

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

**Blue Sheet No. 20060180**

**1. ACTION REQUESTED/PURPOSE:** Approve the acquisition of real estate identified by Tax STRAP Number 04-44-25-18-00001.0040 in East Fort Myers for the Schandler Park Improvements Project No. 1758, in the amount of \$165,000, pursuant to the terms and conditions as set forth in the Purchase Agreement; authorize payment of necessary fees and costs to close; and authorize the Division of County Lands to handle and accept all documentation necessary to complete this transaction.

**2. WHAT ACTION ACCOMPLISHES:** Allows the County to proceed with the project without resorting to Eminent Domain proceedings.

**3. MANAGEMENT RECOMMENDATION:** Approve

**4. Departmental Category:** 6 **C6E** **5. Meeting Date:** **03-14-2006**

<b>6. Agenda:</b>		<b>7. Requirement/Purpose: (specify)</b>		<b>8. Request Initiated:</b>	
<input checked="" type="checkbox"/> Consent		<input checked="" type="checkbox"/> Statute	73 & 125	<b>Commissioner</b>	Independent
<input type="checkbox"/> Administrative		<input type="checkbox"/> Ordinance		<b>Department</b>	County Lands
<input type="checkbox"/> Appeals		<input type="checkbox"/> Admin. Code		<b>Division</b>	TLM 2/22/06
<input type="checkbox"/> Public		<input type="checkbox"/> Other		<b>By:</b>	Karen L.W. Forsyth, Director
<input type="checkbox"/> Walk-On					<i>[Signature]</i>

**9. Background:**  
Additional property is needed for the expansion of Schandler Park in East Fort Myers. The potential sites for expansion are limited due to surrounding developed neighborhoods.

**Negotiated for:** Department of Parks and Recreation.

**Interest to Acquire:** Fee Simple acquisition, including a single-family residence.

**Property Details:**

**Owner:** Ramon Luciano and Palmira Luciano, husband and wife  
**Address:** 364 Flamingo Circle, Fort Myers, FL 33905

**Purchase Details:**

**Purchase Price:** \$165,000 (\$159 per improvement square foot)  
**Costs to Close:** Approximately \$1,500

The property owner(s) originally required \$170,000 for the property. However, through negotiations, they have now agreed to accept \$165,000, plus moving expense of \$2,000.

**Appraisal Information:**

County staff performed a market analysis in this geographic area of single-family home sales and listings. The adjusted sales indicate a value range from \$144.84 to \$202.91 per improvement square foot. The listings indicate a value range of \$148 to \$200 per improvement square foot. Value Justification Sheet is attached hereto.

**Staff Recommendation:** Staff recommends the Board approve the action requested.

**Account:** 20175818603.506199

**Attachments:** Purchase Agreement, Warranty Deed, Value Justification, GIS 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>[Signature]</i>			<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	HS 3/21/06

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
COUNTY ADMIN:
3-1-06
C 20
COUNTY ADMIN
FORWARDED TO:
3/2/06
4/2/06

Rec. by CoAtty
Date: 3/4/06
Time: 4:30pm
Forwarded To:
Admin.
3/1/06 2pm

This document prepared by  
Lee County Division of County Lands  
Project: Schandler Park Expansion No. 1758  
STRAP No.: 04-44-25-18-00001.0040

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 \_\_\_\_\_, 200\_\_\_\_, by and between Ramon Luciano and Palmira Luciano, husband and wife, hereinafter referred to as SELLER, whose address is 364 Flamingo Circle, Fort Myers, Florida 33905, 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 14,000 square feet, more or less, and located at 364 Flamingo Circle, Fort Myers, Florida, and more particularly described as Lot 4 and 5, Block 1, in that certain subdivision known as Merion Square, Plat Book 7, Page 11, Public Records of Lee County, Florida, hereinafter called "the Property." This property is being acquired for the Schandler Park Expansion, 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 One Hundred Sixty-Five Thousand and 00/100 (\$165,000), 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:

Joseph A. Green  
\_\_\_\_\_

SELLER:

Ramon Luciano 2/1/06  
RAMON LUCIANO (DATE)

WITNESSES:

Amelia T. Felix  
\_\_\_\_\_

SELLER:

Palmira Luciano 2/1/06  
PALMIRA LUCIANO (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)

## **SPECIAL CONDITIONS**

**Page 1 of 2**

**BUYER:** Lee County

**SELLER:** Ramon and Palmira Luciano

**STRAP NO.** 04-44-25-18-00001.0040

1. Buyer and Seller hereby covenant that the purchase price recited herein, except as noted below, includes payment for all fixtures, including but not limited to, built-in appliances, air conditioning units, hot water heaters, ceiling fans, screen enclosures, windows, doors, floor covering and landscaping, as of January 20, 2006.
2. Upon closing, Buyer shall pay Seller \$2,000 moving allowance.
3. The Seller will be allowed to remain in the premises subsequent to closing for a period not to exceed sixty days subject to Special Conditions Item Nos. 4 through 14. Seller will vacate the premises and remove all personal property on or before 60 days from closing date.
4. At closing, a security deposit of \$3,000 shall be held in an interest bearing escrow account until such time as the Seller vacates the premises. Buyer's authorized agent will inspect the house and all other real property and improvements subsequent to Seller vacating premises. Removal of any fixtures(s) by Seller may cause a reduction in the security deposit.
5. The premises will be used and occupied by Seller exclusively as a private single-family residence. The premises may not be used for the purpose of carrying on any business, profession, or trade of any kind, or for purposes other than as a private single-family residence.
6. Seller will bear the full cost of water and sewer service used by the Seller and will also bear the cost for trash pick-up, use of electricity, telephone services, and any other services to the space occupied.
7. The Seller will provide for interior maintenance and repairs, including repairs or replacement of interior equipment as may be necessary due to normal usage. The Seller will keep the interior of the premises in as good a state of repair as good as it is at the time of the closing, reasonable wear and tear and unavoidable casualties excepted.
8. The Seller will maintain and keep in repair the exterior of the premises and will be responsible for the replacement or repair of windows or other exterior elements needing replacement or repair.
9. Seller will pay the insurance premiums on the premises. Buyer is not liable to carry fire insurance on the premises or property of the Seller. The Buyer is not liable for injury, loss, damages or theft to the person or property or fixtures belonging to the Seller located on the property. All property that may be on the premises will be at the sole risk of the Seller.
10. If the premises, or the major part thereof, are destroyed by fire, lightning, storm or other casualty, the Buyer may repair the damage at its own cost and expense but nothing contained herein requires Buyer to do so.
11. Seller will indemnify and save the Buyer harmless from all claims or demands, including an allowance for reasonable attorney's fee incurred by Buyer in the defense thereof, for injuries to person or damage to property arising out of Seller's negligent use of the premises asserted by or on behalf of the Seller, Seller's employees, agent, invitee, or any other person and from any and all injury or damage done by any of them to the premises.

**SPECIAL CONDITIONS**

12. The Seller must purchase and maintain Premises Liability Insurance protecting his interest as tenant of the premises with insurers approved by the County Risk Management Department. This policy must provide minimum limits of \$300,000 Combined Single Limit of Bodily Injury and Property Damage. The Lessee will provide evidence to the County Risk Management Department in the form of a properly executed certificate of insurance, demonstrating a minimum of thirty (30) days advance written notice of cancellation or adverse material change.

The Seller agrees that this insurance requirement does not limit liability. Buyer does not represent that the insurance required is sufficient or adequate to protect the Seller's interests or liabilities, but are merely minimums.

The Seller must furnish an appropriate certificate of insurance naming Lee County Board of County Commissioners as Certificate Holder and Additional Insured. The Seller agrees that the coverage granted to the Additional Insured applies on a primary basis, with the Additional Insured's coverage as excess.

13. Seller may not keep or have on the premises articles of dangerous, inflammable, or explosive character that might unreasonably increase the danger of fire or that might be considered hazardous or extra hazardous by any responsible insurance company.

14. All terms set forth in the Special Conditions will survive the closing of this transaction.

WITNESSES:

*Joan Bennett*  
\_\_\_\_\_

SELLER:

*Ramon Luciano* *2/1/06*  
Ramon Luciano (DATE)

*Americo J. Kelly*  
\_\_\_\_\_

*Palmira Luciano* *2/1/06*  
Palmira Luciano (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)



**VALUE JUSTIFICATION - January 2006**

<b>Comparable Sales</b>	<b>Sale Date</b>	<b>Sale Price</b>	<b>Square Ft</b>	<b>Year Built</b>	<b>Overall PSF</b>	<b>BR/BA</b>	<b>Parking</b>	<b>Time Adj (1% per month)</b>
4545 Tennessee Way	Sep-05	\$160,000	1,052	1957	\$152	3/2	1-Garage	\$ 158.08
309 Chattanooga Ave.	Oct-05	\$184,900	938	1959	\$197	3/1	N/A	\$ 202.91
313 Montgomery Ave	Oct-05	\$145,000	987	1954	\$147	2/1	Carport	\$ 151.41
201 Ponce DeLeon Dr.	Nov-05	\$165,000	1,161	1958	\$142	2/2	1-Garage	\$ 144.84
4549 Tennessee Way	Dec-05	\$132,300	896	1962	\$147	2/1	N/A	\$ 148.47

**Average PSF Sales Price                    \$161**

**Adjusted Sales Range from \$142 to \$197 per improvement square foot in this area**

<b>Listing Address</b>	<b>Listing Price</b>	<b>Square Ft</b>	<b>Year Built</b>	<b>Overall PSF</b>	<b>BR/BA</b>	<b>Parking</b>
4538 Tennessee Way	\$180,000	1,172	1959	\$154	2/1	Carport
327 Arlington Ave	\$159,000	1,050	1972	\$151	3/2	N/A
4513 Tennessee Way	\$185,000	1,036	1958	\$178	3/2	N/A
4550 Tennessee Way	\$165,000	972	1960	\$148	2/1	Carport
4411 Poinsettia St	\$159,900	948	1950	\$169	2/1	Carport
339 Flamingo Cir	\$163,000	816	1984	\$200	2/2	Carport

**Average PSF Listing Price                    \$167**

**Listing Sales Range from \$148 to \$200 per improvement square foot in this area**

<b>SUBJECT</b>	<b>Purchase Price</b>	<b>Square Ft</b>	<b>Year Built</b>	<b>Overall PSF</b>	<b>BR/BA</b>	<b>Parking</b>
364 Flamingo Cir	\$165,000	1,036	1971	\$159	2/1	1-Garage

FOR OFFICIAL USE ONLY:  
PARCEL # 04-44-25-18-00001.0040

3835569

REC \$ 10.50  
RPTT \$ 278.00  
TOTAL \$ 288.50

PAGE 1 OF 2

Documentary Tax Pd. \$ 378<sup>00</sup>  
Intangible Tax Pd.  
By CHARLIE GREEN, CLERK, LEE COUNTY  
Deputy Clerk

002634 P61484

**THIS WARRANTY DEED**

FTC-31033-LSC

Made the 28<sup>th</sup> day of AUGUST, A.D. 1995  
by  
VIOLA A. SCHELLER, TRUSTEE OF THE GERALDINE GULMY TRUST U/A/D OCTOBER 19,  
1988,

acquiring title through instrument as recorded in O. R. Book 2028, Page  
3006 in the public records of LEE County, Florida.  
hereinafter called the grantor,

to  
RAMON LUCIANO AND PALMIRA LUCIANO, HUSBAND AND WIFE,  
whose post office address is:

364 FLAMINGO CIRCLE  
FT. MYERS, FL 33905

herein called the grantees:

(wherever used herein the terms "grantor" and "grantee" include all the  
parties to this instrument and the heirs, legal representatives and assigns  
of individuals, and the successors and assigns of corporations)

WITNESSETH: That the grantor, for and in consideration of the sum of  
\$10.00 and other valuable consideration, receipt whereof is hereby  
acknowledged, conveys and confirms unto the grantee, all that certain land  
situate in LEE County, Florida, viz:

LOTS 4 AND 5, BLOCK 1, OF THAT CERTAIN SUBDIVISION KNOWN AS MERION SQUARE,  
ACCORDING TO THE MAP THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE  
CLERK OF THE CIRCUIT COURT, RECORDED IN PLAT BOOK 7, PAGE 11, PUBLIC  
RECORDS OF LEE COUNTY, FLORIDA.

TOGETHER with all the tenements, hereditaments and appurtenances thereto  
belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

RECORD VERIFIED - CHARLIE GREEN, CLERK  
© EYI & TURNER, D.C. ©

95 SEP 12 AM 11:08

AND the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 1994. Subject to easements, restrictions, reservations, conditions and limitations of record in the public records of LEE County, Florida.

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

DR2634 PG1485

[Signature]  
WITNESS

Viola A. Scheller "Trustee" LS  
VIOLA A. SCHELLER, TRUSTEE

LINDA SUE COYNE  
PRINTED NAME OF WITNESS

1852 RT. 88 EAST  
BRICK, NJ 08724

William F. Gross  
WITNESS

WILLIAM F. GROSS  
PRINTED NAME OF WITNESS

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28th day of August, 1995 by VIOLA A. SCHELLER, TRUSTTEE who is/are personally known to me and did produce acceptable identification being in the form of drivers license and who did understand the body of this instrument and did sign this instrument of their own free act and deed.

[Signature]  
Notary Public  
My Commission Expires:

(Notary Seal)

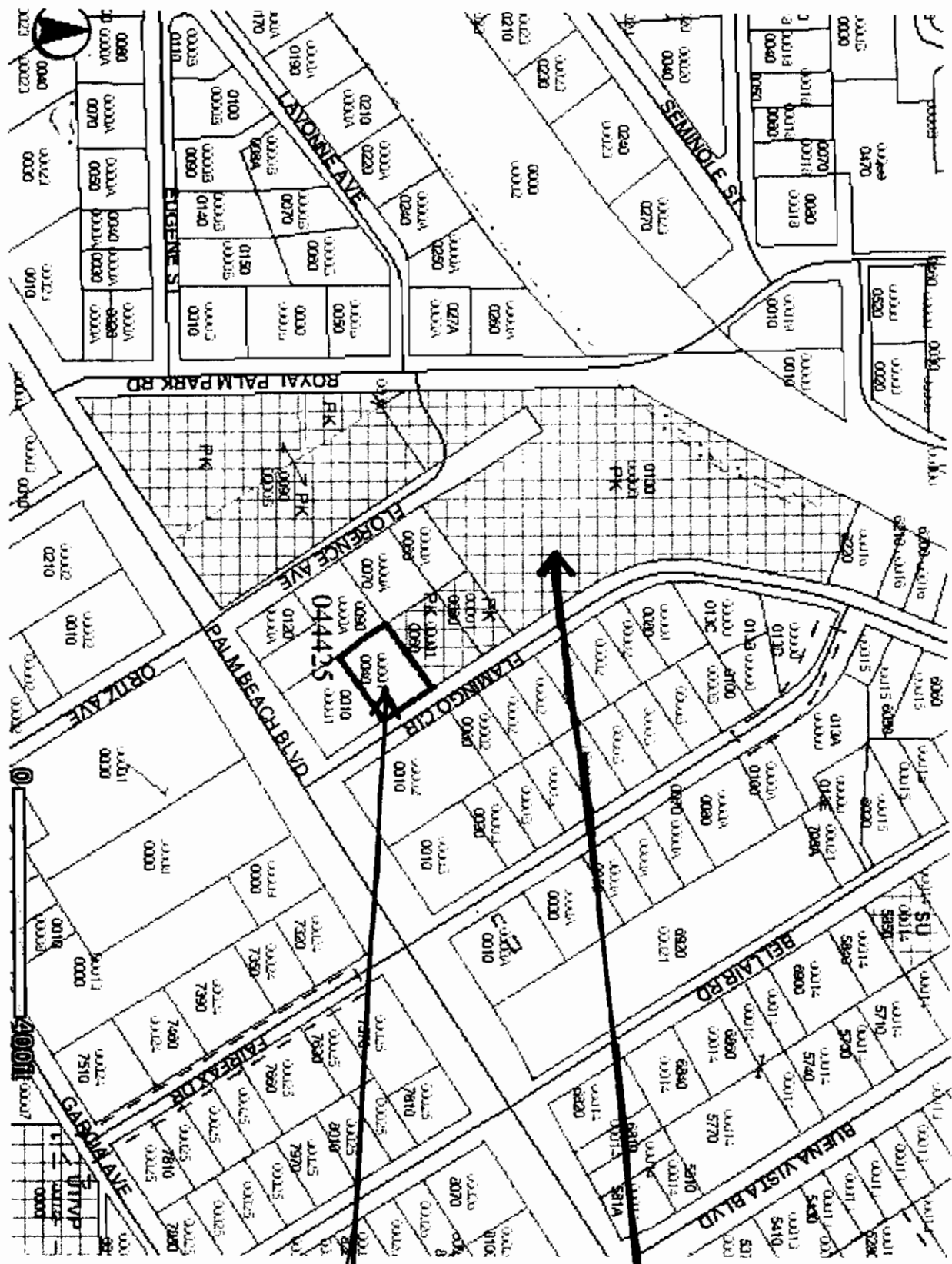
LINDA SUE COYNE  
PRINTED NAME OF NOTARY PUBLIC

LINDA SUE COYNE  
Notary Public, State of Florida  
My Comm. Exp. Feb. 24, 1997  
Com. #CC 261595

This Instrument prepared by: L. S. COYNE  
FLEETWOOD TITLE CORPORATION  
P.O. Box 1105, Lehigh Acres, FL 33970-1105

SCHANDLER PARK EXPANSION PROJECT NO. 1758

STRAP NO. 04-44-25-18-00001.0040



EXISTING  
COUNTY-OWNED  
PROPERTY

SUBJECT  
PROPERTY

# 5-Year Sales History

STRAP No. 04-44-25-18-00001.0040

Schandler Park Improvements, Project No. 1758

Grantor	Grantee	Price	Date	Arms Length Y/N
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**NO SALES in PAST 5 YEARS**