

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

**Blue Sheet No. 20050959**

**1. ACTION REQUESTED/PURPOSE:** Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$61,000 for Parcel 74, Gladiolus Drive Widening, Project No. 4083, pursuant to the Purchase Agreement; authorize the Division of County Lands to handle all documentation necessary to complete transaction.

**2. WHAT ACTION ACCOMPLISHES:** Authorizes binding offer to property owner.

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

**4. Departmental Category:** 6

*CBG*

**5. Meeting Date:** *08-02-2005*

**6. Agenda:**

- Consent
- Administrative
- Appeals
- Public
- Walk-On

**7. Requirement/Purpose: (specify)**

- Statute *73 and 125*
- Ordinance
- Admin. Code
- Other

**8. Request Initiated:**

Commissioner \_\_\_\_\_  
 Department Independent  
 Division County Lands *7-8-05*  
 By: Karen L.W. Forsyth, Director *[Signature]*

**9. Background:**

**Negotiated for:** Department of Transportation

**Interest to Acquire:** Fee Interest in 7,500 square feet of vacant land.

**Property Details:**

**Owner:** Ascott Village II, a Florida Limited Liability Company  
**Address:** 9680 Gladiolus Drive, Fort Myers, FL  
**STRAP No.:** 33-45-24-00-00001.0030

**Purchase Details:**

**Binding Offer Amount:** \$61,000

The property owner has been unresponsive to Staff contact efforts. Therefore, staff recommends Board make a binding offer in the amount of \$61,000, and commence Eminent Domain procedures.

**Appraisal Information:**

**Company:** Hanson Real Estate Advisors, Inc.  
**Appraised Value:** \$56,000

**Staff Recommendation:** Staff is of the opinion that the purchase price increase of \$5,000 above appraised value may entice the property owner to sell the required property without the full expense of an Eminent Domain Action and can be justified considering costs associated with condemnation proceedings, estimated between \$5,000 and \$10,000 excluding land value increases and attorney fees. Staff recommends the Board approve the action requested.

**Account:** 204083307000.506110

**Attachments:** Purchase and Sale Agreement, In-House Title Search, Appraisal Summary, Location Map, 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>SAO 113</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: *[Signature]*  
 7-26-05  
 1:30  
 COUNTY ADMIN FORWARDED TO: *[Signature]*  
 7/26/05  
 SP 11

CO. ATTY!  
 FORWARDED TO:  
 7/26/05

Lee County  
County Lands Division  
Project: Gladiolus Drive Widening Project  
Parcel: 74  
STRAP No.: Part of 33-45-24-00-00001.0030

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY  
AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE  
IN LIEU OF CONDEMNATION PROCEEDINGS

THIS AGREEMENT for purchase and sale of real property is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by **Ascott Village II, a Florida Limited Liability Company**, whose address is 6915 Red Road, Suite 205, Coral Gables, FL 33143, and Lee County, a political subdivision of the State of Florida, hereinafter referred to as BUYER.

WITNESSETH:

1. **AGREEMENT TO PURCHASE AND TO SELL:** SELLER agrees to sell and BUYER agrees to purchase, subject to the terms and conditions set forth below, a parcel of land consisting of 7,500 square feet more or less, and located at 9680 Gladiolus Drive, Fort Myers, FL and more particularly described in "Exhibit A" attached hereto and made a part hereof, hereinafter called "the Property." This property is being acquired for the Gladiolus Drive Widening Project, hereinafter called "the Project", with the SELLER'S understanding that the property, if not voluntarily sold, would have been condemned by BUYER through the exercise of its eminent domain powers.

2. **PURCHASE PRICE AND TIME OF PAYMENT:** The total purchase price("Purchase Price") will be Sixty one thousand and no/100 dollars (\$61,000.00), payable at closing by County warrant. The Purchase Price is mutually agreeable to both the SELLER and BUYER and represents the voluntary sale and purchase of the property in lieu of BUYER's condemnation.

3. **EVIDENCE OF TITLE:** BUYER will obtain at BUYER'S expense an American Land Title Association Form B Title Commitment and provide title insurance Owner's Policy in the amount of the purchase price, from a title company acceptable to BUYER. The commitment will be accompanied by one copy of all documents that constitute exceptions to the title commitment. The commitment will also show title to be good and marketable with legal access, subject only to real estate taxes for the current year, zoning and use restrictions imposed by governmental authority, and restrictions and easements common to the area.

4. **CONDITION OF PROPERTY; RISK OF LOSS:** BUYER has inspected the Property and, except as is otherwise provided herein, accepts the Property in the condition inspected. Any loss and/or damage to the Property occurring between the date of this offer and the date of closing or date of possession by BUYER, whichever occurs first, will be at SELLER'S sole risk and expense. However, BUYER may accept the damaged property and deduct from the purchase price any expenses required to repair the damage, or BUYER may cancel this Agreement without obligation.

5. **SELLER'S INSTRUMENTS AND EXPENSES:** SELLER will pay for and provide:

- (a) A statutory warranty deed, and an affidavit regarding liens, possession, and withholding under FIRPTA in a form sufficient to allow "gap" coverage by title insurance;
- (b) utility services up to, but not including the date of closing;
- (c) taxes or assessments for which a bill has been rendered on or before the date of closing;
- (d) payment of partial release of mortgage fees, if any;
- (e) SELLER'S attorney fees, if any.

6. **BUYER'S INSTRUMENTS AND EXPENSES:** BUYER will pay for:

- (a) Recording fee for deed;
- (b) survey, (if desired by BUYER).

7. **TAXES:** SELLER will be charged for Real Estate taxes and personal property taxes (if applicable) up to, but not including the date of closing.

This voluntary sale and purchase is considered by Florida law to be exempt from the payment of Documentary Stamp Taxes because this transaction was made under the threat of an eminent domain proceeding by the BUYER.

8. **DEFECTS IN TITLE AND LEGAL ACCESS:** Prior to closing, BUYER will have a reasonable time to examine the title and documents establishing legal access to the property. If title or legal access is found to be defective, BUYER will notify SELLER in writing of the defects and SELLER will make a prompt and diligent effort to correct such defects. If SELLER fails to make corrections within 60 days after notice, BUYER may elect to accept the Property in its existing condition with an appropriate reduction to the purchase price, or may terminate this Agreement without obligation.

9. **SURVEY:** BUYER may order the Property surveyed at BUYER's expense. SELLER agrees to provide access to the Property for such survey to be performed. If the survey shows a discrepancy in the size or dimensions of the Property, or shows encroachments onto the Property or that improvements located on the Property encroach onto adjacent lands, or if the survey identifies violations of recorded covenants and/or covenants of this Agreement, upon notice to the SELLER, the BUYER may elect to treat such discrepancies, violations and/or encroachments as a title defect.

10. **ENVIRONMENTAL AUDIT:** BUYER may perform or have performed, at BUYER's expense, an environmental audit of the Property. If the audit identifies environmental problems unacceptable to the BUYER, BUYER may elect to accept the Property in its existing condition with an appropriate abatement to the purchase price or BUYER may terminate this Agreement without obligation.

11. **ABSENCE OF ENVIRONMENTAL LIABILITIES:** The SELLER warrants and represents that the Property is free from hazardous materials and does not constitute an environmental hazard under any federal, state or local law or regulation. No hazardous, toxic or polluting substances have been released or disposed of on the Property in violation of any applicable law or regulation. The SELLER further warrants that there is no evidence that hazardous, toxic or polluting substances are contained on or emitting from the property in violation of applicable law or regulation. There are no surface impoundments, waste piles, land fills, injection wells, underground storage areas, or other man-made facilities that have or may have accommodated hazardous materials. There is no proceeding or inquiry by any governmental agency with respect to production, disposal or storage on the property of any hazardous materials, or of any activity that could have produced hazardous materials or toxic effects on humans, flora or fauna. There are no buried, partially buried, or above-ground tanks, storage vessels, drums or containers located on the Property. There is no evidence of release of hazardous materials onto or into the Property.

The SELLER also warrants that there have been no requests from any governmental authority or other party for information, notices of claim, demand letters or other notification that there is any potential for responsibility with respect to any investigation or clean-up of hazardous substance releases on the property. All warranties described herein will survive the closing of this transaction.

In the event the SELLER breaches the warranties as to environmental liability, SELLER agrees to indemnify and hold the BUYER harmless from all fines, penalties, assessments, costs and reasonable attorneys' fees resulting from contamination and remediation of the property.

12. **TIME AND BINDING AGREEMENT:** Time is of the essence for closing this transaction. The BUYER's written acceptance of this offer will constitute an Agreement for the purchase and sale of the Property and will bind the parties, their successors and assigns. In the event the BUYER abandons this project after execution of this Agreement, but before closing, BUYER may terminate this Agreement without obligation.

13. **DATE AND LOCATION OF CLOSING:** The closing of this transaction will be held at the office of the insuring title company on or before 60 days from the date this Agreement is made. The time and location of closing may be changed by mutual agreement of the parties.

14. **ATTORNEYS' FEES:** The prevailing party in any litigation concerning this Agreement will be entitled to recover reasonable attorneys' fees and costs.

15. **REAL ESTATE BROKERS:** SELLER hereby agrees to indemnify and hold the BUYER harmless from and against any claims by a real estate broker claiming by or through SELLER.

16. **POSSESSION:** SELLER warrants that there are no parties in possession other than SELLER unless otherwise stated herein. SELLER agrees to deliver possession of Property to BUYER at time of closing unless otherwise stated herein.

17. **TYPEWRITTEN/HANDWRITTEN PROVISIONS:** Typewritten and handwritten provisions inserted herein or attached hereto as addenda, and initialed by all parties, will control all printed provisions in conflict therewith.

18. **SPECIAL CONDITIONS:** Any and all special conditions will be attached to this Agreement and signed by all parties to this Agreement.

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

CHARLIE GREEN, CLERK

BY: \_\_\_\_\_  
DEPUTY CLERK (DATE)

SELLER:

Ascott Village II, a Florida Limited  
Liability Company

\_\_\_\_\_  
By: Danny Taha, President of Berkeley  
Square, Inc., a Florida Corporation,  
Managing Member

BUYER:

LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
CHAIRMAN OR VICE CHAIRMAN

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY

\_\_\_\_\_  
COUNTY ATTORNEY (DATE)

# Exhibit "A"

## SKETCH OF DESCRIPTION

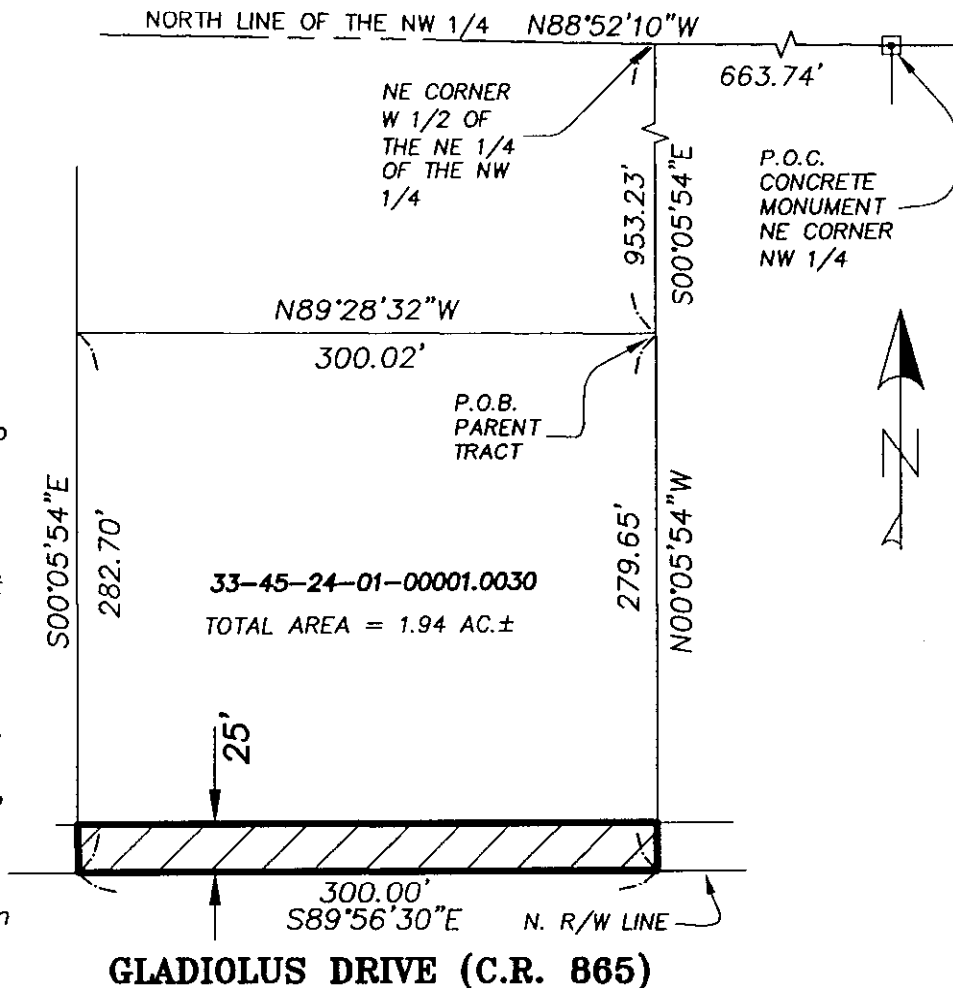
OF A PARCEL LYING IN THE NE 1/4 OF THE NW 1/4  
OF SECTION 33, TWP 45 S, RGE 24 E, LEE COUNTY, FLORIDA

### DESCRIPTION:

#### THE SOUTH 25 FEET OF:

A tract or parcel of land situated in the State of Florida, County of Lee, being a part of the NW 1/4, Section 33, Township 45 South, Range 24 East, and further bounded and described as follows: Starting at a concrete monument marking the NE corner of the NW 1/4 of said Section 33, thence N88°52'10"W along the North line of said fraction for 663.74 feet to a concrete marker; thence South 00°05'54" East for 953.23 feet to the Point of Beginning; thence North 89°28'32" West for 300.02 feet; thence South 00°05'54" East for 282.70 feet to an intersection with the northerly right-of-way line of Gladiolus Drive (SR 865 - 100 feet wide); thence South 89°56'30" East for 300 feet along said right-of-way; thence North 00°05'54" West for 279.65 feet to the Point of Beginning.

Bearings are based on the North line of the NW 1/4 of said Section 33 bearing South 88°52'10" East.



PARCEL NO. 74  
 PROPERTY OWNER: WENTWORTH INVESTMENTS, INC.  
 REFERENCE: O.R.B. 2263, PG 3024  
 STRAP NO.: 33-45-24-01-00001.0030  
 AREA OF TAKE: 7,500 Sq. Ft., 0.17 Ac., MORE OR LESS  
 AREA OF REMAINDER: 76,868 Sq. Ft., 1.76 Ac., MORE OR LESS

KEY:  
 O.R.B. - OFFICIAL RECORDS BOOK  
 P.O.B. - POINT OF BEGINNING  
 P.O.C. - POINT OF COMMENCEMENT  
 R/W - RIGHT-OF-WAY

*James N. Wilkison*  
 JAMES N. WILKISON (FOR THE FIRM LB6773)  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA, LICENSE NO. LS 4876  
 THIS 16th DAY OF Dec, 2004

**THIS IS NOT A SURVEY**

## JEFFREY C. COONER AND ASSOCIATES, INC.

SURVEYING AND MAPPING  
 3900 COLONIAL BLVD., SUITE 4, FORT MYERS, FLORIDA 33912  
 PHONE: (239)277-0722 FAX: (239)277-7179 EMAIL: SURVEYING@COONER.COM

CLIENT: LEE COUNTY D.O.T. ENGINEERING	DRAWN BY: JNW	CHECKED BY: J.N.W.
PARCEL DESCRIPTION: PARCEL IN THE NE 1/4 OF THE NW 1/4 OF SEC 33-45-24	DATE: 12/14/04	SCALE: 1"=100'
	PROJECT No: 020504	DWG No: 01_0030-SKD SHEET: 1 OF 1

**Division of County Lands****Ownership and Easement Search**

Search No. 22285

Date: January 26, 2005

Parcel: ~~40~~ 74

Project: Gladiolus Drive Widening, Project #4083

To: Michele S. McNeill SR/WA  
Property Acquisition AgentFrom: Kenneth Pitt   
Real Estate Title Examiner

STRAP: 33-45-24-01-00001.0030

Effective Date: December 17, 2004, at 5:00 p.m.*No other changes as of  
6/16/05 SE***Subject Property:** See Attached Schedule.

Title to the subject property is vested in the following:

**Ascott Village II (a Florida limited liability company)**By that certain instrument dated January 3, 2005, recorded January 6, 2005, in Official Record Book 4547 Page 4322, Public Records of Lee County, Florida.**Easements:**

- 1) **Subject to a Non-Exclusive Easement for ingress and egress over the Westerly 60 feet of the East 360 feet of the Southerly 1145 feet of the West ½ of the NE ¼ of the NW ¼, which was first established in a deed recorded in Official Record Book 1511 Page 2149, Public Records of Lee County, Florida. Said easement bounds the Westerly line of the subject property.**
- 2) **Subject to an Agreement to Maintain Drainage System, recorded in Official Record Book 1627 Page 1687, Public Records of Lee County, Florida.**
- 3) **Subject to an Easement granted to the United Telephone Company of Florida, by that certain instrument recorded in Official Record Book 2031 Page 385, Public Records of Lee County, Florida. No specific location of the easement is provided, just a 1988 STRAP designation and a review of 1987 thru 1989 tax maps do not match the given STRAP.**
- 4) **Subject to an Exclusive & Perpetual Wastewater Force Main Easement Grant, which affects the Westerly 20 feet of the subject property, recorded in Official Record Book 2195 Page 3165, Public Records of Lee County, Florida.**

**Note 1): Subject to a Commercial Mortgage and Security Agreement in the principal sum of \$973,359.68, between Ascott Village II, LLC(mortgagor) and Colonial Bank N.A. (mortgagee), recorded in Official Record Book 4547 Page 4326, Public Records of Lee County, Florida.**

**Note 2): Subject to an Assignment of Leases, Rents and Profits, recorded in Official Record Book 4547 Page 4298, Public Records of Lee County, Florida.**



**Division of County Lands****Ownership and Easement Search**

Search No. 22285

Date: January 26, 2005

Parcel: 40

Project: Gladiolus Drive Widening, Project #4083

**Note 3): Subject to a U.C.C. 1 Financing Statement, recorded in Official Record Book 4547 Page 4306, Public Records of Lee County, Florida.**

**Note 4): Subject to a Reservation of a half interest in the Oil, Gas and Mineral Rights in the subject property, in a deed recorded in Deed Book 222 Page 522, Public Records of Lee County, Florida.**

**Note 5): Subject to Lee County Ordinance No.86-14 relating to garbage and solid waste collection, recorded in Official Record Book 2189 Page 3281 and amended by Official Record Book 2189 Page 3334, Public Records of Lee County, Florida.**

**Note 6): Subject to a Special Assessment Lien vs. the subject property, relating to the Lee County Lot Mowing Ordinance in the sum of \$306.00, recorded in Official Record Book 3882 Page 2660, Public Records of Lee County, Florida.**

*Note 7): Deed of Transfer of Development Rights dated April 22, 2005, recorded April 25, 2005 in O.R. 4679, page 3578, Public Records of Lee County, Florida.*

**Tax Status:\$3,431.04 paid on 1-19-05 for Tax Year 2004.**

*(The end user of this report is responsible for verifying tax and/or assessment information.)*

**The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.**

EXHIBIT "A"

A tract or parcel of land situated in the State of Florida, County of Lee, being a part of the NW 1/4, Section 33, Township 45 South, Range 24 East, and further bounded and described as follows:

Starting at a concrete monument marking the NE corner of the NW 1/4 of said Section 33, thence N 88°52'10" W along the North line of said fraction for 663.74 feet to a concrete marker; thence South 00°05'54" East for 953.23 feet to the Point of Beginning; thence North 89°28'32" West for 300.02 feet; thence South 00°05'54" East for 282.70 feet to an intersection with the northerly right of way line of Gladiolus Drive (SR 865-100 feet wide); thence South 89°56'30" East for 300 feet along said right of way; thence North 00°05'54" West for 279.65 feet to the Point of Beginning.

Bearings are based on the North line of the NW 1/4 of said Section 33 as bearing South 88°52'10" East.

# HANSON REAL ESTATE ADVISORS, INC.

Real Estate Valuation and Counseling

June 9, 2005

Robert G. Clemens  
Acquisition Program Manager  
Division of County Lands  
P.O. Box 398  
Fort Myers, Florida 33902-0398

Re: Complete Summary Appraisal Report No. 05-03-04.74  
Project: Gladiolus Widening Project (No. 4083)  
Parcel No: 74  
Owner: Wentworth Investments, Inc.  
County: Lee County, Florida

Dear Mr. Clemens:

We are pleased to transmit this summary report of a complete appraisal that was prepared on the above referenced property. The purpose of this appraisal is to estimate the market value of those property rights proposed for acquisition by Lee County, Florida together with all legally compensable diminution in value to the remaining land (if any) which can be attributed to the proposed partial taking, or the uses and/or activities proposed thereon. The attached report sets forth the data, research, analyses and conclusions for this appraisal.

The report has been prepared in conformity with the *Uniform Standards of Professional Appraisal Practice (USPAP)* and the *Code of Professional Ethics and Standards of Professional Appraisal Practice* of the Appraisal Institute. Our opinion of market value is premised upon the Assumptions and Limiting Conditions contained within this report. The definition of market value is in Addendum B.

The parent tract, containing 1.94 acres (84,368 SF) of gross land area, is located along the north side Gladiolus Drive, approximately 680 feet west of Bass Road in the Fort Myers market area of Lee County, Florida. The property is rectangular shaped with a northerly edge measuring 300.02 feet, an easterly edge measuring 279.65 feet, a westerly edge measuring 282.70 feet and a southerly edge measuring 300.00 feet along the northerly right-of-way of Gladiolus Drive. The property is zoned CS-1 (Special Commercial Office District) and is designated Urban Community on the Future Land Use Map of the Lee County Comprehensive Plan. The appraisers have estimated the highest and best use of the property to be for potential commercial development.

The partial acquisition area contains 7,500 square feet. It is a proposed fee simple acquisition for road right-of-way for Gladiolus Drive, which consists of a 25 foot wide strip along the northerly right-of-way for Gladiolus Drive. There are no improvements of any consequence located within this partial acquisition area.

Robert G. Clemens

June 9, 2005

Page 2

The remainder property, containing 1.76 acres (76,868 SF) of gross land area, is rectangular shaped and is characterized by a northerly edge measuring 300.02 feet, an easterly property line measuring 254.65 feet, a westerly property line measuring 257.70 feet, and a southerly property line measuring 300.00 feet along the northerly right-of-way of the reconstructed Gladiolus Drive. The highest and best use remains unchanged for potential commercial development.

By reason of our investigation and analysis, data contained in this report and our experience in the real estate appraisal business, it is our opinion that the amount due the owner (as a result of the proposed partial acquisition), as of May 27, 2005, is:

Value of Property Rights Taken:

Value of Land Taken: \$56,000

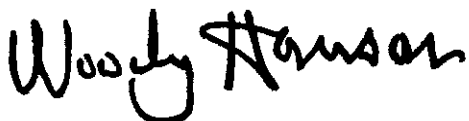
Value of Improvements Taken: -0-

Incurable Severance Damages: -0-

**TOTAL AMOUNT DUE OWNER: \$56,000**

If you have any questions or comments, please contact the undersigned. Thank you for the opportunity to be of service.

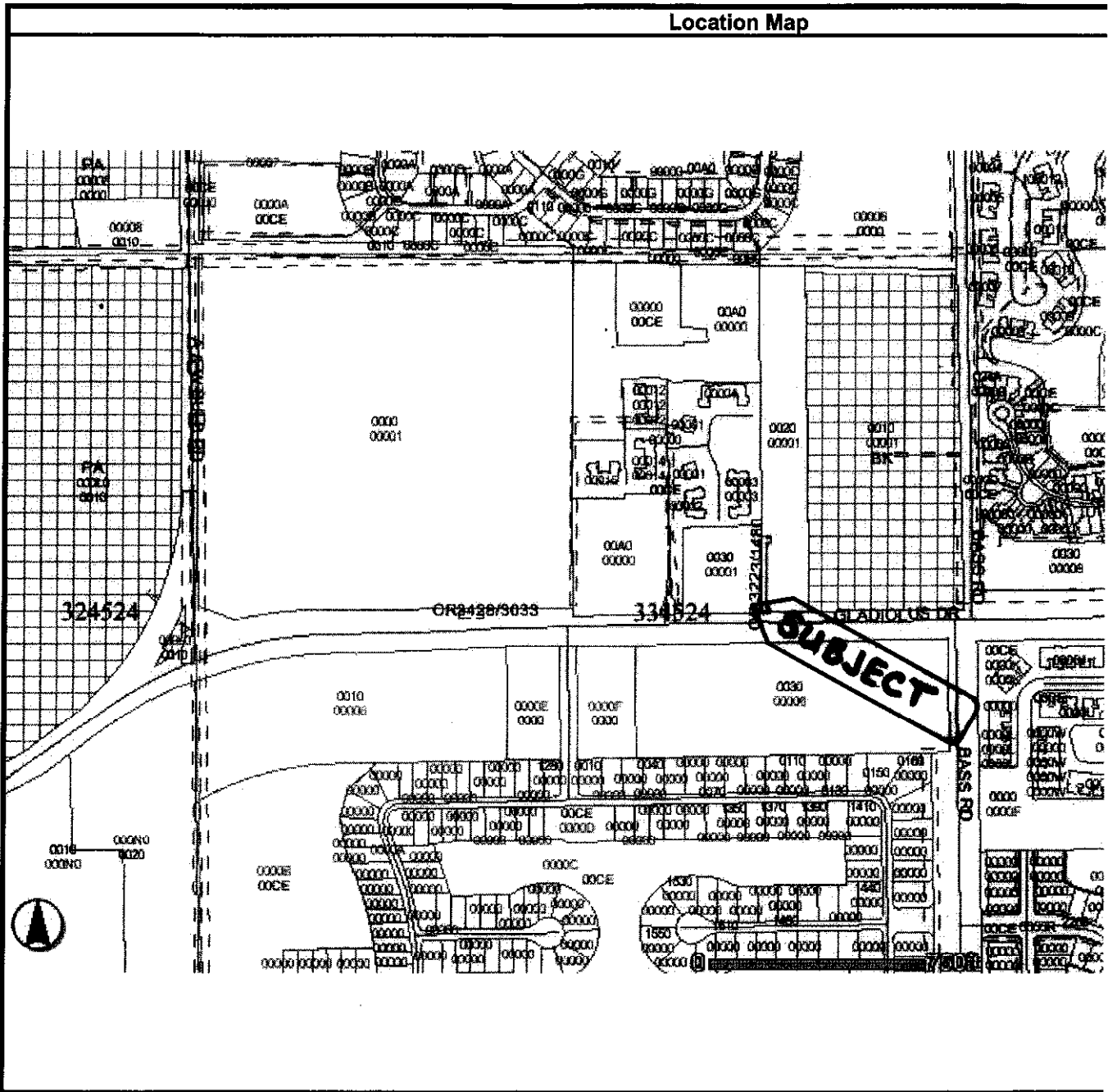
Respectfully submitted,



Woodward S. Hanson, MAI, CRE, CCIM  
St. Cert. Gen. REA RZ 1003



Andrew D. Anderson  
Registered Appraiser Trainee RI 14189



# 5-Year Sales History

Parcel No. 74

Gladiolus Drive Widening Project,  
No. 4083

Grantor	Grantee	Price	Date	Arms Length Y/N
Villages of Ascot Ltd., a dissolved Florida Partnership by Falcon U.S., Inc. a Florida Corporation	Ascott Village II, a Florida Limited Liability Company	\$2,100,000	1/3/2005	Y

**NOTE: Sale(s) relate to "parent tract" of the subject parcel.**