

Agenda Item Summary

- 1. ACTION REQUESTED/PURPOSE:** Authorize: 1) approval of Easement Purchase Agreement in Lieu of Condemnation for acquisition of Parcel 185 C, Gunnery Road Widening Project No. 4055, in the amount of \$1,000; 2) Chairman, on behalf of the Board, to sign the Purchase Agreement; and 3) the Division of County Lands to handle and accept all documentation necessary to complete transaction and grant an extension to close, if necessary.
- 2. WHAT ACTION ACCOMPLISHES:** Allows the County to proceed with the project without resorting to Eminent Domain proceedings.
- 3. MANAGEMENT RECOMMENDATION:** Management recommends Board approve the Action Requested.

4. Departmental Category: 6

CLA

5. Meeting Date: *04-19-2005*

6. Agenda:
- Consent
 - Administrative
 - Appeals
 - Public
 - Walk-On

7. Requirement/Purpose: (specify)
- Statute 73 & 125
 - Ordinance
 - Admin. Code
 - Other Blue Sheet 20050166

8. Request Initiated:
 Commissioner _____
 Department Independent
 Division County Lands
 By: Karen L.W. Forsyth, Director *KLF*

9. Background:

Negotiated for: Department of Transportation

Interest to Acquire: Perpetual Slope/Restoration Easement

Property Details:

Owner: Michael A. Baviello and Anna M. Baviello, husband and wife
Address: 100 Gunnery Road South
STRAP No.: 33-44-26-07-00007.0010

Purchase Details:

Purchase Price: \$1,000
Costs to Close: \$300

Appraisal Information:

Company: Carlson Norris & Associates, Inc.
Appraised Value: \$260

Staff Recommendation: The property owner refused to accept binding offer in the amount of \$500 for the property, approved on Blue Sheet 20050166. However, through negotiations, they have now agreed to accept \$1,000. Staff is of the opinion that the purchase price increase of approximately \$746, above the appraised value, can be justified considering the costs associated with condemnation proceedings, estimated between \$2,000 and \$3,000, and the escalating property values. Staff recommends the Board approve the Requested Motion.

Account: 20405518803.506110

Attachments: Purchase and Sale Agreement, Slope/Restoration Easement, Title Search, Appraisal Letter

10. Review for Scheduling:

| Department Director | Purchasing or Contracts | Human Resources | Other | County Attorney | Budget Services | | | | County Manager/P.W. Director |
|---------------------|-------------------------|-----------------|----------------|--------------------|-----------------|---------------|---------------|---------------|------------------------------|
| | | | | | Analyst | Risk | Grants | Mgr. | |
| <i>K. Forsyth</i> | | | <i>9/15/05</i> | <i>[Signature]</i> | <i>4/7/05</i> | <i>4/7/05</i> | <i>4/7/05</i> | <i>4/7/05</i> | <i>[Signature]</i> |

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

Rec. by CoAtty
 Date: *4/6/05*
 Time: *10:35*
 Forwarded To: *Co. Admin. Helms 4PM*

RECEIVED BY COUNTY ADMIN:
4-6-05 mcs.
4:24
 COUNTY ADMIN FORWARDED TO:
4/7/05
1pm

EW
HS

Parcel: 185C
Project: Gunnery Road 4 Lane (SR82 – Lee Blvd.), Project No. 4055
STRAP No.: 33-44-26-07-00007.0010

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

This Agreement made and entered into this 11 day of MARCH, 2005, by and between **MICHAEL A. BAVIELLO and ANNA M. BAVIELLO, husband and wife**, whose address is 3801 Crayton Road, Naples, FL 34103, 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, Project No. 4055.


\$1,000.00 *MCS In AMB*


- a) Owner will grant said easement to Purchaser for the sum of ~~\$500.00~~; 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: MICHAEL A. BAVIELLO



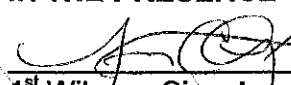
1st Witness Signature Joanna C. Gomez



2nd Witness Signature Faye L. Scott

By: 

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

Owner: ANNA M. BAVIELLO



1st Witness Signature Joanna C. Gomez


2nd Witness Signature Faye L. Scott

By: 

**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

This instrument prepared by:
Lee County
Division of County Lands
Post Office Box 398
Fort Myers, Florida 33902-0398

EXHIBIT "A"

Parcel: 185C
Project: Gunnery Road 4 Lane (SR82 – Lee Blvd.), Project No. 4055
STRAP No.: 33-44-26-07-00007.0010

SLOPE/RESTORATION EASEMENT

This INDENTURE, made and entered into this 11 day of MARCH 2005,
Between **Michael A. Baviello and Anna M. Baviello, husband and wife**, whose address is 3801
Crayton Road, Naples, FL 34103, (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.

*amb
mab*

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, **Michael A. Baviello and Anna M. Baviello, husband and wife**, Grantor, has caused this document to be signed on the date first above written.

TWO SEPARATE WITNESSES:



1st Witness Signature

Joanna C. Gomez
Printed name of 1st Witness



2nd Witness Signature

Faye L. Scott
Printed name of 2nd Witness



1st Witness Signature

Joanna C. Gomez
Printed name of 1st Witness

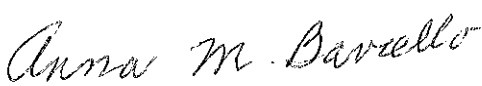


2nd Witness Signature

Faye L. Scott
Printed



Michael A. Baviello GRANTOR



Anna M. Baviello GRANTOR

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 11 day of March,
2005 by **Michael A. Baviello**. He/she is personally known to me or who has produced
_____ as identification.



(Signature of Notary Public)

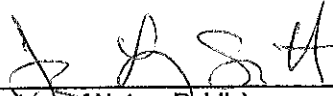
 FAYE L. SCOTT
Notary Public, State Of Florida
My Commission Expires 7/8/05
Commission No. DD033688

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

STATE OF

COUNTY OF

The foregoing instrument was acknowledged before me this 11 day of March,
2005, by **Anna M. Baviello**. He/she is personally known to me or who has produced
_____ as identification.



(Signature of Notary Public)

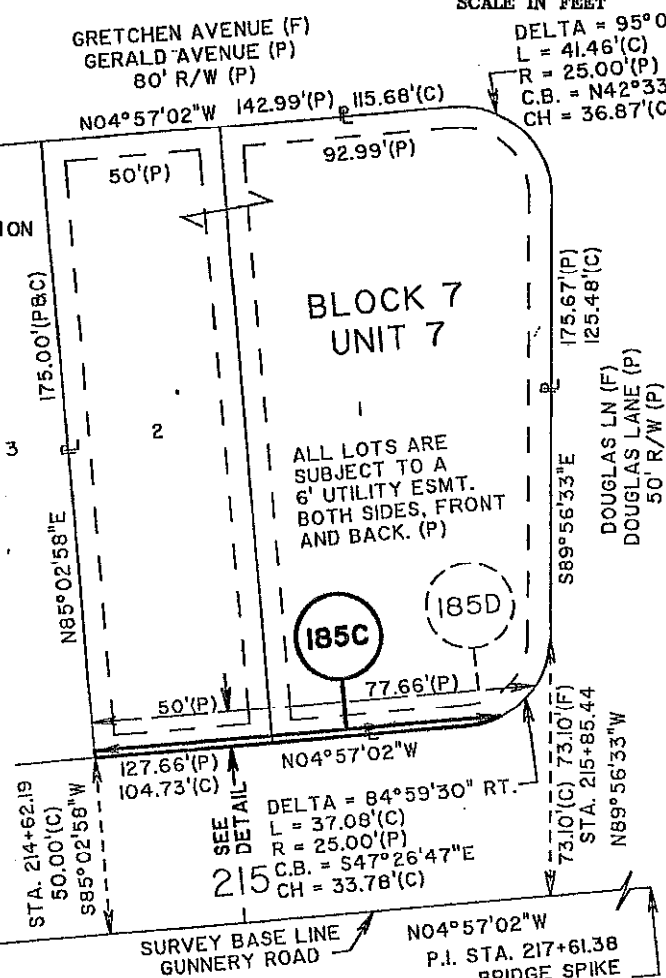
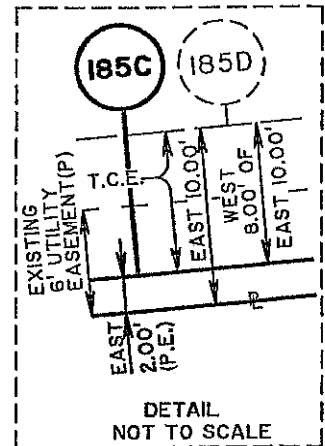
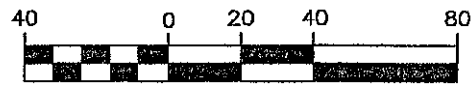
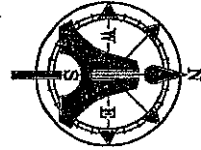
 FAYE L. SCOTT
Notary Public, State Of Florida
My Commission Expires 7/8/05
Commission No. DD033688

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

Exhibit "B"

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
 P.L. = 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.I. = POINT OF INTERSECTION
 P.O.T. = POINT ON TANGENT

PARCEL NO. 185C (PERPETUAL EASEMENT)
 PROPERTY OWNER: MICHAEL A. BAVIELLO AND ANNA M. BAVIELLO
 STRAP NO. 33-44-26-07-00007.0010
 STRAP NO. 33-44-26-07-00007.0020
 AREA OF PARENT TRACT: 23,405 S.F., M.O.L.
 AREA OF TAKE: 223 S.F., M.O.L.



P.O.T. STATION 128+63.13
 PARKER-KALON NAIL
 & DISK "AIM ENG. LB 3114"

PARCEL 185C
 (PERPETUAL EASEMENT)

A 2.00 FOOT WIDE PERPETUAL EASEMENT BEING THE EAST 2.00 FEET OF LOTS 1 AND 2, BLOCK 7, 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 GUNNERY 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 223 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.
 [Signature]
 DATE 7/6/04
 PROFESSIONAL SURVEYOR AND MAPPER
 FLORIDA CERTIFICATE NO. 8688

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 185C GUNNERY ROAD FROM S.R. 82 TO LEE BOULEVARD. |
| DRAWN BY: LWC | CLIENT: LEE COUNTY |
| DATE: 7/1/04 | SEC-TWP-RGE 33-44S-26E |
| | FILE: 7504-185C |
| | COUNTY: LEE COUNTY |

AMB
MAB

Division of County Lands

Updated Ownership and Easement Search


Search No. 33-44-26-07-00007.0010 and .0020

Date: January 20, 2005

Parcel: 185

Project: Gunnery Road Widening Project 4055

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

From: Shelia A. Bedwell, CLS
Property Acquisition Assistant 

STRAP: 33-44-26-07-00007.0010 and .0020

Effective Date: January 4, 2005, at 5:00 p.m.

Subject Property: Lots 1 and 2, Block 7, Unit 7, LEHIGH ESTATES, Lehigh Acres, 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:

Michael A. Baviello and Anna M. Baviello, Husband and Wife

By that certain instrument dated August 12, 1981, recorded September 17, 1981, in Official Record Book 1545, Page 451, Public Records of Lee County, Florida.

Easements:

1. Six foot utility easement along both sides, front and rear of subject property, as recited 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: 2004 taxes have been paid in full.

(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.

APPRAISAL REPORT GUNNERY ROAD PROJECT 4055

Parcel Identification

Project Parcel Number: 185
Owner Name/Address: Baviello, Michael A & Anna M, 100-102 Gunnery Road S
Lee County STRAP Number: 33-44-26-07-00007.0010 &.0020
Legal Description: Lots 1 & 2, Block 7, 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: \$52,500
Effective Date of Appraisal: December 9, 2004
Date of Report: December 13, 2004

Site Data

Parent Parcel - Overall Size: 17,500 square feet
Frontage - Depth: 100' X 175'
Acquisition Type: Fee Take () - A
Utility Easement () - B
Perpetual Easement (X) - C 223 square feet
Sidewalk ()
Drainage ()
Fill/Slope (X)
Parcel Remainder Size: 17,277 sf unencumbered, 223 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: None
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 185

| | | | | |
|---|---|------------------------------------|------------|------------------------|
| Market Value of Fee Simple Interest in Parent Parcel | x | 17,500 sf <u>\$5.75</u> per sf | \$100,625 | \$100,625 |
| less: Market Value of Remainder - Fee Unencumbered | | | | |
| *17500 sf - 223 sf proposed easement area unencumbered fee value per square foot unencumbered fee value of remainder area | x | 17277 sf * <u>\$5.75</u> per sf | \$99,343 | |
| 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 | x | 223 sf <u>\$4.60</u> per sf* | \$1,025.80 | |
| Total Market Value of Remainder (rounded) | | | | <u>\$100,369</u> |
| Market Value of Part Taken | | | | <u>\$256.45</u> |
| rounded to | | | | <u><u>\$260.00</u></u> |

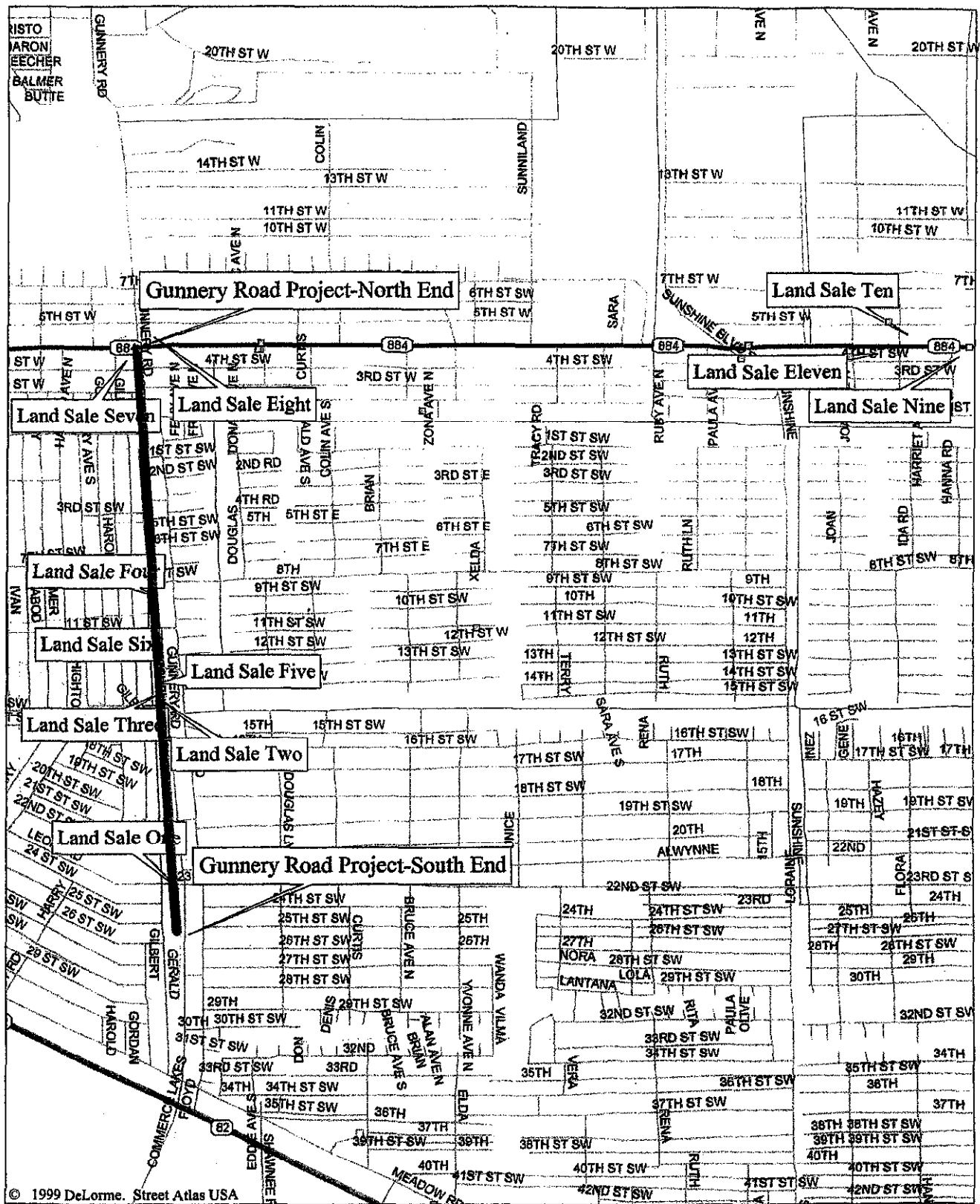
04-78185sum

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..... (\$260.00)

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





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LOCATION MAP