

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

Blue Sheet No. 20060345

1. ACTION REQUESTED/PURPOSE: Authorize: 1) the Division of County Lands to make a binding offer to property owner in the amount of \$2,500 for Parcel 101UE, Corkscrew Road Water Treatment Plant Wellfield Expansion, Project No. 7097, pursuant to the Purchase Agreement; 2) the Division of County Lands to handle and accept all documentation necessary to complete transaction.

2. WHAT ACTION ACCOMPLISHES: Makes binding offer to property owner.

3. MANAGEMENT RECOMMENDATION: Approve.

4. Departmental Category: 6 C6B		5. Meeting Date: 04-11-2006
6. Agenda: <input checked="" type="checkbox"/> Consent <input 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 73 & 125 <input type="checkbox"/> Ordinance <input type="checkbox"/> Admin. Code <input checked="" type="checkbox"/> Other Res 06-02-03	8. Request Initiated: Commissioner _____ Department _____ Independent Division _____ County Lands By: Karen L.W. Forsyth, Director <i>[Signature]</i>

9. Background:
Negotiated for: Utilities Division

Interest to Acquire: Utility Easement (.23 acres)

Property Details:

Owner: David E. Hawley and Pamela G. Hawley
Property Address: 19930 Burgundy Farms Road, Estero
STRAP No.: 23-46-26-00-00002.0150

Purchase Details:

Binding Offer Amount: \$2,500

The property owner has rejected Staff's negotiation efforts. In addition, the property is affected by significant liens, which are likely to impact staff's ability to close the transaction. Therefore, staff recommends Board make a binding offer in the amount of \$2,500, and commence Eminent Domain procedures.

Appraisal Information:

Appraisal Firm: Maxwell & Hendry Valuation Services, Inc.
Appraised Value: \$2,013

Account: 20709748712. 506110

Attachments: Purchase and Sale Agreement, Appraisal Data, Title Data, Sales History

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>[Signature]</i>	N/A	N/A	<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 COUNTY ADMIN: *[Signature]*

3-29-06

9:50

COUNTY ADMIN FORWARDED TO: *[Signature]*

[Signature]

Rec. by CoAtty

Date: *[Signature]*

Time: *[Signature]*

Forwarded To: *[Signature]*

This document prepared by
Lee County Division of County Lands
Project: Corkscrew Road WTP/Wellfield Expansion, No. 7097
Parcel: 101UE
STRAP No.: 23-46-26-00-00002.0150

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 David E. Hawley and Pamela G. Hawley, husband and wife, hereinafter referred to as SELLER, whose address is 19930 Burgundy Farms Road, Estero, Florida 33928, 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 perpetual, non-exclusive utility easement consisting of .23 acre more or less, and located at 19930 Burgundy Farms Road, Estero, Florida 33928 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 Corkscrew Road Water Treatment Plant Wellfield Expansion, Project No. 7097, 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 Thousand Five Hundred and No/100 Dollars(\$2,500), 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. SELLER'S INSTRUMENTS AND EXPENSES: SELLER will pay for and provide:

(a) A utility easement (the form of the easement is attached as Exhibit "B", hereto), and an affidavit regarding liens, possession, and withholding under FIRPTA in a form sufficient to allow "gap" coverage by title insurance;

(b) taxes or assessments for which a bill has been rendered on or before the date of closing;

(c) SELLER'S attorney fees, if any.

5. BUYER'S INSTRUMENTS AND EXPENSES: BUYER will pay for:

(a) Recording fee for deed;

(b) payment of partial release of mortgage fees, if any;

(c) survey, (if desired by BUYER).

6. TAXES: 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.

7. DEFECTS IN TITLE: Prior to closing, BUYER will have a reasonable time to examine the title. If title 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, or may terminate this Agreement without obligation.

8. 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.

9. **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.

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

11. **SPECIAL CONDITIONS:** BUYER shall replace or reinstall any fencing removed and/or damaged during the construction and installation of utility facilities within the Property. In addition, the portion of the earthen berm impacted by construction and installation of the utility facilities will be re-graded following completion of the BUYER'S construction activities.

WITNESSES:

SELLER:

David E. Hawley (DATE)

WITNESSES:

SELLER:

Pamela G. Hawley (DATE)

BUYER:

CHARLIE GREEN, CLERK

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

BY: _____
DEPUTY CLERK (DATE)

BY: _____
TAMMARA HALL, CHAIRWOMAN

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY

COUNTY ATTORNEY (DATE)

Parcel 1

A parcel of land lying in Section 23, Township 46 South, Range 26 East, Lee County, Florida, and being more particularly described as follows: Commence at the Southeast corner of said Section 23 and run S89°28'40"W, along the South line of said Section 23, a distance of 1992.99 feet; Thence N00°31'20"W a distance of 50.00 feet to the North right-of-way line of Corkscrew Road also being the Southeast corner of a parcel of land described in Official Records Book 2067, Page 1693, Public Records of Lee County, Florida and the Point of Beginning of the parcel of land herein described; Thence S89°28'40"W, along said North right-of-way line, a distance of 664.52 feet to the Southwest corner of said Official Records Book 2067, Page 1693; Thence N00°44'46"W, along the West line of said Official Records Book 2067, Page 1693, a distance of 15.00 feet; Thence N89°28'40"E, parallel with said North right-of-way line, a distance of 664.53 feet to the East line of said Official Records Book 2067, Page 1693; Thence S00°42'09"E, along the East line of said Official Records Book 2067, Page 1693, a distance of 15.00 feet to the Point of Beginning. Containing 0.23 acres more or less. Subject to easements, reservations, restrictions, and rights-of-way of record.

NOTES:

THIS IS NOT A BOUNDARY SURVEY, NOR IS IT INTENDED TO BE USED AS ONE.

Bearing Reference: Bearing of S89°28'40"W on the South line of the Southeast one-quarter of Section 23, Township 46 South, Range 26 East. State Plane Coordinate, Florida West Zone, NAD 83(90).

This Description is only for the benefit of:

Lee County Utilities

No other person or Entity may rely on this Description.

Mark A. Texter
Professional Surveyor and Mapper
Florida Certificate No. 6392

Date signed: 6-30-05

Not valid without the signature and original raised seal of a Florida Licensed Surveyor and Mapper.

In my professional opinion, as a licensed Florida Professional Surveyor and Mapper, this Description is a true and correct representation of a recent survey made and platted under my direction, made in accordance with Chapter 472.027, Florida Statutes.

This Description is not valid without sheet 2 of 2

Exhibit "A"

Page 1 of 2

Lee County Utilities
Sec. 23, Twp. 46 S., Rge. 26 E.
Lee County, Florida

JOHNSON
ENGINEERING

251 HICKPOCHEE AVENUE
LABELLE, FLORIDA 33935
PHONE (863) 612-0594
FAX (863) 612-0341
E.B. #642 & L.B. #642

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
6/20/05	20033735	23-46-28	As Shown	1 of 2

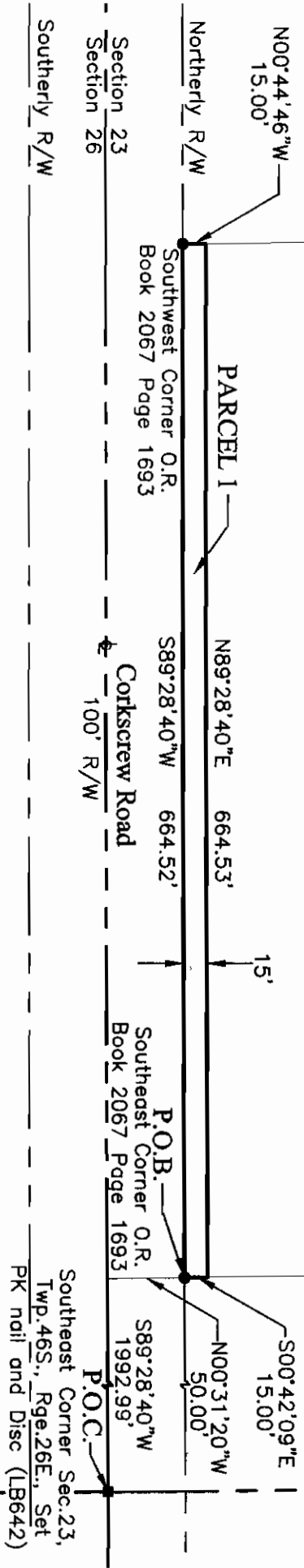
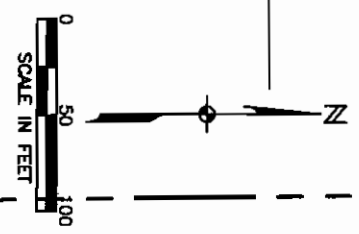
Exhibit "A"

Page 2 of 2

O.R. Book 2067 Page 1693

West Line O.R. Book
2067 Page 1693

East Line O.R. Book
2067 Page 1693



- Legend:
- Sec. = Section
 - Twp. = Township
 - Rge. = Range
 - LB = Licensed Business
 - R/W = Right-of-Way
 - O.R. = Official Records
 - P.O.C. = Point of Commencement
 - P.O.B. = Point of Beginning

This Sketch of Description is not valid without sheet 1 of 2

Lee County Utilities
Sec. 23, Twp. 46 S., Rge. 26 E.
Lee County, Florida

JOHNSON
ENGINEERING

251 HICKPOCCHIE AVENUE
LABELLE, FLORIDA 33935
PHONE (863) 612-0594
FAX (863) 612-0341
E.B. #642 & L.B. #642

Sketch of Description
Parcel 1

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
6/20/05	20033735	23-46-26	As Shown	2 of 2

GRANT OF PERPETUAL PUBLIC WATERLINE UTILITY EASEMENT

This INDENTURE, made and entered into this ___ day of _____, 20___, between **DAVID E. HAWLEY and PAMELA G. HAWLEY, husband and wife**, Owner(s), whose address is 19930 Burgundy Farms Road, Estero, Florida 33928, hereinafter "**Grantor**", and **LEE COUNTY**, a political subdivision of the State of Florida, whose address is P.O. Box 398, Fort Myers, FL 33902-0398, hereinafter "**Grantee**":

WITNESSETH

1. For and in consideration of the sum of Ten Dollars and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor hereby grants and transfers to the Grantee, its successors and assigns, the use of a perpetual, non-exclusive, public utility easement, located and described as set forth in attached Exhibit "A".

2. Grantee, its successors, appointees, heirs and assigns, are hereby granted the right, privilege, and authority to construct, replace, renew, extend and maintain public utility facilities, to include, but not be limited to: water systems, with all appurtenances thereto, to be located on, under, above, across, through and within the easement which is located on the property described in Exhibit "A", herein the "Utility Easement Area", with the additional right, privilege and authority to remove, replace, repair and enlarge said facilities within said easement, and to trim and remove roots, trees, shrubs, bushes and plants and remove fences or any other improvements which may affect the operation of the public utility facilities or Grantee's use of the Utility Easement Area.

3. The public utility facilities, located in the Utility Easement Area will not be limited to any particular diameter size or type and/or number of connections to other similar facilities for providing public utility service to this and any adjacent properties. The total area of this public utility easement is to be reserved for the public utility lines, mains, or other utility facilities and for any landscaping (excluding trees), walkways, roadways, drainage ways, or similar type uses. Houses, buildings, carports, garages, storage sheds or any other structures will not be constructed upon or placed within the Utility Easement Area at any time, present or future, by Grantor, or its heirs, successors or assigns. However, Grantor may install fencing within the Utility Easement Area, which does not conflict with the Grantee's use of the Utility Easement Area, pending the approval of the Lee County Utilities Division (LCUD) and issuance of any appropriate County permits. Said approval of LCUD shall not be unreasonably withheld or delayed.

4. Title to any public utility facilities constructed or placed hereunder will remain in the Grantee, Grantee's successors, appointees and/or assigns, or the public utility providing the service.

5. Subject to any existing easements for public highways or roads, railroads, laterals, ditches, pipelines and electrical transmission or distribution lines and telephone and cable television lines covering the land herein described, Grantor covenants that he is lawfully seized and possessed of the real property described in Exhibit "A", has good and lawful right and power to convey and/or encumber the property, and that the property is free and clear of all liens and encumbrances, except as herein stated or recorded in the Public Records, and accordingly, Grantor will forever warrant and defend the title and terms to this said easement and the quiet possession thereof against all claims and demands of all other entities.

6. Grantee will have a reasonable right of access across Grantor's property for the purposes of reaching the Easement Area on either paved or unpaved surfaces. Any damage to Grantor's property or permitted improvements thereon as the result of such access to the described Easement Area will be restored by the Grantee or the particular utility providing services to the condition in which it existed prior to the damage to the extent reasonably practicable.

7. THIS AGREEMENT AGREEMENT will be binding upon the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, _____, OWNER, has caused this document to be signed on the date first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF TWO WITNESSES:

David E. Hawley (Date)

1st Witness Signature

Printed name of 1st Witness

2nd Witness Signature

Printed name of 2nd Witness

Pamela G. Hawley (Date)

1st Witness Signature

Printed name of 1st Witness

2nd Witness Signature

Printed name of 2nd Witness

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2006,
by David E. Hawley and Pamela G. Hawley. They are personally known to me or have produced
_____ as identification.

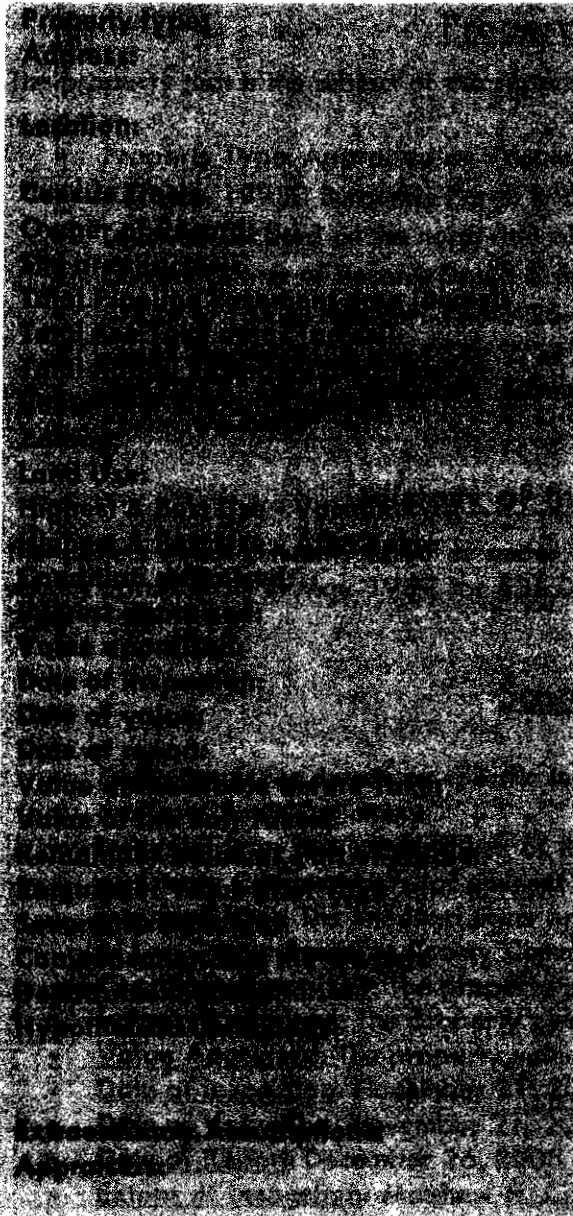
(type of identification)

(Seal)

(Signature of Notary Public)

Name typed, printed or stamped)
Title or Rank)
Serial Number, if any)

Section One – Executive Summary



Vacant Land/Affected Improvements
19930 Burgundy Farms Road, Fort Myers, Lee
County, FL
Located on the north side of Corkscrew Road, 1
mile east of Alico Road
401.05
David E. & Pamela G. Hawley
5 +/-
0.23
0.00
0.00
5 +/-
AG-2
DRGR
Single Family Residential
Single Family Residential
As Is
Fee Simple
Market Value
11/21/2005
11/21/2005
12/26/2005
\$175,000 (Land Only)
\$2,013
\$172,987
\$172,987
\$0
\$2,013
See Data Book
As the take is an easement and located in typical
setback areas, we have valued the land only. See
Scope of Work for further detail.
See Data Book
W. Michael Maxwell, MAI, SRA;
Matthew H. Caldwell

NEW ROAD WTP WELLFIELD 7097 - PROJECT AREA

ALICO RD

144626

154626

184627

17462

224626

234626

244626

194627

204627

Subject

CORKSCREW RD

274626

264626

254626

SIX LS FARM RD

304627

294627

354626

364626



Project Area
County Owned Lands

THIS IS NOT A SURVEY.
THE COUNTY LANDS DIVISION HAS PREPARED THIS MAP FOR INFORMATIONAL PURPOSES ONLY. DETAILS SHOWN MAY BE UNOFFICIAL DETERMINATIONS AND MAY NOT BE ACCOMPANIED BY WARRANTY OR GUARANTEE. WHILE THE DIVISION HAS MADE EVERY EFFORT TO PROVIDE THE CORRECT INFORMATION, INDEPENDENT VERIFICATION MAY BE REQUIRED.
REVISED: JAN. 11, 2006
BY: BALKI (PH) E20007/004



Division of County Lands

Ownership and Easement Search

Search No. 23-46-26-00-00002.0150

Date: January 28, 2005

Parcel: 10146

Project: Corkscrew Rd WPT 7097

To: J. Keith Gomez
Property Acquisition AgentFrom: Kenneth Pitt *Kas*
Real Estate Title Examiner

STRAP: 23-46-26-00-00002.0150

Effective Date: ~~December 31, 2004~~ *February 15th, 2006*, at 5:00 p.m.**Subject Property:** See Attached Schedule

Title to the subject property is vested in the following:

David E. Hawley and Pamela G. Hawley, husband and wife.By that certain instrument dated May 1, 1989, recorded May 3, 1989, in Official Record Book 2067 Page 1693, Public Records of Lee County, Florida.**Easements:**

✓ 1): Subject to a Non-exclusive Roadway Easement over the East 60 feet of the West 690 feet of the West ½ of the East ½ of Section 23, Township 46 South, Range 26 East, as recited in a deed recorded in Official Record Book 1371 Page 1350, Public Records of Lee County, Florida. Said easement affects the East 30 feet of the subject property.

✓ 2): Subject to a Deed of Restrictions, recorded in Official Record Book 1444 Page 1273, Public Records of Lee County, Florida. *OK*

✓ 3): Subject to Easements for Public Utilities and Drainage purposes over and across the West 10 feet and over and across the West 10 feet of the East 40 feet, also the North and South 10 feet of the subject property, as recited in a deed recorded in Official Record Book 1523 Page 1916, Public Records of Lee County, Florida. *30 year easement - 2010 termination. See 1444/1273 50' side yard setback*

✓ 4): Subject to an Easement 6 feet in width along the North line of the subject property granted to the Florida Power and Light Company, recorded in Official Record Book 2163 Page 2127, Public Records of Lee County, Florida. *See 1444/1273*

✓ Note 1): Subject to a Mortgage in the original sum of \$225,000.00, between David E. Hawley and Pamela G. Hawley (mortgagors) and Washington Mutual Bank, FA (mortgagee), recorded in Official Record Book 4103 Page 3303, Public Records of Lee County, Florida.

✓ Note 2): Subject to a Notice of Homestead, recorded in Official Record Book 4103 Page 3302, Public Records of Lee County, Florida.

Division of County Lands

Ownership and Easement Search

Search No. 23-46-26-00-00002.0150

Date: January 28, 2005

Parcel: 101

Project: Corkscrew Rd WPT 7097

✓ Note 3): Subject to a Judgment vs. David E. Hawley in the sum of \$11,708.49, recorded in Official Record Book 2526 Page 1517 and re-recorded in Official Record Book 3092 Page 308, Public Records of Lee County, Florida. *Suit by 1st J Judgment*

✓ Note 4): Subject to a Judgment vs. David Hawley in the sum of \$110,000.00, recorded in Official Record Book 2651 Page 1303, Public Records of Lee County, Florida. *Civil Judgment*

✓ Note 5): Subject to a Judgment vs. David E. Hawley in the sum of \$243,796.17, recorded in Official Record Book 2612 Page 1720, Public Records of Lee County, Florida. *Bank Judgment*

✓ Note 6): Subject to a Judgment vs. David Eugene Hawley and Pamela Gay Hawley, in the sum of \$6,527.61, plus costs of \$132,50, recorded in Official Record Book 2673 Page 2155 and re-recorded in Official Record Book 2715 Page 2682 and Official Record Book 2715 Page 2683, Public Records of Lee County, Florida. *Lee Memorial Hospital*

✓ Note 7): 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 8): The subject property has an outstanding solid waste assessment in the sum of \$1,821.66. *affects the property*

Tax Status: \$2,979.99 paid on 11/22/04 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.

5-Year Sales History

Parcel No. 101UE/Hawley

Corkscrew Road WTP Wellfield Expansion
Project No. 7097

NO SALES in PAST 5 YEARS