

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

Blue Sheet No. 20060348

1. ACTION REQUESTED/PURPOSE: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$85,000 for property described as Tax STRAP Number 22-43-26-02-0000H.0080 in East Lee County for the Idalia Regional Park, Project No. 2020, pursuant to the Purchase Agreement; authorize the Division of County Lands to handle all documentation necessary to complete this transaction; approve budget transfer in the amount of \$35,000 from Regional Park Impact Fee reserves and amend the FY 05-06/09-10 CIP accordingly.

2. WHAT ACTION ACCOMPLISHES: Makes binding offer to property owner prior to initiation of condemnation proceedings as required by Florida Statutes.

3. MANAGEMENT RECOMMENDATION: Approve

4. Departmental Category: 6 **C6E** **5. Meeting Date:** 04-04-2006

| | | | | | |
|---------------------------------------------|--|---------------------------------------------|-------------------------|------------------------------|------------------------------|
| 6. Agenda: | | 7. Requirement/Purpose: (specify) | | 8. Request Initiated: | |
| <input checked="" type="checkbox"/> Consent | | <input checked="" type="checkbox"/> Statute | 73 & 125 | Commissioner | |
| <input type="checkbox"/> Administrative | | <input type="checkbox"/> Ordinance | | Department | Independent |
| <input type="checkbox"/> Appeals | | <input type="checkbox"/> Admin. Code | | Division | County Lands TLM 3/19/06 |
| <input type="checkbox"/> Public | | <input checked="" type="checkbox"/> Other | Blue Sheet No. 20051454 | By: | Karen L.W. Forsyth, Director |
| <input type="checkbox"/> Walk-On | | | | | |

9. Background:
Lee County owns the surrounding land adjacent to the subject property. Acquiring this parcel will allow for construction of additional park facilities in the East Lee County area.

Negotiated for: Department of Parks and Recreation

Interest to Acquire: Fee simple acquisition of 11,250 square feet, more or less, of vacant land

Property Details:

Owner: John T. Burik
Address: 15820 Park Way, Alva, FL 33920

Purchase Details:

Binding Offer Amount: \$85,000

In order to expedite acquisition efforts, staff recommends Board make a binding offer in the amount of \$85,000 (appraised value), and commence Eminent Domain procedures.

Appraisal Information:

Appraiser: David C. Vaughan, MAI, of Diversified Appraisal, Inc.
Appraised Value: \$85,000
Date of Appraisal: November 18, 2005

Account: 20202018700.506110

Attachments: Purchase Agreement; Warranty Deed, Appraisal Data; location map, and 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> |

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

| | |
|---------------|--------------------|
| RECEIVED BY | <i>[Signature]</i> |
| COUNTY ADMIN: | |
| 3-23-06 | |
| 9:40 | |
| COUNTY ADMIN | |
| FORWARDED TO: | |
| 3/23/06 | |
| 4/1/06 | |

| | |
|----------------|--|
| Rec. by CoAtty | |
| Date: 3/23/06 | |
| Time: 4:05 PM | |
| Forwarded To: | |
| 3/23/06 | |

This document prepared by:
Lee County Division of County Lands
Project: Idalia Regional Park No. 2020
STRAP No.: 22-43-26-02-0000H.0080

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 and between John T. Burik, hereinafter referred to as SELLER, whose address is 2235 Virginia Avenue SE, 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 11,250 square feet, more or less, and located at 15820 Park Way, Alva, Florida, and more particularly described as Lot 8, Block H, Idalia Subdivision, according to the plat thereof as recorded in Plat Book 3, Page 30, Public Records of Lee County, Florida, hereinafter called "the Property." This property is being acquired for the Idalia Regional Park 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 Eighty-Five Thousand and 00/100 Dollars (\$85,000.00), 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 45 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:

John T. Burik (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)

3

WARRANTY DEED

THIS INSTRUMENT PREPARED BY: Brenda Stresing

OR2103 PG0456

DK-10902

EXECUTIVE TITLE INSURANCE SERVICES, INC.
1705 Colonial Blvd., Suite A2
Port Myers, FL 33907

GRANTEE'S SSN: 295-50-4308

STRAP #22-43-26-02-00004.0080

2731910

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR RECORDING DATA

This Warranty Deed Made the 13th
VIRGINIA BRAUN ECKERT

day of October A.D. 19 89 by

hereinafter called the grantor, to

JOHN T. BURIK

whose post office address is: 2235 VIRGINIA AVE., SE
FT. MYERS, FL 33905

hereinafter called the grantee:

(Wherever used herein the term "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 \$TEN & NO/100 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in LEE County, Florida, viz:

See Attached Schedule "A"

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.

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, 19 88

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:

Julia C. McLogan, Esquire
WITNESS # 1

Melissa Amanda
SEPARATE WITNESS

Virginia Braun Eckert **US**
VIRGINIA BRAUN ECKERT

_____ **US**

_____ **US**

_____ **US**

TWO SEPARATE WITNESSES REQUIRED
STATE OF PENNSYLVANIA
COUNTY OF ALLEGHENY

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared VIRGINIA BRAUN ECKERT

me known to be the person(s) described in and who executed the foregoing instrument and she acknowledged before me that she executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 28th day of September, A.D. 19 89

My Commission Expires: 11-25-91

Theresa K. Kennedy
Notary Public

(Seal) ✓

Member, Pennsylvania Association of Notaries
NORTHWESTERN
NOTARY PUBLIC
MIDWALL DC
LEGHENTY COUNTY
MY COMMISSION EXPIRES NOV 25

Schedule "A"

Lot 8, Block H, IDALIA SUBDIVISION, according to the plat thereof as recorded in Plat Book 3, Page 30, in the Public Records of Lee County, Florida.

SUBJECT TO Covenants, restrictions, easements of records and taxes for the current year.

Said property is not the homestead of the Grantor(s) under the laws and constitution of the State of Florida in that neither Grantor(s) or any members of the household of Grantor(s) reside thereon.

CHARLE GREENE STATE
89 OCT 16 PM 12:40

Diversified Appraisal, Inc.
Real Estate Appraisers and Consultants

Ted A. Dickey, MAI
State-Certified General Appraiser
Certification #0000570

David C. Vaughan, MAI, MBA
State-Certified General Appraiser
Certification #0000569



5 December 2005



Lee County Division of County Lands
P.O. Box 398
Fort Myers, FL 33902-0398

Attn: Mr. Robert Clemens

RE: Job #110509 - Complete Summary Appraisal Report of Vacant Parcel of Property in Idalia Subdivision, Lot 8, Block, Project #2020, Lee County, Florida, CN No. 03-11, STA 25

Dear Mr. Clemens:

As you requested, a detailed on-site inspection and analysis was made of the subject property on 18 November 2005. Within the attached summary appraisal report, please find enclosed a detailed description of the subject property.

This is a Summary Appraisal Report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Summary Appraisal Report. As such, it presents only summary discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated below. The appraiser is not responsible for unauthorized use of this report.

This appraisal is not based upon a minimum valuation, a specific valuation or the approval of a loan. The appraisal report is intended to comply with the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation, as well as the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute. Mr. David C. Vaughan has complied with the Uniform Standards of Professional Appraisal Practice, Competency Rule. I certify that I have had no past, present or future contemplated interest in the real estate, and to the best of my knowledge, the facts contained herein are true and correct.

Lee County
Page Two
5 December 2005

The purpose of the appraisal is to estimate the market value of the subject property. Market value as set forth in Title 12 of the Code of Federal Regulations 564.2 (f) is:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- a. Buyer and seller are typically motivated.
- b. Both parties are well informed or well advised, and each acting in what they consider their own best interest.
- c. A reasonable time is allowed for exposure in the open market.
- d. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- e. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

The intended use of the appraisal is for the possible purchase of the property. The intended user of this appraisal is Lee County Division of County Lands who is the client.

The appraiser did not detect and has no knowledge of the existence of any hazardous materials or substances on the site. This appraisal assumes that no such materials exist to the extent that they would have an effect on the value. If any hazardous materials or substances are found on the site, then this appraisal is subject to re-analysis. The appraiser is not an expert in this field.

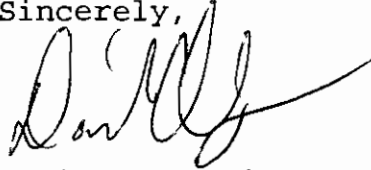
Lee County
Page Three
5 December 2005

The subject property is appraised as of 18 November 2005, the date of a detailed on-site inspection, which was made by David C. Vaughan, MAI.

Based on my inspection, analysis, and data research, and information contained in the appraiser's work file, it is my opinion that the undivided fee simple interest of the subject property, "as is" and as of 18 November 2005, is:

EIGHTY FIVE THOUSAND DOLLARS. (\$85,000)

Sincerely,



David C. Vaughan, MAI
State-Certified General Appraiser
Certification #0000569

EXECUTIVE SUMMARY

PROJECT NAME: Idalia Park Addition

PROJECT NUMBER: 2020

OWNER OF RECORD: John T. Burik

STRAP NUMBER: 22-43-26-02-0000H.0080

LOCATION: Idalia Subdivision

LAND AREA: 50' x 225' Lot

IMPROVEMENTS: None

ZONING/LAND USE: AG-2, Suburban

HIGHEST AND BEST USE: Residential Development

ESTIMATE OF VALUE - COST APPROACH: N/A

ESTIMATE OF VALUE - MARKET APPROACH: \$85,000

ESTIMATE OF VALUE - INCOME APPROACH: N/A

FINAL VALUE ESTIMATE: \$85,000

PER ACRE VALUE: N/A

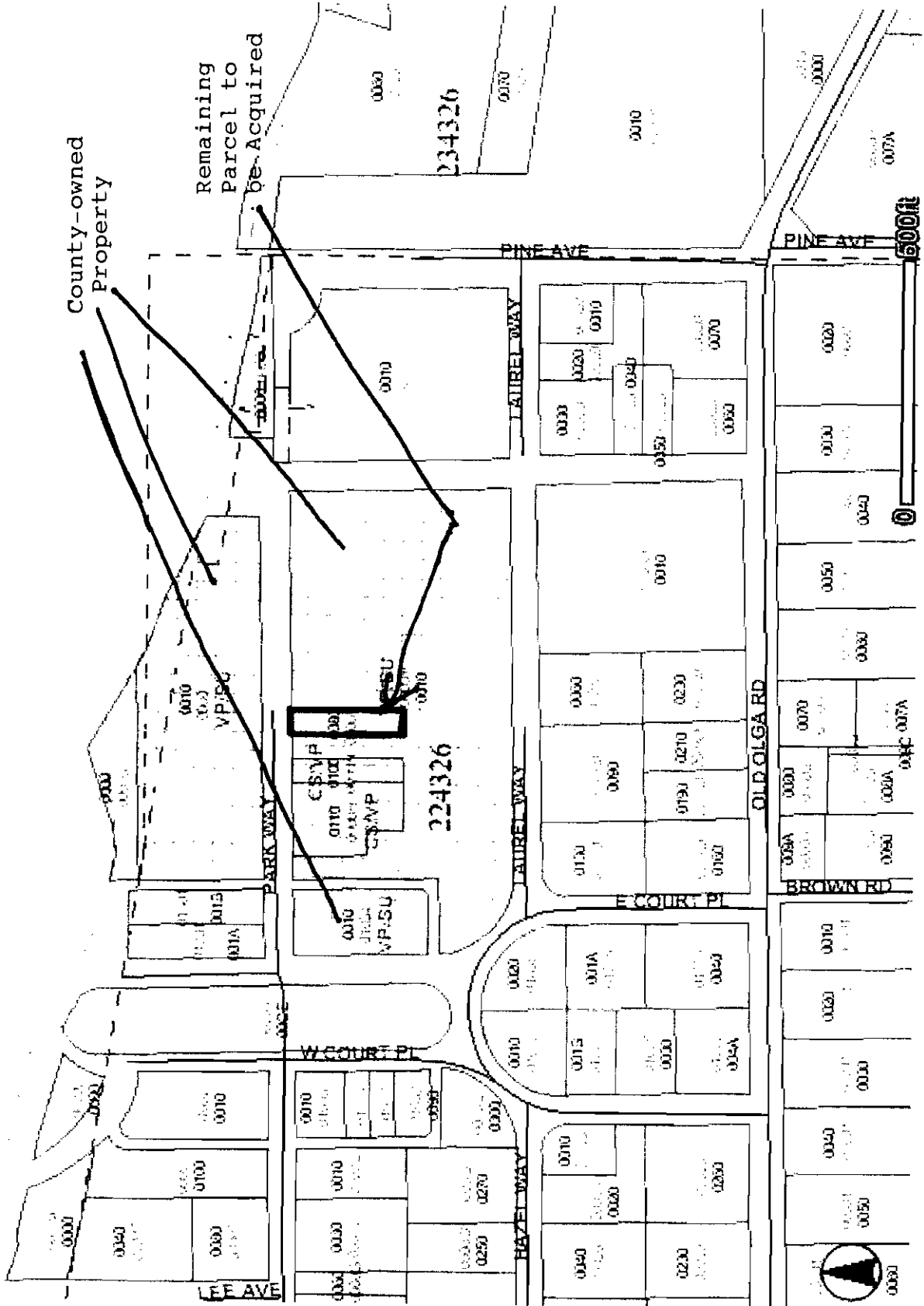
INTEREST APPRAISED: Fee Simple

DATE OF VALUATION: 18 November 2005

APPRAISER: Mr. David C. Vaughan, MAI

SPECIAL ASSUMPTIONS: Assume legal and reasonable access.

IDADIA REGIONAL PARK



5-Year Sales History

STRAP No. 22-43-26-02-0000H.0080

Idalia Regional Park, Project No. 2020

| Grantor | Grantee | Price | Date | Arms Length Y/N |
|---------|---------|-------|------|-----------------|
|---------|---------|-------|------|-----------------|

NO SALES in PAST 5 YEARS