E, it is provided, in part, as follows:

"E. GRANTOR'S spouse shall have the power, after the GRANTOR's death or during GRANTOR's incapacity to appoint a corporate SUCCESSOR TRUSTEE, if one is not then serving thereunder, and to replace any SUCCESSOR then serving hereunder."
5. By virtue of that certain instrument titled "VIRGINIA C. CATHEY TRUST APPOINTMENT OF SUCCESSOR CO-TRUSTEE", recorded in Official Record Book 15608, Page 1282, of the public records of Palm Beach County, Florida (the "Appointment Instrument"), Frank W. Cathey, as surviving spouse of Virginia C. Cathey, appointed Martin V. DeLisi as Frank W. Cathey's Co-Trustee of the Virginia C. Cathey (sic) Trust as of April 9, 2003. This appointment of Martin V. DeLisi replaced Affiant who was no longer active as Co-Trustee of the Virginia C. Cathey (sic) Trust and who was not active for several years. The "revocable Trust Agreement" referred to in the Appointment Instrument as the "Virginia C. Cathey Trust" is the VIRGINIA C. CATHEY Revocable Trust. Frank W. Cathey, as surviving spouse of Virginia C. Cathey, had full power and authority under the VIRGINIA C.

CATHEY Revocable Trust to make such appointment and replacement and such appointment and replacement was made in accordance with the terms and provisions of Article XI, Successor Trustees, subparagraph E, of the VIRGINIA C. CATHEY Revocable Trust.

6. Affiant recognizes the validity of such appointment of Martin V. DeLisi and replacement of Affiant as Co-Successor Trustee of the VIRGINIA C. CATHEY Revocable Trust, in accordance with the terms and provisions of Article XI, Successor Trustees, subparagraph E, of the VIRGINIA C. CATHEY Revocable Trust, in all respects and as if Affiant herself signed the Appointment Instrument.
7. By virtue of the above recitals, as of April 9, 2003, Affiant has no power or authority to execute any documents for or on behalf of the VIRGINIA C. CATHEY Revocable Trust, including, but not limited to, documents pertaining to title to the Property.
8. This Affidavit is made for the purpose of inducing Palm Beach County, a political subdivision of the State of Florida, to purchase the VIRGINIA C. CATHEY Revocable Trust's interest in the Property.
9. Affiant further deposes and says that she is over 18 years of age, and she is familiar with the nature of an oath and the penalties provided by law for falsely swearing to statements made in an instrument of this nature.

FURTHER AFFIANT SAYETH NAUGHT.

Cheryl C. Crane, Affiant
Cheryl C. Crane

The foregoing instrument was acknowledged before me this 13th day of February, 2007, by Cheryl C. Crane [] who is personally known to me or [X] who has produced Florida Driver License as identification and who did take an oath.

Rosemary W. Tyson
Notary Public

Rosemary W. Tyson
(Print Notary Name)

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: 7/6/2010

