# Lee County Board of County Commissioners Agenda Item Summary

Blue Sheet No. 20041225

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ACTION REQUESTED: Approve Purchase Agreement for acquisition of Parcel 340-RW, Three Oaks Parkway South Extension Project No. 4043, in the amount of \$2,500; authorize payment of costs to close and the Division of County Lands to handle all documentation necessary to complete transaction.

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

WHAT ACTION ACCOMPLISHES: The Board avoids Eminent Domain.

2. DEPARTMENTAL CATE		3. MEETING DATE:
COMMISSION DISTRICT	$\frac{\varphi_1}{2}$ 3 CQM	10-19-2004
4. <u>AGENDA</u> :	5. REQUIREMENT/PURPOSE:	6. REQUESTOR OF INFORMATION
X CONSENT	(Specify)	
ADMINISTRATIVE	<u>X STATUTE 125</u>	A.
APPEALS	ORDINANCE	B. DEPARTMENT Independent
PUBLIC	ADMIN	C. DIVISION County Lands
WALK ON	OTHER	BY Karen L. W. Forsvth, Director
TIME REQUIRED:		1447

#### 7.BACKGROUND:

**Negotiated for:** Lee County Department of Transportation

Interest to Acquire: Partial right of way easement acquisition from a residential property improved with a single-family home.

#### **Property Details:**

Owner: Larry K. Bills & Penelope K. Bills, husband and wife Address: 24066 Roger Dodger Street, Bonita Springs

STRAP No.: 14-47-25-B2-00200.0890

#### Purchase Details:

Purchase Price: \$2,500

Costs to Close: Approximately \$1,000 (The seller is responsible for attorney fees, if any. The County is responsible for release of

mortgage fees and documentary stamp tax).

Appraisal Information: The subject parcel was not appraised. A Value Justification Report is attached to substantiate the purchase

price.

Staff Recommendation: Staff is of the opinion that the purchase price is within an acceptable range of value, considering the costs

associated with condemnation proceedings are estimated to be \$3,000 - \$5,000, excluding appraisal costs

and attorney fees. Staff recommends the Board approve the Requested Motion.

Account: 20404330709.506110

20 - CIP; 4043 - Three Oaks Parkway South Extension; 30709 - Transportation Capital Improvements; 506110 - Land

Attachments: Purchase Agreement; Value Justification Report; Location Map; City of Bonita Springs Recommendation, Title Data;

5-Year Sales History

#### 8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:									
Α	A B C D E F G						G		
Department	Purchasing or	Human	Other	County	Budget Services County Manage			County Manager	
Director	Contracts	Resources	400	Attorney	OFM 10/0/04			, ,	
K.foxyo			2) 390	10.104	Jan Hay	10 4/34	KISK Jac 10(	GC Myor	+15
10. COMMISSION ACTION:  APPROVED  DENIED  DEFERRED  OTHER  Pate: 130/0  COUNTY ADMIN:  COUNTY ADMIN:  COUNTY ADMIN:  COUNTY ADMIN									

Forwarded To:

Parcel Number: 340-RW/Bills

STRAP Number: 14-47-25-B2-00200.0890

# LEE COUNTY RIGHT OF WAY EASEMENT PURCHASE AGREEMENT

THIS AGREEMENT for the purchase and sale of a Right of Way Easement is made and entered into this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_, 2004 by and between LARRY K. BILLS AND PENELOPE K. BILLS, husband and wife hereinafter referred to as GRANTOR and LEE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as GRANTEE.

#### WITNESSETH:

For and in consideration of the mutual covenants and conditions herein contained, GRANTOR hereby agrees to sell and GRANTEE hereby agrees to buy a right of way easement referred to hereafter as the "Easement", upon the following terms and conditions.

- I. **DESCRIPTION**: An easement consisting of 960.65 square feet, more or less and being more particularly described in Exhibit "A" attached hereto and made a part hereof.
- II. **PURCHASE PRICE**: Amount to be paid by GRANTEE to GRANTOR at closing Two Thousand Five Hundred and no/100 Dollars (\$2,500.00) subject to Grantor providing subordination of all outstanding encumbrances against the property, if any.
- III. FORM OF CONVEYANCE: Said easement shall be conveyed at the time of closing by execution of a "Perpetual Right-of-Way Easement" in form and substance as appears on attached Exhibit "B".

- IV. CLOSING EXPENSES: Grantee agrees to pay for Documentary Stamps, Title Insurance, recording fees and Subordination of Mortgage fees, if any, upon conveying said easement.
  - V. CONDITIONS AND LIMITATIONS: It is mutually understood by the parties that this Right of Way Easement Purchase Agreement is presented by GRANTEE subject to final Board of County Commissioners' acceptance. Notice of final Board acceptance shall be evidenced by GRANTEE'S signature of this Agreement and delivery to GRANTOR. In the event the Grantee abandons this project after execution of this Agreement, but before closing, Grantee may terminate this Agreement without obligation.
- VI. CLOSING DATE: As time is of the essence for closing this transaction, this transaction shall be closed and the instrument of conveyance delivered within sixty (60) days of the date of final Board acceptance. The closing shall be held at the issuing title insurance agency. The time and location of such closing may be changed by mutual agreement of the parties.
- VII. TYPEWRITTEN OR HANDWRITTEN PROVISION: Typewritten or handwritten provisions inserted herein or attached hereto as Addenda, and initialed by all parties, shall control all printed provisions in conflict therewith.

Right of Way Easement Purchase Agreement Page 3

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective name on the date first above written.

	GRANTOR:  Rawy & Bills 9-21-6  LARRY K. BILLS Date
Jones Laith Gornes Joseph Keith Gome	PENELOPE K. BILLS Date
ATTEST: CHARLIE GREEN, CLERK	GRANTEE: LEE COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS
Deputy Clerk	By:Chairman or Vice Chairman
	APPROVED AS TO LEGAL FORM AND SUFFICIENCY:
	Office of the County Attorney





July 8, 2004

#### THREE OAKS PARKWAY

#### PARCEL 340-RW

# PART OF TRACT 89 SAN CARLOS ESTATES LYING IN SECTION 14, TOWNSHIP 47 SOUTH, RANGE 25 EAST CITY OF BONITA SPRINGS LEE COUNTY, FLORIDA

A tract or parcel for right-of-way purposes being part of Tract 89, San Carlos Estates, according to the map thereof recorded in Official Record Book 557, Pages 354 and 355, in the Public Records of Lee County, Florida, lying in the Northeast Quarter (NE-1/4) of Section 14, Township 47 South, Range 25, East, City of Bonita Springs, Lee County Florida, being more particularly described as follows:

From the northwest corner of said Northeast Quarter (NE-1/4) run S 82° 32' 57" E along the north line of said Northeast Quarter (NE-1/4) for 1,272.30 feet to the northeast corner of Tract 27 of said San Carlos Estates; thence run S 00° 13' 03" E for 329.94 feet to the northeast corner of said Tract 89; thence run N 82° 32' 57" W along the north line of said tract for 30.27 to an intersection with the west line of Rodger Dodger Street (60 feet wide) as shown and recorded in Official Record Book 557, Pages 354 and 355 and Official Record Book 535, Page 826 and the Point of Beginning.

From said Point of Beginning run S 00° 13' 03" E along said west line for 76.31 feet, to an intersection with a non-tangent curve; thence departing said west line run northwesterly along the arc of said curve to the left, having a radius of 90.00 feet (delta 40° 08' 01") (chord bearing N 20° 17' 03" W) (chord 61.76 feet) for 63.04 feet to a point of reverse curvature; thence continue northwesterly along the arc of said curve to the right, having a radius of 65.00 feet (delta 23° 04' 16") (chord bearing N 28° 48' 56" W) (chord 26.00 feet) for 26.17 feet to an intersection with said north line of said tract; thence run S 82° 32' 57" E along said north line for 33.94 feet to the Point of Beginning.

Containing 960.65 square feet or 0.02 acres, more or less.

Bearings hereinabove mentioned are State Plane Coordinate for the West Zone of Florida (NAD 83/90 Adjustment) and are based on the north line of the Northeast Quarter (NE-1/4) of Section 14, Township 47 South, Range 25 East to bear S 82° 32' 57" E.

Exhibit "A"

Page \_\_\_of 2\_

20013033 Parcel 340-RW 070804

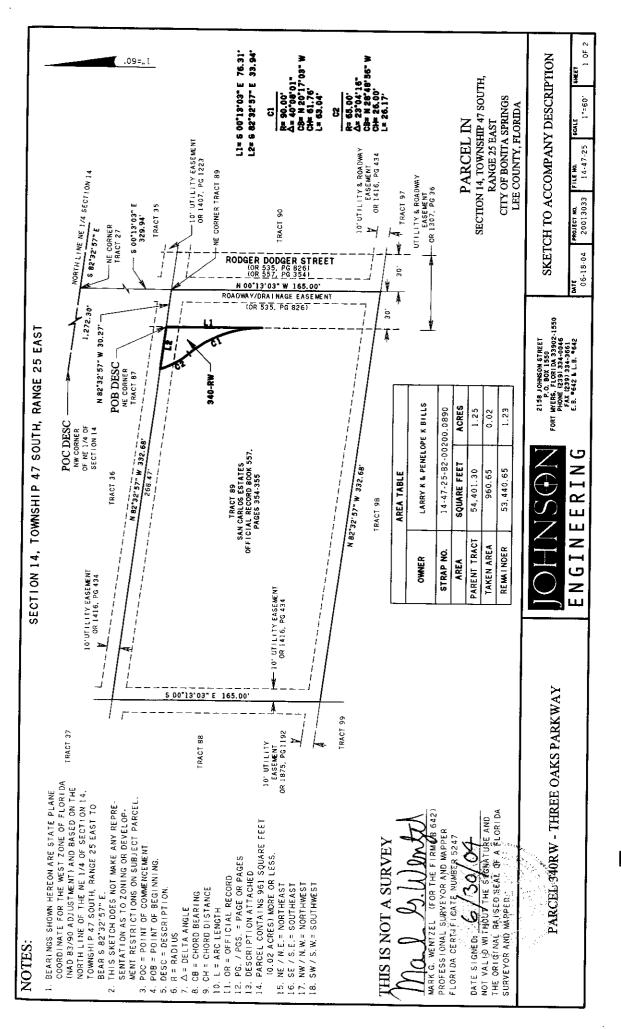


Exhibit "A"

Page 2 of 2

This instrument prepared by:

Lee County
Division of County Lands
Post Office Box 398
Fort Myers, Florida 33902-0398

Exhibit "B"
Page \_\_\_\_ of \_\_\_\_

Parcel: 340-RW/Bills

Project: Three Oaks Parkway South Extension 4043

STRAP No.: 14-47-25-B2-00200.0890

#### GRANT OF PERPETUAL

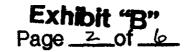
#### RIGHT-OF-WAY EASEMENT

This INDENTURE, made and entered into this day of COTEMBER, 2004, between LARRY K. BILLS AND PENELOPE K. BILLS, husband and wife, Owner, whose address is 24066 Roger Dodger Street, Bonita Springs, Florida 34135, hereinafter "Grantor", and LEE COUNTY, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398 hereinafter "Grantee":

#### WITNESSETH:

- 1. For and in consideration of the sum of Ten Dollars and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor hereby grants and transfers to the Grantee, its successors and assigns, the use of a perpetual public right-of-way easement situated in Lee County, Florida, and located and described as set forth in Exhibit "A" attached.
- 2. Grantee, its successors, appointees and assigns, are granted the right, privilege, and authority to construct, replace, renew, extend and maintain a public roadway and/or attendant drainage system, together with, but not limited to, swales, culverts, manholes and appurtenances, to be located on, under, across, and through the easement which is located on the property described in Exhibit "A", with the additional right, privilege and authority to remove, replace, repair and enlarge said system within the easement.

Grant of Perpetual Right-of-Way Easement Project: Three Oaks Parkway South Extension 4043 Page 2



- 3. The right-of-way easement will not limit the particular type of drainage necessary for said roadway, nor will it limit the placement of improvements within the easement to a particular type, style, material or design. The Grantor will not construct any structures within said easement, nor will any foliage be placed in said easement.
- 4. Title to the improvements constructed hereunder will remain in the Grantee, Grantee's successors, appointees and/or assigns.
- 5. Subject to any existing easements for public highways or roads, railroads, laterals, ditches, pipelines and electrical transmission or distribution lines and telephone and cable television lines covering the land herein described, Grantor covenant that they are lawfully seized and possessed of the described real property in Exhibit "A", have good and lawful right and power to sell and convey it, and that the property is free and clear of all liens and encumbrances, except as herein stated, and accordingly, Grantor will forever warrant and defend the title and terms to this said easement and the quiet possession thereof against all claims and demands of all other entities.
- 6. Grantor, its heirs, successors or assigns, will indemnify and hold the Grantee harmless for any consequential damages to any houses, fences, buildings, carports, garages, storage sheds or any other structures subsequently constructed by Grantor in violation of paragraph 3. within the above easement, which results from the required activities of the Grantee for any construction, maintenance or repairs to the rights-of-way located within the above-described easement.
- 7. Grantee will have a reasonable right of access across Grantor's property for the purposes of reaching the described easement in Exhibit "A" on either paved or unpaved surfaces. Any damage to Grantor's property or permitted improvements thereon as the result of such access to the described easement or the Grant of Perpetual Right-of-Way Easement construction, maintenance, or repairs located within the above-described easement will be restored by the Grantee, to the condition in which it existed prior to the damage.

Grant of Perpetual Right-of-Way Easement
Project: Three Oaks Parkway South Extension 4043
Page 3

Exhibit "B"

Page 3 of 6

8. THIS AGREEMENT will be binding upon the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the OWNER, has caused this document to be signed on the date first above written.

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TWO SEPARATE WITNESSES:  Joseph Kuth Jonnes (WITNESS)  JOSEPH KUTH GONDER (WITNESS)  Witness Signature	Jany L. BILLS
Printed name of Witness  Amy W. Howard  Witness Signature  Amy M. Howard	
Witness Signature	Penelope K. Bills
Printed name of Witness	
Witness Signature  Printed name of Witness	

Grant of Project: Page 4	Perpetual	Right-of-Way	Easement
STATE OF	FLORIDA	)	
COUNTY OF	_ Léi	)	

Exhibit "B" Page 4 of 6

The foregoing instrument was acknowledged before me this 2/27 day of September, 2004, by LARRY K. BILLS AND PENELOPE K. BILLS. They are personally known to me or have produced \_\_\_\_

exida Driver Licenses (type of identification)

\_\_\_\_ as identification.

PKB

869-0

Joseph Keith Gomez Commission # DD305652 Commission # DD305652 Expires: March 31, 2008 Bonded Thru Atlantic Bonding Co., Inc.

(Name typed, printed or stamped)

(Title or Rank)

(Serial Number, if any)

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Exhibit "B"
Page 5 of 6

July 8, 2004

#### THREE OAKS PARKWAY

Exhibit "A"

PARCEL 340-RW

Page \_ of \_ Z

PART OF TRACT 89
SAN CARLOS ESTATES
LYING IN SECTION 14, TOWNSHIP 47 SOUTH, RANGE 25 EAST
CITY OF BONITA SPRINGS
LEE COUNTY, FLORIDA

A tract or parcel for right-of-way purposes being part of Tract 89, San Carlos Estates, according to the map thereof recorded in Official Record Book 557, Pages 354 and 355, in the Public Records of Lee County, Florida, lying in the Northeast Quarter (NE-1/4) of Section 14, Township 47 South, Range 25, East, City of Bonita Springs, Lee County Florida, being more particularly described as follows:

From the northwest corner of said Northeast Quarter (NE-1/4) run S 82° 32' 57" E along the north line of said Northeast Quarter (NE-1/4) for 1,272.30 feet to the northeast corner of Tract 27 of said San Carlos Estates; thence run S 00° 13' 03" E for 329.94 feet to the northeast corner of said Tract 89; thence run N 82° 32' 57" W along the north line of said tract for 30.27 to an intersection with the west line of Rodger Dodger Street (60 feet wide) as shown and recorded in Official Record Book 557, Pages 354 and 355 and Official Record Book 535, Page 826 and the Point of Beginning.

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20013033 Parcel 340-RW 070804

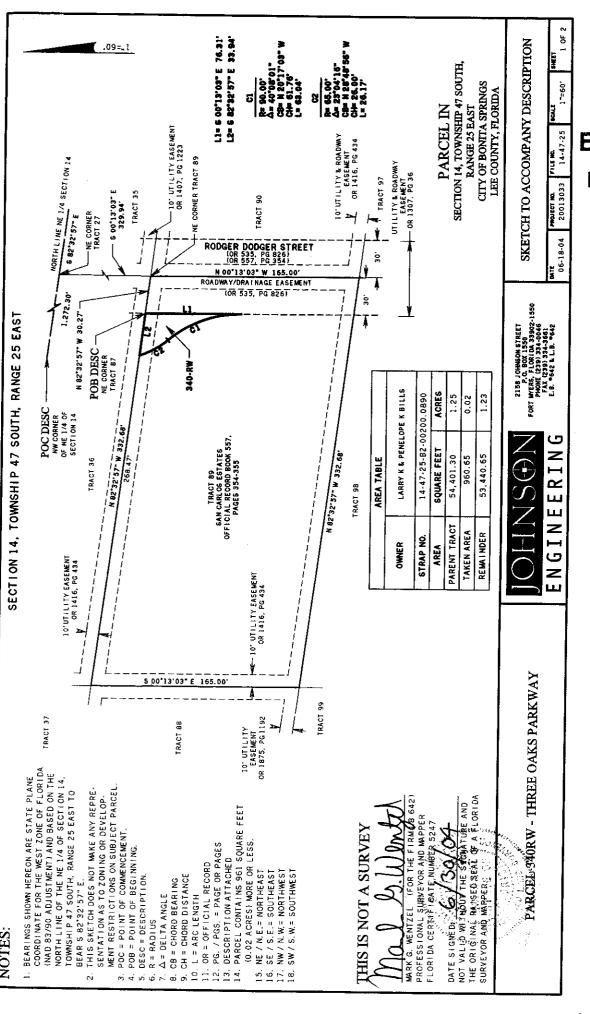


Exhibit "B"
Page 6 of 6

Exhibit "A"

Page 2 of 2

## Value Justification Report

Parcel No. 340-RW

Three Oaks Parkway South Extension Project No. 4043

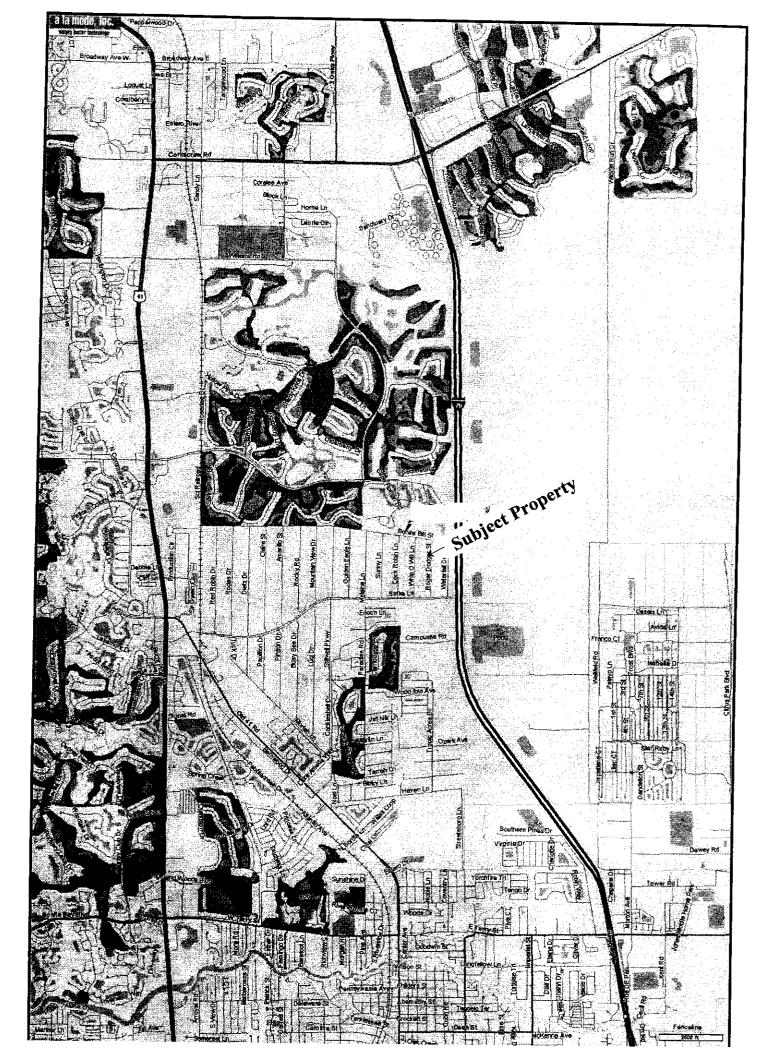
The Division of County Lands has negotiated a proposed agreement in the amount of \$2,500, for the purchase of Parcel 340-RW (Right of Way Easement) from Larry K. and Penelope K. Bills.

The parcel represents a partial acquisition from the residential property known as 24066 Roger Dodger Street and located in Bonita Springs.

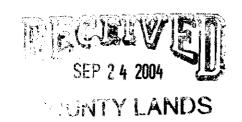
The negotiated purchase price of the parcel is based upon cost avoidance of condemnation:

- 1. Estimated cost of County's appraisal \$1,500 \$2,500
- 2. Estimated cost of Property Owner's appraisal \$2,000 \$3,000

S:\POOL\3-Oaks 4043\340 BILLS\Value Justification 09 22 04.doc







### City of Bonita Springs

9220 BONITA BEACH ROAD **SUITE 111** 

BONITA SPRINGS, FL 34135 Tel: (239) 390-1000 Fax: (239) 390-1004 www.cityofbonitasprings.org

Jay Arend Mayor

Wayne P. Edsall

Councilman District One

**Alex Grantt** 

Councilman District Two

R. Robert Wagner

Councilman District Three

John Joyce

Councilman District Four

David T. Piper, Jr.

Councilman District Five

Ben L. Nelson, Jr.

Councilman District Six

 $\sim$ 

Gary A. Price

City Manager

Audrey E. Vance City Attorney

September 22, 2004

Mr. J. Keith Gomez **Property Acquisition Agent** Lee County PO Box 398 Fort Myers, FL 33902

RE: Purchase Agreement - Three Oaks Parkway Extension Project No. 4043 Parcel 340, Larry and Penelope Bills

Dear Mr. Gomez:

The agreed upon purchase conditions for the aforementioned parcel are reasonable and purchase is recommended by my office.

If you need further authorization, feel free to contact me.

Respectfully

City Manager

GAP/kw

## **Division of County Lands**

#### Ownership and Easement Search

Search No. 14-47-25-B2-00200,0890

Date: October 30, 2003

Parcel: 340

Project: Three Oaks Parkway South Extension,

Project 4043

To: J. Keith Gomez

**Property Acquisition Agent** 

From: Shelia A. Bedwell, CL

Property Acquisition Ass

STRAP: 14-47-25-B2-00200.0890

Effective Date: September 30, 2003, at 5:00 p.m.

Subject Property: Tract 89, San Carlos Estates Subdivision, according to the plat thereof, as recorded in Official Record Book 557, Page(s) 354, inclusive, in the Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

## Larry K. Bills and Penelope K. Bills, husband and wife

By that certain instrument dated April 27, 2001, recorded May 2, 2001, in Official Record Book 3404, Page 4873, Public Records of Lee County, Florida.

#### Easements:

- 1. Dedication of Easements for drainage, roads and streets, recorded in Official Record Book 535, Page 826, Public Records of Lee County, Florida.
- 2. Non-exclusive utility and roadway easement over and across or below all roadways shown on plat of San Carlos Estates, recorded in Official Record Book 1307, Page 36, Public Records of Lee County, Florida.
- 3. Ten foot easement reservation on all sides for utility maintenance, as described in instrument recorded in Official Record Book 1416, Page 434, Public Records of Lee County, Florida.
- NOTE (1): Judgment creating and incorporating San Carlos Estates Drainage District, recorded in Official Record Book 521, Page 120, Public Records of Lee County, Florida.
- NOTE (2): Mortgage executed by Larry K. Bills and Penelope K. Bills, husband and wife, in favor of Colonial Bank dated October 7, 2002, recorded November 23, 2002, in Official Record Book 3783, Page 1775, as subordinated by instrument recorded in Official Record Book 3827, Page 2216, Public Records of Lee County, Florida.
- NOTE (3): Mortgage executed by Larry K. Bills and Penelope K. Bills, husband and wife, in favor of Countrywide Home Loans, Inc. dated December 9, 2002, recorded January 3, 2003, in Official Record Book 3813, Page 1, Public Records of Lee County, Florida.

## **Division of County Lands**

#### Ownership and Easement Search

Search No. 14-47-25-B2-00200.0890

Date: October 30, 2003

Parcel: 340

Project: Three Oaks Parkway South Extension,

Project 4043

Tax Status: Taxes paid 2002; 2003 taxes are now due and payable. (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.

# 5-Year Sales History – Parent Tract

Parcel No. 340-RW

# Three Oaks Parkway South Extension Project No. 4043

Grantor	Grantee	Price	Date	Arms Length Y/N	
T.C. & Vickie Bradley, h/w	Larry K. Bills & Penelope K. Bills, h/w	\$150,000	4/27/01	Y*	
Robert & Tina Day, h/w	T.C. & Vickie Bradley, h/w	\$136,300	4/27/01	Y*	

<sup>\*</sup>Referenced transactions reflect the sale of the entire parent tract improved with a single-family residential home.