

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

Blue Sheet No. 20050200

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize: 1) the Division of County Lands to make binding offer to property owner in the amount of \$750 for Parcel 129C, Gunnery Road Widening Project No. 4055, pursuant to the Purchase Agreements; 2) the Division of County Lands to handle and accept 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:

COMMISSION DISTRICT #

06
3 *C6D*

3. MEETING DATE:

03-15-2005

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:
(Specify)

- 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 *KFW*

7. BACKGROUND:

Negotiated for: Department of Transportation

Interest to Acquire: Slope/Restoration Easement

Property Details:

Owner: Darlene Mae Kohlwes, k/n/a Darlene Mae Linke and The Estate of William F. Kohlwes
Property Address: 4401-03 14th Street SW
STRAP No.: 33-44-26-07-00016.0400

Purchase Details:

Purchase Price: \$750
Estimated Closing Costs: \$150

Appraisal Information:

Company: Carlson Norris & Associates, Inc.
Appraised Value: \$515

Staff Recommendation: Staff is of the opinion that the purchase price increase of approximately \$235, above the appraised value, can be justified considering the costs associated with condemnation proceedings, estimated between \$2,000 and \$3,000. Staff recommends the Board approve the Requested Motion.

Account: 20405518803.506110

Attachments: Purchase and Sale Agreement, In-House Title Search, Appraisal Letter, Location Map

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>KFW</i>			<i>LAD 3/16/05</i>	<i>[Signature]</i>	OA	OM	Risk	GC	<i>[Signature]</i>
					<i>3/16/05</i>	<i>2/28/05</i>	<i>2/28/05</i>	<i>[Signature]</i>	

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
 Date: *3/16/05*
 Time:
 Forwarded To:

RECEIVED BY
 COUNTY ADMIN:
6/2/05
 11:45am
 COUNTY ADMIN
 FORWARDED TO:
[Signature]

Parcel: 129 C
Project: Gunnery Road 4 Lane (SR 82 – Lee Blvd.), Project No. 4055
STRAP No.: 33-44-26-07-00016.0400

**BOARD OF COUNTY COMMISSIONERS
LEE COUNTY
EASEMENT PURCHASE AGREEMENT
IN LIEU OF CONDEMNATION PROCEEDINGS**

This Agreement made and entered into this _____ day of _____, 20____, by and between **DARLENE MAE KOHLWES, k/n/a DARLENE MAE LINKE** and **THE ESTATE OF WILLIAM F. KOHLWES, deceased, as tenants in common**, whose address is 2381 West Viewmont Way, Seattle, WA 98199, hereinafter referred to as Owner, and **LEE COUNTY**, a political subdivision of the State of Florida, for the use and benefit of said County, hereinafter referred to as Purchaser.

Whereas, Purchaser requires a perpetual, nonexclusive Slope/Restoration Easement, located and described as set forth in Exhibit "B" attached to Exhibit "A". All Exhibits are attached hereto and made a part hereof by reference, in conjunction with the Gunnery Road 4 Lane (SR 82 – Lee Blvd.), Project No. 4055.

- a) Owner will grant said easement to Purchaser for the sum of \$750.00; Purchaser to pay recording costs and title insurance.
- b) Owner agrees that said easement will be granted to Purchaser by execution of the Non-exclusive Slope/Restoration Easement in form and substance set forth in Exhibit "A".
- c) Purchaser will pay Owner the amount agreed upon in item (a) of this agreement by County Warrant within 60 days of the execution and acceptance of this Easement Purchase Agreement and the Perpetual Slope/Restoration Easement instrument by Purchaser.
- d) Owner agrees that Purchaser, his successors and assigns will be allowed to use said easement areas, called "the Easement Parcel", as described Exhibit "B".
- e) Purchaser agrees to complete construction within the easement area in a timely manner.
- f) The land in Exhibit "B" is not and has never been the homestead of the Owner, nor is it contiguous to the homestead of the Owner.
- g) Owner will provide either a release, satisfaction of mortgage or subordination agreement for all mortgages that encumber the property. Purchaser will pay reasonable associated costs; if any.

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

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:**

**Owner: DARLENE MAE KOHLWES, n/k/a
DARLENE MAE LINKE**

1st Witness Signature

By: _____

2nd Witness Signature

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:**

**Owner: THE ESTATE OF WILLIAM F. KOHLWES
deceased**

1st Witness Signature

By: _____

Print Name: _____

2nd Witness Signature

Title: _____

**EASEMENT PURCHASE AGREEMENT
IN LIEU OF CONDEMNATION PROCEEDINGS**

Page 2 of 2

ATTEST:

CHARLIE GREEN, CLERK

By: _____
Deputy Clerk

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Chairman or Vice-Chairman

APPROVED AS TO LEGAL FORM

Office of County Attorney

EXHIBIT "A"

This instrument prepared by:

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

Parcel: 129C

Project: Gunnery Road 4 Lane (SR82 – Lee Blvd.), Project No. 4055
STRAP No.: 33-44-26-07-00016.0400

SLOPE/RESTORATION EASEMENT

This INDENTURE, made and entered into this _____ day of _____, 20____,
Between **DARLENE MAE KOHLWES, k/n/a DARLENE MAE LINKE and THE ESTATE OF WILLIAM F. KOHLWES, deceased, as tenants in common**, whose address is 2381 West Viewmont Way, Seattle, WA 98199, (Grantor), and LEE COUNTY, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398, (Grantee):

WITNESSETH:

1. For good and valuable consideration, receipt of which is hereby acknowledged, Grantor grants to the Grantee, its successors and assigns, a slope/restoration easement situated in Lee County, Florida, and located and described as set forth in attached Exhibit "B" (Easement Parcel).
2. Grantee, its successors and assigns, are granted the right, privilege, and authority to construct, replace, repair, remove, extend, and maintain a slope/restoration easement on the Easement Parcel to support, reinforce, and stabilize the adjacent public roadway.
3. The improvements that may be placed within the Easement Parcel for roadway slope/restoration purposes are not limited to a particular type, style, material or design. **Except for trees**, these improvements may include the use of foliage.
4. Grantor may not construct or place any structures or foliage, **including trees**, within the Easement Parcel.
5. Title to the improvements constructed by the Grantee within the Easement Parcel will remain in the Grantee, its successors or assigns.
6. 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, Grantors covenant they are lawfully seized and possessed of the real property described in Exhibit "B", have good and lawful right and power to 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.

Slope/Restoration Easement

Project: Gunnery Road 4 Lane (SR82 – Lee Blvd.), Project No. 4055

Page 2 of 3

7. Grantee has a reasonable right of access across Grantor's property for the purposes of reaching the Easement Parcel on either paved or unpaved surfaces. Any damage to Grantor's property or permitted improvements thereon resulting from Grantee's use of this access right will be restored by the Grantee, to the condition in which it existed prior to the damage.

8. This easement runs with the land and is binding upon the parties, their successors and assigns.

IN WITNESS WHEREOF, **DARLENE MAE KOHLWES, k/n/a DARLENE MAE LINKE** and **THE ESTATE OF WILLIAM F. KOHLWES, deceased, as tenants in common**, Grantor, has caused this document to be signed on the date first above written.

TWO SEPARATE WITNESSES:

1st Witness Signature

**Darlene Mae Kohlwes, k/n/a
Darlene Mae Linke**

Printed name of 1st Witness

2nd Witness Signature

Printed name of 2nd Witness

1st Witness Signature

The Estate of William F. Kohlwes

Printed name of 1st Witness

2nd Witness Signature

Printed name of 2nd Witness

Slope/Restoration Easement

Project: Gunnery Road 4 Lane (SR82 – Lee Blvd.), Project No. 4055

Page 3 of 3

STATE OF

COUNTY OF

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by **Darlene Mae Kohlwes, k/n/a Darlene Mae Linke**. He/she is personally known to me or who has produced _____ as identification.

(Signature of Notary Public)

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

STATE OF

COUNTY OF

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, authorized representative of the Estate of William F. Kohlwes. He/she is personally known to me or who has produced _____ as identification.

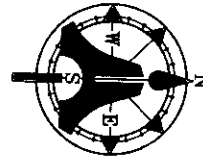
(Signature of Notary Public)

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

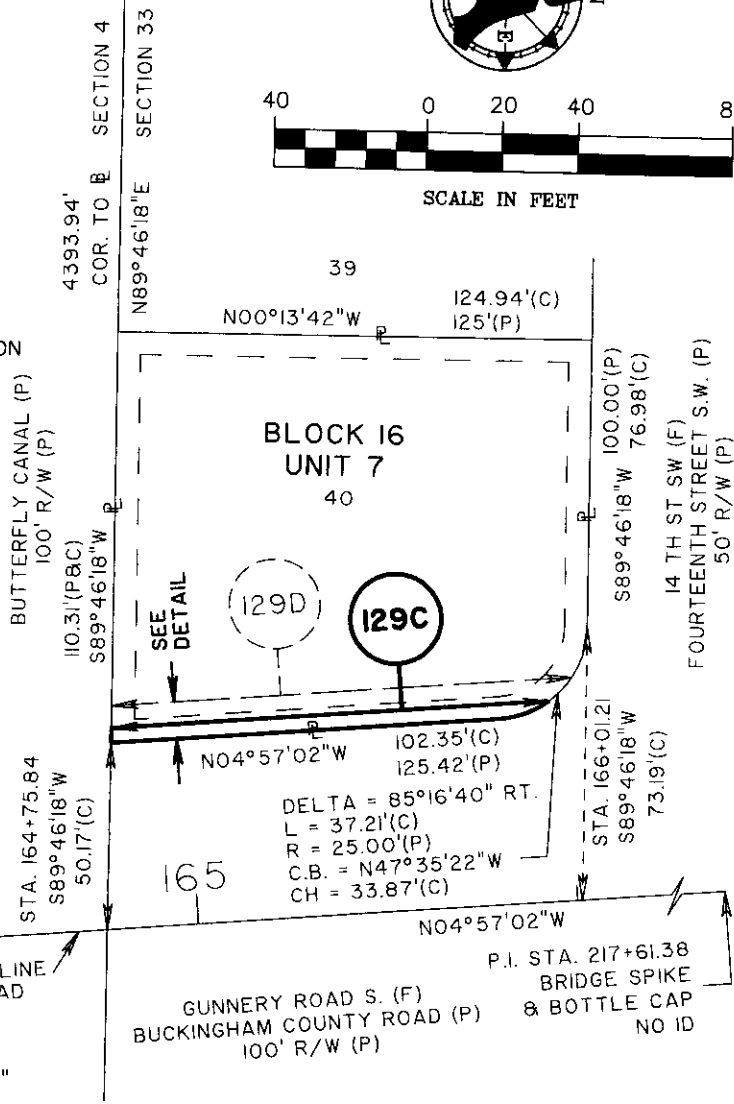
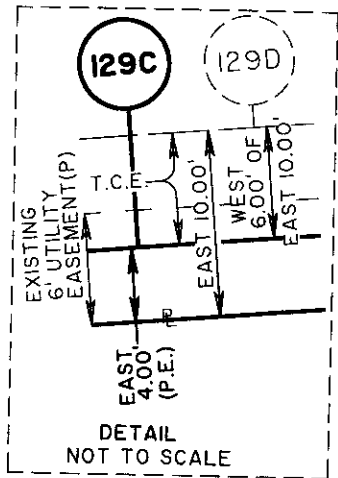
LEGEND
 (C) = CALCULATED
 (F) = FIELD
 (P) = PLAT
 C.B. = CHORD BEARING
 CH = CHORD
 ESMT. = EASEMENT
 L = LENGTH
 M.O.L. = MORE OR LESS
 P.B. = PLAT BOOK
 PG. = PAGE
 R = PARENT TRACT
 PROPERTY LINE
 R = RADIUS
 RT. = RIGHT
 R/W = RIGHT OF WAY
 S.F. = SQUARE FEET
 STA. = STATION
 T.C.E. = TEMPORARY
 CONSTRUCTION
 EASEMENT
 P.E. = PERPETUAL EASEMENT
 P.O.T. = POINT OF TANGENT
 P.I. = POINT OF INTERSECTION

PARCEL NO. 129C (PERPETUAL EASEMENT)
 PROPERTY OWNER: WILLIAM F. KOHWES AND DARLENE MAE KOHLWES
 STRAP NO. 33-44-26-07-00016.0400
 AREA OF PARENT TRACT: 13,029 S.F., M.O.L.
 AREA OF TAKE: 446 S.F., M.O.L.

Exhibit "B"



SCALE IN FEET



PARCEL 129C
 (PERPETUAL EASEMENT)

A 4.00 FOOT WIDE PERPETUAL EASEMENT BEING THE EAST 4.00 FEET OF LOT 40, BLOCK 16, UNIT 7, LEHIGH ESTATES, A SUBDIVISION OF LEHIGH ACRES, SECTION 33, TOWNSHIP 44 SOUTH, RANGE 26 EAST, AS RECORDED IN PLAT BOOK 15, PAGE 87, OF THE PUBLIC RECORDS, LEE COUNTY, FLORIDA.

NOTE:
 BEARINGS SHOWN HEREON ARE BASED UPON THE SURVEY BASE LINE OF GUNTERY ROAD HAVING A BEARING OF N 04°57'02" W FROM P.O.T. STATION 128+63.13 BEING A PARKER-KALON NAIL AND DISK "AIM ENG. LB 3114" TO P.I. STATION 217+61.38 BEING A BRIDGE SPIKE AND BOTTLE CAP NO ID.

SAID LANDS CONTAIN 446 SQUARE FEET, MORE OR LESS.

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

PREPARED BY:
 AIM ENGINEERING & SURVEYING, INC.

James M. Condon 7/16/04
 JAMES M. CONDON, P.S.M. DATE
 PROFESSIONAL SURVEYOR AND MAPPER
 FLORIDA CERTIFICATE NO. 6074

AIM Engineering & Surveying, Inc.

5300 LEE BLVD.
 P.O. BOX 1235
 LEHIGH ACRES
 FLORIDA 33970
 239/332-4569
 FX:239/332-8734

Licensed Business Number 3114

THIS IS NOT A SURVEY SHEET 1 OF 1

PROJECT NUMBER: 99-7504	DESCRIPTION: LEGAL AND SKETCH PARCEL 129C GUNTERY ROAD FROM S.R. 82 TO LEE BOULEVARD
DRAWN BY: LWC	CLIENT: LEE COUNTY
DATE: 7/14/04	SEC-TWP-RGE: 33-44S-26E
FILE: 7504-129C	COUNTY: LEE COUNTY

Division of County Lands

Updated Ownership and Easement Search

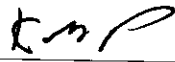
Search No. 33-44-26-07-00016.0400

Date: November 5, 2004

Parcel: 129

Project: Gunnery Road Widening, Project 4055

To: Michael J. O'Hare, SR/WA
Property Acquisition Agent

From: Kenneth Pitt 
Title Examiner

STRAP: 33-44-26-07-00016.0400

Effective Date: September 29, 2004, at 5:00 p.m.

Subject Property: Lot 40, Block 16, Unit 7, Lehigh Estates, Lehigh Acres, Florida, according to the map or plat thereof on file in the office of the Clerk of the Circuit Court, recorded in Plat Book 15, Page 87, Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

William F. Kohlwes and Darlene Mae Kohlwes, husband and wife.

By that certain instrument dated July 5, 1977, recorded July 14, 1977, in Official Record 1210, Page 1379, Public Records of Lee County, Florida.

Easements:

1. Six foot utility easement along both sides, front and rear of subject property, as stated on recorded plat of the subdivision.

NOTE(1): Declarations of Restrictions recorded in Official Record Book 84, Page 310 and Official Record Book 527, Page 29, Public Records of Lee County, Florida.

Tax Status: \$341.70 due & owing for Tax Year 2004.

(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.

THIS PAGE IS NOT AVAILABLE FOR VIEWING

Prior to the implementation of a Florida Law which requires that images of County Official Records be published on the Internet by 2006, measures were developed to protect the most sensitive type of information. Also, on or after October 1, 2002, any person preparing or filing a document for recording in the Official Record may not include a social security number in such document unless required by law.

Florida Statute 119.07 provides that images of the following types of documents may not be placed on a "publicly available Internet website".

Military Discharge

Death Certificates

Court files, records of paper relating to matters or cases governed by:

The Florida Rules of Family Law

The Florida Rules of Juvenile Procedure

The Florida Rules of Probate

Document types identified above which have been recorded in the county Official Records prior to the effective date of Florida Statute 119.07 will continue to be displayed on the Internet website unless a written request for removal has been presented to the Clerk.

Any "affected person" may request that the Clerk of Court remove an image of one of the above-listed documents from a "publicly available Internet website". This request must be in writing and may be delivered in person, by mail, electronically, or by facsimile. The request must specify the "identification" page number of the document to be removed. Forms are available in our office, upon request, to assist you.

No fee is charged for this service.

Florida law requires that images and copies of the above listed documents remain on file and available to the public upon request in the office of the Clerk.

APPRAISAL REPORT GUNNERY ROAD PROJECT 4055

Parcel Identification

Project Parcel Number: 129
Owner Name/Address: Kohlwes, W.F. & Darlene M, 4401 14th Street (Gunnery Road)
Lee County STRAP Number: 33-44-26-07-0016.0400
Legal Description: Lot 40, Block 16, Unit 7, Lehigh Estates, PB 15, PG 87
History of Ownership: No sale in previous five years
Interest Appraised: Fee Simple () Partial (X)
Assessed Value: \$17,060
Effective Date of Appraisal: December 9, 2004
Date of Report: December 13, 2004

Site Data

Parent Parcel - Overall Size: 8,750 square feet
Frontage - Depth: 102.35' X 110.3' X 125' X 100'
Acquisition Type: Fee Take () - A
Utility Easement () - B
Perpetual Easement (X) - C 446 square feet
Sidewalk ()
Drainage ()
Fill/Slope (X)
Parcel Remainder Size: 8,304 sf unencumbered, 446 sf encumbered
Existing Easements: Utility (X) Drainage () Road ()
Corner Parcel (X) Interior Parcel ()
Topography - Level (X) Irregular ()
Soil Conditions - Typical (X) Require Correction ()
Flood Zone: B Panel #: 125124 0375 B
Utilities Available: Electricity (X)
Telephone (X)
Water ()
Sewer ()
Zoning/Land Use: C2/Central Urban
Adverse Conditions: None
Supporting Services: Lee County Sheriff and Fire
Miscellaneous: This site is a corner parcel at Gunnery Road and 14th Street and also contains frontage along the Butterfly Canal.
Marketing Time: Less than 1 year
Highest and Best Use: Commercial Requires Zoning Change ()

Improvements None (X) Site () Structure ()

Description of improvements within take area: None

Valuation

Approaches Used: Sales Comparison (X)
 Cost Approach ()
 Income Approach ()
 Analysis Type: Complete (X) Limited ()
 Report Type: Restricted () Summary (X) Self Contained ()

Sale Data: Range of Sales \$ per SF \$3.71 - \$6.29
 Time Adjusted Range \$ per SF \$3.95 - \$7.22
 Sale Date Range March 2004 - October 2004

Value of Improvements: N/A

Value Estimates: (See summary chart below)

SUMMARY OF ANALYSIS

Gunnery Road Project
 Parcel 129

Market Value of Fee Simple Interest in
 Parent Parcel

	8,750 sf	
x	\$5.75 per sf	
	\$50,313	\$50,313

less: Market Value of Remainder - Fee Unencumbered

*8750 sf - 446 sf proposed easement area
 unencumbered fee value per square foot
 unencumbered fee value of remainder area

	8304 sf *
x	\$5.75 per sf
	\$47,748

less: *per county data Slope Easement-C Remainder

\$5.75 per sf times .80 (1- .20 percentage of impact)
 remainder value for land within proposed easement

	446 sf
x	\$4.60 per sf*
	\$2,051.60

Total Market Value of Remainder (rounded)

Market Value of Part Taken

rounded to

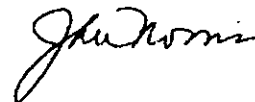
04-78-129sum

\$49,800
\$512.90
<u>\$515.00</u>

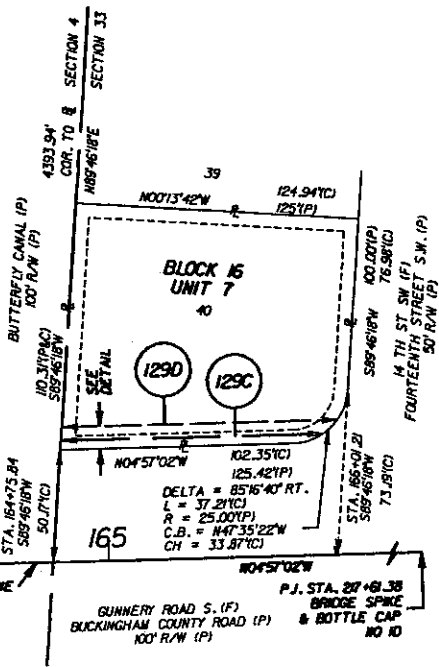
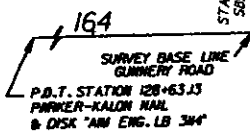
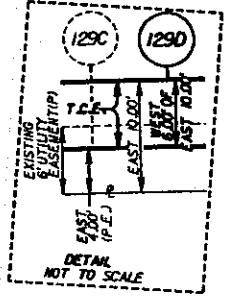
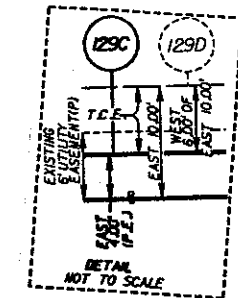
Additional information required for analysis to meet USPAP standards is located within the text of the main body of the analysis including all limiting conditions and special assumptions.

TOTAL COMPENSATION DUE THE PROPERTY OWNER (\$515.00)

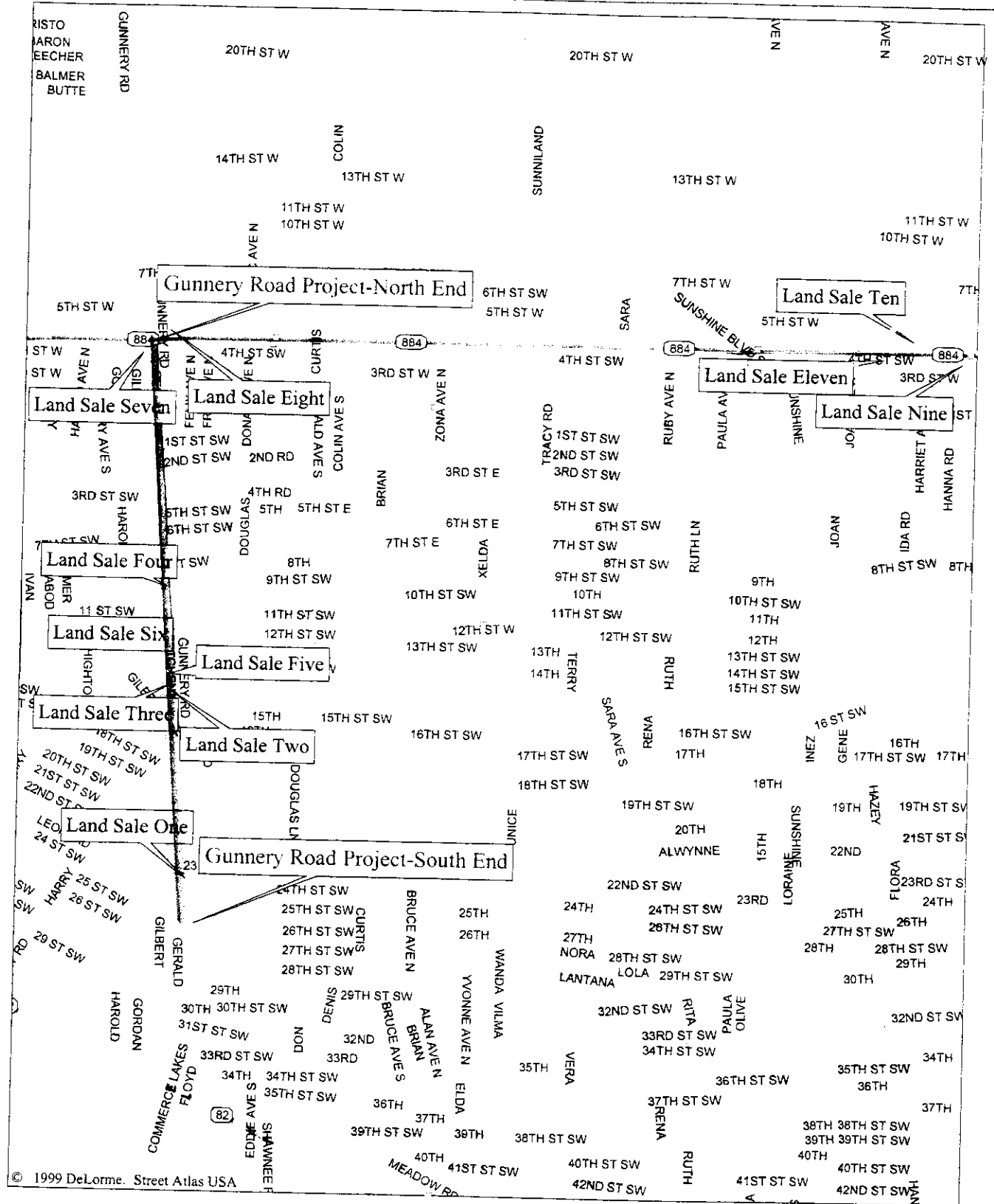
Appraiser: J. Lee Norris MAI, SRA
 State Certified General Appraiser
 RZ # 0000643



DETAIL
PARCEL 129C
AND
PARCEL 129D



PLAT MAP



LOCATION MAP