

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

Blue Sheet No. 20050400

1. ACTION REQUESTED/PURPOSE: Authorize exercising the option, under the terms and conditions of the *Option Agreement for Sale and Purchase* and upon the satisfactory completion of due diligence, for the joint County and State purchase of Parcel 258/Boomer Estate (Section 28, Township 46 South, Range 25 East) of the Conservation 2020 Program, in the amount of \$7,250,000 (County Portion) and authorize: 1) the Division of County Lands to handle and accept all documentation necessary for exercising the option; 2) payment of costs to close and the Division of County Lands to handle and accept all documentation necessary to complete transaction.

2. WHAT ACTION ACCOMPLISHES: Authorizes exercising the option for the joint County and State purchase of the ±104-acre Boomer Estate, located in Estero.

3. MANAGEMENT RECOMMENDATION: Management recommends Board approve the Action Requested.

4. Departmental Category: 6

ALA

5. Meeting Date: *05-03-2005*

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| 6. Agenda: |
| <input type="checkbox"/> Consent |
| <input checked="" type="checkbox"/> Administrative |
| <input type="checkbox"/> Appeals |
| <input type="checkbox"/> Public |
| <input type="checkbox"/> Walk-On |

| |
|---|
| 7. Requirement/Purpose: (specify) |
| <input checked="" type="checkbox"/> Statute 125 |
| <input checked="" type="checkbox"/> Ordinance 96-12 |
| <input type="checkbox"/> Admin. Code |
| <input checked="" type="checkbox"/> Other |
| B.S. 20041346 & 20050228 |

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| 8. Request Initiated: |
| Commissioner _____ |
| Department <u>Independent</u> |
| Division <u>County Lands</u> |
| By: <u>Karen L.W. Forsyth, Director</u> |

9. 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 ±104-acre Boomer Estate in Estero. Under the terms of the *Acquisition Agreement*, the resulting partition of the property between County and State would be evenly allocated according to value not acreage, as the State agreed to acquire the portion subject to the life estate of Nola Boomer. The estimated portion to be conveyed to the County is ±41.27 acres.

Negotiations have concluded with the execution of an *Option Agreement for Sale and Purchase* by the owners and at their asking price of \$14,500,000. This option agreement was subsequently approved by the Board of County Commissioners on March 15, 2005, and the Board of Trustees on March 17, 2005.

The property was appraised by the firm of Carlson, Norris & Associates, Inc. on August 27, 2004, with a resulting value of \$21,100,000 (subject to a ±25-acre life estate of Nola Boomer). Tod Marr & Associates also appraised the property on August 27, 2004, with a resulting value of \$22,550,000 (subject to a ±25-acre life estate of Nola Boomer).

Under the terms of the *Acquisition Agreement* and the *Option Agreement for Sale and Purchase*, the County will be responsible for half of the \$14,500,000 purchase price for a total of \$7,250,000, plus a proportionate share of closing costs and certain acquisition costs. Additionally, under the terms of the *Acquisition Agreement*, the County has agreed to allow the State to assume the lead in the subsequent management of the overall site once acquired.

Funds for the County's share of the purchase price for Parcel 258/Boomer Estate are available from Conservation 2020 Program Account No. 20-8800-30103.506110. The due diligence and closing costs are estimated to be \$75,000.

Attachments: Option Agreement; Appraisal Data; Title Data; Map of Estimated Partition of Property; Aerial Location Map; 5-Year Sales History.

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>SAD UNICS</i> | <i>John D. ...</i> | <i>4/5/05</i> | <i>4/5/05</i> | <i>4/5/05</i> | <i>4/5/05</i> | <i>[Signature]</i> |

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

Rec. by CoAtty
Date: *4/4/05*
Time: *3:25*
Forwarded To:
Co. Adm.

RECEIVED BY
COUNTY ADMIN:
4-5-05 -MP.
2:00
COUNTY ADMIN
FORWARDED TO:
4/7/05

4/5/05 11AM

Project: Estero Bay
 Parcel #: Boomer
 Acres: 104.09

JOINTAQ1
 (Form Revised 4/03)

OPTION AGREEMENT FOR SALE AND PURCHASE

THIS AGREEMENT is made this 4th day of February, 2005, between NOLA BOOMER (as to an undivided 2/3rd interest in Parcel 1 and 100% interest in Parcel 2), whose address is c/o Guy R. Strayhorn, P. O. Box 1288, Ft. Myers 33902, JOHN H. BOOMER, (as to an undivided 1/6th interest in Parcel 1), whose address is _____, and JOHN H. BOOMER AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JORGINE D. BOOMER, deceased, (as to an undivided 1/6th interest in Parcel 1), whose address is _____ jointly referred to as "Seller" and the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA ("Trustees"), whose address is Florida Department of Environmental Protection, Division of State Lands, 3900 Commonwealth Blvd., Mail Station 115, Tallahassee, Florida 32399-3000, and LEE COUNTY, FLORIDA ("County"), whose address is P.O. Box 398, Ft. Myers, Florida 33902-0398, jointly referred to as "Purchaser". Trustees' agent in all matters shall be the Division of State Lands of the Florida Department of Environmental Protection ("DSL").

1. **GRANT OF OPTION.** Seller hereby grants to Purchaser the exclusive option to purchase the real property located in Lee County, Florida, described in Exhibit "A", together with all timber, transferable development rights, improvements, easements, appurtenances, hereditaments, and riparian and littoral rights, if any (the "Property"), in accordance with the provisions of this Agreement. This Option Agreement becomes legally binding on execution of this Agreement, but exercise of the option is subject to approval by Purchaser and is effective only if DSL and County give written notice of exercise to Seller.

2. **OPTION TERMS.** The consideration for the option granted by this Agreement is \$10,000.00 ("Option Payment"). One-half of the Option Payment in the form of a County check will be forwarded to Seller by County. The other one-half of the Option Payment, in the form of a state warrant, will be forwarded to Seller upon its receipt by DSL from the Comptroller of the State of Florida. The option may be exercised during the period beginning with Purchaser's approval of this Agreement at a regularly scheduled meeting of the Governor and Cabinet sitting as the Trustees, and at a regularly scheduled meeting of the Board of County Commissioners of Lee County, Florida, and ending 120 days after the later of the approval of this Agreement by the Trustees or the County ("Option Expiration Date"), unless extended by other provisions of this Agreement. If Trustees' funds in the amount of the Trustees' Purchase Price (as hereinafter defined in paragraph 3.A.) or County's funds in the amount of the County's Purchase Price (as hereinafter defined in paragraph 3.A.) are not available by the Option Expiration Date, the period of exercise of the option may be extended until such funds become available, not to exceed 60 days after the Option Expiration Date, by written notice to Seller. If Purchaser has not approved this Agreement within 90 days after Seller has submitted this Agreement, fully executed and complete, to DSL then Seller may terminate this Agreement and no party shall have any further obligations under the provisions of this Agreement.

3.A. **PURCHASE PRICE.** The total purchase price for the property is **FOURTEEN MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$14,500,000.00)** ("Initial Total Purchase Price") which, after credit for the Option Payment, will be paid by Trustees and the County at closing. Seller hereby authorizes Purchaser to issue funds for the Purchase Price directly to an escrow agent who is authorized by law to receive such payments and who is acceptable to Purchaser, and to require the escrow agent to pay Seller's expenses of sale and real estate taxes. The Initial Total Purchase Price shall be paid to Seller as follows: Trustees shall pay Fifty Percent (50%) of the Final Adjusted Total Purchase Price for the Property as determined in accordance with paragraph 3.B. ("Trustees' Purchase Price"), which after reduction by Trustees' portion of the Option Payment, will be paid to the escrow agent by state warrant at closing; and County shall pay Fifty Percent (50%) of the Final Adjusted Total Purchase Price for the Property as determined in accordance with paragraph 3.B. ("County's Purchase Price"), which after reduction by County's portion of the Option Payment, will be paid to the escrow agent by County check at closing. The Total Purchase Price is subject to adjustment in accordance with paragraph 3.B. This Agreement is contingent upon approval of the Final Adjusted Total Purchase Price, hereinafter defined, Trustees' Purchase Price, and County's Purchase Price by Purchaser and upon confirmation that the Final Adjusted Total Purchase Price is not in excess of the final maximum value of the Property as

determined in accordance with Section 259.041(7), Florida Statutes ("DSL Approved Value"). The determination of the final DSL Approved Value and the Final Adjusted Total Purchase Price can only be made after the completion and DSL's approval of the survey required in paragraph 5.

County and Trustees have agreed to a division of the Property between them in accordance with the provisions of that certain Acquisition Agreement between County and Trustees dated November 22, 2004 such that each will take separate title to a portion of the Property valued at one-half the total value of the Property. County's Purchase Price is the sole responsibility of County, and Seller shall have no recourse whatsoever, at law or equity, against Trustees or the Property, as a result of any matter arising at any time whether before or after fee simple title to County's portion of the Property is conveyed to County relating to County's Purchase Price, nor shall Trustees have any obligation under this Agreement to provide any portion of County's Purchase Price. Trustees' Purchase Price is the sole responsibility of Trustees and Seller shall have no recourse whatsoever, at law or equity, against County or the Property, as a result of any matter arising at any time whether before or after fee simple title to the Trustees' portion of the Property is conveyed to Trustees, relating to Trustees' Purchase Price, nor shall County have any obligation under this Agreement to provide any portion of Trustees' Purchase Price. Notwithstanding that this Agreement provides for the purchase and conveyance of the Property in two (2) separate parcels to two (2) separate purchasers, the Seller and Purchaser understand and agree that the Property in its entirety and all parcels thereof shall be purchased simultaneously and the total sale price provided herein shall be paid to Seller at one closing in the conveyance of both parcels. Further, regardless of any other language herein to the contrary, Seller shall not be obligated to proceed with closing in the sale of either parcel, or any portion of the Property, or the conveyance thereof, unless and until the total consideration set forth herein is available from all purchasers to be paid to Seller at the closing in the sale of all the Property.

3.B. ADJUSTMENT OF PURCHASE PRICE. If, prior to closing, DSL determines that the Initial Total Purchase Price exceeds the DSL Approved Value of the Property, the Initial Total Purchase Price will be reduced to the final DSL Approved Value of the Property (herein the "Final Adjusted Total Purchase Price"). Upon determination of the Final Adjusted Total Purchase Price, Trustees' Purchase Price and County's Purchase Price will be determined and adjusted in accordance with paragraph 3.A. If the Final Adjusted Total Purchase Price is less than 100% of the Initial Total Purchase Price originally stated in paragraph 3.A. because of the adjustment provided for in this paragraph 3.B., Purchasers shall notify Seller within 120 days after Purchaser's approval of this Agreement and Seller shall, in Seller's sole discretion, have the right to terminate this Agreement and no party shall have any further obligations under this Agreement. If Seller elects to terminate this Agreement, Seller shall provide written notice to DSL and County of Seller's election to terminate this Agreement and refund Purchaser's Option Payment within 10 days after Seller's receipt of written notice from DSL of the Final Adjusted Total Purchase Price. If Seller fails to give Trustees and County a written notice of termination within the aforesaid time period from receipt of DSL's written notice, then Seller shall be deemed to have waived any right to terminate this Agreement based upon a reduction in the Initial Total Purchase Price.

4.A. ENVIRONMENTAL SITE ASSESSMENT. Purchaser, prior to the exercise of the option and at its sole cost and expense (to be divided equally between Trustees and County), may conduct an environmental site assessment of the Property to determine the existence and extent, if any, of any Hazardous Materials on the Property. If further investigations, testing, monitoring or environmental site assessments are required by DSL to determine the existence or extent of Hazardous Materials on the Property, Purchaser, at its sole option may elect to extend the Option Expiration Date up to 60 days to conduct such procedures at the Purchaser's sole cost and expense (to be divided equally between Trustees and County). If this transaction fails to close for any reason provided for by the terms of this Agreement, other than breach, then Purchaser shall restore the Property to the condition in which it existed immediately prior to the environmental site assessment(s), notwithstanding whether this Agreement closes, Purchaser shall restore the property described in Exhibit "C" to the condition in which it existed immediately prior to the environmental site assessment(s). Additionally, Purchaser shall be liable for all damages arising from its presence on the Property for the conduct of environmental site assessments for which it is found legally responsible. (This is not intended to be a waiver of the County's rights of Sovereign Immunity

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under Section 768.28 F.S.). For purposes of this Agreement "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste of any kind or any other substance which is regulated by any Environmental Law (as hereinafter defined in paragraph 4.B).

4.B. **HAZARDOUS MATERIALS.** If the environmental site assessment provided for in paragraph 4.A. confirms the presence of Hazardous Materials on the Property, Purchaser, at its sole option, may elect to terminate this Agreement, receive a return of its Option Payment and no party shall have any further obligations under this Agreement. Should Purchaser elect not to terminate this Agreement, Seller shall, at Seller's sole cost and expense and prior to the exercise of the option and closing, promptly commence and diligently pursue any assessment, clean up and monitoring of the Property necessary to bring the Property into full compliance with Environmental Law. "Environmental Law" shall mean all federal, state and local laws, including statutes, regulations, ordinances, codes, rules or judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements and other governmental restrictions relating to the protection of the environment or human health, welfare or safety, or to the emission, discharge, seepage, release or threatened release of any contaminant, chemical, waste, irritant, petroleum product, waste product, radioactive material, flammable or corrosive substance, explosive, polychlorinated biphenyl, asbestos, hazardous or toxic substance, material or waste of any kind into the environment, including, without limitation, ambient air, surface water, ground water, or land including, but not limited to, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource and Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Federal Superfund Amendments and Reauthorization Act of 1986, Chapters 161, 253, 373, 376 and 403, Florida Statutes, Rules of the U.S. Environmental Protection Agency, Rules of the Florida Department of Environmental Protection, and the rules of the Florida water management districts now or at any time hereafter in effect. However, should the estimated cost to Seller of clean up of Hazardous Materials exceed \$175,000.00, Seller may elect to terminate this Agreement, conditioned on a return to Purchaser by Seller of the Option Payment and no party shall have any further obligations under this Agreement. If Hazardous Materials placed on the Property subsequent to the environmental assessment and clean-up, if any, and prior to closing are discovered after closing, Seller shall remain obligated hereunder, with such obligation to survive the closing, delivery, and recording of the deed described in paragraph 8. of this Agreement and Purchaser's possession of the Property, to diligently pursue and accomplish the clean up of Hazardous Materials in a manner consistent with all applicable Environmental Laws and at Seller's sole cost and expense.

Further, if no party elects to terminate this Agreement as provided above, Seller shall indemnify and save harmless and defend Purchaser, its officers, servants, agents and employees from and against any and all claims, suits, actions, damages, liabilities, expenditures or causes of action of whatsoever kind arising from Hazardous Materials placed on the Property prior to closing. Seller shall defend, at Seller's sole cost and expense, any legal action, claim or proceeding instituted by any person against Purchaser as a result of any claim, suit, or cause of action for injuries to body, life, limb or property for which Hazardous Materials placed on the Property prior to closing are alleged to be a contributing legal cause. Seller shall save Purchaser harmless from and against all judgments, orders, decrees, attorney's fees, costs, expenses and liabilities in and about any such claim, suit, investigation or defense thereof, which may be entered, incurred or assessed as a result of the foregoing.

This Agreement shall not be construed to limit Seller's legal liability under any Environmental Law for Hazardous Materials located on the Property or to limit Purchaser's legal and equitable remedies against Seller under any Environmental Law for Hazardous Materials located on the Property.

5. **SURVEY.** Purchaser may have the Property surveyed at its expense (to be divided equally between Trustees and County). If the survey ("Survey"), certified by professional surveyor and mapper licensed by the State of Florida, shows any encroachment on the Property or that improvements intended to be located on the Property encroach on the land of others, the same shall be treated as a title defect.

6. **TITLE INSURANCE.** Purchaser, at its sole cost (to be divided equally between Trustees and County) may provide a marketable title insurance commitment, to be followed by an owner's marketable title insurance policy (ALTA Form "B" with Florida revisions) from a title insurance company approved by DSL, insuring marketable title to the Property in the amount of the Purchase Price to be paid to Seller, or Seller's designated agent, at closing. Seller warrants that any billboards and billboard structures on the property shall be removed prior to closing.

7. **DEFECTS IN TITLE.** If the title insurance commitment or Survey furnished pursuant to this Agreement discloses any defects in title that are not acceptable to Purchaser, Seller shall, within 90 days after notice from Purchaser, remove said defects in title. Seller agrees to use diligent effort to correct the defects in title within the time provided therefor, including the bringing of necessary suits. Defects arising from liens against the Property shall be satisfied at closing from Seller's proceeds. If Seller is unsuccessful in removing the title defects within said time, Purchaser shall have the option to either: (a) accept the title as it then is with a reduction in the Total Purchase Price by an amount mutually determined by the parties, (b) accept the title as it then is with no reduction in the Total Purchase Price, (c) extend the amount of time Seller has to remove the defects in title, or (d) terminate this Agreement and receive a refund of the Option Payment, thereupon releasing Purchaser and Seller from all further obligations under this Agreement. If Seller fails to make a diligent effort to remove the title defects, Seller shall be in default and the provisions of paragraph 17. of this Agreement shall apply. Purchaser understands that a billboard and cattle grazing lease encumbers the Property. In addition to any other title defects Purchaser may require to be cured, Seller acknowledges that the billboard and cattle grazing lease must be released and terminated and the billboard and billboard structures removed prior to closing of this Agreement.

8. **INTEREST CONVEYED.** At closing, Seller shall execute and deliver to Trustees a statutory warranty deed in accordance with the provisions of Section 689.02, Florida Statutes, and in substantially the same form as attached hereto as Exhibit "B" conveying marketable title to the Trustees' portion of the Property in fee simple free and clear of all liens, reservations, restrictions, easements, leases, tenancies and other encumbrances, except for those that are acceptable encumbrances in the sole discretion of Trustees and do not impair the marketability of the title to the Property, subject, however, to the reservation of a life estate for the life of Nola Boomer in that portion of the Property described on Exhibit "C." Provided, however, the legal description to be attached to the deed to the Trustees shall include, in its entirety the property described in Exhibit "C", and the southerly boundary of the Trustees portion of the Property shall be the full length of the property frontage on the Estero River as described in Exhibit "A". The conveyance to Trustees shall include a right to notice of the life tenant's intent to sell the life estate and an opportunity to negotiate the purchase of the life estate from life tenant if life tenant decides to sell or otherwise convey the life estate before the Trustees' remainder interest becomes possessory. Seller and Trustees agree that the reservation of the life estate shall include covenants on the life estate to preserve the value of the Trustees' remainder interest including prohibitions against commercial or industrial use of the life estate, subdivision of the life estate, planting of exotic plants, discharge of hazardous materials, dumping and other such activities as may be agreed by the parties. A form of covenants agreed to by Seller and Trustees is attached to this Agreement as Exhibit "D".

At closing, Seller shall execute and deliver to County a statutory warranty deed in accordance with the provisions of Section 689.02, Florida statutes, and in substantially the same form as attached hereto as Exhibit "E" (including restrictions, limitations and conditions attached as Exhibit "B" in the deed to the County), conveying marketable title to the County's portion of the Property in fee simple free and clear of all liens, reservations, restrictions, easements, leases, tenancies and other encumbrances, except for those that are acceptable encumbrances in the sole discretion of County and do not impair the marketability of the title to the Property. Provided, however, the legal description to be attached to the deed to the County shall include the full length of the property frontage on Broadway as described in Exhibit "A".

The legal descriptions to be attached to the deeds to the Trustees and the County shall be mutually agreed upon by the Trustees and the County subsequent to the delivery of the survey referenced in paragraph 5 of this Agreement.

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Notwithstanding the foregoing separation of title to portions of the Property between Trustees and County, Trustees and County agree that the state Division of Recreation and Parks shall provide uniform management of the Property, subject to the aforementioned life estate, notwithstanding that ownership is divided between Trustees and County in accordance with the provisions of that certain Acquisition Agreement between County and Trustees dated November 22, 2004.

9. **PREPARATION OF CLOSING DOCUMENTS.** Upon execution of this Agreement, Seller shall submit to Trustees a properly completed and executed beneficial interest affidavit and disclosure statement as required by Sections 286.23, 375.031(1) and 380.08(2), Florida Statutes. Purchaser shall prepare the deeds described in paragraph 8. of this Agreement, Purchaser's and Seller's closing statements, and the title, possession and lien affidavit certified to Purchaser and title insurer and an environmental affidavit on DSL forms provided by DSL.

10. **DSL REVIEW FOR CLOSING.** Purchaser will approve or reject each item required for closing under this Agreement. If Purchaser rejects an item for closing which was submitted by the Seller, Seller will have 30 days thereafter to remove and resubmit any rejected item. If Seller fails to timely deliver any items required of Seller, or Purchaser rejects any item after delivery, the Option Expiration Date shall be extended until DSL approves Seller's documents or until Purchaser elects to terminate the Agreement and receive a refund of its Option Payment.

11. **EXPENSES.** Seller will pay the documentary revenue stamp tax and all other taxes or costs associated with the conveyance, including the cost of recording the deeds described in paragraph 8. of this Agreement and any other recordable instruments that DSL deems necessary to assure good and marketable title to the Property.

12. **TAXES AND ASSESSMENTS.** At closing, Seller shall satisfy all real estate taxes and assessments that are or may become a lien against the Property, but not including the life estate taxes and assessments on which shall remain the obligation of the life tenant. If Purchaser acquires fee title to the Property between January 1 and November 1, Seller shall, in accordance with Section 196.295, Florida Statutes, place in escrow with the county tax collector an amount equal to the current taxes prorated to the date of transfer, based upon the current assessment and millage rates on the Property. If Purchaser acquires fee title to the Property on or after November 1, Seller shall pay to the county tax collector an amount equal to the taxes that are determined to be legally due and payable by the county tax collector.

13. **CLOSING PLACE AND DATE.** The closing shall be on or before 15 days after Purchaser exercises the option; provided, however, that if a defect exists in the title to the Property, title commitment, Survey, environmental site assessment, or any documents required to be provided or completed and executed, the closing shall occur either on the original closing date or within 60 days after receipt of documentation removing the defects, whichever is later. Purchaser shall set the date, time and place of closing.

14. **RISK OF LOSS AND CONDITION OF PROPERTY.** Seller assumes all risk of loss or damage to the Property prior to the date of closing and warrants that the Property shall be transferred and conveyed to Purchaser in the same or essentially the same condition as of the date of Seller's execution of this Agreement, ordinary wear and tear excepted. If the condition of the Property is altered by an act of God or other natural force beyond the control of Seller, however, Purchaser may elect, at its sole option, to terminate this Agreement, receive a refund of its Option Payment and, thereupon, neither party shall have any further obligations under this Agreement. Seller represents and warrants that there are no parties other than Seller in occupancy or possession of any part of the Property except pursuant to a cattle lease and a billboard lease, which leases shall be terminated at closing. Seller warrants that there are no facts known to Seller materially affecting the value of the Real Property which are not readily observable by Purchaser or which have not been disclosed to Purchaser.

All wells located on the Property shall be duly abandoned at the Seller's sole cost and expense within 60 days' after closing unless this requirement is waived by Purchaser in writing. If Purchaser has not waived the requirement to abandon wells on the Property, an amount equal to 125% of the estimate to abandon said wells shall be withheld at closing and delivered to Seller on due abandonment of the wells or paid over to the appropriate purchaser if Seller has not abandoned the wells within 60 days' after closing. Wells used by the life tenant for the residence on the life estate need not be abandoned during the term of the life estate.

Seller agrees to clean up and remove all abandoned personal property, refuse, garbage, junk, rubbish, trash and debris, but excluding horticultural debris, (hereafter, "trash and debris") from the Property to the satisfaction of Purchaser prior to the exercise of the option by Purchaser. If the Seller does not remove all trash and debris from the Property prior to closing, Purchaser may deduct the expense necessary to remove trash and debris from the Seller's proceeds of sale up to but not to exceed \$5,000.00 and proceed to close, with the Purchaser incurring any additional expenses necessary to remove all trash and debris and clean up the Property subsequent to closing. That structure known as the Garcia House (caretaker's house) shall be removed on or before December 31, 2006. In the event that the house has not been removed on or before December 31, 2006 or before the life estate becomes possessory in Purchaser, whichever event is the later, the Purchaser shall have no obligation to maintain, insure or otherwise preserve said structure.

15. **RIGHT TO ENTER PROPERTY AND POSSESSION.** Seller agrees that from the date this Agreement is executed by Seller, Purchaser and its agents, upon reasonable notice, shall have the right to enter the Property for all lawful purposes in connection with this Agreement. Purchaser shall be liable for all damages arising from its presence on the Property under the provisions of this Agreement for which it is found legally responsible. (This is not intended to be a waiver of the County's right of Sovereign Immunity under Section 768.28 F.S.) Seller shall deliver possession of the Property to Trustees at closing, less and except the reserved life estate.

16. **ACCESS.** Seller warrants that there is legal and practical ingress and egress for the Property over public roads or valid, recorded easements for the use and benefit of and as an appurtenance to the Property.

17. **DEFAULT.** If Seller defaults under this Agreement, Purchaser may waive the default and proceed to closing, seek specific performance, or refuse to close and elect to receive the return of any money paid, each without waiving any action for damages, or any other remedy permitted by law or in equity resulting from Seller's default.

18. **BROKERS.** Seller warrants that no persons, firms, corporations or other entities are entitled to a real estate commission or other fees as a result of this Agreement or subsequent closing, except as accurately disclosed on the disclosure statement required in paragraph 9. Seller shall indemnify and hold Purchaser harmless from any and all such claims, whether disclosed or undisclosed.

19. **RECORDING.** Purchaser may record this Agreement, or notice of it, in the appropriate county or counties. If this Agreement or any notice thereof is recorded and this Agreement is terminated under provisions of this Agreement allowing termination, then the parties shall record a notice of termination in the public records of Lee County, Florida.

20. **ASSIGNMENT.** No party may assign this Agreement without the prior written consent of the other parties.

21. **TIME.** Time is of the essence with regard to all dates or times set forth in this Agreement.

22. **SEVERABILITY.** If any of the provisions of this Agreement are deemed to be unenforceable and the unenforceability of said provisions does not adversely affect the purpose and intent of this Agreement, in Purchaser's sole discretion, the enforceability of the remaining provisions of this Agreement shall not be affected.

23. **SUCCESSORS IN INTEREST.** This Agreement shall bind and inure to the benefit of Seller and Purchaser and their respective heirs, legal representatives and successors and assigns. Whenever used, the singular shall include the plural and one gender shall include all genders.

24. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by the parties. Notwithstanding the foregoing, the parties acknowledge that the legal description contained in Exhibit "A" was prepared based upon historic chain of title information, without the benefit of a current survey of the Property. The parties agree that if, in the opinion of Purchaser, it becomes necessary to amend the legal description of the Property to correct errors, to more properly describe the Property, to cut out portions of the Property affected by title defects unacceptable to Purchaser or which cannot be timely cured by the Seller, or to otherwise revise the legal description of the Property, the legal description to be used in the Survey (if any) and in the closing instruments required by this Agreement shall be revised by or at the direction of Purchaser, and shall be subject to the final approval of Purchaser. Anything to the contrary hereinabove notwithstanding, such a revision of the legal description of the Property shall not require a written amendment to this Agreement. In such event, the Seller's execution and delivery of the closing instruments containing the revised legal description and the Purchaser's acceptance of said instruments and of the final Survey (if any) containing the revised legal description shall constitute a full and complete ratification and acceptance of the revised legal description of the Property by the parties.

Seller acknowledges that the Trustees have made various delegations of power for the purpose of land acquisition, and not all representatives of the Trustees or the DSL have authority to act in all situations. Consequently, this Agreement may be terminated by the Trustees pursuant to any provision therefor contained in this Agreement only in writing signed by the person or persons who signed this Agreement on behalf of the Trustees or that person's successor.

25. **WAIVER.** Failure of Purchaser to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right; but the same shall remain in full force and effect.

26. **AGREEMENT EFFECTIVE.** This Agreement or any modification, amendment or alteration thereto, shall not be effective or binding upon any of the parties hereto until it has been executed by all of the parties hereto and approved by or on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and the Board of County Commissioners of Lee County, Florida.

27. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, but all such counterparts, when duly executed, shall constitute one and the same Agreement.

28. **ADDENDUM.** Any addendum attached hereto that is signed by the parties shall be deemed a part of this Agreement.

29. **NOTICE.** Whenever any party desires or is required to give notice unto the other, it must be given by written notice, and either delivered personally, transmitted via facsimile transmission, mailed postage prepaid, or sent by overnight courier to the appropriate address indicated on the first page of this Agreement, or such other address as is designated in writing by a party to this Agreement.

30. **SURVIVAL.** The covenants, warranties, representations, indemnities and undertakings of Seller set forth in this Agreement shall survive the closing, the delivery and recording of the deed described in paragraph 8. of this Agreement and Purchaser's possession of the Property.

IF THE SELLER DOES NOT EXECUTE THIS INSTRUMENT, ON OR BEFORE February 4, 2005, PURCHASER SHALL BE UNDER NO OBLIGATION TO ACCEPT THIS INSTRUMENT. PURCHASER'S EXECUTION OF THIS INSTRUMENT IS SUBJECT TO APPROVAL BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA AND THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA THE EXERCISE OF THE OPTION PROVIDED FOR HEREIN IS SUBJECT TO: (1) CONFIRMATION THAT THE PURCHASE PRICE IS NOT IN EXCESS OF THE DSL APPROVED VALUE OF THE PROPERTY, AND (2) DSL APPROVAL OF ALL DOCUMENTS TO BE FURNISHED HEREUNDER. THE STATE OF FLORIDA'S PERFORMANCE AND OBLIGATION TO PAY UNDER THIS AGREEMENT IS CONTINGENT UPON AN ANNUAL APPROPRIATION BY THE LEGISLATURE.

THIS IS INTENDED TO BE A LEGALLY BINDING AGREEMENT WHEN DULY EXECUTED. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

Dona Strayhorn
Witness as to Seller NOLA BOOMER

NOLA BOOMER SELLER
NOLA BOOMER

[Signature]
Witness as to Seller

2/4/05
Date signed by Seller
972-5041
Phone No. 8 a.m. - 5 p.m.

STATE OF Florida
COUNTY OF Colo

The foregoing instrument was acknowledged before me this 4th day of February, 2005, by NOLA BOOMER. Such person(s) (Notary Public must check applicable box):

- is/are personally known to me.
- produced a current driver license(s).
- produced _____ as identification.

(NOTARY PUBLIC SEAL)

[Signature]
Notary Public
Guy R. Strayhorn
(Printed, Typed or Stamped Name of Notary Public)
My Commission DD197900
Commission #197900; Expires May 23, 2007
My Commission Expires: _____
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Page

[Handwritten initials]

Benjamin Boomer
Witness as to Seller JOHN H. BOOMER

SELLER
John H. Boomer
JOHN H. BOOMER, individually and as Personal Representative of the Estate of Jorgine D. Boomer

Mildred Boomer
Witness as to Seller

2/4/05
Date signed by Seller

Phone No. 207 833-5770
8 a.m. - 5 p.m.

STATE OF Maine)
COUNTY OF York)

The foregoing instrument was acknowledged before me this 4th day of February, 2005, by JOHN H. BOOMER, individually and as Personal Representative of the Estate of Jorgine D. Boomer. Such person(s) (Notary Public must check applicable box):

- is/are personally known to me.
- produced a current driver license(s).
- produced _____ as identification.

(NOTARY PUBLIC SEAL)

Barbara J. Mac Coemack
Notary Public

BARBARA J. MAC COEMACK
(Printed, Typed or Stamped Name of Notary Public)

Commission No.: _____
My Commission Expires: 9/12/05

PURCHASER

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

A.C. Phillips
Witness as to Trustees *Amy C. Phillips*
Terry Johnson
Witness as to Trustees

By: *Eva Armstrong*
NAME: Eva Armstrong
AS ITS: Director

3-17-05
Date signed by Purchaser

Approved as to Form and Legality

By: _____

Date: _____

APPROVED AS TO
FORM & LEGALITY

M. Churchill
DEPARTMENT ATTORNEY
2.8.05

STATE OF FLORIDA)

COUNTY OF LEON)

The foregoing instrument was acknowledged before me this 17th day of March, 2005, by Eva Armstrong, Bureau of Land Acquisition, Division of State Lands, and Department of Environmental Protection, as Agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. He/She is personally known to me.

(NOTARY PUBLIC SEAL)

Sheryl P. Jones

Notary Public

Sheryl P. Jones

(Printed, Typed or Stamped Name of Notary Public)

Commission No.:

My Commission Expires:



Sheryl P. Jones
MY COMMISSION # DD206102 EXPIRES
May 3, 2007
BONDED THRU TROY FAIN INSURANCE, INC

MB

LEE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

By: [Signature]
(Chairman or Vice Chairman)
Date: 3/15/05

Attest: Mica Purice
Deputy Clerk
Date: 3/15/05

APPROVED AS TO FORM AND LEGALITY:

By: John J. Fredyma
Date: 3-15-05

John J. Fredyma, Asst. Co. Atty.
Lee County, Florida



[Handwritten initials]

EXHIBIT "A"

Page 1 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 1/4), of the Northwest Quarter (NW 1/4), of the Southwest Quarter (SW 1/4), 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 1/4), a distance of 413 feet; thence West parallel to the Centerline of the Southwest Quarter (SW 1/4) a distance of 319.30 feet; thence South parallel to Centerline of Southwest Quarter (SW 1/4), 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 1/4), a distance of 785 feet, more or less, to the Point of Beginning.

(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 1/4 of the Southeast 1/4 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 3/4) of North half (N 1/2) of Southwest quarter (SW 1/4) of Section 28, Township 46 South, Range 25 East, Lee County, Florida;

And

Beginning at Northwest (NW) Corner of Southwest quarter (SW 1/4) of South Southwest quarter (SW 1/4) 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 1/4), of the Northwest Quarter (NW 1/4), of the Southwest Quarter (SW 1/4), 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 1/4), a distance of 413 feet; thence West parallel to the Centerline of the Southwest Quarter (SW 1/4) a distance of 319.30 feet; thence South parallel to Centerline of Southwest Quarter (SW 1/4), a distance of 380 feet, more or less, to the Estero River; thence

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BLA-128, Revised 4/3/03

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Exhibit "A"
Page 2 of 2

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.

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

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

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

Exhibit B

This Instrument Prepared By and Please Return To: (Enter Title Company or Attorney Preparing Documents and Address)

WARRANTY DEED (STATUTORY FORM - SECTION 689.02, F.S.)

THIS INDENTURE, made this day of A.D. 2005, between NOLA BOOMER, JOHN H. BOOMER AND John H. Boomer as Personal Representative of the Estate of JORGINE D. BOOMER, deceased, of the County of in the State of grantor, and the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, whose post office address is c/o Florida Department of Environmental Protection, Division of State Lands, 3900 Commonwealth Boulevard, Mail Station 115, Tallahassee, FL 32399-3000, grantee,

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and their heirs, legal representatives, successors and assigns. "Grantor" and "grantee" are used for singular and plural, as the context requires and the use of any gender shall include all genders.)

WITNESSETH: That the said grantor, for and in consideration of the sum of Ten Dollars and other good and valuable considerations, to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said grantee, and grantee's successors and assigns forever, the following described land situate, lying and being in Lee County, Florida, to-wit:

See Exhibit "A" attached hereto and by reference made a part hereof. (see attached "Exhibit A" clarified for drafting purposes)

Property Appraiser's Parcel Identification Number: (Enter Tax ID Number)

Reserving unto Nola Boomer a life estate for her life in and to the following described land situate, lying and being in Lee County, Florida, to wit:

See Exhibit "C" attached to the Agreement to which this deed references and that will become Exhibit B to said deed" attached hereto and by reference made a part hereof, (clarified for drafting purposes)

Said reservation being subject to the restrictions, limitations and conditions attached hereto as Exhibit "D" attached to the Agreement to which this deed references and that will become Exhibit C to said deed". (clarified for drafting purposes)

This conveyance is subject to easements, restrictions, limitations and conditions of record if any now exist, but any

such interests that may have been terminated are not hereby re-imposed. This acquisition is being made by Grantee under the provisions of section 259.041, Florida Statutes.

This property is not the homestead property of the grantor, nor contiguous to homestead property, as such homestead is defined under Florida law.

AND the said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF the grantor has hereunto set grantor's hand and seal, the day and year first above written.

Signed, sealed and delivered in the presence of:

(SIGNATURE OF FIRST WITNESS)

NOLA BOOMER

(PRINTED, TYPED OR STAMPED NAME OF FIRST WITNESS)

(SIGNATURE OF SECOND WITNESS)

(PRINTED, TYPED OR STAMPED NAME OF SECOND WITNESS)

JOHN H. BOOMER, individually and as Personal Representative of the Estate of Jorgine D. Boomer, deceased

(SIGNATURE OF FIRST WITNESS)

(PRINTED, TYPED OR STAMPED NAME OF FIRST WITNESS)

(SIGNATURE OF SECOND WITNESS)

(PRINTED, TYPED OR STAMPED
NAME
OF SECOND WITNESS)

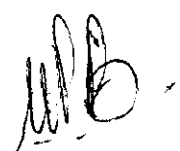
STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this
day of _____, 2005, by NOLA BOOMER. Such person
(Notary Public must check applicable box):

- is personally known to me.
- produced a current driver license.
- produced as identification.

(NOTARY PUBLIC SEAL) _____ Notary Public

(Printed, Typed or Stamped Name of
Notary Public)
Commission No.: _____
My Commission Expires: _____



STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by JOHN H. BOOMER, individually and as Personal Representative of the Estate of Jorgine D. Boomer. Such person (Notary Public must check applicable box):

- is personally known to me.
- produced a current driver license.
- produced as identification.

(NOTARY PUBLIC SEAL)

Notary Public

~~(Printed, Typed or Stamped Name of Notary Public)~~

Commission No.:

My Commission Expires: _____

Exhibit A to Trustee's Warranty Deed

The legal description to be attached to the deeds to the Trustees and the County shall be mutually agreed upon by the Trustees and the County subsequent to the delivery of the survey referenced in paragraph 5 of the Agreement to which this deed is attached.

A handwritten signature in black ink, appearing to be 'M.B.', is located in the bottom right corner of the page.

Exhibit C

All that part of the South Half of Section 28, Township 46 South, Range 25 East, Lee County, Florida being more particularly described as follows: Commencing at the Northwest corner of the Southwest Quarter of Section 28, Township 46 South, Range 25 East, Lee County, Florida; thence Run South 00°03'32" East, along the West line of said Southwest Quarter of Section 28, a distance of 662.65 feet, more or less, to the South line of the North Half of the North Half of Section 28, Township 46 South, Range 25 East; thence South 89°48'38" East along said South line, a distance of 1266.93 feet, more or less to the Point Of Beginning; and from said Point Of Beginning continue South 89°48'38" East, still along said South line, a distance of 662.89 feet; thence South 00°06'23" East, a distance of 341.21 feet; thence North 89°46'44" East, a distance of 1340.32 feet, more or less to a point on the Westerly right-of-way of U.S. 41 State Road 45; thence South 00°26'37" East, along said westerly right-of-way line of U.S. 41, a distance of 151.68 feet, more or less to a point on the North line of the South 165 feet of the West Half of the Northwest Quarter of the Southeast Quarter of said Section 28, as previously conveyed; thence South 89°56'17" West, along said North line a distance of 641.56 feet, more or less, to a point on the North South Quarter Section line of said Section 28; thence South 00°04'26" East, along said North South Quarter Section line, a distance of 165.00 feet, more or less, to a point on the South line of the South Half of the Southwest Quarter of said Section 28; thence South 89°56'17" West, along said South line, a distance of 703.95 feet; thence South 00°02'38" East, a distance of 402.31 feet, more or less, to the mean high water line of the Estero River Department Of Environmental Mean High Water File 2590; thence (the following fifteen courses run along said mean high water line) North 54°18'38" West, a distance of 72.42 feet; thence North 66°05'29" West, a distance of 130.21 feet; thence North 52°22'31" West, a distance of 79.70 feet; thence North 50°58'47" West, a distance of 91.12 feet; thence North 59°05'22" West, a distance of 109.11 feet; thence North 72°10'20" West, a distance of 117.38 feet; thence North 83°13'24" West, a distance of 52.98 feet; thence North 76°48'06" West, a distance of 77.60 feet; thence South 82°44'50" West, a distance of 33.66 feet; thence North 54°20'19" West, a distance of 12.67 feet; thence South 64°43'05" West, a distance of 83.51 feet; thence South 42°13'16" West, a distance of 61.49 feet; thence South 86°43'05" West, a distance of 89.49 feet; thence North 55°49'51" West, a distance of 121.69 feet; thence North 66°24'51" West, a distance of 65.85 feet; thence North 29°50'32" East, leaving said mean high water line, a distance of 30.00 feet; thence North 03°33'00" West, a distance of 102.10 feet; thence North 05°53'40" East, a distance of 107.08 feet; thence North 26°43'52" East, a distance of 86.47 feet; thence North 43°05'47" East, a distance of 58.93 feet; thence North 15°34'05" East, a distance of 182.21 feet; thence North 51°10'47" East, a distance of 318.96 feet to the Point of Beginning.

Boomer Life Estate
For Contract Purposes Only

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BLA-128, Revised 4/3/03

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Exhibit D
Restrictive Covenants

The life estate reserved herein shall be subject to the following covenants. The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida or its successor shall have the sole right to enforce the provisions of these covenants. All references herein to the Board of Trustees shall include the Board of Trustees and its successors. Enforcement of the terms of these covenants shall be at the discretion of the Board of Trustees, and any forbearance by the Board of Trustees to exercise its rights under these covenants in the event of any breach of any term of these covenants by life tenant shall not be deemed or construed to be a waiver by the Board of Trustees of such term or of any subsequent breach of the same or any other term of these covenants or of any of the Board of Trustees' rights under these covenants. No delay or omission by the Board of Trustees in the exercise of any right or remedy upon any breach by life tenant shall impair such right or remedy or be construed as a waiver.

1. The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida is hereby granted a right to notice of intent to sell. The terms of this right are such that if the life tenant intends to sell the life estate, or any interest therein or portion thereof, the life tenant shall deliver to the Board of Trustees notice of such intent, and shall, in good faith, afford the Board of Trustees an opportunity to negotiate the acquisition of the life estate, or such portion thereof or interest therein that life tenant intends to sell. If the Board of Trustees desires to negotiate the acquisition of the life estate, or such portion thereof or interest therein, the Board of Trustees shall so notify the life tenant within 30 days after receipt of life tenant's notice of intent. If life tenant and the Board of Trustees are unable, in good faith to agree to terms of an acquisition of the life estate, or such interest therein or portion thereof as applicable, within 120 days thereafter, life tenant may sell the life estate free of the right granted herein, subject always to the Board of Trustees remainder interest in the Property. Provided, however, that closing on such sale of the life estate shall occur within one year of the date of the life tenant's notice to the Board of Trustees. If the life estate, or such portion thereof or interest therein as is applicable, has not sold within one year after the Board of Trustees' notice to life tenant that the Board of Trustees does not intend to negotiate acquisition of the life estate or within one year after failure to reach agreement to terms of an acquisition of the life estate, then any intent to sell the life estate thereafter shall require renewed notice to the Board of Trustees. The right or notice granted herein applies to the original life tenant and to said original life tenant's successors and assigns.

2. No soil, trash, liquid or solid waste (including sludge), or unsightly, offensive, or hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants, including, but not limited to, those as now or hereafter defined by federal or Florida law defining hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants shall be dumped or placed on the land subject to the life estate.

3. There shall be no exploration for and extraction of oil, gas, minerals, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand and similar substances, under and by virtue of the authority of a grant or reservation or other form of ownership of or interest in or control over or right to such substances on or under the land subject to the life estate.

4. There shall be no dredging of canals, construction of dikes, manipulation of natural water courses, or disruption, alteration, pollution, depletion, or extraction on the land subject to the life estate of existing surface or subsurface water flow or natural water sources, fresh water lakes, ponds and pond shores, marshes, creeks or any other water bodies, nor any activities or uses conducted on the land subject to the life estate that would be detrimental to water purity or that could alter natural water level or flow in or over the land subject to the life estate. During the term of the life estate reserved by Nola Boomer, this restriction shall not prohibit the use of the water well(s) presently existing on the lands subject to said life estate as described in Exhibit "B" of this Warranty Deed or to prohibit the drilling or use of water well(s) as required in the future to replace said existing water well(s) on said lands.
5. There shall be no planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council (EPPC) or its successor. The life tenant shall, to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the land subject to the life estate. Life tenant hereby grants to the Board of Trustees the right, in the Board's sole discretion and at the Board's expense, to develop and implement an exotic plant removal plan for the eradication of exotics or non-native plants on the land subject to the life estate. Under no circumstances, shall this right conveyed to the Board of Trustees be construed to diminish the life tenant's responsibilities under this paragraph or as an obligation of the Board of Trustees.
6. There shall be no commercial or industrial activity, or ingress, egress or other passage across or upon the land subject to the life estate in conjunction with any commercial or industrial activity including but not limited to swine, dairy and poultry operations, confined animal feed lot operations, timbering or other agricultural activities, or commercial water wells.
7. There shall be no subdivision of the land subject to the life estate.
8. There shall be no signs, billboards, or outdoor advertising of any kind erected or displayed on the land subject to the life estate.
9. Life tenant shall maintain the roofs, doors, floors, steps, windows, exterior walls, foundations, all other structural components, major appliances and heating, cooling, electrical and plumbing systems on all improvements on the land subject to the life estate in good working order and repair and in the same condition as exists on the date of this grant, normal wear and tear excepted.
10. Life tenant retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the life estate, including the payment of all taxes and assessments attributed to the life estate and maintenance of adequate comprehensive general liability coverage.
11. Any general rule of construction to the contrary notwithstanding, these covenants shall be liberally construed in favor of their purpose to protect the conservation value of the remainder interest owned by the Board of Trustees in the lands subject to the life estate. If any provision of these covenants is found to be ambiguous, an interpretation consistent with the purpose of the covenants that would render the provision valid shall be favored over any interpretation that would render it invalid.

Exhibit E

This Instrument Prepared By and
Please Return To:
(Enter Title Company or Attorney Preparing Documents and Address)

WARRANTY DEED
(STATUTORY FORM - SECTION 689.02, F.S.)

THIS INDENTURE, made this _____ day of _____, A.D. 2005, between NOLA BOOMER, JOHN H. BOOMER, Individually, AND John H. Boomer as Personal Representative of the Estate of JORGINE D. BOOMER, deceased, of the County of _____ in the State of _____, Grantor, and LEE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, whose post office address is Post Office Box 398, Fort Myers, FL 33902-0398, Grantee,

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and their heirs, legal representatives, successors and assigns. "Grantor" and "Grantee" are used for singular and plural, as the context requires and the use of any gender shall include all genders).

WITNESSETH: That the said Grantor, for and in consideration of the sum of Ten Dollars and other good and valuable considerations, to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee, and Grantee's successors and assigns forever, the following described land situate, lying and being in Lee County, Florida, to-wit:

See Exhibit "A" attached hereto and by reference made a part hereof.

Property Appraiser's Parcel Identification Number: (Enter Tax ID Number)

Said conveyance being subject to the restrictions, limitations and conditions attached hereto as Exhibit "B", incorporated herein by reference.

This conveyance is subject to easements, restrictions, limitations and conditions of record if any now exist, but any such interests that may have been terminated are not hereby re-imposed.

This property is not the homestead property of the Grantor, nor contiguous to homestead property, as such homestead is defined under Florida law.

AND the said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF the Grantor has hereunto set Grantor's hand and seal, the day and year first above written.

Signed, sealed and delivered in the presence of:

(SIGNATURE OF FIRST WITNESS)

NOLA BOOMER

(PRINTED, TYPED OR STAMPED NAME OF FIRST WITNESS)

(SIGNATURE OF SECOND WITNESS)

JOHN H. BOOMER, individually and as Personal Representative of the Estate of Jorgine D. Boomer, deceased

(PRINTED, TYPED OR STAMPED NAME OF SECOND WITNESS)

(SIGNATURE OF FIRST WITNESS)

(PRINTED, TYPED OR STAMPED NAME OF FIRST WITNESS)

(SIGNATURE OF SECOND WITNESS)

(PRINTED, TYPED OR STAMPED NAME OF SECOND WITNESS)

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by NOLA BOOMER. Such person (Notary Public must check applicable box):

- is personally known to me.
- produced a current driver license.
- produced as identification.

(NOTARY PUBLIC SEAL) _____ Notary Public

(Printed, Typed or Stamped Name of Notary Public)
Commission No.: _____
My Commission Expires: _____

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by JOHN H. BOOMER, individually and as Personal Representative of the Estate of Jorgine D. Boomer. Such person (Notary Public must check applicable box):

- is personally known to me.
- produced a current driver license.
- produced as identification.

(NOTARY PUBLIC SEAL) _____ Notary Public

(Printed, Typed or Stamped Name of Notary Public)
Commission No.: _____
My Commission Expires: _____

Exhibit A to County's Warranty Deed

The legal description to be attached to the deeds to the Trustees and the County shall be mutually agreed upon by the Trustees and the County subsequent to the delivery of the survey referenced in paragraph 5 of the Agreement to which this deed is attached.

02/04/05 11:17AM

BLA-128, Revised 4/3/03

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Exhibit "B" to County's Warranty Deed

Restrictions, Limitations and Conditions

The property described herein ("Property") and conveyed hereby shall be subject to the following covenant and restrictions: Lee County (hereafter, "the County"), as Grantee of this Deed, by acceptance of this Deed, agrees that the Property described herein is being acquired by the County for purposes of preservation in accordance with the County's land conservation program and in accordance with that certain Acquisition Agreement between Lee County, the Division of State Lands of the Florida Department of Environmental Protection as agent for the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, and the Division of Recreation and Parks (said Acquisition Agreement being executed by Lee County on October 26, 2004, and by said Division of State Lands and said Division of Recreation and Parks on November 22, 2004). The County further agrees, by acceptance of this Deed, that the covenants herein set forth are consistent in all respects with said conservation program. Nola Boomer ("N. Boomer"), or her successor or assigns, John Boomer ("J. Boomer"), individually and as Personal Representative of the Estate of Jorgine Boomer, or his successor or assigns, the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida ("Trustees") or its successor, and Lee County ("County"), a political subdivision of the State of Florida shall have the sole right to enforce the provisions of these covenants. All references herein to N. Boomer, J. Boomer, Trustees, or County shall include said parties or their successors and assigns. Enforcement of the terms of this Easement shall be at the discretion of N. Boomer, J. Boomer, Trustees, or County, or any forbearance by N. Boomer, J. Boomer, Trustees, or County to exercise their rights under these covenants in the event of any breach of any term of these covenants shall not be deemed or construed to be a waiver by N. Boomer, J. Boomer, Trustees, or County of such term or of any subsequent breach of the same or any other term of these covenants or of any of the rights of N. Boomer, J. Boomer, Trustees, or County under these covenants. No delay or omission by N. Boomer, J. Boomer, Trustees, or County in the exercise of any right or remedy upon any breach of any term of these covenants shall impair such right or remedy or be construed as a waiver.

1. No soil, trash, liquid or solid waste (including sludge), or unsightly, offensive, or hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants, including, but not limited to, those as now or hereafter defined by Federal or Florida law defining hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants shall be dumped or placed on the Property.

2. There shall be no exploration for and extraction of oil, gas, minerals, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand and similar substances, under and by virtue of the authority of a

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grant or reservation or other form of ownership of or interest in or control over or right to such substances on or under the Property, except for purposes of public necessity.

3. There shall be no dredging of canals, filling, excavation or alteration of the surface of the Property, no removal of soil or minerals, construction of dikes, manipulation of natural water courses, or disruption, alteration, pollution, depletion, or extraction on the Property of existing surface or subsurface water flow or natural water sources, fresh water lakes, ponds and pond shores, marshes, creeks or any other water bodies, nor any activities or uses conducted on the Property that would be detrimental to water purity or that could detrimentally alter natural water level or flow in or over the Property.

4. There shall be no planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council (EPPC) or its successor. The Grantee under this Deed, and its successor and assigns shall, to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the Property. No standing timber may be cut or removed from the Property for commercial purposes.

5. There shall be no commercial or industrial activity upon the Property, or ingress, egress or other passage across or upon the Property in conjunction with any commercial or industrial activity including but not limited to swine, dairy and poultry operations, confined animal feed lot operations, timbering or other agricultural activities, commercial water wells, quarrying, mining, or landfill.

6. There shall be no subdivision of the Property, except for purposes of public necessity.

7. There shall be no commercial billboards erected or displayed on the Property.

8. There shall be no hunting or trapping upon the Property, except for purposes of public necessity.

9. Any general rule of construction to the contrary notwithstanding, these covenants shall be liberally construed in favor of their purpose to protect the conservation value of the Property. If any provision of these covenants is found to be ambiguous, an interpretation consistent with the purpose of the covenants that would render the provision valid shall be favored over any interpretation that would render it invalid.

The above restrictions, limitations, and conditions notwithstanding, the Property is being acquired for public use and enjoyment, for preservation, conservation, passive recreation and educational purposes.

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Exhibit A to County's Warranty Deed

The legal description to be attached to the deeds to the Trustees and the County shall be mutually agreed upon by the Trustees and the County subsequent to the delivery of the survey referenced in paragraph 5 of the Agreement to which this deed is attached.

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**ADDENDUM
DISCLOSURE STATEMENT
(INDIVIDUAL)**

The following Disclosure Statement is given in compliance with Sections 375.031(1) and 380.08(2), Florida Statutes. The Seller states as follows:

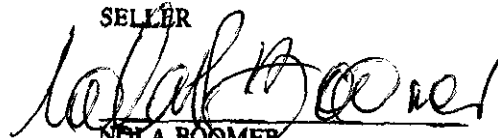
1) That to the best of the Seller's knowledge, all persons who have a financial interest in this real estate transaction or who have received or will receive real estate commissions, attorney's or consultant's fees or any other fees or other benefits incident to the sale of the Property are: (if non-applicable, please indicate "None" or "Non-Applicable")

| <u>Name</u> | <u>Address</u> | <u>Reason for Payment</u> | <u>Amount</u> |
|---------------------------|---|---------------------------|---------------|
| Bruce W. Bergen, Esq. | 62 Portland Rd. Kennebunk, ME 04043 | Attorney for Seller | unknown |
| James Humphrey, Esq. | P.O. Box 1567 Fort Myers, FL 33902 | Attorney for Seller | unknown |
| Guy R. Strayhorn, Esq. | P.O. Box 1288 Fort Myers, FL 33902 | Attorney for Seller | unknown |
| Michael Maxwell, MAI, SRA | 12600-1 World Plaza Lane Bldg 63 Ft. Myers, FL 33907 | Appraiser for Seller | unknown |

2) That to the best of the Seller's knowledge, the following is a true history of all financial transactions (including any existing option or purchase agreement in favor of Seller) concerning the Property which have taken place or will take place during the last five years prior to the conveyance of title to the State of Florida: (if non-applicable, please indicate "None" or "Non-Applicable")

| <u>Name and Address of Parties Involved</u> | <u>Date</u> | <u>Type of Transaction</u> | <u>Amount of Transaction</u> |
|---|-------------|--------------------------------|----------------------------------|
|---|-------------|--------------------------------|----------------------------------|

Non-Applicable

SELLER

NOLA BOOMER



**ADDENDUM
DISCLOSURE STATEMENT
(INDIVIDUAL)**

The following Disclosure Statement is given in compliance with Sections 375.031(1) and 380.08(2), Florida Statutes. The Seller states as follows:

1) That to the best of the Seller's knowledge, all persons who have a financial interest in this real estate transaction or who have received or will receive real estate commissions, attorney's or consultant's fees or any other fees or other benefits incident to the sale of the Property are: (if non-applicable, please indicate "None" or "Non-Applicable")

| <u>Name</u> | <u>Address</u> | <u>Reason for Payment</u> | <u>Amount</u> |
|-------------------------|---|---------------------------|---------------|
| Guy M. Strayhorn, Esq. | 2125 First St., Suite 200 Fort Myers, FL 33901 | Legal Fees | Not yet known |
| James T. Humphrey, Esq. | Fowler, White Boggs & Banker 2201 Second St., 5 th Floor PO Box 1567 Fort Myers, FL 33901 | Legal Fees | Not yet known |
| Bruce W. Bergen, Esq. | Bergen & Parkinson 62 Portland Road Kennebunk, ME 04043 | Legal Fees | Not yet known |

2) That to the best of the Seller's knowledge, the following is a true history of all financial transactions (including any existing option or purchase agreement in favor of Seller) concerning the Property which have taken place or will take place during the last five years prior to the conveyance of title to the State of Florida: (if non-applicable, please indicate "None" or "Non-Applicable")

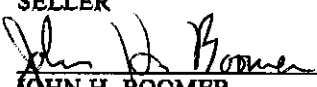
| <u>Name and Address of Parties Involved</u> | <u>Date</u> | <u>Type of Transaction</u> | <u>Amount of Transaction</u> |
|---|-------------|----------------------------|------------------------------|
|---|-------------|----------------------------|------------------------------|

NONE

*
Maxwell & Hendry
Valuation Services, Inc.

12800 - 1 World Plaza Lane
Building #63
Fort Myers, FL 33907

Appraisal Fees Not yet known

SELLER

JOHN H. BOOMER,
Individually

ADDENDUM
BENEFICIAL INTEREST AND DISCLOSURE AFFIDAVIT
(OTHER)

Before me, the undersigned authority, personally appeared JOHN H. BOOMER, ("affiant"), this 4th day of February, 2005, who, first being duly sworn, deposes and says:

1) That affiant is the Personal Representative and sole beneficiary of the Estate of Jorgine D. Boomer, deceased, as "Seller", whose address is 16 McMaster Lane, Orrs Island, ME 04066, and in such capacity has personal knowledge of the matters set forth herein and has been duly authorized by Seller to make this affidavit on Seller's behalf. That Seller is the record owner of the Property. As required by Section 286.23, Florida Statutes, and subject to the penalties prescribed for perjury, the following is a list of every "person" (as defined in Section 1.01(3), Florida Statutes) holding 5% or more of the beneficial interest in the disclosing entity: (if more space is needed, attach separate sheet)

| <u>Name</u> | <u>Address</u> | <u>Interest</u> |
|-------------|---|-----------------|
| John Boomer | 16 McMaster Lane Orrs Island, ME 04066 | 100% |

2) That to the best of the affiant's knowledge, all persons who have a financial interest in this real estate transaction or who have received or will receive real estate commissions, attorney's or consultant's fees or any other fees or other benefits incident to the sale of the

Property are:

| Name | Address | Reason for Payment | Amount |
|------|---------|--------------------|--------|
|------|---------|--------------------|--------|

Guy M. Strayhorn, Esq.

2125 First St., Suite 200
Fort Myers, FL 33901

Legal Fees

Not yet known

James T. Humphrey, Esq.

Fowler, White Boggs & Banker
2201 Second St., 5th Floor
PO Box 1567
Fort Myers, FL 33901

Legal Fees

Not yet known

Bruce W. Bergen, Esq.

Bergen & Parkinson
62 Portland Road
Kennebunk, ME 04043

Legal Fees

Not yet known

Maxwell & Hendry
Valuation Services, Inc.

12800 - 1 World Plaza Lane
Building #63
Fort Myers, FL 33907

Appraisal Fees

Not yet known

3) That, to the best of the affiant's knowledge, the following is a true history of all financial transactions (including any existing option or purchase agreement in favor of affiant) concerning the Property which have taken place or will take place during the last five years prior to the conveyance of title to the State of Florida: (if non-applicable, please indicate "None" or "Non-Applicable")

| Name and Address | Date | Type of Transaction | Amount of Transaction |
|------------------|------|---------------------|-----------------------|
|------------------|------|---------------------|-----------------------|

NONE

This affidavit is given in compliance with the provisions of Sections 286.23, 375.031(1), and 380.08(2), Florida Statutes.

FURTHER AFFIANT SAYETH NOT.

JOHN H. BOOMER, Personal Representative and sole beneficiary of the Estate of Jorgine D. Boomer, deceased
AFFIANT

STATE OF Maine
COUNTY OF York

SWORN TO and subscribed before me this 4th day of February, 2005, by JOHN H. BOOMER, Personal Representative and sole beneficiary of the Estate of Jorgine D. Boomer, deceased.. Such person(s) (Notary Public must check applicable box):

- is/are personally known to me.
- produced a current driver license(s).
- produced _____ as identification.

(NOTARY PUBLIC SEAL)

Barbara J. MacCormack
 Notary Public
BARBARA J. MACCORMACK
 (Printed, Typed or Stamped Name of
 Notary Public)
 Commission No.: _____
 My Commission Expires: 9/12/05

J.H.B.

**ADDENDUM
(IMPROVEMENTS/PURCHASER)**


A. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. This notice is being provided in accordance with Section 404.056(8), Florida Statutes. Purchaser may, at its sole cost and expense, have the buildings that will remain on the Property inspected and tested for radon gas or radon progeny by a qualified professional properly certified by the Florida Department of Health and Rehabilitative Services. If radon gas or radon progeny is discovered, Purchaser shall have the option to either: (a) accept the Property as it then is with no reduction in the Purchase Price or (b) terminate this Agreement and receive a refund of its Option Payment, thereupon releasing Purchaser and Seller from all further obligations under this Agreement.

B. Wood Destroying Organisms Inspection Report. Purchaser may, at its sole cost and expense, obtain a Wood Destroying Organisms Inspection Report made by a state licensed pest control firm showing the buildings that are to remain on the Property to be visibly free of infestation or damage by termites or other wooddestroying pests. If the report shows such infestation or damage, Purchaser shall have the option to either: (a) accept the Property as it then is with no reduction in the Purchase Price or (b) terminate this Agreement and receive a refund of its Option Payment, thereupon releasing Purchaser and Seller from all further obligations under this Agreement.

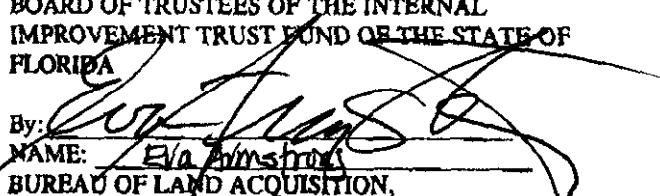
C. Maintenance of Improvements. Seller shall, unless not required by Purchaser, maintain the roofs, doors, floors, steps, windows, exterior walls, foundations, all other structural components, major appliances and heating, cooling, electrical and plumbing systems on all improvements that will remain on the Property in good working order and repair up to the date of closing. Purchaser may, at its expense, have inspections made of said items by licensed persons dealing in the repair and maintenance thereof. If the inspection reveals that any of the improvements that will remain on the Property are in need of repair, Purchaser shall have the option to either: (a) accept the Property as it then is with no reduction in the Purchase Price or (b) terminate this Agreement and receive a refund of its Option Payment, thereupon releasing Purchaser and Seller from all further obligations under this Agreement.

SELLER

PURCHASER


NOLA BOOMER
Date signed: 2/04/05

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE STATE OF
FLORIDA

By: 
NAME: Eva Armstrong
BUREAU OF LAND ACQUISITION,
DIVISION OF STATE LANDS, DEPARTMENT
OF ENVIRONMENTAL PROTECTION, as agent
for and on behalf of the Board of Trustees of the Internal
Improvement Trust Fund of the State of Florida

3-17-05

Date signed by Purchaser



**ADDENDUM
(IMPROVEMENTS/PURCHASER)**


A. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. This notice is being provided in accordance with Section 404.056(8), Florida Statutes. Purchaser may, at its sole cost and expense, have the buildings that will remain on the Property inspected and tested for radon gas or radon progeny by a qualified professional properly certified by the Florida Department of Health and Rehabilitative Services. If radon gas or radon progeny is discovered, Purchaser shall have the option to either: (a) accept the Property as it then is with no reduction in the Purchase Price or (b) terminate this Agreement and receive a refund of its Option Payment, thereupon releasing Purchaser and Seller from all further obligations under this Agreement.

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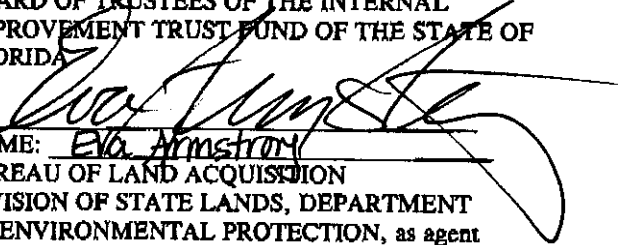
SELLER

PURCHASER


JOHN H. BOOMER
Individually and as Personal
Representative of the Estate of
Of Jorgine D. Boomer, deceased

Date signed: 2/4/05

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE STATE OF
FLORIDA

By: 
NAME: Eva Armstrong
BUREAU OF LAND ACQUISITION
DIVISION OF STATE LANDS, DEPARTMENT
OF ENVIRONMENTAL PROTECTION, as agent
for and on behalf of the Board of Trustees of the
Internal Improvement Trust Fund
of the State of Florida

3-17-05
Date signed by Purchaser

J.H.B.

CONFIDENTIAL EXECUTIVE SUMMARY

| | |
|---|--|
| <u>Project Identification:</u> | Estero Bay Buffer Preserve Additions B/A File Number: 04-5949 |
| <u>Parcel Identification:</u> | Boomer tract |
| <u>Appraisers:</u> | J. Lee Norris, MAI, SRA State Certified General Appraiser #0000643 C. William Carlson, MAI, SRA State Certified General Appraisal #0000667 |
| <u>Date of Value:</u> | August 27, 2004 |
| <u>Date of Report:</u> | September 22, 2004 |
| <u>Interest Appraised:</u> | Fee Simple and Encumbered by Life Estate |
| <u>Assessed Value and Taxes:</u> | The site has a total assessed value of \$4,523,630. Portions of the site have benefit of agricultural exemptions totaling \$3,223,220 indicating an assessed value with agricultural exemptions of \$1,300,410. The tax liability for the 2003 tax roll year with agricultural exemptions is \$24,432.18. |
| <u>Exposure/Marketing Time:</u> | Based on the very active market for this property both exposure and marketing times are estimated to be 6 to 12 months. |
| <u>Parcel Size:</u> | 104.09 acres; 103.44 acres uplands; .65 acres wetlands (88.79 acres residential; 15.30 acres commercial) |
| <u>Life Estate Size:</u> | 25.67 acres (23.092 acres residential; 112,315 square feet commercial) |
| <u>Ownership History:</u> | The property has been held in the Boomer name well in excess of 10 years. |
| <u>Parcel Access:</u> | U.S. 41 which is a four lane divided roadway running along the easterly boundary of the property and Broadway which is a two lane roadway running easterly and westerly along the northerly boundary of the site. |
| <u>Zoning/Land Use:</u> | AG-2/Suburban and Urban Community AG-2 zoning typically permits agricultural uses, agricultural related uses and low density residential development at a density approximating 1.10 units per acre. Both land use classifications have permissible development densities of 1 to 6 dwelling units per acre. Both the zoning and land |

use classification are by Lee County. Typical units could have values from \$200,000 to over \$1,000,000.

Owners of Record:

The persons having various ownerships in the four parcels that make up the subject site are Nola P. Boomer, John H. Boomer and Jorgine D. Boomer. We invite your attention to the owner of record portion of the analysis for the specific ownership interests.

Typical Legal Use:

Agriculture and low density residential utilization

Utilities:

Water, sewer, electricity and telephone. A plat map contained in the report show easement and subdivision. This plat has been vacated.

Flood Zone Information:

A14; EL11 and B, community panel number 125124 0455 B, printed September 19, 1984

Oil, Gas and Mineral Rights:

The analyst received a title report with no mention of oil, gas, and mineral rights. The value estimate is based on the assumption that subsurface rights transfer with surface rights.

Easements:

Utility and right of way

Special Assumptions:

The appraiser is assuming the zoning could easily be changed to permit development in accordance with current land uses affecting the property. This is based on information provided by Karen Bishop of PMS, Inc. of Naples. This and other special assumptions are addressed in the Special Limiting Conditions portion of the appraisal report.

Other Encumbrances:

The site is subject of a grazing lease and a bill board lease. The grazing lease is dated June 30, 2004 and is for a term of 5 years with either party having the right to terminate the lease with 60 days written notice. The bill board lease dated May 1, 1998 is for a term of 10 years. Either the lessor or lessee may terminate this lease by giving 60 days written notice. Because of the short term termination period for both leases there is no negative impact on value.

Improvements:

Two story single family residence built in 1930 containing four bedrooms and 2 and ½ baths. The first floor contains 2,306 square feet of living area with a finished second floor containing 1,611 square feet of living area. In addition there is an enclosed first floor porch containing a total of 424 square feet.

River Amenity:

The property contains approximately 2,300 feet of frontage

along the northerly boundary of the Estero River. The Koreshan Park is located on the southerly side of the Estero River across from the subject. This land will not be developed in the future enhancing the subject property. As reported by Karen Bishop of PMS, Inc. of Naples the site could possibly be improved with up to 230 docks. However, this is not a certainty. Boats of up to 24 to 26 feet can utilize the river depending on tides. Travel time to the Gulf of Mexico from the subject property is approximately 30 minutes.

Highest and Best Use

As Vacant:

Low to medium density residential development with a density of 4 to 6 units per acre and neighborhood commercial development.

As Improved:

Current improvements do not develop site to its highest and best use.

Present Use:

Residential; The owner maintains a winter/vacation home on the property and with this limited use there is considerable excess land.

Marketing, Contracts, Listings:

The property is not currently listed for sale. No accepted contracts are in force although several offers have been made over the preceding 18 months.

Sales Data:

Range of residential land sales; \$110,402 per acre to \$343,341 per acre
Range of commercial sales; \$7.32 per square foot to \$8.53 per square foot

Opinion of Value For Residential Property Per Acre:

\$225,000

Market Value Estimate for Residential Property:

\$19,980,000 (88.79 acres)

Opinion of Value Per Square Foot for Commercial Parcel:

\$8.50 per square foot

Market Value Estimate for Commercial Parcel:

\$5,665,000 (666,468 square feet)

Market Value Estimate for Fee Simple Ownership of Property:

\$25,645,000

Market Value for Property Encumbered by Life Estate:

\$21,100,000

EXECUTIVE SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

Project Identification: Estero Bay/Boomer Tract
Lee County, B/A File No. 04-5949

Location: Southwest corner of U.S. Highway 41 and Broadway Street in Estero, Lee County, Florida

Strap Numbers: 28-46-25-00-00038.0000 (Parcel 1)
28-46-25-00-00038-0010 (Parcel 2)
28-46-25-00-00038-0020 (Parcel 1)
28-46-25-01-00001-0010 (Parcel 1)

Owner of Record: Nola Boomer (2/3 interest Parcel 1, 100% interest Parcel 2)
John H. Boomer (1/6 interest in Parcel 1)
Jorgine D. Boomer (1/6 interest in Parcel 1)

Appraiser: Tod Marr, MAI, CCIM
Tod Marr & Associates, Inc.

Date of Valuation: August 27, 2004

Date of Report: September 20, 2004

Interest Appraised: "Fee simple interest, subject to existing easements and restrictions" and "as if encumbered with life estate"

Land Area: 104.09± gross acres
103.44± upland acres (99.38%)
.65± wetland acres (.62%)

Land Area of Life Estate: 25.67± Acres

Estero River: The property has about 2,297.5' of frontage along the Estero River, which provides esthetics to the property and is an excellent amenity. This river starts east of the subject and is actually formed by several freshwater tributaries, which merge east of its intersection with U.S. Highway 41. The river travels past the subject and ends about 2.5 miles to the west where it empties into Estero Bay Aquatic Preserve. The Koreshan State Park is located across the river from the subject. Mrs. Karen Bishop with PMS, Inc. of Naples indicated that the county would typically allow a dock per 100' of water frontage, which would indicate that 230 docks might be allowed on the property. This figure is an estimate and

the exact number of docks would not be known until a site plan was submitted. Depending on the tide, based on the physical inspection, a 24 to 26' boat could travel the Estero River in the subject's area.

Ownership History: Based on the tax records, the subject has not sold within the last five years

Parcel Access: U.S. Highway 41 and Broadway Street

Zoning: AG-2 (Agriculture District) by Lee County which allows a maximum density of one unit per 39,500 sf of interior sites and one unit per 33,500 sf of corner sites.

Land Use: Suburban (28-46-25-00-00038.0000) (6 Units/acre)
Suburban (28-46-25-00-00038-0010) (6 Units/acre)
Suburban (28-46-25-01-00001-0010) (6 Units/acre)
Urban Community (28-46-25-00-00038-0020) (6 Units/acre)

Assessed Value (2003): \$4,660,600. The assessed value is low and upon sale of the property it would most likely increase.

RE Tax (2003): \$24,306.78

Utilities: All Available

Flood Zone Information: Per FIRM community panel number 1251244 0455B and 125124 0465B, map revised September 19, 1984; the property is located in flood zones "B" and "A 14". Zone "B" are areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile or areas protected by levees from the base flood.

The "A14" designations are considered areas of 100-year flood; base flood elevations and flood hazard factors are not determined. Flood insurance is typically required for improved properties within this designation. The minimum floor elevation is 11'.

| | |
|--------------------------------|---|
| Oil, Gas & Mineral Rights: | The title commitment did not show any outstanding oil, gas or mineral rights. The value estimate reflects the assumption that subsurface rights transfer with surface rights. |
| Easements: | There were no easements or encumbrances which would adversely affect the value of the property |
| Other Encumbrances: | According to the Appraisal Map and title commitment, there is an ingress and egress easement located in the southeast portion of the property and stretches from U.S. Highway 41 to the existing single-family dwelling. Per official records book 266, page 252. This easement was given to George Boomer in April 1958, from Josephine Boomer, a widow. In my opinion, this easement does not adversely affect the value of the property. |
| Highest and Best Use: | |
| As Though Vacant | Mixed use development |
| As Improved | Raze existing improvements and construct a mixed use development |
| As Encumbered with Life Estate | Develop portion not encumbered with life estate with a mixed-use development and upon termination of the life estate develop the rest of the property. |
| Present Use: | The owner has a vacation/winter home on the property and there is considerable excess land |
| Improvements: | 6,313 sf dwelling, ancillary buildings, and site improvements |
| Listing Information: | Based on the tax records, the subject has not sold in the past five years. To my knowledge, the property is not currently being actively listed for sale in the open market; however, it is currently being offered for sale to the State of Florida. |

Although not actually available for sale, there have been three offers to purchase the property over the last year and a half. Levitt and Sons made an offer to purchase the property in January 2004 for \$15,000,000. In August 2003, Pelican Bay made an offer to purchase 88 acres, which did not include strap number 28-46-25-00-00038.0010, for \$10,500,000.

In August 2003 Colonial Homes made an offer to purchase strap numbers 28-46-25-00-00038.0000, 28-46-25-00-000038.0020 & 28-46-25-01-00001.0010 for \$6,250,000. The agreement indicated that the price was based on 78.13 acres of land at \$80,000 per acre. Based on the sales presented in this report, all three offers were well below market value.

Estimated Exposure Time: 6 to 12 months

ESTIMATES OF VALUE

Fee Simple \$27,865,000

As Encumbered with Life Estate \$22,550,000

Unit Value: \$250,000 per gross acre (residential)
\$8.50/sf (commercial)

Sales Data (Dollar Range)

Per Acre \$117,026 to \$394,842/Acre (residential)
\$7.61 to \$9.12/sf (Commercial)

Delivered with and printed on this Commitment Jacket is the Closing Protection Letter promulgated under Rule 4-186.010, F.A.C.

COMMITMENT
AND
CLOSING PROTECTION LETTER

*Paul
28-46-25-00-
000380000*

Attorneys' Title Insurance Fund, Inc.

ORLANDO, FLORIDA

Commitment To Insure Title

ATTORNEYS' TITLE INSURANCE FUND, INC., a Florida corporation, herein called THE FUND, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A; subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by THE FUND, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of THE FUND.

In Witness Whereof, ATTORNEYS' TITLE INSURANCE FUND, INC. has caused this Commitment to be signed and sealed as of the effective date of Commitment shown in Schedule A, the Commitment to become valid when countersigned by an authorized signatory.



Attorneys' Title Insurance Fund, Inc.

By

Charles J. Kovalski

Charles J. Kovalski
President

SERIAL

CF - 0676421

TALLAHASSEE TITLE GROUP
FUND COMMITMENT

Schedule A

Commitment No.: CF-0676421
Effective Date: February 25, 2004 at 11:00 p.m.

Fund File Number 18-2004-1271
Agent's File Reference: 4078.101

1. Policy or Policies to be issued:

Proposed Amount of Insurance

OWNER'S: ALTA Owner's Policy (10/17/92).

To Be Determined
(Not to exceed \$ 3 million dollars)

Proposed Insured:

Board of Trustees of the Internal Improvement Trust Fund of the State of Florida

MORTGAGEE:

Proposed Insured:

2. The estate or interest in the land described or referred to in this commitment is a fee simple and title thereto is at the effective date hereof vested in:

Nola P. Boomer, John H. Boomer and Jorgine D. Boomer

3. The land referred to in this commitment is described as follows:

Legal description set forth on "Exhibit "A" attached.

AGENT NO.: 25380
ISSUED BY: CLYNE & SELF, P.A.

MAILING ADDRESS:

324 Datura Street, Suite #235
West Palm Beach, Florida 33401

AGENT'S SIGNATURE



CLYNE & SELF, P.A.

FUND COMMITMENT**Schedule B****Commitment No.:** CF-0676421**Fund File Number** 18-2004-1271**I. The following are the requirements to be complied with:**

1. **Payment of the full consideration to, or for the account of, the grantors or mortgagors.**
2. **Instruments creating the estate or interest to be insured which must be executed, delivered and filed for record:**
 - a. **Warranty Deed from Nola P. Boomer, John H. Boomer and Jorgine D. Boomer, joined by spouse, if married, to the proposed purchaser(s).**
3. **A determination must be made that there are no unrecorded special assessment liens or unrecorded liens arising by virtue of ordinances, unrecorded agreements as to impact or other development fees, unpaid waste fees payable to the county or municipality, or unpaid service charges under Ch. 159, F. S., or county ordinance.**
4. **Affidavit from a knowledgeable person stating that there are no parties that have an interest in the subject parcel as a result of unrecorded leases.**
5. **Attorneys' Title Insurance Fund, Inc. has no liability under this commitment until an endorsement is issued stating the amount of the proposed policy.**
6. **Proof of proper estate tax clearances must be recorded with respect to the Estate of George D. Boomer, deceased.**

II. Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of The Fund:

1. **Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.**
2. **Any owner and mortgagee policies issued pursuant hereto will contain under Schedule B the standard exceptions set forth at the inside cover hereof unless an affidavit of possession and a satisfactory current survey are submitted, an inspection of the premises is made, it is determined the current year's taxes or special assessments have been paid, and it is determined there is nothing of record which would give rise to construction liens which could take priority over the interest(s) insured hereunder (where the liens would otherwise take priority, submission of waivers is necessary).**
3. **Federal liens and judgment liens, if any, filed with the Florida Department of State pursuant to Sec. 713.901, et seq., F.S., and Sec. 55.201, et seq., F.S., respectively, which designate the Florida Department of State as the place for filing federal liens and judgment liens against personal property. For insuring purposes:**

Schedule B

Commitment No.: CF-0676421

Fund File Number 18-2004-1271

(a) Pursuant to Sec. 713.901, et seq., F.S., personal property includes, but is not limited to, mortgages, leaseholds, mortgages on leaseholds, interests in cooperative associations, vendees' interests, and options when those interests are held by a partnership, corporation, trust or decedent's estate; and

(b) Pursuant to Sec. 55.201, et seq., F.S., personal property includes, but is not limited to, leaseholds, interests in cooperative associations, vendees' interests, and options regardless of the type of entity holding such interests, including individuals. (Note: Mortgages have been specifically excluded from the personal property interests in which a judgment lien may be acquired under the provisions of Sec. 55.201, et seq., F.S.)

4. Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the lands insured hereunder, including submerged, filled, and artificially exposed lands and lands accreted to such lands.
5. Taxes for the year 2004, which are not yet due and payable.
6. Lee County Ordinance No. 86-14 recorded November 30, 1990, in O.R. Book 2189, Page 3281; and amended by Ordinance No. 86-38 in O.R. Book 2189, Page 3334, Public Records of Lee County, Florida.
7. Riparian and littoral rights are not insured.
8. This policy does not insure any portion of the insured parcel lying waterward of the mean-high water line of Estero River.
9. The rights, if any, of the public to use as a public beach or recreation area any part of the land lying between the body of water abutting the subject property and the natural line of vegetation, bluff, extreme high water line, or other apparent boundary lines separating the publicly used area from the upland private area.
10. This policy excludes from coverage the inalienable right of the public to use the navigable waters covering the lands.
11. This policy excludes from coverage the rights of the State of Florida and the United States to regulate the use of the navigable waters.
12. Rights of the United States of America and/or the State of Florida to any portion of said land which has been created by artificial means or has accreted to any such portion as so created.
13. Those portions of the property herein described being artificially filled in land in what was formerly navigable waters, are subject to the right of the United States Government arising by reason of the United States Government control over navigable waters in the interest of navigation and commerce.

Schedule B

Commitment No.: CF-0676421

Fund File Number 18-2004-1271

14. Subject to easement contained in deeds recorded in Deed Book 266, Page 252 and O.R. Book 3374, Page 985, Public Records of Lee County, Florida.

Exhibit "A"

28-46-25-00-

00638.0020

the East three quarter (E $\frac{3}{4}$) of the North half (N $\frac{1}{2}$) of the Southwest quarter (SW $\frac{1}{4}$) of Section 28 Township 46 South, Range 25 East.

AND, beginning at the Northwest (NW) corner of the SW quarter of the SW quarter of said section; thence East 1930 feet; thence South to the Estero River; thence Westerly along the meanders of said River to the West line of said section; thence North along the section line to the Point of Beginning,

LESS: that tract of land heretofore conveyed to George D. Boomer, the deed conveying same being of record in Deed Book 266 at Page 252, of the Public Records of Lee County, Florida and said tract of land being described as follows: Beginning at a point on the fractional line which is 310 feet West of the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$), of the Northwest Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$), of Section 28, Township 46 South, Range 25 East; thence East along the fractional line, a distance of 786.23 feet; thence South parallel to the Centerline of the Southwest Quarter (SW $\frac{1}{4}$), a distance of 413 feet; thence West parallel to Centerline of Southwest Quarter (SW $\frac{1}{4}$) a distance of 319.30 feet; thence South parallel to Centerline of Southwest Quarter (SW $\frac{1}{4}$), 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 $\frac{1}{4}$), a distance of 785 feet, more or less, to the Point of Beginning, containing 11.38 acres, more or less, in the Southwest Quarter (SW $\frac{1}{4}$), of Section 28, Township 46 South, Range 25 East, Lee County, Florida, together with all riparian rights thereunto belonging. Together with a perpetual easement for purposes of ingress and egress over and on a strip of land running East therefrom on which a road is now constructed. Containing 11.62 acres more or less,

LESS: A strip of land being a portion of a parcel or tract of land recorded in Official Records Book 1903, Page 3230, Public Records of Lee County, Florida, lying South of the North line of the South half (S $\frac{1}{2}$) of Section 28, Township 46 South, Range 25 East, the Northerly and Southerly lines of said strip of land extending and shortening from the West line of the Southwest quarter (SW $\frac{1}{4}$) of Section 28, Township 46 South, Range 25 East and the Westerly right of way of U.S. 41, (S.R. 45). Said strip of land being described as follows:

Commencing at the point of beginning at the Northwest corner of the Southwest quarter (SW $\frac{1}{4}$) of Section 28, Township 46 South, Range 25 East, Lee County, Florida; thence run S00°02'59" along the West line of said Southwest quarter (SW $\frac{1}{4}$) of Section 28 for 43.20 feet; thence run S89°18'56"E for 3,217.97 feet to a point on the Westerly right of way line of U.S. 41 (S.R. 45) and to which a radial line bears N81°41'40"E; thence run Northerly along said westerly right of way line and a non-tangent curve to the left of radius 1,569.02 feet having for its elements a central angle 02°05'37", chord bearing N09°21'10"W chord distance 57.33 feet for a distance of 57.33 feet to a point on the North line of the South half (S $\frac{1}{2}$) of aforesaid Section 28 and to which a radial line bears N79°36'04"E; thence run N89°33'35"W along said North line for 3,208.56 feet to the point of beginning, containing 3.6759 acres more or less.

Bearings mentioned hereinabove are based on the North line of the South half (S $\frac{1}{2}$) of Section 28, Township 46 South, Range 25 East as bearing S89°33'35"E on an assumed meridian.

Delivered with and printed on this Commitment Jacket is the Closing Protection Letter promulgated under Rule 4-186.010, F.A.C.

COMMITMENT
AND
CLOSING PROTECTION LETTER

Parcel

Attorneys' Title Insurance Fund, Inc.

*28-46-25-00-
00038 0020*

ORLANDO, FLORIDA

Commitment To Insure Title

ATTORNEYS' TITLE INSURANCE FUND, INC., a Florida corporation, herein called THE FUND, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A; subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by THE FUND, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of THE FUND.

In Witness Whereof, ATTORNEYS' TITLE INSURANCE FUND, INC. has caused this Commitment to be signed and sealed as of the effective date of Commitment shown in Schedule A, the Commitment to become valid when countersigned by an authorized signatory.



Attorneys' Title Insurance Fund, Inc.

By *Charles J. Kovaleski*

Charles J. Kovaleski
President

SERIAL

CF - 0676422

Schedule A

Commitment No.: CF-0676422
Effective Date: February 25, 2004 at 11:00 p.m.

Fund File Number 18-2004-1272
Agent's File Reference: 4078.101

1. Policy or Policies to be issued:

Proposed Amount of Insurance

OWNER'S: ALTA Owner's Policy (10/17/92).

To Be Determined
(Not to exceed \$ 1 million dollars)

Proposed Insured:

Board of Trustees of the Internal Improvement Trust Fund of the State of Florida

MORTGAGEE:

Proposed Insured:

2. The estate or interest in the land described or referred to in this commitment is a fee simple and title thereto is at the effective date hereof vested in:

Nola P. Boomer, John H. Boomer, Jorgine D. Boomer

3. The land referred to in this commitment is described as follows:

Legal description set forth on "Exhibit "A" attached.

AGENT NO.: 25380
ISSUED BY: CLYNE & SELF, P.A.

MAILING ADDRESS:

324 Datura Street, Suite #235
West Palm Beach, Florida 33401

AGENT'S SIGNATURE



CLYNE & SELF, P.A.

Schedule B**Commitment No.:** CF-0676422**Fund File Number** 18-2004-1272**I. The following are the requirements to be complied with:**

1. **Payment of the full consideration to, or for the account of, the grantors or mortgagors.**
2. **Instruments creating the estate or interest to be insured which must be executed, delivered and filed for record:**
 - a. **Warranty Deed from Nola P. Boomer, John H. Boomer and Jorgine D. Boomer, joined by spouse, if married, to the proposed purchaser(s).**
3. **A determination must be made that there are no unrecorded special assessment liens or unrecorded liens arising by virtue of ordinances, unrecorded agreements as to impact or other development fees, unpaid waste fees payable to the county or municipality, or unpaid service charges under Ch. 159, F. S., or county ordinance.**
4. **Affidavit from a knowledgeable person stating that Joanne M. Boomer, Grantee in deed recorded in O.R. Book 227, Page 546 and Joan M. Boomer, deceased in Probate 83-1046CP, Lee County, Florida is in fact one and same person.**
5. **Proof of proper estate tax clearances must be recorded with respect to the Estate of George D. Boomer, deceased.**
6. **Affidavit from a knowledgeable person stating that there are no parties that have an interest in the subject property as a result of unrecorded leases.**
7. **Attorneys' Title Insurance Fund, Inc. has no liability under this commitment until an endorsement is issued stating the amount of the proposed policy.**

II. Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of The Fund:

1. **Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.**
2. **Any owner and mortgagee policies issued pursuant hereto will contain under Schedule B the standard exceptions set forth at the inside cover hereof unless an affidavit of possession and a satisfactory current survey are submitted, an inspection of the premises is made, it is determined the current year's taxes or special assessments have been paid, and it is determined there is nothing of record which would give rise to construction liens which could take priority over the interest(s) insured hereunder (where the liens would otherwise take priority, submission of waivers is necessary).**

Schedule B**Commitment No.:** CF-0676422**Fund File Number** 18-2004-1272

3. ***Federal liens and judgment liens, if any, filed with the Florida Department of State pursuant to Sec. 713.901, et seq., F.S., and Sec. 55.201, et seq., F.S., respectively, which designate the Florida Department of State as the place for filing federal liens and judgment liens against personal property. For insuring purposes:***
- (a) ***Pursuant to Sec. 713.901, et seq., F.S., personal property includes, but is not limited to, mortgages, leaseholds, mortgages on leaseholds, interests in cooperative associations, vendees' interests, and options when those interests are held by a partnership, corporation, trust or decedent's estate; and***
- (b) ***Pursuant to Sec. 55.201, et seq., F.S., personal property includes, but is not limited to, leaseholds, interests in cooperative associations, vendees' interests, and options regardless of the type of entity holding such interests, including individuals. (Note: Mortgages have been specifically excluded from the personal property interests in which a judgment lien may be acquired under the provisions of Sec. 55.201, et seq., F.S.)***
4. Subject to possible easement contained in deeds recorded in Deed Book 266, Page 252 and O.R. Book 3374, Page 985, Public Records of Lee County, Florida.
5. Taxes for the year 2004, which are not yet due and payable.
6. Lee County Ordinance No. 86-14 recorded November 30, 1990, in O.R. Book 2189, Page 3281; and amended by Ordinance No. 86-38 in O.R. Book 2189, Page 3334, Public Records of Lee County, Florida.
7. Easement in favor of Florida Power and Light Company, contained in instrument recorded May 10, 1991, in O.R. Book 2220, Page 2506, Public Records of Lee County, Florida.

Exhibit "A"

*Parcel 1
28-46-25-22-
00038.0020*

Beginning at the Northwest corner of the Northwest quarter of the Southeast Quarter of Section 28, Township 46 South, Range 25 East, thence East 660 feet; thence South 1155 feet; thence West 660 feet; thence North to the point of beginning.

LESS: A strip of land being a portion of a parcel or tract of land recorded in Official Records Book 1903, Page 3230, Public Records of Lee County, Florida, lying South of the North line of the South half (S1/2) of Section 28, Township 46 South, Range 25 East, the Northerly and Southerly lines of said strip of land extending and shortening from the West line of the Southwest quarter (SW1/4) of Section 28, Township 46 South, Range 25 East and the Westerly right of way of U.S. 41, (S.R. 45). Said strip of land being described as follows:

Commencing at the point of beginning at the Northwest corner of the Southwest quarter (SW1/4) of Section 28, Township 46 South, Range 25 East, Lee County, Florida; thence run $S00^{\circ}02'59''$ along the West line of said Southwest quarter (SW1/4) of Section 28 for 43.20 feet; thence run $S89^{\circ}18'56''E$ for 3,217.97 feet to a point on the Westerly right of way line of U.S. 41 (S.R. 45) and to which a radial line bears $N81^{\circ}41'40''E$; thence run Northerly along said westerly right of way line and a non-tangent curve to the left of radius 1,569.02 feet having for its elements a central angle $02^{\circ}05'37''$, chord bearing $N09^{\circ}21'10''W$ chord distance 57.33 feet for a distance of 57.33 feet to a point on the North line of the South half (S1/2) of aforesaid Section 28 and to which a radial line bears $N79^{\circ}36'04''E$; thence run $N89^{\circ}33'35''W$ along said North line for 3,208.56 feet to the point of beginning, containing 3.6759 acres more or less.

Bearings mentioned hereinabove are based on the North line of the South half (S1/2) of Section 28, Township 46 South, Range 25 East as bearing $S89^{\circ}33'35''E$ on an assumed meridian.

Delivered with and printed on this Commitment Jacket is the Closing Protection Letter promulgated under Rule 4-186.010, F.A.C.

**COMMITMENT
AND
CLOSING PROTECTION LETTER**

Parcel

Attorneys' Title Insurance Fund, Inc.

*28-46-25-00-
00038 0010*

ORLANDO, FLORIDA

Commitment To Insure Title

ATTORNEYS' TITLE INSURANCE FUND, INC., a Florida corporation, herein called THE FUND, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A; subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by THE FUND, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of THE FUND.

In Witness Whereof, ATTORNEYS' TITLE INSURANCE FUND, INC. has caused this Commitment to be signed and sealed as of the effective date of Commitment shown in Schedule A, the Commitment to become valid when countersigned by an authorized signatory.



Attorneys' Title Insurance Fund, Inc.

By *Charles J. Kovaleski*

**Charles J. Kovaleski
President**

SERIAL

CF - 0676423

FUND COMMITMENT

Schedule A

Commitment No.: 0676423
Effective Date: February 25, 2004 at 11:00 p.m.

Fund File Number 18-2004-1273
Agent's File Reference: 4078.101

1. Policy or Policies to be issued:

Proposed Amount of Insurance

OWNER'S: ALTA Owner's Policy (10/17/92).

To Be Determined
(Not to exceed \$ 1 million dollars)

Proposed Insured:

Board of Trustees of the Internal Improvement Trust Fund of the State of Florida

MORTGAGEE:

Proposed Insured:

2. The estate or interest in the land described or referred to in this commitment is a fee simple and title thereto is at the effective date hereof vested in:

Nola P. Boomer

3. The land referred to in this commitment is described as follows:

Legal description set forth on "Exhibit "A" attached.

AGENT NO.: 25380
ISSUED BY: CLYNE & SELF, P.A.

MAILING ADDRESS:

324 Datura Street, Suite #235
West Palm Beach, Florida 33401

AGENT'S SIGNATURE



CLYNE & SELF, P.A.

FUND COMMITMENT**Schedule B****Commitment No.: 0676423****Fund File Number 18-2004-1273****I. The following are the requirements to be complied with:**

1. *Payment of the full consideration to, or for the account of, the grantors or mortgagors.*
2. *Instruments creating the estate or interest to be insured which must be executed, delivered and filed for record:*
 - a. *Warranty Deed from Nola P. Boomer, joined by spouse, if married, to the proposed purchaser(s).*
3. *A determination must be made that there are no unrecorded special assessment liens or unrecorded liens arising by virtue of ordinances, unrecorded agreements as to impact or other development fees, unpaid waste fees payable to the county or municipality, or unpaid service charges under Ch. 159, F. S., or county ordinance.*
4. *Affidavit from a knowledgeable person stating that there are no parties that have an interest in the subject property as a result of unrecorded leases. .*
5. *Attorneys' Title Insurance Fund, Inc. has no liability under this commitment until an endorsement is issued stating the amount of the proposed policy.*
6. *Proof of proper estate tax clearances must be recorded with respect to the Estate of George D. Boomer, deceased.*

II. Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of The Fund:

1. *Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.*
2. *Any owner and mortgagee policies issued pursuant hereto will contain under Schedule B the standard exceptions set forth at the inside cover hereof unless an affidavit of possession and a satisfactory current survey are submitted, an inspection of the premises is made, it is determined the current year's taxes or special assessments have been paid, and it is determined there is nothing of record which would give rise to construction liens which could take priority over the interest(s) insured hereunder (where the liens would otherwise take priority, submission of waivers is necessary).*
3. *Federal liens and judgment liens, if any, filed with the Florida Department of State pursuant to Sec. 713.901, et seq., F.S., and Sec. 55.201, et seq., F.S., respectively, which designate the Florida Department of State as the place for filing federal liens and judgment liens against personal property. For insuring purposes:*

FUND COMMITMENT**Schedule B****Commitment No.:** 0676423**Fund File Number** 18-2004-1273

(a) Pursuant to Sec. 713.901, et seq., F.S., personal property includes, but is not limited to, mortgages, leaseholds, mortgages on leaseholds, interests in cooperative associations, vendees' interests, and options when those interests are held by a partnership, corporation, trust or decedent's estate; and

(b) Pursuant to Sec. 55.201, et seq., F.S., personal property includes, but is not limited to, leaseholds, interests in cooperative associations, vendees' interests, and options regardless of the type of entity holding such interests, including individuals. (Note: Mortgages have been specifically excluded from the personal property interests in which a judgment lien may be acquired under the provisions of Sec. 55.201, et seq., F.S.)

4. Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the lands insured hereunder, including submerged, filled, and artificially exposed lands and lands accreted to such lands.
5. Taxes for the year 2004, which are not yet due and payable.
6. Lee County Ordinance No. 86-14 recorded November 30, 1990, in O.R. Book 2189, Page 3281; and amended by Ordinance No. 86-38 in O.R. Book 2189, Page 3334, Public Records of Lee County, Florida.
7. Riparian and littoral rights are not insured.
8. This policy does not insure any portion of the insured parcel lying waterward of the mean-high water line of Estero River.
9. The rights, if any, of the public to use as a public beach or recreation area any part of the land lying between the body of water abutting the subject property and the natural line of vegetation, bluff, extreme high water line, or other apparent boundary lines separating the publicly used area from the upland private area.
10. This policy excludes from coverage the inalienable right of the public to use the navigable waters covering the lands.
11. This policy excludes from coverage the rights of the State of Florida and the United States to regulate the use of the navigable waters.
12. Those portions of the property herein described being artificially filled in land in what was formerly navigable waters, are subject to the right of the United States Government arising by reason of the United States Government control over navigable waters in the interest of navigation and commerce.
13. Rights of the United States of America and/or the State of Florida to any portion of said land which has been created by artificial means or has accreted to any such portion as so created.

FUND COMMITMENT

Schedule B

Commitment No.: 0676423

Fund File Number 18-2004-1273

14. Notwithstanding the insuring provisions under item 4 of the jacket of this policy, this policy does not insure any right of access to and from said land.

Exhibit "A"

Beginning at a point on the fractional line which is 310 feet West of the Southeast corner of the Northeast Quarter (NE1/4), of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4), of Section 28, Township 46 South, Range 25 East; thence East along the fractional line, a distance of 786.23 feet; thence South parallel to the Centerline of the Southwest Quarter (SW 1/4), a distance of 413 feet; thence West parallel to Centerline of Southwest Quarter (SW 1/4) a distance of 319.30 feet; thence South parallel to Centerline of Southwest Quarter (SW 1/4), 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 1/4), a distance of 785 feet, more or less, to the Point of Beginning, containing 11.38 acres, more or less, in the Southwest Quarter (SW 1/4), of Section 28, Township 46 South, Range 25 East, Lee County, Florida, together with all riparian rights thereunto belonging.

Delivered with and printed on this Commitment Jacket is the Closing Protection Letter promulgated under Rule 4-186.010, F.A.C.

COMMITMENT AND CLOSING PROTECTION LETTER

Parcel - legal
28-46-25-01-0001
0010

Attorneys' Title Insurance Fund, Inc.
ORLANDO, FLORIDA

Commitment To Insure Title

ATTORNEYS' TITLE INSURANCE FUND, INC., a Florida corporation, herein called THE FUND, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A; subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by THE FUND, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of THE FUND.

In Witness Whereof, ATTORNEYS' TITLE INSURANCE FUND, INC. has caused this Commitment to be signed and sealed as of the effective date of Commitment shown in Schedule A, the Commitment to become valid when countersigned by an authorized signatory.



Attorneys' Title Insurance Fund, Inc.

By *Charles J. Kovaleski*

Charles J. Kovaleski
President

SERIAL

CF - 0676420

FUND COMMITMENT

Schedule A

Commitment No.: CF-0676420
Effective Date: February 25, 2004 at 11:00 p.m.

Fund File Number 18-2004-1270
Agent's File Reference: 4078.101

1. Policy or Policies to be issued:

Proposed Amount of Insurance

OWNER'S: ALTA Owner's Policy (10/17/92).

To Be Determined
(Not to exceed \$ 1 million dollars)

Proposed Insured:

Board of Trustees of the Internal Improvement Trust Fund of the State of Florida

MORTGAGEE:

Proposed Insured:

2. The estate or interest in the land described or referred to in this commitment is a fee simple and title thereto is at the effective date hereof vested in:

John H. Boomer, Jorgine D. Boomer and Nola P. Boomer

3. The land referred to in this commitment is described as follows:

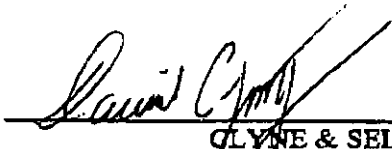
Legal description set forth on "Exhibit "A" attached.

AGENT NO.: 25380
ISSUED BY: CLYNE & SELF, P.A.

MAILING ADDRESS:

324 Datura Street, Suite #235
West Palm Beach, Florida 33401

AGENT'S SIGNATURE



CLYNE & SELF, P.A.

FUND COMMITMENT**Schedule B****Commitment No.:** CF-0676420**Fund File Number** 18-2004-1270**I. The following are the requirements to be complied with:**

1. **Payment of the full consideration to, or for the account of, the grantors or mortgagors.**
2. **Instruments creating the estate or interest to be insured which must be executed, delivered and filed for record:**
 - a. **Warranty Deed from John H. Boomer, Jorgine D. Boomer and Nola P. Boomer, joined by spouse, if married, to the proposed purchaser(s).**
3. **A determination must be made that there are no unrecorded special assessment liens or unrecorded liens arising by virtue of ordinances, unrecorded agreements as to impact or other development fees, unpaid waste fees payable to the county or municipality, or unpaid service charges under Ch. 159, F. S., or county ordinance.**
4. **Affidavit from a knowledgeable person stating that there are no parties that have an interest in the subject parcel as a result of unrecorded leases.**
5. **Proof of proper estate tax clearances must be recorded with respect to the Estate of George D. Boomer, deceased.**
6. **Attorneys' Title Insurance Fund, Inc. has no liability under this commitment until an endorsement is issued stating the amount of the proposed policy.**

II. Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of The Fund:

1. **Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.**
2. **Any owner and mortgagee policies issued pursuant hereto will contain under Schedule B the standard exceptions set forth at the inside cover hereof unless an affidavit of possession and a satisfactory current survey are submitted, an inspection of the premises is made, it is determined the current year's taxes or special assessments have been paid, and it is determined there is nothing of record which would give rise to construction liens which could take priority over the interest(s) insured hereunder (where the liens would otherwise take priority, submission of waivers is necessary).**
3. **Federal liens and judgment liens, if any, filed with the Florida Department of State pursuant to Sec. 713.901, et seq., F.S., and Sec. 55.201, et seq., F.S., respectively, which designate the Florida Department of State as the place for filing federal liens and judgment liens against personal property. For insuring purposes:**

FUND COMMITMENT**Schedule B****Commitment No.:** CF-0676420**Fund File Number** 18-2004-1270

(a) Pursuant to Sec. 713.901, et seq., F.S., personal property includes, but is not limited to, mortgages, leaseholds, mortgages on leaseholds, interests in cooperative associations, vendees' interests, and options when those interests are held by a partnership, corporation, trust or decedent's estate; and

(b) Pursuant to Sec. 55.201, et seq., F.S., personal property includes, but is not limited to, leaseholds, interests in cooperative associations, vendees' interests, and options regardless of the type of entity holding such interests, including individuals. (Note: Mortgages have been specifically excluded from the personal property interests in which a judgment lien may be acquired under the provisions of Sec. 55.201, et seq., F.S.)

4. Taxes for the year 2004, which are not yet due and payable.
5. Lee County Ordinance No. 86-14 recorded November 30, 1990, in O.R. Book 2189, Page 3281; and amended by Ordinance No. 86-38 in O.R. Book 2189, Page 3334, Public Records of Lee County, Florida.
6. Resolution No. 03-05-02 for petition to vacate recorded in O.R. Book 3951, Page 550, Public Records of Lee County, Florida.

Exhibit "A"

28-46-25-01-00CQ1.00^o

Blocks "R", "S", "T", and "U", all in that certain subdivision known as SCHULTE SOUTH TAMiami PARK, 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 Plat Book 5, at page 33, Together with all roads and alleys lying between or adjacent to all of the aforementioned blocks;

LESS AND EXCEPT:

A strip of land being a portion of a parcel or tract of land recorded in Official Records Book 1903, Page 3230, Public Records of Lee County, Florida, lying South of the North line of the South half (S1/2) of Section 28, Township 46 South, Range 25 East, the Northernly and Southernly lines of said strip of land extending and shortening from the West line of the Southwest quarter (SW 1/4) of Section 28, Township 46 South, Range 25 East and the Westerly right of way of U.S. 41 (S.R. 45). Said strip of land being described as follows:

Commencing at the point of beginning at the Northwest corner of the Southwest quarter (SW 1/4) of Section 28, Township 46 South, Range 25, East, Lee County, Florida; thence run S 00° 02'59"E along the West line of said Southwest quarter (SW 1/4) of Section 28 for 43.20 feet; thence run S 89° 18'56"E for 3217.97 feet to a point on the Westerly right of way line of U.S. 41 (S.R. 45) and to which a radial line bears N 81° 41'40" E; thence run Northernly along said westerly right of way line and a non-tangent curve to the left of radius 1569.02 feet having for its elements a central angle 02° 05'37", chord bearing N 09° 21'10"W chord distance 57.33 feet for a distance of 57.33 feet to a point on the North line of the South half (S1/2) of aforesaid Section 28 and to which a radial line bears N 79° 36'04"E; thence run N 89° 33' 35" W along said North line for 3208.56 feet to the point of beginning, containing 3.6759 acres more or less.

Bearings mentioned hereinabove are based on the North line of the South half (S1/2) of Section 28, Township 46 South, Range 25 East as bearing S 89° 33' 35" E on an assumed meridian.

PROPOSED

PROPOSED
100' X 354.5'
EASEMENT

SECTION 29

SECTION 28

U.S. #41



②
PROPOSED STATE
ACQUISITION
37.15 ACRES

③
PROPOSED LIFE ESTATE
25.67 ACRES

①
PROPOSED LEE
COUNTY ACQUISITION
41.27 ACRES

① PROPOSED LEE COUNTY ACQUISITION - 41.27 ACRES
(INCLUDES 100' WIDE PROPOSED EASEMENT)

② PROPOSED STATE ACQUISITION

③ PROPOSED LIFE ESTATE

④ PROPOSED 100' WIDE EASEMENT
(INCLUDED IN LEE COUNTY ACQUISITION)

TOTAL ACQUISITION = 104.09 ACRES

ESTERO RIVER

SECTION 28

SECTION 33

5-Year Sales History

Parcel No. 258/Boomer

Conservation 2020 Program
Project No. 8800

NO SALES IN PAST 5 YEARS

CONSERVATION 20/20 #258

#258

284625

284625



#221

STRAP#(S) 28-46-25-00-00038.0000, .0010, .0020 &
28-46-25-01-00001.0010
TOTAL APPROXIMATE ACREAGE: 100

- COUNTY LANDS COMPARISON 2020
- FORMATION
- EXISTING OTHER CONSERVATION LANDS
- FORMATIONS ACQUIRED
- FORMATIONS NOT SUBJECT TO CLAIM
- FORMATIONS ON HOLD OR AT IMPASSE
- FORMATIONS UNDER REVIEW
- ACCR. REJECTION
- WITHDRAWN
- TRANSFER AND TRANSFER
- REVERT TO STATE

THIS IS NOT A SURVEY.
THE COUNTY LANDS COMPARISON 2020 IS FOR INFORMATIONAL PURPOSES ONLY. DETAILS SHOWN MAY BE INCONCLUSIVE AND NOT BE ACCOMPANIED BY WARRANTY OR GUARANTEE. WHILE THE DIVISION HAS MADE EVERY EFFORT TO ENSURE ACCURACY, SOME DISCREPANCIES OR INADEQUACIES MAY OCCUR. INDEPENDENT VERIFICATION MAY BE REQUIRED.

REVISED: DEC 11, 2020

