

## **Marketing and Listing Agreement**

NEW ORLEANS, LOUISIANA

May 31, 2011

Whitney National Bank, ("Whitney"), hereby grants to Robert Barber/Accelerated Real Estate Services (the "Broker"), the sole and exclusive right, subject to the terms and conditions of this Agreement, to offer for sale, the following property 4170 County Rd., 16, St. Petersburg, FL (the "Property"), which property is currently not occupied, for Forty-One Thousand Eight Hundred (\$41,800) Dollars, cash, payable at closing or for any other price, or upon any other terms as may be agreed in writing by Whitney and approved by Management/Board of Directors.

Whitney agrees to pay Broker a commission of Ten percent (10.00%) of the sale price to be received by Whitney at closing in accordance with a form of Agreement to Purchase and Sell executed by Whitney and a purchaser. The Broker's commission shall be earned and payable only at closing of the sale of the Property and upon receipt by Whitney of the sale proceeds. If another broker submits an offer for purchase of the Property, and such offer results in a completed sale, Broker agrees to divide its commission with the selling broker in accordance with real estate agency practices prevailing in the market where the Property is located.

Broker agrees to compile and retain a list of those prospective purchasers to whom the Property has been shown and supply Whitney with a copy of such list, upon expiration or termination of this Agreement. If an Agreement to Purchase and Sell is made with any party who appears on the list presented by Broker to Whitney within sixty days after the expiration of this contract (the "protection period"), Whitney agrees to pay a commission in accordance with the terms of that Agreement to Purchase and Sell, provided however, that the protection period shall terminate when the Property is listed with another real estate broker after expiration or termination of this Agreement.

Broker shall post "for sale"/"sold" signs on the Property. **Further, Broker shall submit a written recap of monthly marketing activity no later than the eighth (8th) day of the following month to Whitney.**

All deposits on the sale price represented by cash or, with Whitney's concurrence, a real estate deposit note, when an acceptable offer to purchase is obtained shall be immediately delivered to Broker.

During the term of this Agreement, Whitney agrees to refer all prospective purchasers or interested parties to  
**Revised for FL**  
**10/97**

Broker. Whitney specifically requests and authorizes the use of the Multiple Listing Service to promote and enhance the sale of the Property. Broker also agrees to cause its agents or employees use their best efforts to promote and close the sale of the Property, including but not limited to, disseminating information about the Property, contacting and negotiating with prospective purchasers, showing the Property and advertising the Property for sale.

*Seller authorizes Broker to:*

*Utilize Seller's name in connection with marketing or advertising the Property, either before or after the sale.*

*Use a lock box system for purposes of showing and accessing the Property. Seller agrees that the lock box is for the benefit of and releases and holds harmless Broker, those persons working through Broker, and Broker's local Board/Association of REALTORS from all liability and responsibility in connection with any loss that occurs, except that does not release the individuals directly responsible for any such damage from any criminal or civil liability caused by intentional acts or gross negligence.*

*Seller agrees during the term of this Agreement:*

- (a) To refer immediately to Broker all inquiries from agents regarding the purchase of the Property.*
- (b) To provide Broker with keys to the Property and make the Property available for Broker to show during reasonable times.*
- (c) To perform any act reasonably necessary to comply with FIRPTA (Internal Revenue Code Section 1445).*

*Retained Deposits: In the event Seller retains a deposit due to Buyer's default, Seller shall pay to Broker as full and total consideration for Broker's services Zero Percent (0.00%) of the deposit, not to exceed the fee stated above, and Seller shall retain the balance.*

*COOPERATION WITH OTHER BROKERS: Broker will offer to cooperate with and compensate:*

*subagents*

*buyer's agents, who represent the interest of the buyer and not the interest of Seller in a transaction, even if compensated by Seller or Broker.*

POTENTIAL FOR DUAL AGENCY: By signing this Agreement, Broker agrees to represent and act as agent for Seller within the scope of this Agreement. A Seller's agent owes the Seller the fiduciary duties of loyalty, confidentiality, obedience, full disclosure, accounting and the use of skill, care and diligence in carrying out Broker's duties under this Contract. However, in any of the following situations, a potential conflict of interest arises which could result in Broker representing both Seller and a buyer:

(a) Broker represents a buyer who expresses interest in Seller's Property.

(b) Broker or an agent in the listing office wishes to buy the Property.

In the event one of these situations arise, Broker will, prior to taking a position in conflict with Seller's interests, disclose in writing to Seller all facts pertaining to the potential dual agency and will not undertake dual representation without Seller's and buyer's written consent. If such consent is obtained, Broker will act as either:

(a) DISCLOSED DUAL BROKER: A disclosed dual agent has all the fiduciary duties except full disclosure between the buyer and Seller. This means that Broker will not reveal confidential information about the parties, such as Seller's motivation for selling or willingness to accept less than the listed price or the buyer's willingness to pay more than the offer price. When the situation arises, Broker will disclose to Seller all facts pertaining to the potential dual agency and will not undertake disclosed dual agency without the buyer's and Seller's written consent, or

(b) TRANSACTION BROKER: A transaction broker does not represent Seller or the buyer as an agent. Instead, Broker will treat both Seller and the buyer with honesty and fairness; will disclose all known facts materially affecting the value of property to both parties; will account to both parties for money or property that comes into Broker's possession; and will use skill, care and diligence in facilitating the transaction.

ATTORNEY'S FEES AND COSTS: In the event any litigation arises out of this Contract, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

MISCELLANEOUS: This Agreement is binding on Broker's and Seller's heirs, personal representatives, administrators, successors and assigns.

MATERIAL FACTS AND DEFECTS of which Seller is aware (if any): See Addendum.

This Agreement shall remain in full force and effect for a period of 180 days from the date of this Agreement. However, either party shall have the right to cancel this Agreement at any time upon giving the other party five (5) days written notice sent by certified mail to the other party. Such written notice shall be mailed to Whitney at 228 St. Charles Avenue, New Orleans, Louisiana 70130, Attention: SPECIAL PROPERTIES DEPARTMENT, and shall be mailed to Broker at the following address 5514 Park Blvd, Pinellas Park FL 33781.

*In the event that Whitney enters into an agreement to sell this property via an auction the listing agent will agree to a reduced commission to be negotiated between Whitney and the auction company.*

WHITNEY NATIONAL BANK

SELLER:  
By: E. Dale Lindsey, Jr.  
Its: Vice President

Agent: \_\_\_\_\_

Its: \_\_\_\_\_

**E. DALE LINDSEY, JR.**  
**VICE PRESIDENT**

### Statement of Material Facts and Defects Addendum

Seller obtained ownership of this property by foreclosure or repossession. Accordingly, Seller is an absentee owner. Seller has made no detailed inspection of this property and is unaware of its condition. If Seller is aware of any material facts or defects on the property or its improvements, they are set forth below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any potential buyer should make independent inspection of the property and improvements thereon and Broker should so advise. Seller hereby directs the Broker to provide a copy of this statement to any potential buyer of the property and return a signed original to Seller along with any signed Contract for Purchase Offer.

Seller: Whitney National Bank

Date: 5-31-11

By: E. D. [Signature]

Its Vice Presd

**Purchaser acknowledges that he/she/it has read the above information and has or will prior to closing make independent investigation of the property and improvements thereon and understand that Seller makes no warranties as to the condition of the property or improvements thereon.**

Purchaser: \_\_\_\_\_

Date: \_\_\_\_\_

Purchaser: \_\_\_\_\_

Date: \_\_\_\_\_

ADDENDUM TO AGREEMENT TO PURCHASE AND SELL (RESIDENTIAL PROPERTY)

PURCHASER: \_\_\_\_\_ PROPERTY ADDRESS: 4170 County Rd., 16, St. Petersburg, FL  
SELLER: WHITNEY NATIONAL BANK

DISCLOSURE OF INFORMATION ON LEAD-BASED PAINT  
AND LEAD-BASED PAINT HAZARDS

LEAD WARNING STATEMENT

Every Purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

SELLER'S DISCLOSURE (initial)

   (a) Presence of lead-based paint and/or lead-based paint hazards (check one below):  
           Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).  
       Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

   (b) Records and reports available to the seller (check one below):  
           Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).  
       Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

PURCHASER'S ACKNOWLEDGMENT (initial)

       (c) Purchaser has received copies of all information listed above.  
       (d) Purchaser has received the pamphlet Protect Your Family from Lead in Your home.  
       (e) Purchaser has (check one below):  
           Received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or  
           Waived the opportunity to conduct a risk assessment or inspection for the presence of lead based paint and/or lead-based paint hazards.

AGENT'S ACKNOWLEDGMENT (initial)

       (f) Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852(d) and is aware of his/her responsibility to ensure compliance.

CERTIFICATION OF ACCURACY

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

Seller/Whitney National Bank

  E. Dale Lindsey, Jr.    
By: **E. DALE LINDSEY, JR.**  
Its: **VICE PRESIDENT**

  5/31/04    
Date

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Date

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Date

\_\_\_\_\_  
Seller's Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Purchaser's Agent

\_\_\_\_\_  
Date

S.N.D. - SET NAIL AND DISC #6539  
S.I.R. - SET IRON ROD #6539  
S.C.I.R. - SET CAPPED IRON ROD  
F.I.R. - FOUND IRON ROD  
F.O.P. - FOUND OPEN PIPE  
F.P.P. - FOUND PINCH PIPE  
FH - FIRE HYDRANT  
LP - LIGHT POLE  
PLA. - PLANTER

FD. PK. N. - FOUND PK NAIL  
F.C.M. - FOUND CONC. MON.  
FD. N.&D. - FOUND NAIL AND DISC.  
B.M. - BENCH MARK  
L.FL.E.L. - LOWEST FLOOR ELEV.  
GAR. FL.E.L. - GARAGE FLOOR ELEV.  
C.L.F. - CHAIN LINK FENCE  
W.F. - WOOD FENCE  
TOB - TOP OF BANK  
PP - POWER POLE

ABBREVIATIONS  
(P) - PLAT  
(F) - FIELD  
(M) - MEASURED  
(C) - CALCULATED  
(D) - DEED  
(L) - LEGAL

SEC. 1, TWP 31 S., RGE 15 E.

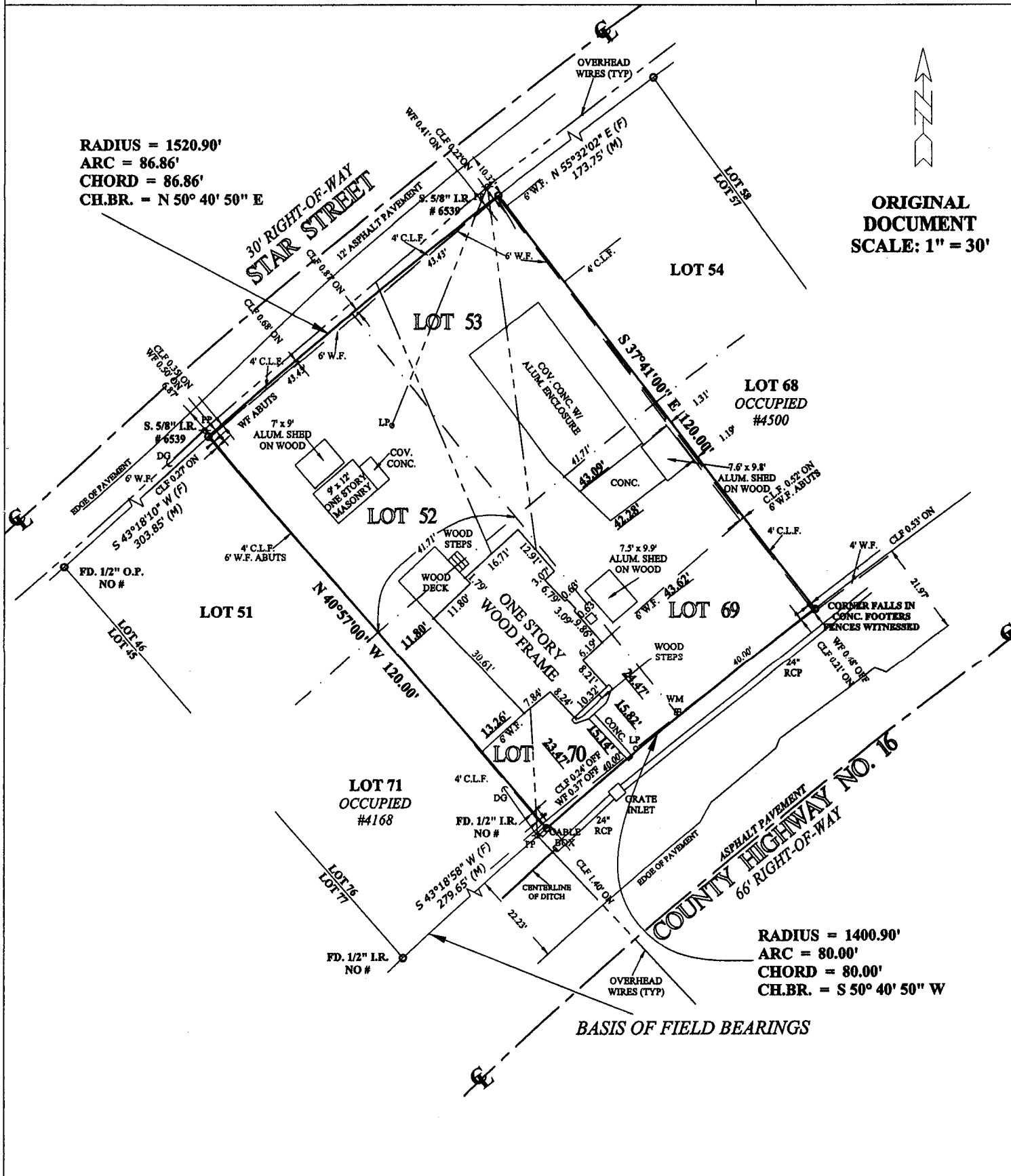
BEARINGS BASED  
ON RECORDED PLAT

ADDRESS:  
4170 COUNTY ROAD 16  
ST. PETERSBURG, FLORIDA

FLOOD ZONE: "X", ACCORDING TO F.I.R.M. #12103C0192-G, COMMUNITY #125139,  
MAP DATED 9-3-03, INDEX DATED 8-18-09

LEGAL DESCRIPTION: LOTS 52, 53, 69 AND 70, GULF AND BAY,  
AS RECORDED IN PLAT BOOK 21, PAGE 49, PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

BASIS OF FIELD BEARINGS:  
NORTHERLY RIGHT-OF-WAY LINE  
COUNTY ROAD 16,  
BEING: N 35° 57' 13" E



- 1) NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS NOTED
- 2) NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHT OF WAY, AND/OR OWNERSHIP WERE FURNISHED TO THIS SURVEYOR EXCEPT AS NOTED AND/OR SHOWN.
- 3) THIS SURVEY IS PREPARED FOR THE EXCLUSIVE USE AND BENEFIT OF THE PARTIES SHOWN HEREON. LIABILITY TO THIRD PARTIES MAY NOT BE TRANSFERRED OR ASSIGNED.
- 4) THIS SURVEY IS VALID IN ACCORDANCE WITH F.S. 627.7842, FOR A PERIOD OF 90 DAYS FROM DATE OF CERTIFICATION.

TYPE OF SURVEY: LAND OR BOUNDARY USE: FORECLOSURE

JOB NO. 2011-0048

CERTIFY TO: WHITNEY NATIONAL BANK / RICHARD L. ALFORD, P.A. / ATTORNEYS' TITLE FUND SERVICE, LLC

SIGNATURE:

*Lauren R. Penny*  
LAUREN R. PENNY P.S.M. # 4931

DATE: 2-15-2011

DRAWN BY: LP/JMF



L.R. PENNY AND ASSOCIATES, INC.  
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SEMINOLE, FLORIDA 33778  
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FAX: (727) 319-6051  
FLORIDA P.S.M. # 4931