

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

**Blue Sheet No. 20040710**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Authorize: 1) the Division of County Lands to make a binding offer to property owner in the amount of \$159,500 for Parcel 117, Bonita Beach Road Widening, Project No. 4044, pursuant to the Purchase Agreement; 2) the Division of County Lands to handle all documentation necessary to complete transaction.

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

**WHAT ACTION ACCOMPLISHES:** Makes binding offer to property owner.

**2. DEPARTMENTAL CATEGORY:** 06  
**COMMISSION DISTRICT # 2 and 5**

*C6D*

**3. MEETING DATE:**

*06-22-2004*

**4. AGENDA:**

**5. REQUIREMENT/PURPOSE:**  
(Specify)

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

- STATUTE 73 & 125
- ORDINANCE
- ADMIN. CODE
- OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
  - B. DEPARTMENT Independent
  - C. DIVISION County Lands
- BY: Karen L. W. Forsyth, Director *[Signature]*

**7. BACKGROUND:**

**Negotiated for:** Department of Transportation  
**Interest to Acquire:** 8,276 square feet of fee interest in improved property

**Property Details:**

Owner: Marco Lerma and Rebecca Silva, husband and wife  
STRAP No.: 01-48-25-B1-00002.0060

**Purchase Details:**

Binding Offer Amount: \$159,500

**Appraisal Information:**

Company: Carlson, Norris and Associates, Inc.  
Appraised Value: \$145,000

**Staff Recommendation:** Staff is of the opinion that the purchase price increase of \$14,500 above the appraised value can be justified considering the costs associated with condemnation proceedings, estimated between \$14,000 - \$21,000 excluding the value of the property. Staff recommends the Board approve the Requested Motion.

**Account:** 20-4044-30700.506110

**Attachments:** Purchase and Sale Agreement, In-House 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
<i>[Signature]</i>			<i>[Signature]</i>	<i>[Signature]</i>	QA	OM	Risk	GC	<i>[Signature]</i>

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty  
Date: *6/10/04*  
Time: *8:15 am*  
Forwarded To:  
*Co. Admin.*  
*6/10/04 9AM*

RECEIVED BY  
COUNTY ADMIN: *[Signature]*  
*6/10/04*  
11:30am  
COUNTY ADMIN  
FORWARDED TO: *[Signature]*  
*6-10-04*  
*2:15*

This document prepared by  
Lee County Division of County Lands  
Project: Bonita Beach Road Widening Project, No. 4044  
Parcel: 117  
STRAP No.: 01-48-25-B1-00002.0060

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 Marco Lerma and Rebecca Silva, husband and wife, hereinafter referred to as SELLER, whose address is 24443 Golden Eagle Lane, Bonita Springs, FL 34135, 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 .19 acres more or less, and located at 11433 Bonita Beach Road SE, Bonita Springs, FL 34135 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 Bonita Beach Road Widening Project, No. 4044, 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 One Hundred Fifty Nine Thousand Five Hundred and no/100 (\$159,500.00), 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 the Purchase Price, 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 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 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.

**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:

SELLER:

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

\_\_\_\_\_  
Marco Lerma (DATE)

WITNESSES:

SELLER:

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

\_\_\_\_\_  
Rebecca Silva (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)

**SPECIAL CONDITIONS**

**BUYER: Lee County**

**SELLER: Marco Lerma and Rebecca Silva, husband and wife**

**PARCEL NO.: 117**

BUYER and SELLER hereby covenant that the Purchase Price recited herein, except as noted below, includes payment for moving expenses, the single wide manufactured home and two manufactured travel trailers affixed to the real estate (identification numbers to be furnished by SELLER), additions, improvements, attache and detached shed(s), fencing, irrigation system and appurtenances, landscaping and for all fixtures, including but not limited to, built-in-appliances, air conditioning units, hot water heaters, ceiling fans, screen enclosures, windows, awnings, doors and floor covering, as of the date of the BUYER'S appraisal.

BUYER'S authorized agent will inspect the manufactured home and travel trailers and all other real property and improvements prior to closing. Removal of any fixture(s) by SELLER may cause a delay in closing and a reduction in the Purchase Price. All additional costs associated with any breach of this covenant will be paid by the SELLER. This covenant shall survive closing.

SELLER hereby agrees to deliver possession of the Property, absent of any resident(s) or tenant(s), to BUYER at the time of closing and further warrants that the purchase of the Property is NOT subject to any written or verbal lease agreement(s) of the SELLER.

Upon the BUYER'S written acceptance of this Agreement, SELLER hereby gives permission allowing entry to the premises by County Representatives, upon first receiving 48 hours prior notice, in order to perform survey, environmental audit, other inspections deemed necessary by BUYER, and for the premises to be inspected to determine if relocating any or all real estate improvements is feasible subsequent to closing and the County taking possession of the Property.



WITNESSES:

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

SELLER:

\_\_\_\_\_  
Marco Lerma (DATE)

WITNESSES:

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

SELLER:

\_\_\_\_\_  
Rebecca Silva (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)

BOUNDARY SURVEY LYING IN  
SECTION I, TOWNSHIP 48 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

Parcel 117



LEGEND

- (P) = PLAT DATA
- (C) = CALCULATED DATA
- (F) = FIELD DATA
- (D) = LEGAL DESCRIPTION DATA
- CL = CENTERLINE
- CONC = CONCRETE
- FCM = FOUND CONCRETE MONUMENT
- FIR = FOUND IRON ROD
- ID = IDENTIFICATION
- OHW = OVERHEAD WIRES
- ORB = OFFICIAL RECORD BOOK
- P/K = PARKER-KALON
- PG = PAGE
- R/W = RIGHT-OF-WAY
- SIR = SET IRON ROD 5/8" WITH  
CAP "AIM ENG LB 3114"

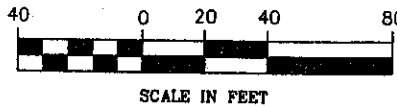
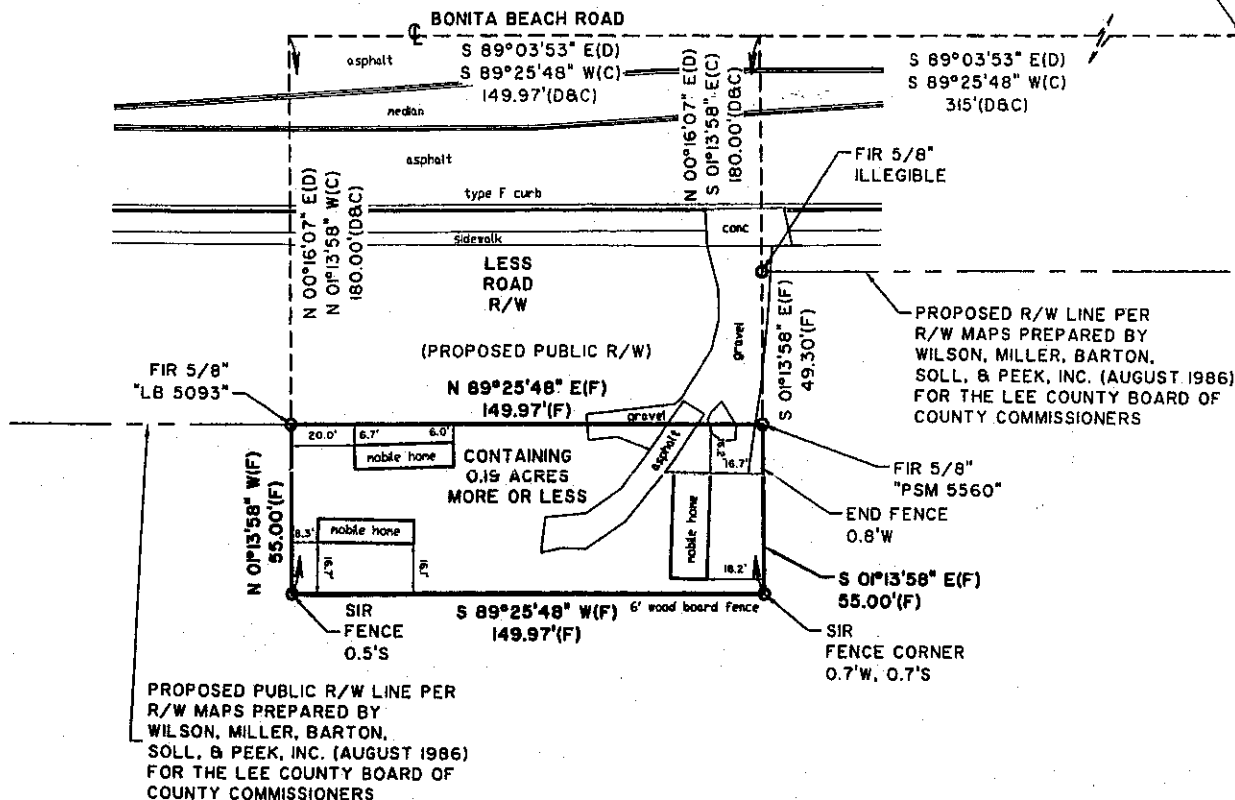


Exhibit "A"

NE CORNER  
GOVT. LOT 3



NOTES

- 1) BEARINGS SHOWN HEREON ARE BASED UPON BONITA BEACH ROAD HAVING A BEARING OF N 89°25'48" E.
- 2) PROPERTY APPEARS TO LIE IN FLOOD ZONE "B" AS SHOWN ON FLOOD INSURANCE RATE MAP COMMUNITY 125124 PANEL NO. 0510 C, EFFECTIVE DATE NOVEMBER 3, 1989.
- 3) NO SEARCH FOR VISIBLE EVIDENCE OF EXISTING OR FORMER AREAS OF FACILITIES WHICH MAY HAVE INVOLVED USE OR STORAGE OF HAZARDOUS OR TOXIC SUBSTANCES WAS MADE.
- 4) NO WETLAND AREAS OR JURISDICTIONAL WETLANDS, IF ANY, WERE LOCATED FOR THIS SURVEY.
- 5) NO UNDERGROUND UTILITIES OR IMPROVEMENTS, IF ANY, WERE LOCATED OTHER THAN SHOWN HEREON.

DESCRIPTION:

BEGINNING AT A POINT 315 FEET NORTH 89°03'53" WEST OF THE NORTHEAST CORNER OF GOVT. LOT 3, SECTION I, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE SOUTH 0°16'07" WEST 180 FEET TO AN I.P.; THENCE N 89°03'53" WEST 149.97 FEET TO A MONUMENT; THENCE NORTH 0°16'07" EAST 180 FEET TO THE CENTER LINE OF BONITA BEACH ROAD; THENCE SOUTH 89°03'53" EAST ALONG THE CENTER LINE OF BONITA BEACH ROAD 149.97 FEET MORE OR LESS TO THE POINT OF BEGINNING, LESS AND EXCEPT ALL THAT PORTION LYING WITHIN ROAD RIGHT OF WAY.

LAST DATE OF FIELD WORK: 2/11/03

AIM Engineering & Surveying, Inc.

P.O. BOX 1235 - 5300 LEE BOULEVARD  
Lehigh Acres, Florida 33970  
(239) 332-4569 (800) 226-4569  
FAX (239) 332-8734 L.B. No. 3114

NOTE:

THIS SURVEY REFLECTS THE DESCRIPTION PROVIDED BY THE CLIENT. NO ABSTRACT EXAMINATION IS IMPLIED. INFORMATION HEREON IS SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD THIS CERTIFICATION APPLIES ONLY TO THE PERSON(S) SHOWN.

CLIENT:		FIELD DATE: 2/10/03	NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.	PREPARED BY: AIM ENGINEERING AND SURVEYING, INC.
PROJECT No: 01-8109	F.B. 853 PG. 78-80	DRAWN BY: LWC		ROBERT TAD SIMPSON 2-17-03
S-T-R 1-485-25E	LEE COUNTY CHECKED BY: RTS	DATE DRAWN: 2/11/03	ROBERT TAD SIMPSON, P.S.M. PROFESSIONAL SURVEYOR AND MAPPER	DATE
		CAD FILE: 8109	FLORIDA CERTIFICATE No. 5559	

**Division of County Lands****Updated Ownership and Easement Search**

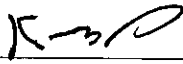
Search No.21743/C

Date: May 27, 2004

Parcel: 117

Project: Bonita Beach Widening #4044

To: Michael J. O'Hare, SW/RA  
Property Acquisition Agent

From: Kenneth Pitt   
Real Estate Title Examiner

STRAP: 01-48-25-B1-00002.0060

Effective Date: May 8, 2004, at 5:00 p.m.

**Subject Property:** Beginning at a point 315 feet North 89°03'53" West of the Northeast corner of Govt. Lot 3, Section 1, Township 48 South, Range 25 East, Lee County, Florida; thence South 0°16'07" West 180 feet to an I.P.; thence 89°03'53" West 149.97 feet to a monument; thence North 0°16'07" East 180 feet to the center line of Bonita Beach Road; thence South 89°03'53" East along the center line of Bonita Beach Road 149.97 feet more or less to the Point of Beginning, LESS and EXCEPT all that portion lying within road right of way.

Title to the subject property is vested in the following:

***Marco Lerma and Rebecca Silva, husband and wife***

By that certain instrument dated June 2, 2000, recorded June 22, 2000, in Official Record Book 3270, Page 3188, Public Records of Lee County, Florida.

**Easements:** None found of record.

NOTE(1): Subject to a mortgage of \$64,103.66 between Marco Lerma and Rebecca Silva and First Union National Bank recorded in Official Record Book 3270, Page 3189, Public Records of Lee County, Florida.

NOTE(2): Subject to Lee County Ordinance No. 86-14 relating to Garbage and Solid Waste Collection recorded in Official Record Book 2189, Page 3281 and amended by Official Record Book 2189, Page 3334, Public Records of Lee County, Florida.

NOTE(3): Subject to proof of death of Edgar G. Clark.

**Tax Status:\$1,921.24 paid on 3/26/04 for Tax Year 2003.***(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.**

# Carlson, Norris and Associates, Inc.

APPRAISAL • CONSULTATION • REALTORS

C. William Carlson, MAI, SRA  
State Certified General Appraiser #0000667  
ccarl1@hotmail.com

J. Lee Norris, MAI, SRA  
State Certified General Appraiser #0000643  
leenor56@hotmail.com

May 18, 2004

Department of Public Works  
Division of County Lands  
Lee County, Florida  
P. O. Box 398  
Ft. Myers, Florida 33902-0398  
Attn: Mr. Robert G. Clemens  
Acquisition Program Manager

Re: Bonita Beach Road Widening, Project Number 4044  
Subject Parcel 117  
A Fee Simple - Full Take  
11433 Bonita Beach Road  
Bonita Springs, Florida 34135

Dear Mr. Clemens:

In accordance with your request, we have made an inspection of the above referenced property. The property is located in Section 1, Township 48 South, Range 25 East, Lee County, Florida. The site is a rectangular in configuration. The site contains approximately 8,276 square feet and is improved with three small residential structures. One of the dwellings is classified as a mobile home, the two remaining improvements are similar to travel trailers with other improvements attached. The property is located on the south side of Bonita Beach Road just west of the intersection of Bonita Beach Road and Imperial Street.

This assignment is a full take of the fee simple interest in the subject property.

This analysis considers only the value of the real estate and takes into consideration no value for equipment or personal property. As per your request this is a **Complete Appraisal Report presented in Summary Format** which represents only summary discussions for the data, reasoning and analysis that were used in the appraisal process to develop the appraiser's opinion of value.

This analysis has utilized the most current market value definition which is contained within the attached appraisal. The property was last physically inspected on February 2, 2004.

Based on market conditions existing as of the effective date of appraisal, and in consideration of the property as it existed on February 2, 2004, it is our opinion the market value estimate for the fee simple interest in the subject property was:

**ONE HUNDRED FORTY FIVE THOUSAND DOLLARS . . . . . (\$145,000.00).**

Mr. Robert Clemens  
May 18, 2004  
Page 2

Based on these findings the total compensation due the property owner for the fee simple interest in the entire subject property as of February 2, 2004 was:

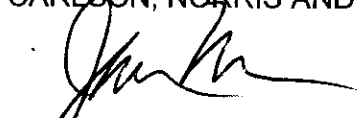
**ONE HUNDRED FORTY FIVE THOUSAND DOLLARS . . . . . (\$145,000.00).**

The attached appraisal report is a **Complete Summary Appraisal Report** which is intended to comply with reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Summary Appraisal Report. This report is made subject to certain assumptions and limiting conditions as set forth in the body of the appraisal. The analyst was engaged by the Lee County Department of Public Works/County Lands to perform the analysis. A copy of the supplemental task authorization is contained within the addenda to this report.

Should you have any questions regarding this or any other matter, please do not hesitate to call upon us.

Respectfully submitted,

CARLSON, NORRIS AND ASSOCIATES, INC.



J. Lee Norris, MAI, SRA  
State Certified General Appraiser #0000643

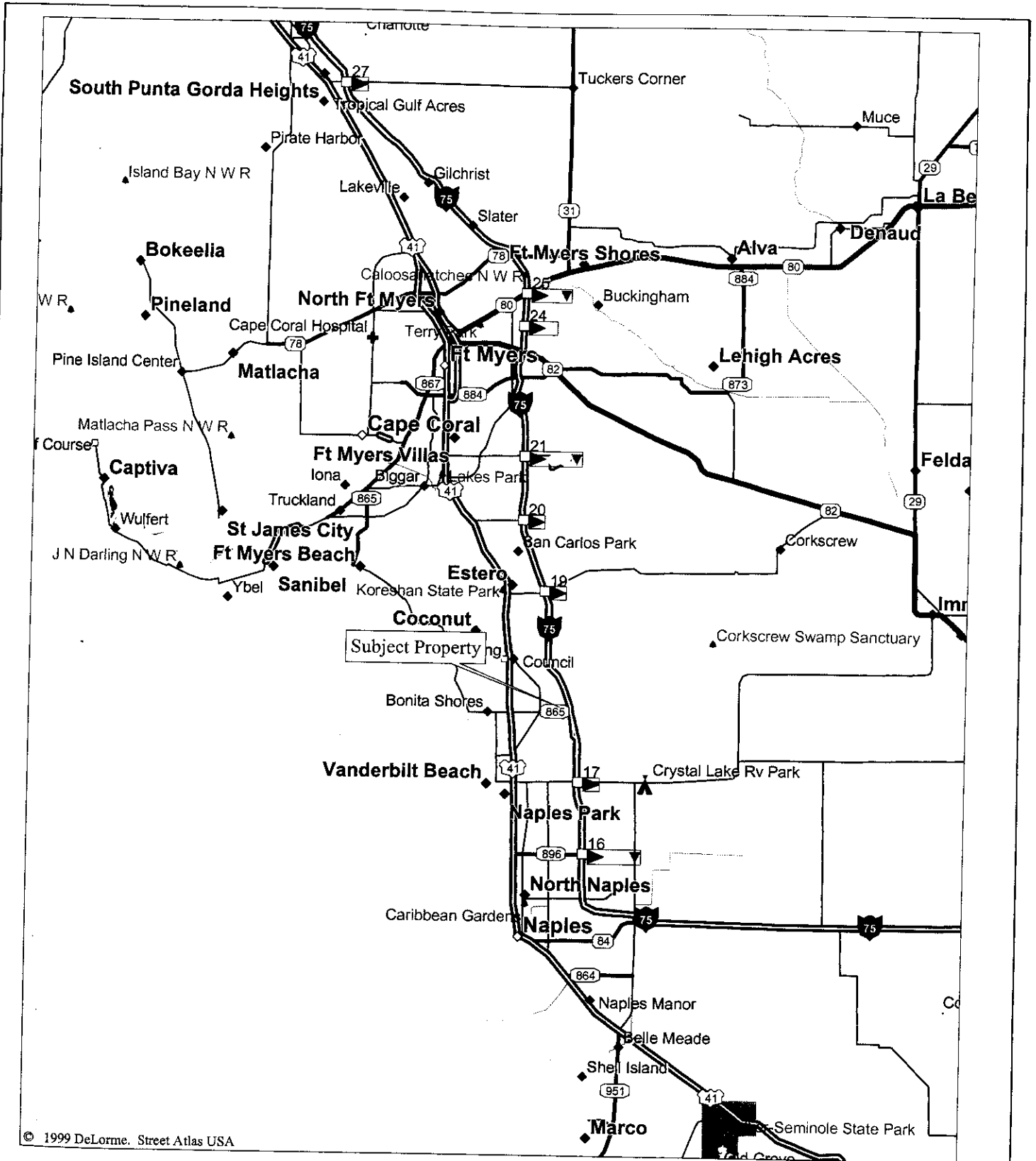
JLN/ikm

# 5-Year Sales History

Parcel No. 117

Bonita Beach Road Widening,  
Project No. 4044

Grantor	Grantee	Price	Date	Arms Length Y/N
Marie E. Clark	Marco Lerma & Rebecca Silva, H & W	\$60,000.00	06/22/00	Y



## LOCATION MAP