

Lee County Board of County Commissioners

Agenda Item Summary

Blue Sheet No. 20021209

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize the purchase of 1.05 acres ±, identified as a part of Strap Number 10-43-24-00-00003.002B in North Fort Myers for the Gator Slough Phase II and III Improvements, Project No. 3043, in the amount of \$7,875.00, pursuant to the terms and conditions set forth in the Agreement for Purchase and Sale of Real Estate; authorize the Chairman on behalf of the Board of County Commissioners to execute the Purchase Agreement; authorize payment of necessary fees and costs to close; authorize the Division of County Lands to handle and accept all documentation necessary to complete this transaction.

WHY ACTION IS NECESSARY: The Board must formally accept all real estate conveyances to Lee County.

WHAT ACTION ACCOMPLISHES: Acquires property necessary for the project.

2. DEPARTMENTAL CATEGORY:

06

COMMISSION DISTRICT #:

4

C6C

3. MEETING DATE:

11-19-2002

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON

TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

- (Specify)
- STATUTE FS 125
 - ORDINANCE
 - ADMIN.
 - OTHER

6. REQUESTOR OF INFORMATION

- A. COMMISSIONER
- B. DEPARTMENT *Independent*
- C. DIVISION *County Lands TLM 10-28-02*
- BY: *Karen L.W. Forsyth, Director*

[Handwritten signature]

7. BACKGROUND:

The Division of County Lands has been requested by the Division of Natural Resources to acquire property that is necessary for the Gator Slough Channel Improvements Project. The project will improve water flow from the Charlotte County line into and out of the Gator Slough and Powell Creek watersheds into the lakes and canals in Cape Coral and the Caloosahatchee River. This acquisition consists of approximately 1.05 acres of land zoned AG-2, located south of Nalle Grade Extension approximately one mile east of U.S. 41 in North Fort Myers, and further identified as a portion of Strap No. 10-43-24-00-00003.002B.

The owner, Robert Zeltner, has agreed to sell the subject property to the County for \$7,875.00. The Seller, at his expense, is to pay documentary stamps, and real estate broker and attorney fees, if any. The County will pay for the environmental audit and closing costs of approximately \$600.00.

The appraised value of the parcel is \$7,875.00. The appraisal was performed by David C. Vaughan, MAI, of Diversified Appraisal, Inc.

Staff recommends the Board approve the Requested Motion.

- Attachments:
- Purchase Agreement
 - In-House Title Search
 - Appraisal Letter
 - Sales History

Funds are available in Account No. 20304330100.506110

- 20 - Capital Projects
- 3043 - Gator Slough Phase II and III
- 30100 - Capital Improvement Fund
- 506110 - Land and Court of Registry Deposits

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services <i>11/7</i>				G County Manager
					OA	OM	RISK	GC	
<i>K. Forsyth</i>			<i>BAD 10/29</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i> <i>10.30.02</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *10/30/02*
Time: *3:43 pm*
Forwarded To:
ADMIN
11/1/02 11:30

RECEIVED BY
COUNTY ADMIN. *EW*
11-1 2:30
COUNTY ADMIN.
FORWARDED TO:
11/7 11:30

This document prepared by
Lee County
Division of County Lands
Project: Gator Slough Improvements, Project No. 8533
STRAP No.: Part of 10-43-24-00-00003.002B

BOARD OF COUNTY COMMISSIONERS

LEE COUNTY

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

THIS AGREEMENT for purchase and sale of real property is made this ____ day of _____, 2002, by and between Robert Zeltner, hereinafter referred to as SELLER, whose address is 1462 Sandra Drive, Fort Myers, Florida 33901, and Lee County, a political subdivision of the State of Florida, hereinafter referred to as BUYER.

WITNESSETH:

1. AGREEMENT TO PURCHASE AND TO SELL: SELLER agrees to sell and BUYER agrees to purchase, subject to the terms and conditions set forth below, a parcel of land consisting of 1.05 acres more or less, and located in Lee County, Florida, and more particularly described in "Exhibit A" attached hereto and made a part hereof, hereinafter called "the Property." This property will be acquired for the Gator Slough Improvements Project, hereinafter called "the Project."

2. PURCHASE PRICE AND TIME OF PAYMENT: The total purchase price ("Purchase Price") will be Seven Thousand Eight Hundred Seventy-Five and 00/100 (\$7,875.00), payable at closing by County Warrant.

3. **EVIDENCE OF TITLE:** BUYER will obtain at BUYER'S expense an American Land Title Association Form B Title Commitment and provide title insurance Owner's Policy in the amount of \$7,875.00, from a title company acceptable to BUYER. The commitment will be accompanied by one copy of all documents that constitute exceptions to the title commitment. The commitment will also show title to be good and marketable with legal access, subject only to real estate taxes for the current year, zoning and use restrictions imposed by governmental authority, and restrictions and easements common to the area.

4. **CONDITION OF PROPERTY; RISK OF LOSS:** BUYER has inspected the Property and, except as is otherwise provided herein, accepts the Property in the condition inspected. Any loss and/or damage to the Property occurring between the date of this offer and the date of closing or date of possession by BUYER, whichever occurs first, will be at SELLER's sole risk and expense. However, BUYER may accept the damaged property and deduct from the purchase price any expenses required to repair the damage, or BUYER may cancel this Agreement without obligation.

5. **SELLER'S INSTRUMENTS AND EXPENSES:** SELLER will pay for and provide:

- (a) A statutory warranty deed, and an affidavit regarding liens, possession, and withholding under FIRPTA in a form sufficient to allow "gap" coverage by title insurance;
- (b) documentary stamps on deed;
- (c) utility services up to, but not including the date of closing;
- (d) taxes or assessments for which a bill has been rendered on or before the date of closing;
- (e) payment of partial release of mortgage fees, if any;
- (f) SELLER's attorney fees, if any.

6. **BUYER'S INSTRUMENTS AND EXPENSES:** BUYER will pay for:

- (a) Recording fee for deed;
- (b) survey, (if desired by BUYER).

7. **TAXES:** SELLER will be charged for Real Estate taxes and personal property taxes (if applicable) up to, but not including the date of closing.

8. **DEFECTS IN TITLE AND LEGAL ACCESS:** Prior to closing, BUYER will have a reasonable time to examine the title and documents establishing legal access to the property. If title or legal access is found to be defective, BUYER will notify SELLER in writing of the defects and SELLER will make a prompt and diligent effort to correct such defects. If SELLER fails to make corrections within 60 days after notice, BUYER may elect to accept the Property in its existing condition with an appropriate reduction to the purchase price, or may terminate this Agreement without obligation.

9. **SURVEY:** BUYER may order the Property surveyed at BUYER's expense. SELLER agrees to provide access to the Property for the survey to be performed. If the survey shows a discrepancy in the size or dimensions of the Property, or shows encroachments onto the Property or that improvements located on the Property encroach onto adjacent lands, or if the survey identifies violations of recorded covenants or covenants of this Agreement, upon notice to the SELLER, the BUYER may elect to treat those discrepancies, violations or encroachments as a title defect.

10. **ENVIRONMENTAL AUDIT:** BUYER may perform or have performed, at BUYER's expense, an environmental audit of the Property. If the audit identifies environmental problems unacceptable to the BUYER, BUYER may elect to accept the Property in its existing condition with an appropriate abatement to the purchase price or BUYER may terminate this Agreement without obligation.

11. **ABSENCE OF ENVIRONMENTAL LIABILITIES:** The SELLER hereby warrants and represents to the best of his knowledge that the Property is free from hazardous materials and does not constitute an environmental hazard under any federal, state or local law or regulation. No hazardous, toxic or polluting substances have been released or disposed of on the Property in violation of any applicable law or regulation. The SELLER further warrants to the best of his knowledge that there is no evidence that hazardous, toxic or polluting substances are contained on or emitting from the property in violation of applicable law or regulation. There are no surface impoundments, waste piles, land fills, injection wells, underground storage areas, or other man-made facilities that have or may have accommodated hazardous materials. There is no proceeding or inquiry by any governmental agency with respect to production, disposal or storage on the property of any hazardous materials, or of any activity that could have produced hazardous materials or toxic effects on humans, flora or fauna. There are no buried, partially buried, or above-ground tanks, storage vessels, drums or containers located on the Property. There is no evidence of release of hazardous materials onto or into the Property.

The SELLER also warrants to the best of his knowledge that there have been no requests from any governmental authority or other party for information, notices of claim, demand letters or other notification that there is any potential for responsibility with respect to any investigation or clean-up of hazardous substance releases on the property. All warranties described herein will survive the closing of this transaction.

In the event the SELLER breaches the warranties as to environmental liability, SELLER agrees to indemnify and hold the BUYER harmless from all fines, penalties, assessments, costs and reasonable attorneys' fees resulting from contamination and remediation of the property.

12. **TIME AND BINDING AGREEMENT:** Time is of the essence for closing this transaction. The BUYER's written acceptance of this offer will constitute an Agreement for the purchase and sale of the Property and will bind the parties, their successors and assigns. In the event the BUYER abandons this project after execution of this Agreement, but before closing, BUYER may terminate this Agreement without obligation.

13. **DATE AND LOCATION OF CLOSING:** The closing of this transaction will be held at the office of the insuring title company on or before 60 days from the date this Agreement is made. The time and location of closing may be changed by mutual agreement of the parties.

14. **ATTORNEYS' FEES:** The prevailing party in any litigation concerning this Agreement will be entitled to recover reasonable attorneys' fees and costs.

15. **REAL ESTATE BROKERS:** SELLER hereby agrees to indemnify and hold the BUYER harmless from and against any claims by a real estate broker claiming by or through SELLER. Robert Zeltner is a licensed Real Estate Broker in the State of Florida.

16. **POSSESSION:** SELLER warrants that there are no parties in possession other than SELLER unless otherwise stated herein. SELLER agrees to deliver possession of Property to BUYER at time of closing unless otherwise stated herein.

17. **TYPEWRITTEN/HANDWRITTEN PROVISIONS:** Typewritten and handwritten provisions inserted herein or attached hereto as addenda, and initialed by all parties, will control all printed provisions in conflict therewith.

18. **SPECIAL CONDITIONS:** Any and all special conditions will be attached to this Agreement and signed by all parties to this Agreement.

WITNESSES:

Susan L. Mann
[Signature]

SELLER:

Robert Zeltner *10/10/02*
Robert Zeltner (DATE)

CHARLIE GREEN, CLERK

BUYER:

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

BY: _____
DEPUTY CLERK (DATE)

BY: _____
CHAIRMAN OR VICE CHAIRMAN

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY

COUNTY ATTORNEY (DATE)

Exhibit "A"

DESCRIPTION FOR PARCEL "1"

A tract or parcel of land lying in Section 10, Township 43 South, Range 24 East, Lee County, Florida described as follows:

The SOUTHERLY 130 feet of the following described parcel as measured at right angles, containing 1.05 acres more or less.

Begin at the intersection of the Southerly line of Section 11, Township 43 South, Range 24 East and the Westerly line of the former SAL Railroad Right-of-Way recorded in Deed Book 98 at Pages 542-543; thence run N.11°10'41"W. along said Westerly Right-of-Way for 1939.30 feet; thence run N.89°56'08"W. for 1450 feet to the East line of Section 10, Township 43 South, Range 24 East; thence continue N.89°56'08"W. for 3771.88 feet to a point 4744.83 feet East of the Easterly Right-of-Way of U.S. 41 (Tamiami Trail) and the POINT OF BEGINNING.

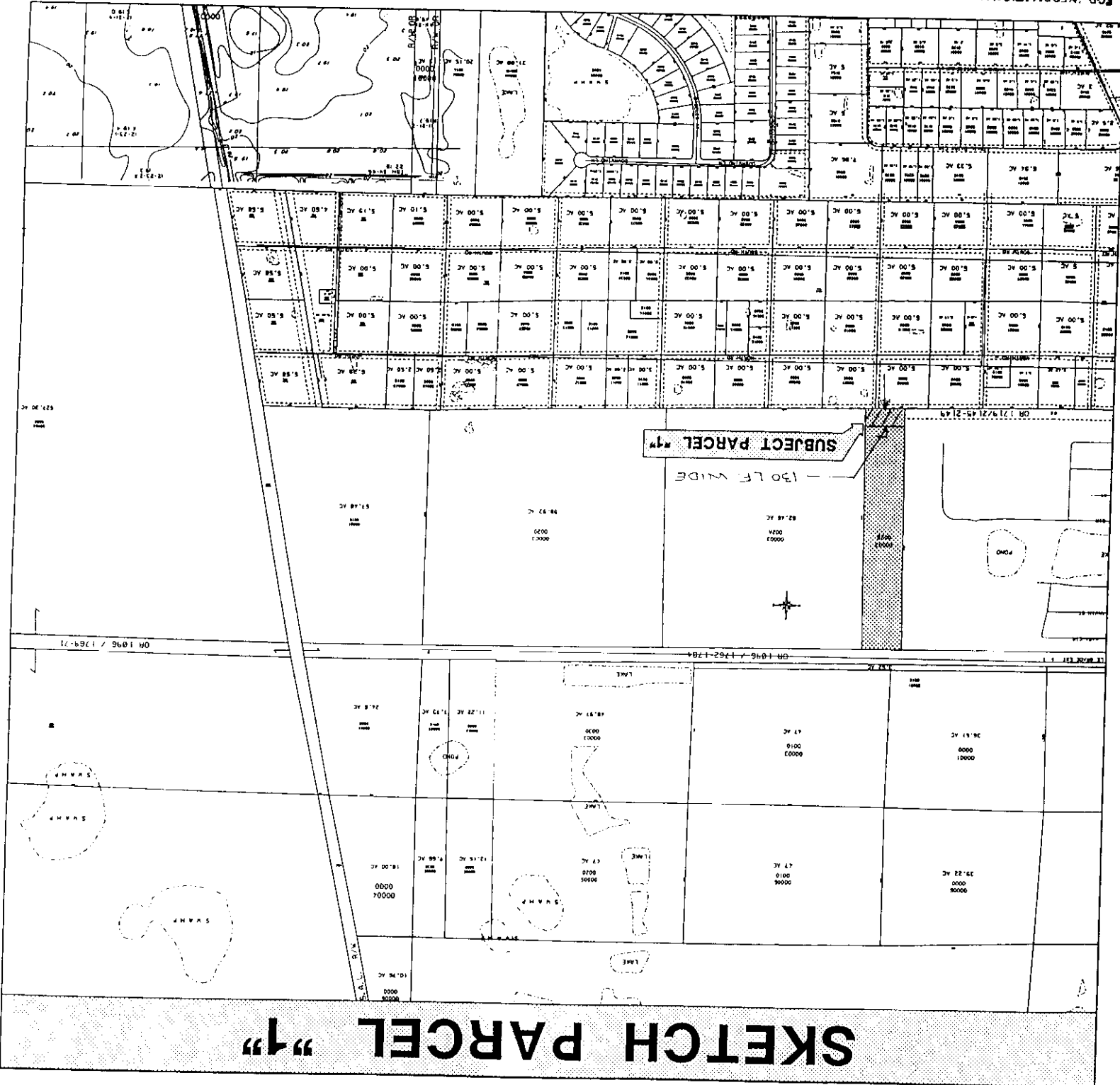
From said Point of Beginning continue N.89°56'08"W. for 345.72 feet; thence N.0°03'52"E. for 2078.14 feet to the Southerly line of a 125 foot wide roadway described in Official Records Book 1096 at Pages 1762 through 1791 of the Public Records of Lee County, Florida; thence run S.89°56'08"E. along said Southerly line for 345.72 feet; thence run S.0°03'52"W. for 2078.14 feet to the Point of Beginning.

The SOUTHERLY 130 feet of said parcel containing 1.05 acres more or less.

Bearings used herein are based on the Southerly line of the 125 foot roadway to be N.89°56'08"W.

FOR INFORMATIONAL PURPOSES ONLY

FOR INFORMATIONAL PURPOSES ONLY



SKETCH PARCEL #1

Division of County Lands

Updated In House Title Search

Search No. 21720/D

Date: October 23, 2002

Parcel:

Project: Gator Slough
Improvements, Project 8533

To: Teresa L. Mann, SR/WA
Property Acquisition Agent

From: Shelia A. Bedwell, CLS 
Real Estate Title Examiner

STRAP: 10-43-24-00-00003.002B

An update has been requested of In House Title Search No. 21720/D which covers the period beginning January 1, 1940, at 8:00 a.m. and is now complete through October 15, 2002, at 5:00 p.m.

Subject Property: See attached Schedule "X"

Title to the subject property is vested in the following:

Robert Zeltner

by that certain instrument dated September 9, 1993, recorded September 16, 1993, in Official Record Book 2425, Page 847, Public Records of Lee County, Florida.

Subject to:

1. Title to oil, gas and mineral rights and leases on subject property is specifically omitted from this report.
2. Right-of-Way Easement to Florida Power and Light Company as recited on Warranty Deed dated November 28, 1950 and recorded November 28, 1950 in Deed Book 205, Page 169, Public Records of Lee County, Florida.
3. Right-of-Way Agreement granted to Florida Power & Light Company as recorded in Official Record Book 389, Page 675, Public Records of Lee County, Florida.
4. Judgement Creating and Incorporating Drainage District recorded in Official Record Book 528, Page 497, Public Records of Lee County, Florida.
5. Deed recorded September 16, 1993, in Official Record Book 2425, Page 847, Public Records of Lee County, Florida, does not contain marital status of the grantor(s), joinder by spouse, or statement regarding homestead status of subject property. This must be addressed and resolved by the Title Company or Attorney that handles the transfer to the County.

Division of County Lands

Updated In House Title Search

Search No. 21720/D

Date: October 23, 2002

Parcel:

Project: Gator Slough

Improvements, Project 8533

Tax Status: 2001 Ad Valorem Taxes are PAID IN FULL.

(The end user of this report is responsible for verifying tax and/or assessment information.)

The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.

Schedule X

Gator Slough Improvements No. 8533
Search No. 21720/D

A tract or parcel of land lying in Section 10, Township 43 South, Range 24 East, Lee County, Florida described as follows:

Begin at the intersection of the Southerly line of Section 11, Township 43 South, Range 24 East and the Westerly line of the former SAL Railway Right-of-Way recorded in Deed Book 98 at Pages 542-543; thence run North $11^{\circ}10'41''$ W along said Westerly Right-of-Way for 1939.30 feet; thence run North $89^{\circ}56'08''$ W for 1450 feet to the East line of Section 10, Township 43 South, Range 24 East; thence continue North $89^{\circ}56'08''$ W for 3771.88 feet to a point 4744.83 feet East of the Easterly Right-of-Way of U.S. 41 (Tamiami Trail) and the Point of Beginning.

From said Point of Beginning continue North $89^{\circ}56'08''$ W for 345.72 feet; thence North $0^{\circ}03'52''$ E for 2078.14 feet to the Southerly line of a 125 foot wide roadway described in Official Record Book 1096 at pages 1762 through 1791 of the Public Records of Lee County, Florida; thence run South $89^{\circ}56'08''$ E along said Southerly line for 345.72 feet; thence run South $0^{\circ}03'52''$ W for 2078.14 feet to the Point of Beginning.

Diversified Appraisal, Inc.
Real Estate Appraisers and Consultants

Ted A. Dickey, MAI
State-Certified General Appraiser
Certification # 0000570

David C. Vaughan, MAI, MBA
State-Certified General Appraiser
Certification # 0000569



28 March 2001



Lee County Division of County Lands
P.O. Box 398
Fort Myers, Florida 33902-0398

Attention: Mr. Robert Clemens

RE: Job #030107 - Summary Appraisal Report of Southerly 130' of
Parcel 10-43-24-00-00003.002B, Gator Slough
Channel Improvements, North Fort Myers,
Florida, Project #8533

Dear Mr. Clemens:

As requested, a detailed on-site inspection and analysis of the subject property has been made as of 28 March 2001. Within the attached summary appraisal report, please find enclosed a legal description of the subject property.

This is a Summary Appraisal Report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Summary Appraisal Report. As such, it presents only summary discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's work file. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated below. The appraiser is not responsible for unauthorized use of this report.

The purpose of the appraisal is to estimate the just compensation due the property owner as a result of a partial acquisition. Just compensation is a combination of any land/improvement taken plus any legally compensable severance damages. Just compensation is best determined by estimating the market value. Market value as set forth in Title 12 of the Code of Federal Regulation 564.2(f) is:

Lee County
Page Two
28 March 2001

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- a. Buyer and seller are typically motivated.
- b. Both parties are well informed or well advised, and each acting in what they consider their own best interest.
- c. A reasonable time is allowed for exposure in the open market.
- d. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- e. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

The function of the appraisal is understood to be for use as a basis of value in negotiating the acquisition of the property.

The appraiser did not detect and has no knowledge of the existence of any hazardous materials or substances on the site. This appraisal assumes that no such materials exist to the extent that they would have an effect on the value. If any hazardous materials or substances are found on the site, then this appraisal is subject to reanalysis. The appraiser is not an expert in this field.

The subject property is appraised as of 28 March 2001, the date of a detailed on-site inspection, which was made by David C. Vaughan, MAI.

Lee County
Page Three
28 March 2001

Based on my inspection, analysis, data research, and information contained in the appraiser's work file, it is my opinion that the just compensation due the property as of 28 March 2001, is:

SEVEN THOUSAND EIGHT HUNDRED SEVENTY FIVE DOLLARS. . . .(\$7,875)

Sincerely,

A handwritten signature in black ink, appearing to read "David C. Vaughan". The signature is fluid and cursive, with a large initial "D" and "V".

David C. Vaughan, MAI
State-Certified General Appraiser
Certification #0000569

5-Year Sales History

Strap No. 10-43-24-00-00003.002B

Gator Slough Channel Improvements
Project No. 8533

Grantor	Grantee	Price	Date	Arms Length Y/N

NO SALES in PAST 5 YEARS