#### Lee County Board Of County Commissioners Agenda Item Summary Blue Sheet No. 20050228 1.REQUESTED MOTION: ACTION REQUESTED: Approve the Option Agreement for Sale and Purchase dated February 4, 2005 (Option Agreement), for the County and State's proposed joint acquisition of Parcel 258 in the Conservation 2020 program; and authorize 1) the Chairman to execute the option agreement; 2) payment of due diligence costs and 3) the Division of County Lands to handle and accept all documentation necessary for the proposed acquisition of the property. WHY ACTION IS NECESSARY: The Board of County Commissioners must approve any option contract for the proposed purchase of real property. WHAT ACTION ACCOMPLISHES: Accepts the terms and conditions of the Option Agreement negotiated by the State of Florida with the owners of the ±100-acre Boomer Estate, located in Estero. 3. MEETING DATE: 2. DEPARTMENTAL CATEGORY: COMMISSION DISTRICT # 6. REQUESTOR OF INFORMATION: 5. REQUIREMENT/PURPOSE 4. AGENDA: (Specify) 125 A. COMMISSIONER CONSENT STATUTE **B. DEPARTMENT** Independent ORDINANCE 96-12 **ADMINISTRATIVE** County Lands ADMIN. CODE C. DIVISION **APPEALS PUBLIC** OTHER Karen L.W. Forsyth, Director B.S. 20041346 WALK ON TIME REQUIRED: 7.BACKGROUND: On October 26, 2004, the Lee County Board of County Commissioners approved an Acquisition Agreement with the State of Florida. This agreement authorized the State to lead negotiations for the proposed joint purchase of the ±100-acre Boomer Estate in Estero. Lee County's Division of County Lands has participated with the Florida Department of Environmental Protection in the negotiation and development of an option contract for the purchase of property from the Boomer family. The Option Agreement has been approved by the Boomer family and is now ready to be submitted for approval and execution by Lee County and the State of Florida. If the Option Agreement is approved, a subsequent request will be presented to the Board of County Commissioners, asking the Board to authorize the purchase of the property according to the terms and conditions of the Option Agreement. Funds for the County's share of due diligence costs for Parcel 258/Boomer Estate will come from Conservation 2020 Program Account No. 20-8800-30103.506110. The costs are estimated not to exceed \$50,000. Under the terms of the previously approved Acquisition Agreement and §125.355, F.S., the Option Agreement, property appraisals and related documentation are all confidential. They are not attached to this Blue Sheet as back-up materials. These documents are also currently unavailable for public inspection or review. This information will become available to the public once the Option Agreement has been approved by the Board and signed by the Chairman. Attachments: October 26, 2004-Blue Sheet # 20041346; Acquisition Agreement with the State of Florida; Aerial Location Map 8. MANAGEMENT RECOMMENDATIONS: 9. RECOMMENDED APPROVAL: G С D Ε Α В County Manager Other **Budget Services** County Human Department Purchasing Attorney Resources Director or Contracts OA Risk RECEIVED BY COUNTY ADMIN: Z.V 10. COMMISSION ACTION: **APPROVED** COUNTY ADMIN DENIED

FORWARDED TO:

Forwarded To:

DEFERRED

OTHER



WALK ON #2

# Lee County Board Of County Commissioners

Agenda Item Summary

Blue Sheet No. 20041346

### 1.REQUESTED MOTION:

ACTION REQUESTED: Approve the recommendation of Conservation Lands Acquisition and Stewardship Advisory Committee and approve the terms and conditions of the Multiparty Agreement, authorizing a partnership with the State of Florida to negotiate the terms of a joint acquisition of ±100 acres located at the southwest corner of U.S. 41 and Broadway Street in Estero and known as Conservation 20/20 Nomination 258 "Boomer Estate". Authorize the Division of County Lands to negotiate jointly with the State of Florida for the acquisition of the property.

WHY ACTION IS NECESSARY: Required by Lee County Ordinance 96-12.

WHAT ACTION ACCOMPLISHES: Provides for a partnership between Lee County and State of Florida to proceed with negotiations for the purchase of certain environmentally sensitive land as set forth in Ordinance 96-12 and the Conservation 20/20 Program.

20/20 Prograi	m.								
2. DEPARTMENTAL CATEGORY: 06						3.	MEETING DATE:		0/ 0001
COMMISSION DISTRICT # 3									26-2004
4. AGENDA:	AGENDA: 5. REQUIREMENT/PURPOSE:				SE:	6. REQUESTOR OF INFORMATION:			
	(Specify)								
CONSENT			STATUTE			Α.	COMMISSIONER		
ADMINISTRATIVE		X	X ORDINANCE 96-12			B. DEPARTMENT Independent			
APPEALS			ADMIN. CODE			C. DIVISION County I		nty Lands	
PUBLIC			OTHER			BY: Karen L.W. Forsyth, Director			
X WAL	K ON						<del> </del>		MUZ
TIME	REQUIRED:	-							7
7.BACKGRO	UND: On Decer	mber 10, 2003	, the Divis	on of Cou	inty Lands	rec	eived an applicatior	from Ja	mes T. Humphrey,
nominating the ±100-acre "Boomer Estate" for the Conservation 20/20 program. The property, improved with an historic									
single-family residence, was being offered for sale with an asking price of \$14,500,000, and the request that two of the									
owners be permitted to retain simultaneous life estates over a portion of the property (±25 acres).									
The State of Florida is concurrently pursuing the acquisition of the property under the Estero Bay Florida Forever Project, and									
has requested that Lee County partner with the State to acquire the property. If acquired, the property would be split, with									
Lee County taking title to an inland area totaling 50% of the property value and the State acquiring the waterfront portion and									
the homestead. The State of Florida Department of Recreation and Parks (DRP) will be responsible for uniform management									
of the entire parent tract, under a management agreement to be devised by Lee County and DRP following the acquisition of									
the property.									
The Conservation Land Acquisition and Stewardship Advisory Committee (CLASAC) met on March 11, 2004 to review the									
specifics of the application, and again on July 8, 2004 to respond to a request for a State partnership in the acquisition of the									
"Boomer Estate". It is CLASAC's recommendation that County staff pursue negotiations for a 50% joint purchase of the									
property with the State of Florida.									
property with the otate of Florida.									
Funds for costs associated with negotiation of Parcel 258 will come from Account No. 20-8800-30103.506110.									
Attachment: Multiparty Agreement, Location Map									
8. MANAGEMENT RECOMMENDATIONS:									
9. RECOMMENDED APPROVAL:									
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A	B	C	D Other	E County		В	F udget Services		G County Manager
Department Director	Purchasing	Human		•		D	· 1		County Manager
Director	or Contracts	Resources		Attorney	1		afor 10/21/04		1
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IV. CONIMISS	PICH ACTION.	•		gar-man.x		7			

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APPROVED DENIED DEFERRED OTHER



## ACQUISITION AGREEMENT ESTERO BAY FLORIDA FOREVER PROJECT AND

## LEE COUNTY CONSERVATION 20/20 PROJECT

THIS AGREEMENT is entered into under the provisions of Rule 18-1.014, Fla. Additional Code, by and between LEE COUNTY, a political subdivision of the State of Florida ("LCG"), the Division of State Lands ("DSL") of the Florida Department of Environmental Protection ("DEP") as agent for the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida ("Trustees"), and the Division of Recreation and Parks (DRP), as follows:

- 1. Parcels. DSL and LCG shall negotiate the acquisition of the parcels described on Exhibit "A" (the "Parcels") in accordance with the provisions of this Agreement. The Parcels are located within the Estero Bay Florida Forever Project (the "Project"). The term "Parcels" or "Parcel" may from time to time be used interchangeably, however, said use describes the property listed in Exhibit "A".
- 2. Project funding. The Project is ranked on the Florida Forever Group A/Full Fee list and is eligible for negotiation under the DSL land acquisition workplan as a ranked project. In addition, the owners of the Parcels have submitted an application for the Lee County Conservation 2020 Land Program, offering for sale the property identified therein. In response to the application, the Conservation Lands And Stewardship Advisory Committee of Lee County has recommended Lee County staff pursue the joint acquisition of the Parcels with DSL. The parties understand and agree LCG staff shall present this Agreement for the consideration and approval of the Lee County Board of County Commissioners.

### 3. Pre-acquisition requirements.

- a. Appraisal mapping. DSL shall be responsible for providing an appraisal map suitable for use in preparing appraisals in compliance with the procedures and requirements set forth in section 259.041, Fla. Stat., and Rule 18-1.006, Fla. Admin. Code. LCG shall reimburse DSL for one-half (1/2) the cost of the appraisal mapping.
- b. Appraisals. DSL will acquire such number of appraisals (including timber cruises as appropriate) as are required under the provisions of section 259.041, Fla. Stat., and Rule 18-1.006, Fla. Admin. Code. LCG shall reimburse DSL one-half (1/2) the cost of the appraisals, including any timber cruises. All appraisals shall be prepared according to the requirements of section 259.041, Fla. Stat., Rule 18-1.006, and Fla. Admin. Code, and the Bureau of Appraisal's Supplemental Appraisal Standards. DSL, or its contract review appraiser, will review appraisals obtained pursuant to this Agreement in accordance with all DSL standards and requirements. The DSL shall obtain with the appraisals an affidavit

from each appraiser certifying that the appraisers have no vested or fiduciary interest in the Parcel being appraised. No Parcel is eligible for negotiation or any reimbursements provided for herein until the appraisal reports are approved by DSL. The DSL shall provide a copy of the draft appraisals to LCG within three (3) business days after this Acquisition Agreement is approved and executed by LCG's governing board, DRP and DSL. In the interest of time, and to allow LCG staff opportunity to review the draft copies of the appraisals and submit any comments for DSL's consideration and inclusion in the Final Appraisal Review, LCG will have ten (10) business days upon receipt of the draft appraisals to submit said comments to DSL for consideration and inclusion in the final review appraisal product. The Review shall be due on or before November 12, 2004. The DSL shall provide an original copy of all appraisals and the review to LCG within three (3) business days after all modifications have been made and the appraisals are approved by DSL. DSL shall not begin negotiations prior to expiration of said 10-day period.

c. Confidentiality. In accordance with the provisions of sections 259.041(7)(e) and 259.041(8)(c), Fla. Stat., LCG, on its behalf and on behalf of its employees and agents, shall maintain the confidentiality of all appraisals and offers and, to extent allowed by law, other negotiation documentation.

LCG may disclose appraisal information to the general public only when an option contract is executed or, if no option contract is executed, two (2) weeks before a contract or agreement for purchase is considered for approval by the Trustees. If a contract for the purchase of the Parcel is not consummated, then, as provided in section 259.041(7)(e), Fla. Stat., DSL will determine when the passage of time has rendered the conclusions of value in the report invalid, and DSL will provide written authorization to LCG to release the appraisals. DSL will require as a condition of recommending approval of a purchase instrument by the Trustees, a certification that LCG has maintained the confidentiality of the appraisals, offers and counteroffers, and other negotiation matters. This certification shall be in the form of a letter signed by the Division of County Lands Director for LCG.

LCG and DSL understand and agree that all documents, papers, letters, maps and other materials (the "records") specifically relating to the acquisition of a Parcel will become a public record as defined in chapter 119, Fla. Stat., when an option contract is executed or, if no option contract is executed, two (2) weeks before a contract or agreement for purchase is considered for approval by the Trustees. At that time all records of LCG relating to the acquisition shall become public record and shall be subject to public access in the same manner as are other public

records under the provisions of chapter 119, Fla. Stat. This Agreement may be terminated by DSL if LCG fails to allow public access to any such records.

- 4. Reimbursement. LCG will reimburse DSL for 50% of all reasonable and appropriate pre-acquisition costs incurred by DSL under the provisions of this Agreement, exclusive of staff costs, in accordance with the provisions of The Florida Prompt Payment Act, section 218.70, Fla. Stat., et seq. Provided, however, that in order to obtain reimbursement for its pre-acquisition costs, the DSL first shall have obtained all approvals required by this Agreement. All reimbursements are contingent upon the availability of funds for the Project. For purposes of this paragraph, the term, "pre-acquisition costs" shall mean the cost of the appraisal map, estimated at \$7,672, the cost of the appraisals, estimated at \$27,050, the cost of the survey, estimated at \$30,000 for a total estimate of "pre-acquisition costs" of \$64,722 or an estimated 50/50 cost share of \$32,361 each. The parties understand that these amounts are estimates only and the final costs may vary from the estimated costs.
  - a. Upon payment of LCG's 50% reimbursement of the appraisal costs, and expiration of the confidentiality period of Section 259.041 (7)(e), F.S., LCG shall be entitled to the the appraisal reports in the same manner as an owner thereof.
- 5. Negotiations. The parties agree that DSL will take the lead in negotiating for the acquisition of the Parcels using a negotiation strategy agreed upon by DSL and LCG. Failure to follow the agreed-upon strategy will release LCG from all obligations under the provisions of this agreement, including any obligation to pay costs associated with this agreement.

All contracts to acquire the Parcels will be on DSL forms and approved by DSL. The contract will name the Trustees as purchaser for one portion of the property equal to 50% of the value of the Parcels, and it will name LCG as purchaser of the other portion of the property equal to 50% of the value of the Parcels. The division of the Parcels into two portions of equal value shall be approximately as shown on a preliminary map attached hereto as Exhibit B. The map depicted in Exhibit B is subject to change after the DSL-approved value, derived from the appraisal reports, has been established, but the parties agree that DSL will purchase the portion of the property that is subject to the reservation of a life estate and that has the riverfront along the border of the Parcels. LCG will purchase the remaining acreage abutting the roads to the North of the Property line, subject to an ingress and egress easement in favor of the Trustees.

The parties understand there are two leasehold interests in the Parcels, one being an agricultural cattle-grazing lease and one being a billboard site lease. These leasehold interests are being considered in the appraisal process. During the negotiation process,

DSL will seek LCG's and DRP's, guidance on terminating or maintaining the agricultural cattle-grazing lease, as may be allowed under the parties' respective conservation programs. In view of the provisions of section 70.20, F.S., any contract to acquire the Parcels shall require release of the billboard site lease or a cutout of the area affected by said lease.

- 6. Interest to be acquired. Title to all Parcels acquired under the provisions of this Agreement shall be held in fee simple absolute as provided in Paragraph 5 hereinabove.
- 7. Participation. The Trustees' share of the purchase price and LCG's share of the purchase price for their respective portions of the Parcels shall be for each the sum of 50% of the purchase price of the Parcels paid or to be paid to the Parcel owners, plus 50% of the reasonable closing costs incurred by DSL, exclusive of staff costs, in acquiring the Parcels from the Parcel owners or required by the contract with the Parcel owners to be paid by purchaser or reimbursed by purchaser to the Parcel owners. The purchase price agreed to be paid to the Parcel owners shall not exceed the maximum value of the Parcels as determined in accordance with the provisions of section 259.041, Fla. Stat., and Rule 18-1.006, Fla. Admin. Code ("DSL Approved Value"). DSL reserves the right to revise the DSL Approved Value of a Parcel based on changes in market conditions, zoning or land use until the date the Trustees approve a contract to purchase the Parcel. The term "closing costs" for purposes of this Agreement shall be limited to the actual and reasonable costs of the survey, environmental audit, title insurance, recording costs and other DSL and LCG approved acquisition costs incurred in the acquisition of each Parcel, whether LCG or the Trustees pay these costs directly or whether LCG or Trustees reimburse the Parcel owner for such costs. In the event LCG's share of the purchase price as described above exceeds LCG's available funds, it is understood and agreed that this Agreement shall terminate and DSL may elect to acquire all of the Parcels or any portion thereof on behalf of the Trustees without the participation of LCG. This contract does not preclude LCG from acquiring the Parcels or any portion thereof without the participation of DSL if DSL has insufficient funds to complete the purchase.

The Parties agree that their respective portions of the Parcels are being acquired by DSL and LCG for purposes of preservation in accordance with each parties respective land conservation programs. The Parties agree that, upon acquisition of the Parcels, DSL and LCG shall enter into an agreement to provide for the uniform management of the Parcels by DRP at no cost to LCG although ownership is divided between Trustees and LCG.

- 8. Closing services. LCG and DSL agree that DSL will obtain title and closing services for the closing of any Parcel covered under this Agreement.
- 9. Contacts. Whenever either party desires or is required to give notice to the other, notice must be given in writing and either delivered personally, transmitted via facsimile transmission mailed postage prepaid, or sent by overnight courier to the following address or to such other address as is designated by the party:

As to DSL:
Ms. Judy K. Warrick
Bureau of Land Acquisition
Department of Environmental Protection
3900 Commonwealth Blvd., MS #115
Tallahassee, FL 32399
(850) 245-2669

Fax: (850) 245-2718

E-mail: Judy.Warrick@dep.state.fl.us

As to DRP:

Mr. David Buchanan Division of Park Planning Department of Environmental Protection 3900 Commonwealth Blvd. Tallahassee, Fl 32399 (850) 245-3051

Fax: (850) 245-3074

E-mail: <u>David.Buchanan@dep.state.fl.us</u>

Mr. J. Keith Gomez Division of County Lands Lee County Government, Florida

P.O. Box 398

As to LCG:

Ft. Myers, FL 33902-0398

(239) 479-8505

Fax: (239) 479-8391

E-mail: KGOMEZ@leegov.com

- 10. Applicable Laws. All conveyances to the Trustees or LCG will be subject to all applicable laws, rules and policies in effect at the time of the conveyance, and to the approval of the Trustees and the Lee County Board of County Commissioners. Any duty of the Trustees to perform under the provisions of this Agreement is contingent on an annual appropriation therefor by the Florida Legislature.
- 11. Termination. This Agreement may be terminated by either party giving 30-days' prior written notice to the other party. The parties agree that any costs incurred or obligated at date of termination shall be shared equally by the parties, unless DSL has failed to follow the approved negotiation strategy, in which event the provisions of paragraph 5, above, apply.
- 12. Special Conditions. DSL and LCG understand and agree that due to the current status of the availability of funds, neither DSL nor LCG is able to commit to when funds may be available to purchase the Parcel. DSL and LCG understand and agree that neither party shall have recourse whatsoever for the other's failure to acquire the Parcels due to the status of the ranking of the Parcels or the unavailability of funds.

## DONE AND AGREED the day and year indicated below.

Date:

LEE COUNTY, a political subdivision of

the State of Florida

BY: Chairman <del>or Vice Chairman</del>

Date: 10/26/04

Approved as to Form and Legality:

JOHN J. FREDYMY, NOTHTANT COUNTY ATTORNEY

Date: OCTOBER 26,2004



BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA BY DIVISION OF STATE LANDS OF THE FLORIDA **DEPARTMENT** OF **ENVIRONMENTAL PROTECTION** 

NAME: Gwen W. Short ITS: Negotiations Supervisor DATE: 11/22/04 BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA BY DIVISION OF RECREATION AND PARKS **OF** THE FLORIDA **ENVIRONMENTAL PROTECTION** 

AS

DEPARTMENT

Date: 11. 22.04

S:\POOL\2020\ACQUISIT\258 BOOMER\Multiparty Agreement 10.20.04.doc

Exhibit "A"

Page / of 2



(Strap #28-46-25-00-00038.0010)

Beginning at a point on the fractional line which is 310 feet West of the Southeast corner of the Northeast Quarter (NE ¼), of the Northwest Quarter (NW ¼), of the Southwest Quarter (SW ¼), of Section 28, Township 46 South, Range 25 East, Lee County, Florida; thence East along the fractional line, a distance of 786.23 feet; thence South parallel to the Centerline of the Southwest Quarter (SW ¼), a distance of 413 feet; thence West parallel to the Centerline of the Southwest Quarter (SW ¼) a distance of 319.30 feet; thence South parallel to Centerline of Southwest Quarter (SW ¼), a distance of 380 feet, more or less, to the Estero River; thence Westerly along the meanders of the Estero River, a distance of 500 feet, more or less, to a point which is South of the Point of Beginning, thence North parallel to the Centerline of the Southwest Quarter (SW ¼), a distance of 785 feet, more or less, to the Point of Beginning.

ESTERO BAY BUFFER PRESERVE BOOMER PARCEL 2 Strap No. 28-46-25-00-00038 0010

Page \_\_\_\_ of \_\_\_\_



## **EXHIBIT "A" (continued)**

(Strap ## 28-46-25-01-00001.0010) Blocks R, S, T, and U, Schulte South Tamiami Park, Plat Book 5, Page 33, Public Records of Lee County, Florida.

### And

(Strap# 28-46-25-00-00038.0020)

Beginning at the Northwest Corner of the Northwest ¼ of the Southeast ¼ of Section 28, Township 46 South, Range 25 East, Lee County, Florida; thence East 660 Feet; thence South 1,155 feet; thence West 660 feet; thence North to the Point of Beginning;

#### And

(Strap #28-46-25-00-00038.0000)

East three-quarters (E ¾) of North half (N ½) of Southwest quarter (SW ¼) of Section 28, Township 46 South, Range 25 East, Lee County, Florida; And

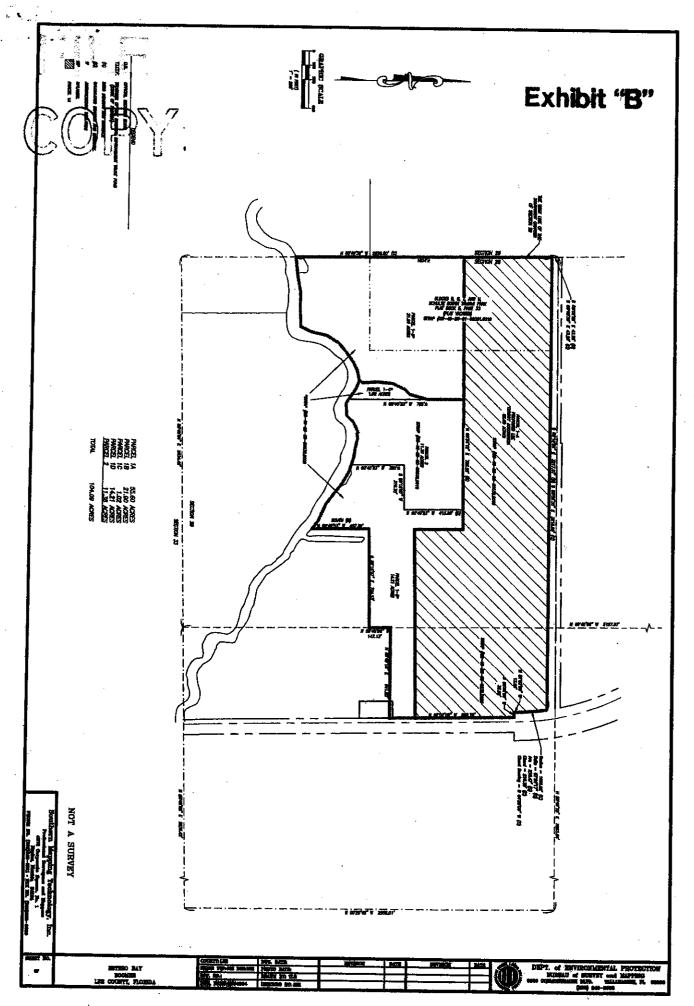
Beginning at Northwest (NW) Corner of Southwest quarter (SW ¼) of South Southwest quarter (SW ¼) of said section; thence East 1930 feet; thence South to Estero River; thence Westerly along meanders of said River to West line of said section; thence North along the section line to the Point of Beginning.

#### Less

Beginning at a point on the fractional line which is 310 feet West of the Southeast corner of the Northeast Quarter (NE ½), of the Northwest Quarter (NW ½), of the Southwest Quarter (SW ½), of Section 28, Township 46 South, Range 25 East, Lee County, Florida; thence East along the fractional line, a distance of 786.23 feet; thence South parallel to the Centerline of the Southwest Quarter (SW ½), a distance of 413 feet; thence West parallel to the Centerline of the Southwest Quarter (SW ½) a distance of 319.30 feet; thence South parallel to Centerline of Southwest Quarter (SW ½), a distance of 380 feet, more or less, to the Estero River; thence Westerly along the meanders of the Estero River, a distance of 500 feet, more or less, to a point which is South of the Point of Beginning, thence North parallel to the Centerline of the Southwest Quarter (SW ½), a distance of 785 feet, more or less, to the Point of Beginning.

Less the Rights-of-way for Broadway Street, and US 41.

ESTERO BAY BUFFER PRESERVE BOOMER PARCEL 1 Strap Nos 28-48-25-01-00001 0010 28-48-25-00-00038 0020 28-46-25-00-00038 0000



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REVISED DEC 11, 2003