

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

Blue Sheet No. 20050961

**1. ACTION REQUESTED/PURPOSE:** Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$263,000 for Parcel 89, 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 *C6I* **5. Meeting Date:** *08-02-2005*

<b>6. Agenda:</b> <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	<b>7. Requirement/Purpose: (specify)</b> <input checked="" type="checkbox"/> Statute <u>73 and 125</u> <input type="checkbox"/> Ordinance <input type="checkbox"/> Admin. Code <input type="checkbox"/> Other	<b>8. Request Initiated:</b> Commissioner _____ Department <u>Independent</u> Division <u>County Lands</u> <i>7-8-05</i> By: <u>Karen L.W. Forsyth, Director</u> <i>KLF</i>
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**9. Background:**  
Negotiated for: Department of Transportation

Interest to Acquire: Fee Interest in 35,585 square feet (0.82 acres) of vacant land.

**Property Details:**

**Owner:** Carlos Jorge Habibeh Beitro, Rodrigo Alejandro Habibeh Beitro and Nabila Muvdi  
**Address:** 9651 Gladiolus Drive, Fort Myers, FL  
**STRAP No.:** 33-45-24-00-00006.0030

**Purchase Details:**

**Binding Offer Amount:** \$263,000

The property owners have indicated accepting \$425,000. Staff is of the opinion, this price is not indicative of market value. Therefore, staff recommends Board make a binding offer in the amount of \$263,000, and commence Eminent Domain procedures.

**Appraisal Information:**

**Company:** Hanson Real Estate Advisors, Inc.  
**Appraised Value:** \$258,000

**Staff Recommendation:** Staff is of the opinion that the purchase price increase of \$5,000 above appraised value 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>SAD 11/3</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: *K*  
 7-20-05  
 1:30  
 COUNTY ADMIN  
 FORWARDED TO: *[Signature]*  
 7/21/05  
 SPm

REC'D... 7/21/05  
 by CO. ATTY:  
 3:05 PM  
 CO. ATTY.  
 FORWARDED TO:  
 7/21/05

Lee County  
County Lands Division  
Project: Gladiolus Drive Widening Project  
Parcel: 89  
STRAP No.: Part of 33-45-24-00-00006.0030

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 **Carlos Jorge Habibeh Beitro, Rodrigo Alejandro Habibeh Beitro and Nabila Muvdi**, whose address is P.O. Box 9, Cape Coral, FL 33910, 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 35,585 square feet (0.82 acres) more or less, and located at 9651 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 Two hundred sixty-three thousand and no/100 dollars (\$263,000.00), 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:

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

SELLER:

\_\_\_\_\_  
Carlos Jorge Habibeh Beiro (DATE)  
  
\_\_\_\_\_  
Rodrigo Alejandro Habibeh Beiro(DATE)  
  
\_\_\_\_\_  
Nabila Muvdi (DATE)

CHARLIE GREEN, CLERK

BUYER:  
LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

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

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

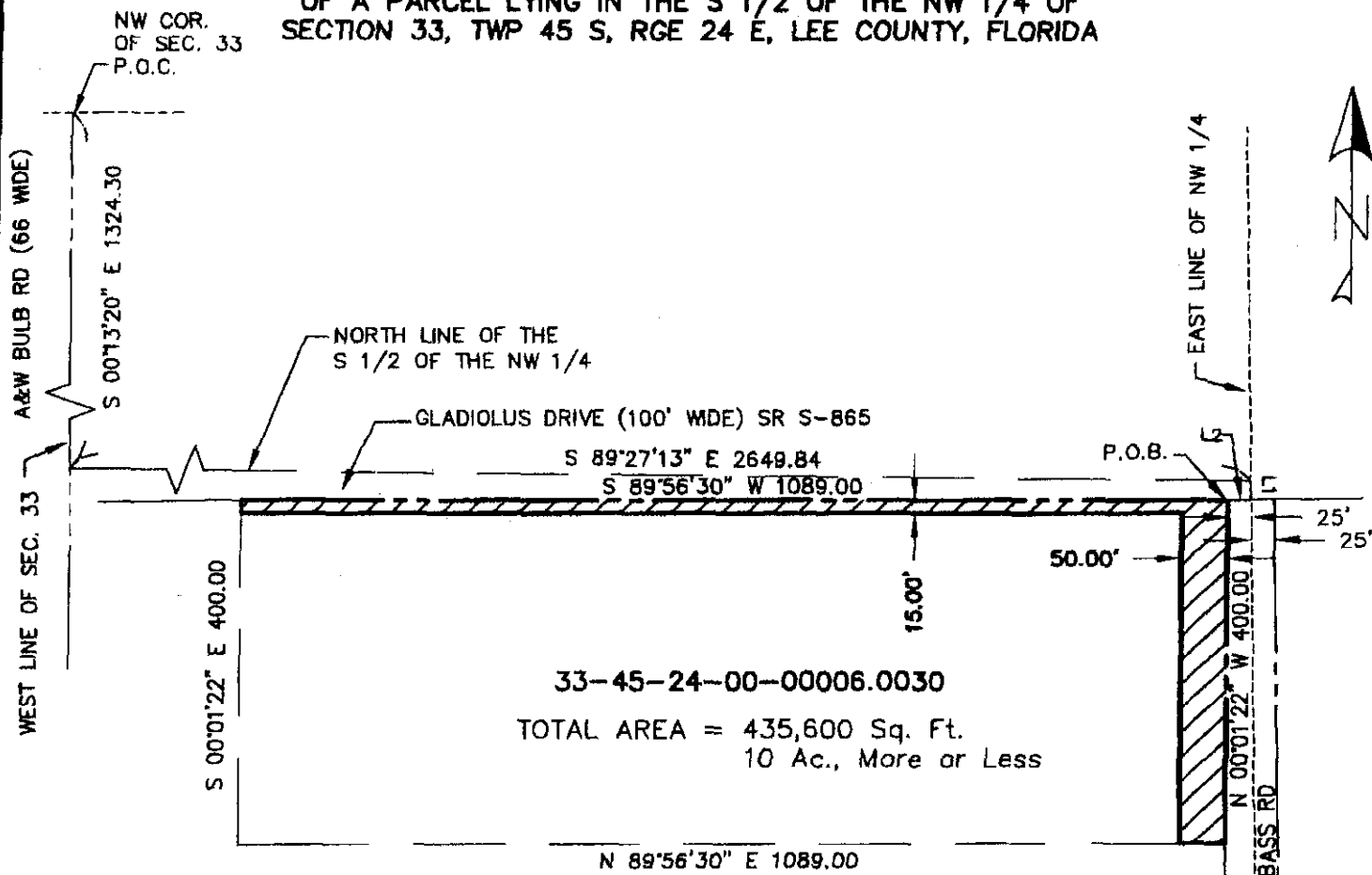
APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY

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

Exhibit "A"

**SKETCH OF DESCRIPTION**

OF A PARCEL LYING IN THE S 1/2 OF THE NW 1/4 OF SECTION 33, TWP 45 S, RGE 24 E, LEE COUNTY, FLORIDA



PARCEL NO. 89  
 PROPERTY OWNER: CARLOS JORGE HABIBEH BEITRO, RODRIGO ALEJANDRO HABIBEH BEITRO, AND NABILA MURDI AS SUCCESSOR TRUSTEE  
 REFERENCE: O.R.B. 1994, PG 3908 / O.R.B. 3582, PG 2470  
 STRAP NO.: 33-45-24-00-00006.0030  
 AREA OF TAKE: 35,585 Sq. Ft., 0.82 Ac., MORE OR LESS  
 AREA OF REMAINDER: 400,015 Sq. Ft., 9.18 Ac., MORE OR LESS

LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°01'22"E	22.03'
L2	S89°56'30"W	25.00'

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

JAMES N. WILKISON (FOR THE FIRM LB6773)  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA LICENSE NO. LS 4876  
 THIS \_\_\_ DAY OF \_\_\_, 2003.

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: JNM	CHECKED BY: J.N.W.
PARCEL DESCRIPTION: TAKE PARCEL IN THE S 1/2 OF THE NW 1/4 OF SEC 33-45-24	DATE: 2/25/03	SCALE: 1"=200'
	PROJECT No: 020504	DWG No: 06_0030SKD SHEET: 1 OF 2

**Exhibit "A"**

**SKETCH AND DESCRIPTION**

OF A PARCEL LYING IN THE S 1/2 OF THE NW 1/4 OF SECTION 33, TWP 45 S, RGE 24 E, LEE COUNTY, FLORIDA

**DESCRIPTION:**

THE NORTH 15 FEET AND THE EAST 50 FEET OF:

A TRACT OR PARCEL OF LAND IN THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, WHICH IS DESCRIBED AS FOLLOWS:

COMMENCE AT THE NW CORNER OF SAID SECTION 33; THENCE S 0°13'20" E FOR 1324.30 FEET ALONG THE WEST LINE OF SAID SECTION 33; THENCE S 89°27'13" E FOR 2649.84 FEET ALONG THE NORTH LINE OF THE S 1/2 OF THE NW 1/4 OF SAID SECTION 33; THENCE S 0°01'22" E FOR 22.03 FEET ALONG THE CENTERLINE OF BASS ROAD AND THE EAST LINE OF THE NW 1/4 OF SAID SECTION 33; THENCE S 89°56'30" W FOR 25.00 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY (50.00 FEET FROM CENTERLINE) OF GLADIOLUS DRIVE (S.R. NO. S-865) TO THE POINT OF BEGINNING. THENCE CONTINUE S 89°56'30" W FOR 1089.00 FEET ALONG SAID SOUTHERLY RIGHT OF WAY; THENCE S 0°01'22" E FOR 400 FEET; THENCE N 89°56'30" E FOR 1089.00 ALONG A LINE PARALLEL WITH, 400 FEET SOUTHERLY OF AND AS MEASURED PERPENDICULAR TO THE SAID SOUTHERLY RIGHT OF WAY OF GLADIOLUS DRIVE. THENCE N 0°01'22" W FOR 400 FEET ALONG THE WESTERLY RIGHT OF WAY (25.00 FEET FROM CENTERLINE) OF BASS ROAD TO THE POINT OF BEGINNING.

BEARINGS ARE ASSUMED AND BASED ON THE CENTERLINE OF S.R. NO. S-865 GLADIOLUS DRIVE.

**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@CCOONER.COM

CLIENT: LEE COUNTY D.O.T. ENGINEERING		DRAWN BY: JNM		CHECKED BY: J.N.W.	
PARCEL DESCRIPTION: TAKE PARCEL IN THE S 1/2 OF THE NW 1/4 OF SEC 33-45-24		DATE: 2/25/03		SCALE: 1"=200'	
		PROJECT No: 020504		DWG No: 06_0030SKD SHEET: 2 OF 2	



**Division of County Lands**

**Ownership and Easement Search**

Search No. 22295

Date: February 6, 2003

Parcel: 89

Project: Gladiolus Drive Project 4083

To: Karen L.W. Forsyth  
Director

From: Shelia A. Bedwell, CLS  
Property Acquisition Assistant *Shelia A. Bedwell*

STRAP: 33-45-24-00-00006.0030

Effective Date: January 19, 2003, at 5:00 p.m.

*No changes as of  
6/16/05 SE*

**Subject Property:** See attached Schedule "X"

Title to the subject property is vested in the following:

***Carlos Jorge Habibeh Beitro and Rodrigo Alejandro Habibeh Beitro, as to an undivided 85 percent interest; and Nabila Murdi, as successor trustee, as to an undivided 15 percent interest.***

by that certain instrument dated June 3, 1988, recorded June 7, 1988 in Official Record Book 1994, Page 3908 and that certain instrument dated January 3, 2002, recorded February 20, 2002 in Official Record Book 3582, Page 2470, Public Records of Lee County, Florida.

**Easements:**

None found of record.

NOTE(1): Beneficiaries' Designation of Successor Trustee, recorded in Official Record Book 2423, Page 1377, Public Records of Lee County, Florida.

**Tax Status:** 2002 Ad Valorem Taxes are PAID IN FULL.  
(The end user of this report is responsible for verifying tax and/or assessment information.)

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

# Schedule X

Parcel

Project: Gladiolus Drive Project 4083

Search No. 22295

A tract or parcel of land in the S ½ of the NW ¼ of Section 33, Township 45 S, Range 24 E, Lee County, Florida, which is described as follows;

Commence at the NW corner of said Section 33; thence S 0°13'20" E for 1324.30 feet along the West line of said Section 33; thence S 89°27'13" E for 2649.84 feet along the North line of the S ½ of the NW ¼ of said Section 33; thence S 0°01'22" E for 22.03 feet along the centerline of Bass Road and the East line of the NW ¼ of said Section 33; thence S 89°56'30" W for 25.00 feet along the Southerly right-of-way (50.00 feet from centerline) of Gladiolus Drive (S.R. No. S-865) to the Point of Beginning. Thence continue S 89°56'30" W for 1089.00 feet along said Southerly right of way; thence S 0°01'22" E for 400 feet; thence N 89°56'30" E for 1089.00 along a line parallel with, 400 feet Southerly of and as measured perpendicular to the said Southerly right of way of Gladiolus Drive. Thence N 0°01'22" W for 400 feet along the Westerly right of way (25.00 feet from centerline) of Bass Road to the Point of Beginning.

Containing 10.00 acres more or less.

Bearings are assumed and based on the centerline of S.R. No. S-865 Gladiolus Drive.

# 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. 05-03-01  
Project: Gladiolus Widening Project (No. 4083)  
Owner: Carlos Jorge Habibeh Beitro and Rodrigo Alegandro Habibeh Beitro (85%)  
and Jairo G. Muvdi (15%)  
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 10.00 acres (435,600 SF) of gross land area, is located at the southwest corner of Gladiolus Drive and Bass Road in the Fort Myers market area of Lee County, Florida. The property is rectangular shaped with a northerly edge measuring 1,089.00 feet along the southerly right-of-way of Gladiolus Drive, an easterly edge measuring 400.00 feet along the westerly right-of-way of Bass Road, a southerly edge measuring 1,089.00 feet, and a westerly edge measuring 400.00 feet. The property is zoned CC (Community Commercial) 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 35,585 square feet. It is a proposed fee simple acquisition for road right-of-way for Gladiolus Drive and Bass Road, which consists of a 15 foot wide strip along the southerly right-of-way for Gladiolus Drive and a 50 foot strip along the westerly right-of-way of Bass Road. There are no improvements of any consequence located within this partial acquisition area.

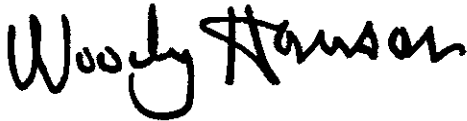
The remainder property, containing 9.18 acres (400,015 SF) of gross land area, is rectangular shaped and is characterized by a northerly edge measuring 1,039.00 feet along the southerly right-of-way of the reconstructed Gladiolus Drive, an easterly property line measuring 385.00 feet along the westerly right-of-way of the reconstructed Bass Road, a southerly property line measuring 1,039.00 feet, and a westerly property line measuring 385.00 feet. 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:	\$258,000
Value of Improvements Taken:	-0-
Incurable Severance Damages:	<u>-0-</u>
<b>TOTAL AMOUNT DUE OWNER:</b>	<b>\$258,000</b>

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

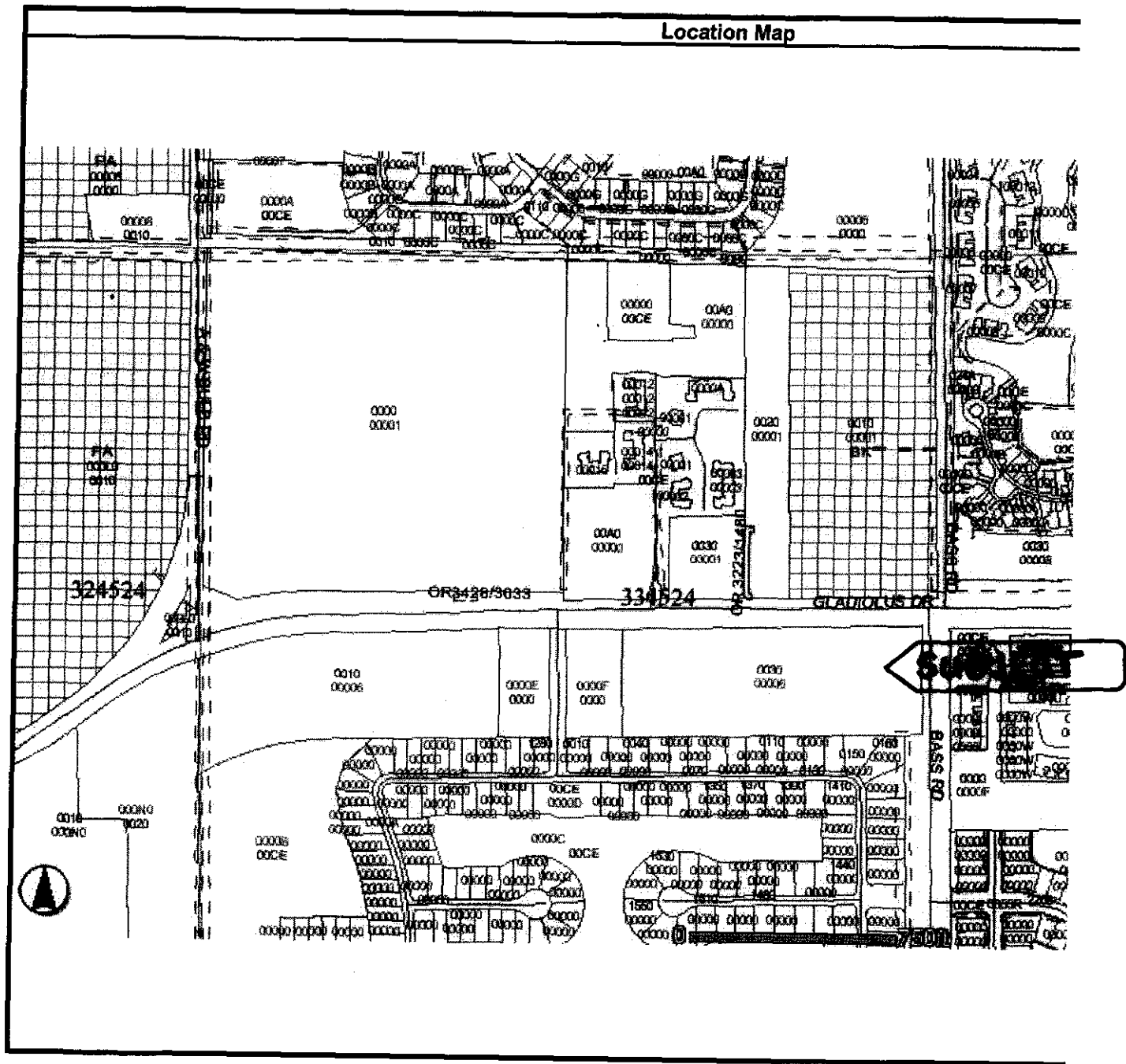
Respectfully submitted,



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. 89

Gladiolus Drive Widening Project,  
No. 4083

**NO SALES in PAST 5 YEARS**

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