

**Lee County Board of County Commissioners  
Agenda Item Summary**

**Blue Sheet No. 20021451**

**1. REQUESTED MOTION:**

Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$25,000.00 for Parcel 263, Alico Road Widening, from east of I-75 to east of Old US 41, Project No. 4030, pursuant to the terms and conditions set forth in the Purchase Agreement; authorize Chairman on behalf of the BoCC to execute Purchase Agreement if offer is accepted by Seller; authorize the Division of County Lands to handle and accept all documentation necessary to complete this transaction and payment of all recording fees.

**WHY ACTION IS NECESSARY:** The Board must formally authorize the making of a binding offer to a property owner pursuant to F.S. §73.015 prior to initiation of condemnation proceedings.

**WHAT ACTION ACCOMPLISHES:** Makes binding offer to property owner as required by F.S. §73.015, as amended.

**2. DEPARTMENTAL CATEGORY:** 06  
**COMMISSION DISTRICT #:** 3 & 5 *C6P*

**3. MEETING DATE:**  
*01-07-2003*

**4. AGENDA:**  
 CONSENT ADMINISTRATIVE  
 APPEALS  
 PUBLIC  
 WALK ON  
**TIME REQUIRED:**

**5. REQUIREMENT/PURPOSE:**  
(Specify)  
 STATUTE 73, 125  
 ORDINANCE  
 ADMIN.  
 OTHER Resolution of Necessity  
Blue Sheet No. 20020239

**6. REQUESTOR OF INFORMATION**  
A. COMMISSIONER  
B. DEPARTMENT Independent Division  
C. DIVISION County Lands  
BY: Karen L.W. Forsyth, Director *[Signature]*

**7. BACKGROUND:**

The Division of County Lands has been requested by the Department of Transportation to acquire property that is necessary for the Alico Road Widening, from east of I-75 to east of Old US 41, Project No. 4030.

This acquisition consists of a strip of land, along the east side of Three Oaks Parkway at the intersection Alico Road.

F.S. §73.015, as amended, requires the County to submit a binding offer to the property owner prior to the initiation of condemnation proceedings. The County obtained an appraisal dated November 26, 2002, performed by David Vaughan MAI, indicating a value of \$23,260.00. The binding offer to the property owner, Paul H. Freeman, Trustee, is for \$25,000.00. Should the property owner agree to accept this offer, condemnation proceedings will not be required. If the property owners elect not to accept this offer, then condemnation proceedings may be commenced.

Staff is of the opinion that the purchase price increase of \$1,740.00 above the appraised value can be justified considering the costs associated with condemnation proceedings estimated to be between \$5,000 - \$8,000, excluding land value increases and attorney fees.

Staff recommends the Board approve the Requested Motion.

Funds are available in Account No. 20403018804.506110  
20 - Capital Projects  
4030 - Alico Road Widening  
18804 - Impact Fees  
506110 - Land

**ATTACHMENTS:**  
Purchase and Sale Agreement  
Title Search  
Appraisal Letter  
Sales History

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
					OA	OM	RISK	GC	
<i>[Signature]</i>			<i>12/23/02</i>	<i>[Signature]</i> 12-23-02	<i>[Signature]</i> 12/23/02	<i>[Signature]</i> 12/23/02	<i>[Signature]</i> 12/23/02	<i>[Signature]</i> 12/23/02	<i>[Signature]</i>

**10. COMMISSION ACTION:**

APPROVED  
 DENIED  
 DEFERRED  
 OTHER

RECVD.  
by CO. ATTY.  
*12-23-02 Y/N*

CO. ATTY.  
FORWARDED TO:  
*[Signature]*  
*12-23-02 9:25*

RECEIVED BY  
COUNTY ADMIN.  
*12/23/02*  
*U.S. [Signature]*  
COUNTY ADMIN.  
FORWARDED TO:

This document prepared by  
Lee County Public Works  
County Lands Division  
Project: Alico Road Six Laning, No. 4030  
Parcel: 263  
STRAP Nos.: 10-46-25-00-00001.1000

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY  
AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE  
IN LIEU OF CONDEMNATION PROCEEDINGS

THIS AGREEMENT for purchase and sale of real property is made this \_\_ day of \_\_\_\_\_, 20\_\_ by and between Paul H. Freeman, Trustee, hereinafter referred to as SELLER, whose address is 13691 Pondview Circle, Naples, Florida 34119, 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 4,229 square feet more or less, and located at the intersection of Three Oaks Parkway and Alico Road, in South Fort Myers, Florida, and more particularly described in "Exhibit A" attached hereto and made a part hereof, hereinafter called "the Property." This property is being acquired for the Alico Road Six Laning Project, hereinafter called "the Project", with the SELLER'S understanding that the property, if not voluntarily sold, would have been condemned by BUYER through the exercise of its eminent domain powers.
- 2. PURCHASE PRICE AND TIME OF PAYMENT:** The total purchase price ("Purchase Price") will be Twenty-five Thousand and 00/100 dollars (\$25,000.00), payable at closing by County warrant. The Purchase Price is mutually agreeable to both the SELLER and BUYER and represents the voluntary sale and purchase of the property in lieu of BUYER's condemnation.

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 \$25,000.00, 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) utility services up to, but not including the date of closing;
- (c) taxes or assessments for which a bill has been rendered on or before the date of closing;
- (d) payment of partial release of mortgage fees, if any;
- (e) 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.

This voluntary sale and purchase is considered by Florida law to be exempt from the payment of Documentary Stamp Taxes because this transaction was made under the threat of an eminent domain proceeding by the BUYER.

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 such 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 and/or covenants of this Agreement, upon notice to the SELLER, the BUYER may elect to treat such discrepancies, violations and/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 warrants and represents 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 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

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:

SELLER:

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

\_\_\_\_\_  
Paul H. Freeman, Trustee (DATE)

CHARLIE GREEN, CLERK

BUYER:

LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

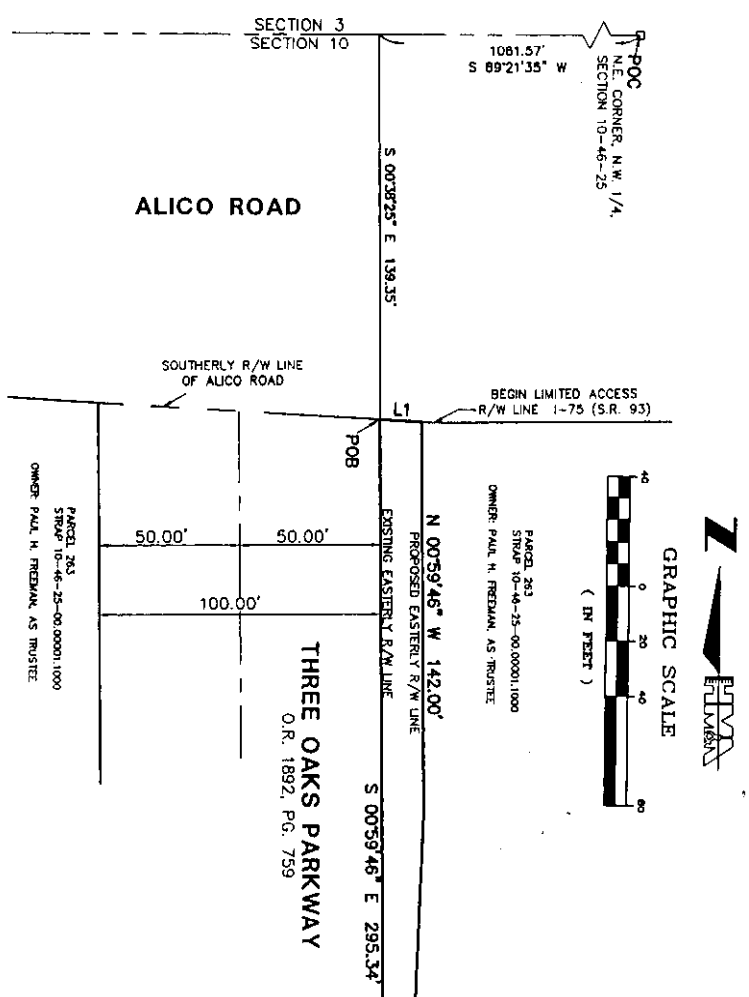
BY: \_\_\_\_\_  
DEPUTY CLERK (DATE)

BY: \_\_\_\_\_  
CHAIRMAN OR VICE CHAIRMAN

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY

\_\_\_\_\_  
COUNTY ATTORNEY (DATE)

# Exhibit "A"



LINE	LENGTH	BEARING	DELTA
C1	1120.00'	S $031^{\circ}20'$ E	$04^{\circ}25'10''$
LI	86.39'	S $031^{\circ}20'$ E	$04^{\circ}25'10''$

LINE	DIRECTION	DISTANCE
LI	N $87^{\circ}26'31''$ W	15.03'

CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	1120.00'	86.39'	86.37'	S $031^{\circ}20'$ E	$04^{\circ}25'10''$

**LEGEND:**  
 POC POINT OF COMMENCEMENT  
 POB POINT OF BEGINNING

**HOLE MONITES & ASSOCIATES**  
 ENGINEERS / PLANNERS / SURVEYORS  
 1050 ABERNETHY STREET  
 BOYD STATION, TAMPA, FL 34605  
 (813) 972-0795

NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

LEGAL DESCRIPTION OF PROPOSED RIGHT-OF-WAY TAKE PARCEL 263

**\*NOT A SURVEY\***

BY *Thomas J. Garris*  
 THOMAS J. GARRIS  
 P.L.S. # 3741  
 STATE OF FLORIDA

A PORTION OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, THENCE RUN S  $89^{\circ}21'35''$  W, ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 10, FOR A DISTANCE OF 1061.57 FEET; THENCE RUN S  $00^{\circ}39'48''$  E, FOR A DISTANCE OF 139.35 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF ALICO ROAD AS THE SAME IS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR STATE ROAD NO. 93 (I-75), SECTION 12075-2402, SHEET 9, THE SAME BEING THE MOST NORTHEASTLY CORNER OF THREE OAKS PARKWAY, A 100.00 FOOT RIGHT-OF-WAY, AS THE SAME IS DESCRIBED IN O.R. BOOK 1892 AT PAGE 759 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN S  $00^{\circ}59'46''$  E, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF THREE OAKS PARKWAY, FOR A DISTANCE OF 295.34 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTWARD, HAVING A RADIUS OF 1120.00 FEET, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF THREE OAKS PARKWAY AND ALONG THE LARGER SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1120.00 FEET, THROUGH A CENTRAL ANGLE OF  $04^{\circ}25'10''$ , SUBTENDED BY A CHORD OF 86.37 FEET AT A BEARING OF S  $031^{\circ}20'00''$  E, FOR A DISTANCE OF 86.39 FEET; THENCE RUN N  $00^{\circ}59'46''$  W, FOR A DISTANCE OF 142.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF ALICO ROAD; THENCE RUN N  $87^{\circ}26'31''$  W, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF ALICO ROAD, FOR A DISTANCE OF 15.03 FEET TO THE POINT OF BEGINNING, CONTAINING 4,229.0 SQUARE FEET, MORE OR LESS.

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

BEARINGS REFER TO THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S  $89^{\circ}21'35''$  W.

REVISION NO.	DESCRIPTION	DATE
01	DATE 01/00 SECTION 10	PROJECT NO.
02	KJM	TOWNSHIP 46
03	DATE	1997051
04	DATE	DRAWING NO.
05	DATE	25
06	DATE	PARC263
07	DATE	B-2756

**Division of County Lands**

**Ownership and Easement Search**

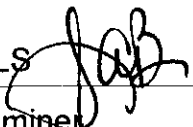
Search No. 22053

Date: September 30, 2002

Parcel:

Project: Alico Road Widening, #4030

To: Robert G. Clemens, SR/WA  
Acquisition Program Manager

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

STRAP: 10-46-25-00-00001.1000

Effective Date: September 20, 2002, at 5:00 p.m.

**Subject Property:** See attached Schedule "X"

Title to the subject property is vested in the following:

**Paul H. Freeman, as Trustee**

by that certain instrument dated May 5, 1983, recorded May 17, 1983, in Official Record Book 1671, Page 1524, Public Records of Lee County, Florida.

**Easements:**

1. Temporary easement, dated September 12, 1986, recorded January 16, 1987, in Official Record Book 1892, Page 771, Public Records of Lee County, Florida. NOTE: This easement could have expired because the instrument states that the duration was for a 10 year period from the date of acceptance, in a public hearing, by the BoCC. This must be addressed and resolved by the Title Company or Attorney that handles the transfer to the County.

NOTE: Resolution #Z85-324, dated November 10, 1986, recorded September 28, 1987, in Official Record Book 1944, Page 1306, Public Records of Lee County, Florida. Resolution pertains to the rezoning from AG-2, RS-1 and CC to Commercial Planned Development and Residential Planned Development.

**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

Project: Alico Road Widening, #4030  
Search No. 22053

A portion of the Northwest Quarter of Section 10, Township 46 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

Commence at the Northeast corner of the Northwest quarter of Section 10, Township 46 South, Range 25 East, Lee County, Florida; thence run S 89°21'35" W, along the North line of the Northwest quarter of said Section 10, for a distance of 1061.57 feet; thence run S 00°38'25" E for a distance of 139.35 feet to a point on the Southerly right-of-way line of Alico Road as the same is shown on the Florida Department of Transportation right-of-way map for State Road No. 93 (I-75), Section 12075-2402, Sheet 9, the same being the most Northeasterly corner of Three Oaks Parkway, a 100.00 foot right-of-way as the same described in O.R. Book 1892 at Page 759 of the Public Records of Lee County, Florida, and the point of beginning of the parcel of land herein described; thence run S 00°59'46" E, along the Easterly right-of-way line of Three Oaks Parkway, for a distance of 295.34 feet to the beginning of a tangential circular curve, concave Easterly; thence run Southerly, along the Easterly right-of-way line of Three Oaks Parkway and along the arc of said curve to the left, having a radius of 1120.00 feet, through a central angle of 04°25'10", subtended by a chord of 86.37 feet at a bearing of S 03°12'20" E, for a distance of 86.39 feet to the end of said curve; thence run N 01°48'10"E for a distance of 239.00 feet; thence run N 00°59'46" W for a distance of 142.00 feet to a point on the Southerly right-of-way line of Alico Road, thence run N 87°26'36" W, along the Southerly right-of-way line of Alico Road, for a distance of 15.03 feet to the point of beginning; containing 4,229.0 square feet, more or less.



*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*

2 December 2002



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

Attention: Mr. Robert Clemens

RE: Job #100209 - Complete Summary Appraisal Report of Parcel  
263 on Alico Road Widening, #4030 owned by  
Paul H. Freeman, Trustee

Dear Mr. Clemens:

As requested, a detailed on-site inspection and analysis of the subject property has been made as of 26 November 2002. Within the attached summary appraisal report, please find enclosed a legal description of the subject property.

This is a Summary Appraisal Report which 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.

This appraisal is not based upon a minimum valuation, a specific valuation or the approval of a loan. The appraisal report is intended to comply with the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation, as well as the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute. Mr. David C. Vaughan has complied with the Uniform Standards of Professional Appraisal Practice, Competency Rule. I certify that I have had no past, present or future contemplated interest in the real estate, and to the best of my knowledge, the facts contained herein are true and correct.

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 Regulations 564.2 (f) is:

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 for 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 26 November 2002, the date of the last inspection of the property. A detailed on-site inspection was made on that date by David C. Vaughan, MAI.

Lee County Division of County Lands  
Page Three  
2 December 2002

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 owner, as of 26 November 2002, is:

**TWENTY THREE THOUSAND TWO HUNDRED SIXTY DOLLARS. . . . . (\$23,260)**

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

EXECUTIVE SUMMARY

PROJECT NAME: Alico Road Widening, Parcel 263

PROJECT NUMBER: 4030

OWNER OF RECORD: Paul H. Freeman, Trustee

STRAP NUMBER: 10-46-25-00-00001.1000

LOCATION: North Side of Alico Road, West of I-75

LAND AREA: 177.73 Acres

IMPROVEMENTS: None

ZONING/LAND USE: 98.67 Acres CPD, 1.33 Acres RPD, Urban Community

HIGHEST AND BEST USE: Commercial Development

ESTIMATE OF VALUE - COST APPROACH: N/A

ESTIMATE OF VALUE (PART TAKEN) - MARKET APPROACH: \$23,260

ESTIMATE OF VALUE - INCOME APPROACH: N/A

JUST COMPENSATION: \$23,260

PER SQUARE FOOT VALUE: \$5.50 p.s.f.

INTEREST APPRAISED: Fee Simple

DATE OF VALUATION: 26 November 2002

APPRAISER: Mr. David C. Vaughan, MAI

# 5-Year Sales History

Parcel No. 263

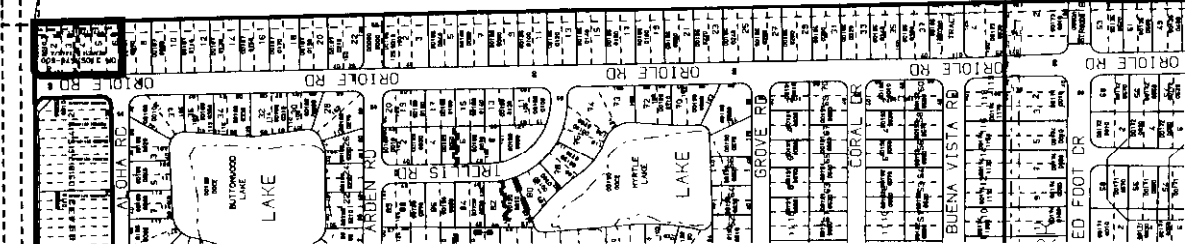
Alico Road Six Laning, Project No. 4030

Grantor	Grantee	Sale Date	Purchase Price	Arms Length Y/N
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**PARTIAL ACQUISITION  
NO SALE OF THE PARENT TRACT IN THE LAST FIVE YEARS**

D/A

OR 2909/2305-7



00001  
1000  
SEARCH #21467/D  
177.73 AC

CHESTNUT TREE LOOP  
15.40 AC

INDIAN LAUREL WA

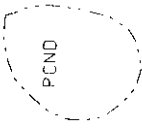
GOLDEN RAIN LN  
0000B  
0000  
7.34 AC

THREE OAKS PARKWAY 09-657/281 RD

THREE OAKS PARKWAY



SEARCH #20008/A  
PARCEL IN 10-46-25, ECDE 12



1-75

1-75

1-75

OR 38715-8  
OR 38715-9

AL-FGB-RD

0  
9.

PO