

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

Blue Sheet No. 20041465

1. REQUESTED MOTION:

ACTION REQUESTED: Approve Purchase Agreement for acquisition of Parcel 335-RW, Three Oaks Parkway South Extension Project No. 4043, in the amount of \$1,500; 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 CATEGORY:
COMMISSION DISTRICT #:**

CBK

3. MEETING DATE:

11-23-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON

TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

(Specify)

- STATUTE 125
- ORDINANCE
- ADMIN.
- OTHER

6. REQUESTOR OF INFORMATION

- A.
- B. DEPARTMENT Independent
- C. DIVISION County Lands
- BY Karen L. W. Forsvth, Director

7. BACKGROUND:

Negotiated for: Lee County Department of Transportation

Interest to Acquire: Partial right of way easement acquisition from a vacant residential property.

Property Details:

Owner: Steven T. & Cindy L. Keller, husband and wife, and Richard Keller, a single person
Address: 24132 Cock Robin Lane, Bonita Springs
STRAP No.: 14-47-25-B1-00200.1470

Purchase Details:

Purchase Price: \$1,500
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:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
					OA	DM	RISK	GC	
<i>K. Forsyth</i>			<i>CAO</i>	<i>Attorney</i>	<i>11/18/04</i>	<i>11/19/04</i>	<i>11-9-04</i>	<i>11/9/04</i>	<i>AB 11/11/04</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
 Date: 11/8/04
 Time: 11:50
 Forwarded To:

RECEIVED BY
 COUNTY ADMIN
 11/20/04
 COUNTY ADMIN
 FORWARDED TO:

Parcel Number: 335-RW/Keller
STRAP Number: 14-47-25-B1-00200.1470

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 **STEVEN T. KELLER and CINDY L. KELLER, husband and wife, and RICHARD KELLER, a single person**, hereinafter collectively 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 584.27 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 One Thousand Five Hundred and no/100 Dollars (\$1,500.00) 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.

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

Two Witnesses For Each Grantor:

Sandra Cortez
Safeguard

Sandra Cortez
Safeguard

Sandra Cortez
Safeguard

GRANTOR:
Steven T Keller 10-23-04
STEVEN T. KELLER Date

Cindy L Keller 10-23-04
CINDY L. KELLER Date

Richard Keller 10-23-04
RICHARD KELLER 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 335-RW

**PART OF TRACT 147
SAN CARLOS ESTATES
LYING IN SECTION 14, TOWNSHIP 47 SOUTH, RANGE 25 EAST
CITY OF BONITA SPRINGS
LEE COUNTY, FLORIDA**

A tract or parcel of land for right-of-way purposes, being part of Tract 147, 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 Section 14, Township 47 South, Range 25 East, City of Bonita Springs, Lee County, Florida, being more particularly described as follows:

From the northeast corner of the Northwest Quarter (NW-1/4) of said Section 14, run N 82° 29' 12" W along the north line of said Northwest Quarter (NW-1/4) for 58.45 feet to the northeast corner of Tract 23 of said San Carlos Estates; thence run S 00° 13' 03" E for 660.00 feet to the northeast corner of said Tract 147; thence run N 82° 29' 12" W along the north line of said tract for 30.28 feet to an intersection with the west line of Cock Robin Lane (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 64.32 feet to an intersection with a non-tangent curve; thence departing said west line run northerly along the arc of said curve to the left, having a radius of 90.00 feet (delta 39° 18' 25") (chord bearing N 19° 52' 16" W) (chord 60.54 feet) for 61.74 feet to a point of reverse curvature; thence run northwesterly along the arc of said curve to the right, having a radius of 65.00 feet (delta 11° 42' 31") (chord bearing N 33° 40' 13" W) (chord 13.26 feet) for 13.28 feet to an intersection with the north line of said tract; thence run S 82° 29' 12" E along said north line for 27.92 feet to the Point of Beginning.

Containing 584.27 square feet or 0.01 acres, more or less.

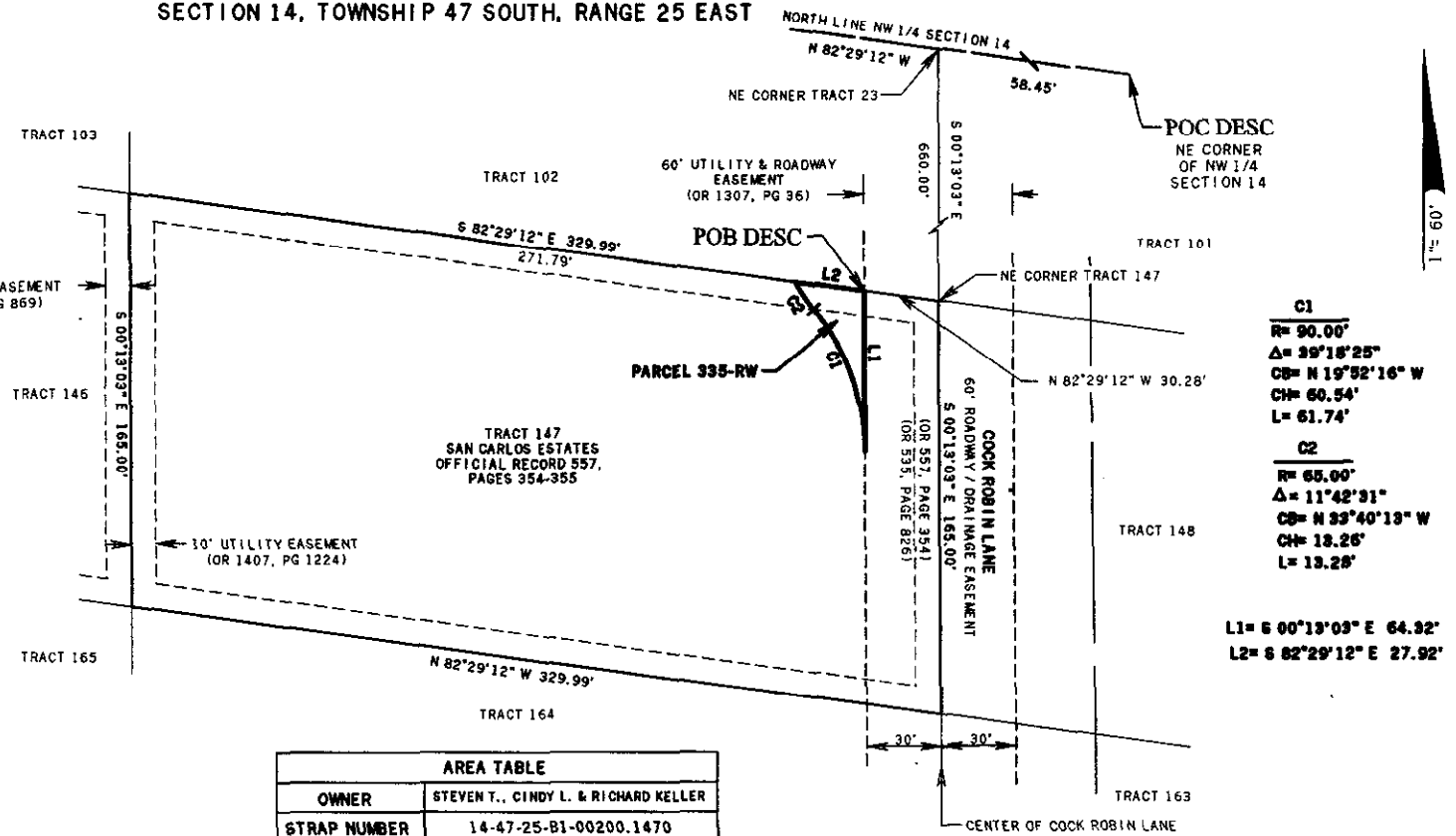
Bearings hereinabove mentioned are State Plane Coordinate for the West Zone of Florida (NAD 83/90 Adjustment) and are based on the north line of the Northwest Quarter (NW-1/4) of Section 14, Township 47 South, Range 25 East to bear N 82° 29' 12" W.

20013033 Parcel 335-RW 070804

NOTES:

1. BEARINGS SHOWN HEREON ARE STATE PLANE COORDINATE FOR THE WEST ZONE OF FLORIDA (NAD 83/90 ADJUSTMENT) AND BASED ON THE NORTH LINE OF THE NW 1/4 OF SECTION 14, TOWNSHIP 47 SOUTH, RANGE 25 EAST TO BEAR N 82°29'12" W.
2. THIS SKETCH DOES NOT MAKE ANY REPRESENTATION AS TO ZONING OR DEVELOPMENT RESTRICTIONS ON SUBJECT PARCEL.
3. POC = POINT OF COMMENCEMENT.
4. POB = POINT OF BEGINNING.
5. DESC = DESCRIPTION.
6. R = RADIUS
7. Δ = DELTA ANGLE
8. CB = CHORD BEARING
9. CH = CHORD DISTANCE
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13. DESCRIPTION ATTACHED
14. PARCEL CONTAINS 584 SQUARE FEET (0.01 ACRES) MORE OR LESS.
15. NE / N.E. = NORTHEAST
16. SE / S.E. = SOUTHEAST
17. NW / N.W. = NORTHWEST
18. SW / S.W. = SOUTHWEST

SECTION 14, TOWNSHIP 47 SOUTH, RANGE 25 EAST



C1
 R = 90.00'
 Δ = 39°18'25"
 CB = N 19°52'16" W
 CH = 60.54'
 L = 61.74'

C2
 R = 65.00'
 Δ = 11°42'31"
 CB = N 33°40'13" W
 CH = 13.26'
 L = 13.28'

L1 = S 00°13'03" E 64.32'
 L2 = S 82°29'12" E 27.92'

THIS IS NOT A SURVEY

Mark G. Wentzel

MARK G. WENTZEL (FOR THE FIRM LB 642)
 PROFESSIONAL SURVEYOR AND MAPPER
 FLORIDA CERTIFICATE NUMBER 5247

DATE SIGNED: 6/30/04
 NOT VALID WITHOUT THE SIGNATURE AND
 THE ORIGINAL RAISED SEAL OF A FLORIDA
 SURVEYOR AND MAPPER.

AREA TABLE		
OWNER	STEVEN T., CINDY L. & RICHARD KELLER	
STRAP NUMBER	14-47-25-B1-00200.1470	
AREA	SQUARE FEET	ACRES
PARENT TRACT	53,952.74	1.24
TAKEN AREA	584.28	0.01
REMAINDER	53,368.46	1.23

PARCEL IN
 SECTION 14, TOWNSHIP 47 SOUTH,
 RANGE 25 EAST
 CITY OF BONITA SPRINGS
 LEE COUNTY, FLORIDA

PARCEL 335-RW - THREE OAKS PARKWAY

**JOHNSON
 ENGINEERING**

2158 JOHNSON STREET
 P.O. BOX 1550
 FORT MYERS, FLORIDA 33902-1550
 PHONE (239) 334-0046
 FAX (239) 334-3661
 E.B. *642 & L.B. *642

SKETCH TO ACCOMPANY DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
06-30-04	20013033	14-47-25	1"=60'	1 OF 2

Page 2 of 2
Exhibit "A"

This instrument prepared by:

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

Parcel: 335-RW/KELLER
Project: Three Oaks Parkway South Extension 4043
STRAP No.: 14-47-25-B1-00200.1470

**GRANT OF PERPETUAL
RIGHT-OF-WAY EASEMENT**

This INDENTURE, made and entered into this _____ day of _____, 2004, between STEVEN T. KELLER and CINDY L. KELLER, husband and wife, and RICHARD KELLER, a single person, collectively referred to as Owner, whose address is 13676 W. Greenview Drive, Wadsworth, IL 60083, 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.

Exhibit "B"

Page 1 of 6

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.

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

Exhibit "B"

Page 2 of 6

Grant of Perpetual Right-of-Way Easement

Project: Three Oaks Parkway South Extension 4043

Page 3

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

TWO SEPARATE WITNESSES:

1st Witness Signature

STEVEN T. KELLER GRANTOR

Printed name of 1st Witness

2nd Witness Signature

Printed name of 2nd Witness

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by STEVEN T. KELLER. He is personally known to me or has produced _____ as identification.
(type of identification)

(Signature of Notary Public)

(Name typed, printed or stamped)
(Title or Rank)
(Serial Number, if any)

1st Witness Signature

CINDY L. KELLER GRANTOR

Printed name of 1st Witness

2nd Witness Signature

Printed name of 2nd Witness

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by CINDY L. KELLER. She is personally known to me or has produced _____ as identification.
(type of identification)

Exhibit "B"

Page 3 of 6

(Signature of Notary Public)

(Name typed, printed or stamped)
(Title or Rank)
(Serial Number, if any)

1st Witness Signature

RICHARD KELLER GRANTOR

Printed name of 1st Witness

2nd Witness Signature

Printed name of 2nd Witness

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____
day of _____, 20__, by RICHARD KELLER. He is personally known
to me or has produced _____ as identification.
(type of identification)

(Signature of Notary Public)

(Name typed, printed or stamped)
(Title or Rank)
(Serial Number, if any)



July 8, 2004

THREE OAKS PARKWAY

PARCEL 335-RW

**PART OF TRACT 147
SAN CARLOS ESTATES
LYING IN SECTION 14, TOWNSHIP 47 SOUTH, RANGE 25 EAST
CITY OF BONITA SPRINGS
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From the northeast corner of the Northwest Quarter (NW-1/4) of said Section 14, run N 82° 29' 12" W along the north line of said Northwest Quarter (NW-1/4) for 58.45 feet to the northeast corner of Tract 23 of said San Carlos Estates; thence run S 00° 13' 03" E for 660.00 feet to the northeast corner of said Tract 147; thence run N 82° 29' 12" W along the north line of said tract for 30.28 feet to an intersection with the west line of Cock Robin Lane (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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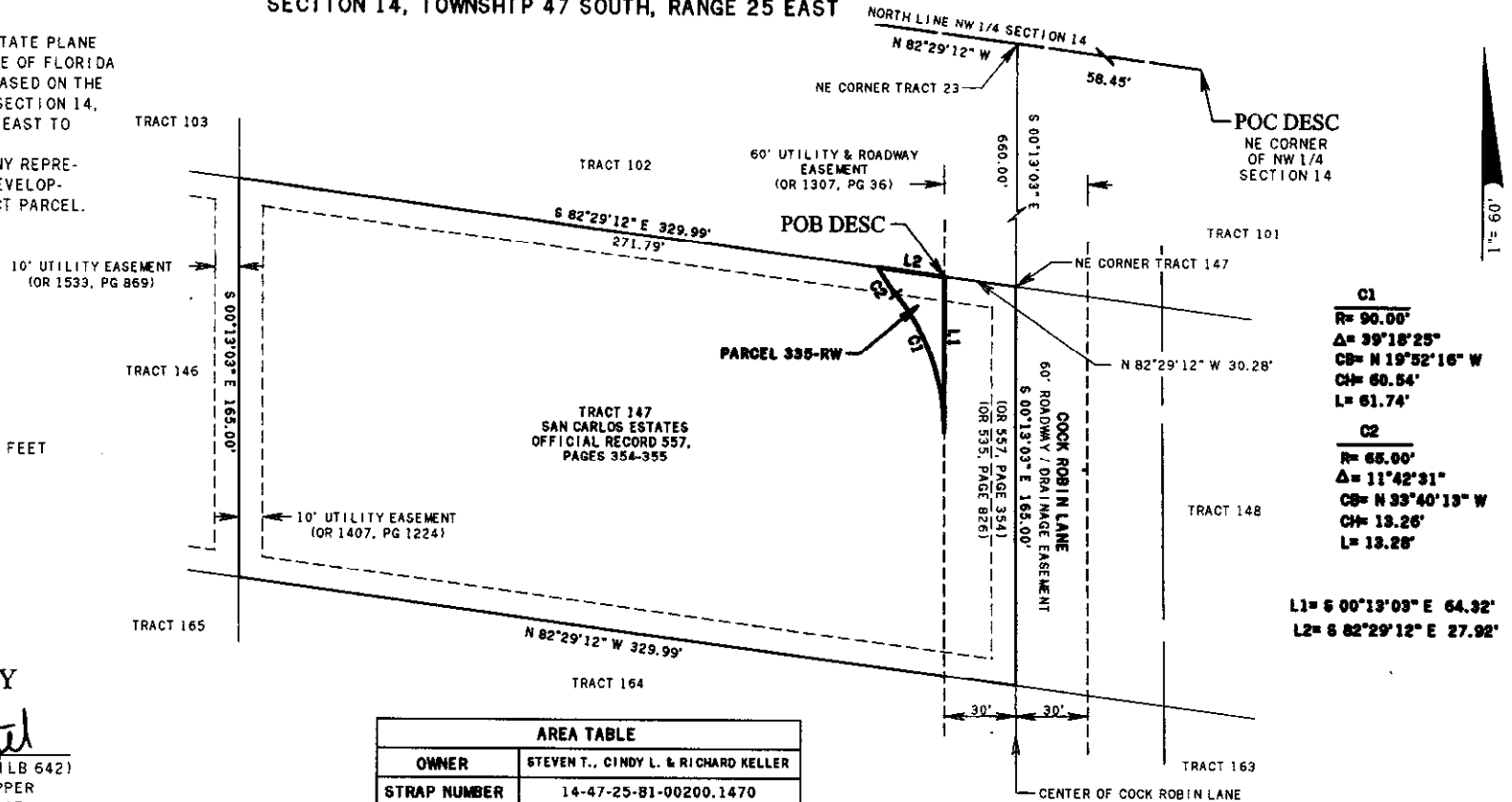
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Mark G. Wentzel
 MARK G. WENTZEL (FOR THE FIRM LB 642)
 PROFESSIONAL SURVEYOR AND MAPPER
 FLORIDA CERTIFICATE NUMBER 5247

DATE SIGNED: 6/30/04
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 CITY OF BONITA SPRINGS
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PARCEL 335-RW - THREE OAKS PARKWAY

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Page 6 of 6
Exhibit "B"

Page 2 of 2
Exhibit "A"

Value Justification Report

Parcel No. 335-RW

Three Oaks Parkway South Extension
Project No. 4043

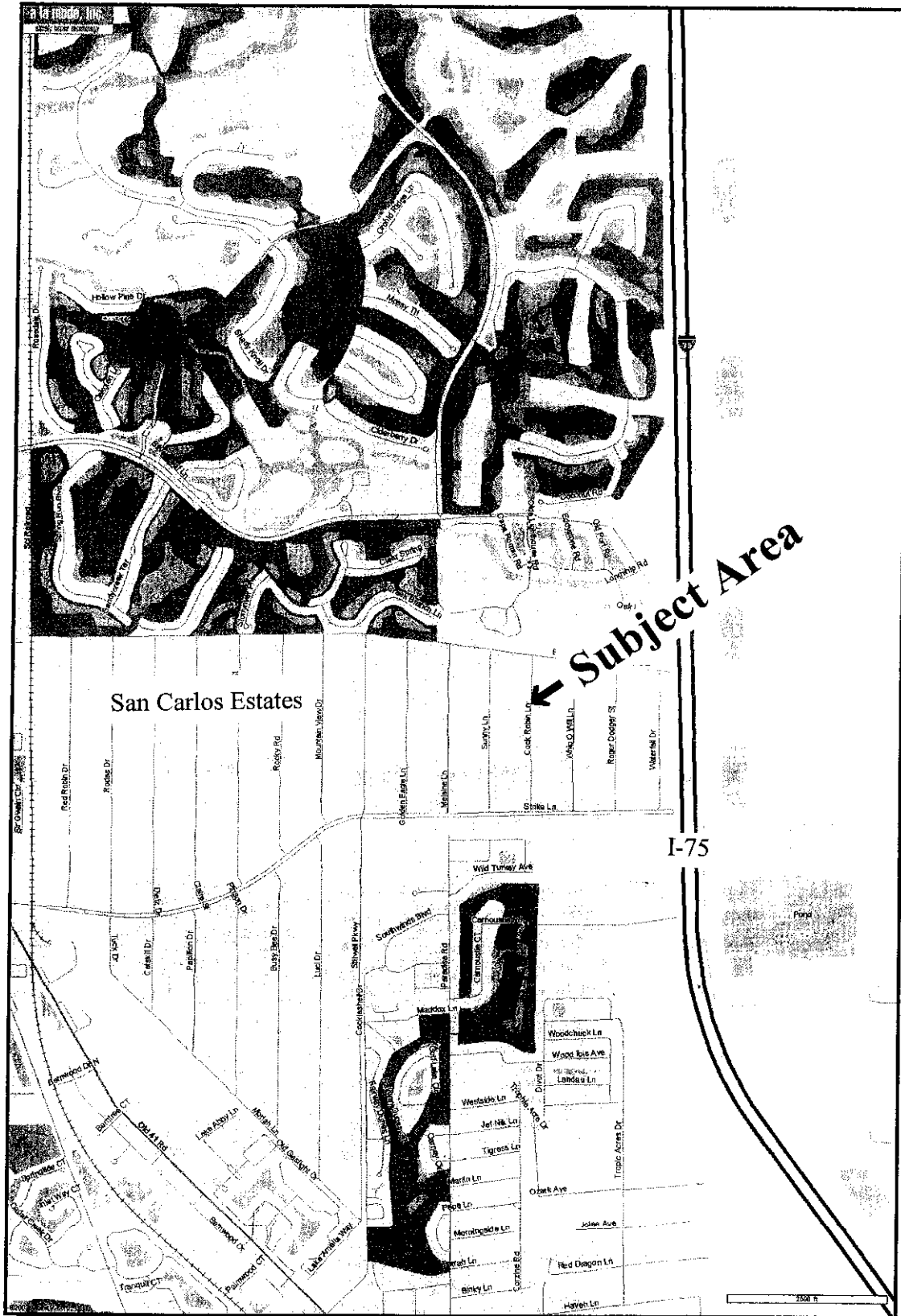
The Division of County Lands has negotiated a proposed agreement in the amount of \$1,500, for the purchase of Parcel 335-RW (Right of Way Easement) from Steven T. Keller and Cindy L. Keller, h/w, and Richard Keller, a single person.

The parcel represents a partial acquisition from the residential property known as 24132 Cock Robin Lane 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

Location Map





RECEIVED
NOV 01 2004
COUNTY LANDS

*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

~
Gary A. Price
City Manager

Audrey E. Vance
City Attorney

October 28, 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 335-ROW/Keller

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,

Gary A. Price
City Manager

GAP/kd

cc: Ken Hoffman, Community Project Coordinator

Division of County Lands

Ownership and Easement Search

Search No. 14-47-25-B1-00200.1470

Date: November 4, 2003

Parcel: 335

Project: Three Oaks Parkway South Extension,
Project 4043

To: J. Keith Gomez
Property Acquisition Agent

From: Shelia A. Bedwell, CLS 
Property Acquisition Assistant

STRAP: 14-47-25-B1-00200.1470

Effective Date: October 15, 2003, at 5:00 p.m.

Subject Property: Tract 147, of that certain subdivision known as San Carlos Estates, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Official Record Book 557, Page(s) 354-355, Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

Steven T. Keller and Cindy L. Keller, husband and wife and Richard Keller

By that certain instrument dated September 25, 1985, recorded October 10, 1985, in Official Record Book 1808, Page 2696, 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 1407, Page 1224, 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.

Tax Status: Taxes are paid for the year 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.

*Cindy - wife
Richard - Brother*

5-Year Sales History

Parcel No. 335-RW

Three Oaks Parkway South Extension
Project No. 4043

NO SALES in PAST 5 YEARS