

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

Blue Sheet No. 20060613

1. ACTION REQUESTED/PURPOSE: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$10,000 for Parcel 91, 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: Approve

4. Departmental Category: 6		CCF	5. Meeting Date: 06-06-2006		
6. Agenda:		7. Requirement/Purpose: (specify)		8. Request Initiated:	
<input checked="" type="checkbox"/> Consent	<input checked="" type="checkbox"/> Statute	125		Commissioner _____	
<input type="checkbox"/> Administrative	<input type="checkbox"/> Ordinance	_____		Department _____ Independent	
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code	_____		Division _____ County Lands	
<input type="checkbox"/> Public	<input type="checkbox"/> Other	_____		By: Karen L.W. Forsyth, Director	
<input type="checkbox"/> Walk-On					

9. Background:
Negotiated for: Department of Transportation

Interest to Acquire: Easement Interest in 3,353.57 square feet of vacant land.

Property Details:

Owner: Hermes Investment Company
Address: 8871 Gladiolus Drive, Fort Myers
STRAP: 34-45-24-00-00002.0010

Purchase Details:

Binding Offer Amount: \$10,000

In order to expedite acquisition efforts, staff recommends Board make a binding offer in the amount of \$10,000, and commence Eminent Domain procedures.

Appraisal Information:

Appraised Value: \$8,400 as of March 15, 2006
Company: Hanson Real Estate Advisors, Inc.

Staff Recommendation: Staff is of the opinion that the purchase price increase above the appraised value can be justified and may secure an agreement for the acquisition of the property without the full expense of an Eminent Domain action which is estimated between \$3,000 and \$5,000 excluding any land value increases.

Account: 20408330700.506110

Attachments: Easement Purchase 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
K. Forsyth			SAD 5/11/06 and 5-18	Robert Buckman	Analyst 5/22/06	Risk 5/22/06	Grants 5/22/06	Mgr. 5/22/06	HS 5/24/06

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

5-19-06

RECEIVED BY COUNTY ADMIN:	5/22/06
COUNTY ADMIN:	5/24/06
FORWARDED TO:	11-1

Rec. by CoAtty	5/18/06
Date	5/18/06
Time	4:00 pm
Forwarded To:	11-1

RECEIVED
MAY 17 2006

EASEMENT PURCHASE AGREEMENT

This Agreement made and entered into this ____ day of _____, 2006, by and between **Hermes Investment Company, a Delaware Corporation**, whose address is 220 Bush Street, Suite 1100, San Francisco, CA 94104, hereinafter referred to as Owner, and **LEE COUNTY**, a political subdivision of the State of Florida, for the use and benefit of said County, hereinafter referred to as Purchaser.

Whereas, Purchaser requires a perpetual utility easement located and described as set forth in Exhibit "A", attached hereto and made a part hereof by reference.

- a) Owner will grant said easement to Purchaser for the sum of \$10,000.00; Purchaser to pay recording costs, documentary stamps and title insurance.
- b) Owner agrees that said easement will be granted to Purchaser by execution of a Perpetual Public Utility Easement in form and substance as provided by Purchaser and set forth in Exhibit "X".
- c) Purchaser will pay Owner the amount agreed upon in item (a) of this agreement by County Warrant within 60 days of the execution and acceptance of this Easement Purchase Agreement and the Perpetual Public Utility Easement instrument by Purchaser.
- d) Owner agrees that Purchaser, his successors and assigns will be allowed to use said perpetual public utility easement area as specified in the easement instrument.
- e) Purchaser agrees to complete construction within the easement area in a timely manner.

IN WITNESS WHEREOF, the parties have caused these presents to be executed in their respective names on the date first above written.

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:**

WITNESSES:

SELLER:

Hermes Investment Company, a Delaware Corporation

Robert H. Mann, President

Parcel: 86
Project: Gladiolus Drive Widening, No. 4083
STRAP No.: 33-45-24-00-00006.0010
Page 2 of 2

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 X

This Instrument Prepared by:
DIVISION OF COUNTY LANDS
P.O. Box 398
Fort Myers, FL 33902-0398
Parcel: 91
Project: Gladiolus Drive Widening Project No. 4083
STRAP No.: 32-45-24-00-00002.0010

THIS SPACE FOR RECORDING

GRANT OF PERPETUAL PUBLIC UTILITY EASEMENT

This INDENTURE, made and entered into this ___ day of _____, 2006, between **HERMES INVESTMENT COMPANY, A DELAWARE CORPORATION**, Owner, whose address is 220 Bush Street, Suite 1100, San Francisco, CA 94104, 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 One Dollar 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 public utility easement situated in Lee County, Florida, and located and described as set forth in Exhibit "A" attached.
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: electrical power, telephone, water systems, sewer transmission and collection systems with all appurtenances thereto, to be located on, under, above, across, through and within the easement which is located on the property described (Exhibit "A"), 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 easement.
3. The public utility easement 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, poles, mains, or other utility facilities and for any landscaping (excluding trees), walkways, roadways, drainage ways, or similar type uses. Houses, fences, buildings, carports, garages, storage sheds or any other structures will not be constructed upon or placed within this easement at any time, present or future, by Grantor, or its heirs, successors or assigns.
4. Title to any public utility facilities constructed 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, Grantors covenant that they are lawfully seized and possessed of the described real property (Exhibit "A"), have good and lawful right and power to convey it, and that the property is free and clear of all liens and encumbrances, except as recorded in the Public Records, and accordingly, Grantors 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.

Grant of Perpetual Public Utility Easement

Page 2

Project:

- 6. Grantee will have a reasonable right of access across Grantor's property for the purposes of reaching the described easement (Exhibit "A") 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 or the construction, maintenance, or repairs located within the above-described easement will be restored by the County or the particular utility providing service, to the condition in which it existed prior to the damage.
- 7. THIS AGREEMENT will be binding upon the parties hereto, their successors and assigns.

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

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

Hermes Investment Company, a Delaware Corporation

By: _____
Robert H. Mann, President

1st WITNESS Signature

Printed name of 1st witness

(CORPORATE SEAL)

2nd WITNESS Signature

Printed name of 2nd witness

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by
Robert H. Mann Of Hermes Investment Company,
(name of officer or agent, title of officer or agent) (name of corporation acknowledged)
a Delaware corporation, on behalf of the corporation. He is personally known
(State or place of incorporation)
to me or has produced _____ as identification.
(type of identification)

(Signature of Notary Public)

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

Exhibit "A"

DESCRIPTION

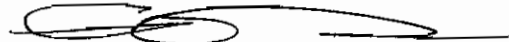
PARCEL 91

OF

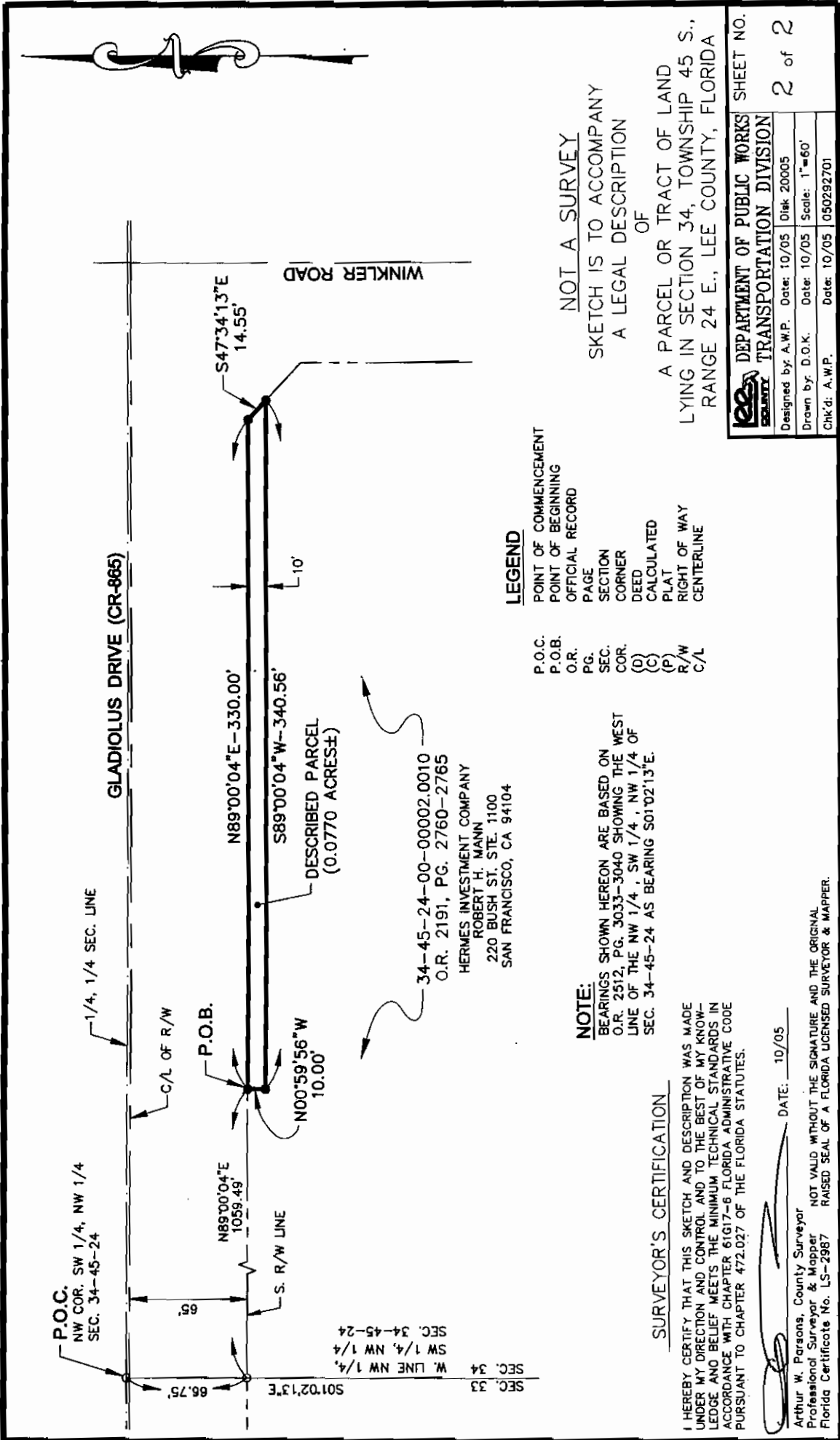
A parcel or tract of land lying in a parcel of land described and recorded in Official Record Book 2191 at Pages 2760-2765, Lee County Public Records, said parcel or tract lying in the northwest quarter (NW ¼) of Section 34, Township 45 South, Range 24 East, Lee County, Florida, being described as follows:

Commencing at the northwest corner of the southwest quarter (SW ¼) of the northwest quarter (NW ¼) of Section 34, Township 45 South, Range 24 East, Lee County, Florida, thence run S 01° 02' 13" E along the west line of the northwest corner of the southwest quarter (SW ¼) of the northwest quarter (NW ¼) of said section 34 a distance of 66.75 feet to the south right of way line of Gladiolus Drive (C R 865); thence run N 89° 00' 04" E along the south right of way line of Gladiolus Drive for a distance of 1059.49 Point of Beginning of the parcel or tract described herein; thence continue N 89° 00' 04" E along said south right of way line for a distance of 330.00 feet; thence run S 47° 34' 13" E for a distance of 14.55 feet; thence run S 89° 00' 04" W along a line 10.00 feet south of (as measured on a perpendicular) the south right of way line of Gladiolus Drive for a distance of 340.56 feet; thence run N 00° 59' 56" W for a distance of 10.00 feet to the Point of Beginning, containing 3353.57 square feet (0.0770 acres) more or less..

Bearings mentioned hereinabove are based on a parcel or tract of land recorded in Official Record Book 2512, Pages 3033-3040, Public Records of Lee County, Florida showing the west line of the northwest corner of the southwest quarter (SW ¼) of the northwest quarter (NW ¼) of said section 34, Township 45 South, Range 24 East, Lee County, Florida as bearing S 01° 02' 13" E.



Arthur W. Parsons, County Surveyor
Professional Surveyor and Mapper
Florida Certificate No. LS-2987



LEGEND

- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- O.R. OFFICIAL RECORD
- PG. PAGE
- SEC. SECTION
- COR. CORNER
- (D) DEED
- (C) CALCULATED
- (P) PLAT
- R/W RIGHT OF WAY
- C/L CENTERLINE

NOTE:
 BEARINGS SHOWN HEREON ARE BASED ON
 O.R. 2512, PG. 3033-3040 SHOWING THE WEST
 LINE OF THE NW 1/4, SW 1/4, NW 1/4 OF
 SEC. 34-45-24 AS BEARING S01°02'13\"/>

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THIS SKETCH AND DESCRIPTION WAS MADE UNDER MY DIRECTION AND CONTROL AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS IN ACCORDANCE WITH CHAPTER 61G17-6 FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES.

Arthur W. Parsons, County Surveyor
 Professional Surveyor & Mapper
 Florida Certificate No. LS-2987
 DATE: 10/05

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR & MAPPER.

NOT A SURVEY
 SKETCH IS TO ACCOMPANY
 A LEGAL DESCRIPTION
 OF
 A PARCEL OR TRACT OF LAND
 LYING IN SECTION 34, TOWNSHIP 45 S.,
 RANGE 24 E., LEE COUNTY, FLORIDA

DEPARTMENT OF PUBLIC WORKS TRANSPORTATION DIVISION		SHEET NO.
Designed by: A.W.P.	Date: 10/05	Disk 20005
Drawn by: D.O.K.	Date: 10/05	Scale: 1"=60'
Chk'd: A.W.P.	Date: 10/05	050292701

Division of County Lands

Ownership and Easement Search


Search No. 22296

Date: February 7, 2003

Parcel:


Project: Gladiolus Drive Project 4083

To: Karen L.W. Forsyth
Director

From: Shelia A. Bedwell, CLS
Property Acquisition Assistant 

STRAP: 33-45-24-00-00002.0010

Effective Date: January 20, 2003, at 5:00 p.m.

*No changes as of
4/29/06* 

Subject Property: See attached Schedule "X"

Title to the subject property is vested in the following:

Hermes Investment Co., Inc., a Delaware corporation

by that certain instrument dated May 9, 1990, recorded December 11, 1990, in Official Record Book 2191, Page 2760, Public Records of Lee County, Florida.

Easements:

1. Declaration of Restrictive Covenants and Easement Agreement, recorded in Official Record Book 3265, Page 2232, Public Records of Lee County, Florida.
2. Easement to Florida Power & Light Company, recorded in Official Record Book 3416, Page 3457, Public Records of Lee County, Florida.
3. Store-Front Access Easement Agreement, recorded in Official Record Book 3569, Page 4289, Public Records of Lee County, Florida.
4. Perpetual Public Utility Easement Grant to Lee County, recorded in Official Record Book 3705, Page 4657, Public Records of Lee County, Florida.

NOTE (1): Notice of Development Order Approval, recorded in Official Record Book 3289, Page 4536, Public Records of Lee County, Florida.

NOTE (2): Notice of Lot Split Approval, recorded in Official Record Book 3593, Page 3477, 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

Project: Gladiolus Drive Project 4083
Search No. 22296

The Southwest quarter of the Northwest quarter (SW 1/4 of the NW 1/4) and the Northwest quarter of the Southwest quarter (NW 1/4 of the SW 1/4), less State Road 869; and that part of the Southwest quarter of the Southwest quarter (SW 1/4 of the SW 1/4) lying North of the abandoned Seaboard Railroad right of way, less State Road 869; together with that portion of the Southeast quarter of the Northwest quarter (SE 1/4 of the NW 1/4) and that portion of the Northeast quarter of the Southwest quarter (NE 1/4 of the SW 1/4) lying West of the Winkler Road extension, less State Road 869, all in Section 34, Township 45 South, Range 24 East, Lee County, Florida.

Less parcels previously conveyed.

HANSON REAL ESTATE ADVISORS, INC.

Real Estate Valuation and Counseling

March 17, 2006

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. 06-02-01.91
Project: Gladiolus Drive Widening Project (No. 4083)
Parcel No.: 91
Owner: Hermes Investment Company/Robert H. Mann
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 takings, or the uses and/or activities proposed thereon. The attached report sets forth the data, research, analyses and conclusions for this appraisal.

This assignment has been completed in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP") – 2005 Edition, (which is in effect until the publication and distribution of the 2006 Edition) as published by the Appraisal Standards Board of the Appraisal Foundation; and the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute. In so much that the appraisers did not invoke the Departure Provision of USPAP in the development of the valuation analysis and opinions, the appraisal is identified as a Complete Appraisal. The appraisers have communicated the valuation analysis and opinions in a Summary Appraisal Report format, as defined by Standard Rule 2-2 (b) of USPAP. The market value estimate is reported subject to the Extraordinary Assumptions, General Assumptions, and Hypothetical Conditions (if any) summarized below and in the Addendum of this report.

Market value for this purpose is defined as:

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:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised and acting in what they consider their best interests;

3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. 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.

Source: This definition is from regulations published by federal regulatory agencies pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act ("FIRREA") of 1989.

The client and intended user of this report is identified as Robert G. Clemens, Acquisition Program Manager, Division of County Lands, whose address is P.O. Box 398, Fort Myers, FL 33902. The intended use of the report is to provide the client and intended user an aid in estimating the amount due the owner (i.e., full compensation) based upon the proposed partial acquisition identified within.

The parent tract, containing 52.26 acres (2,276,446 SF) of gross land area, is located at the southwest corner of Gladiolus Drive and Winkler Road in the Fort Myers market area of Lee County, Florida. The parent tract has approximately 1,400 feet of frontage along the southerly right-of-way of Gladiolus Drive, and approximately 1,400 feet of frontage along the westerly right-of-way of Winkler Road. The property is characterized by mostly level, cleared topography and has access to all infrastructure and services. The parent tract is zoned AG-2 (Agricultural) and is designated Urban Community on the Future Land Use Map of the Lee County Comprehensive Plan. The appraisers have estimated that the highest and best use, "as vacant" of the parent tract is for potential residential development.

According to the Lee County Property appraiser, the property also includes two (2) commercial areas, located in the southwesterly and southeasterly corners. However, in the appraisers' opinion, the commercial areas are, for the purposes of use and intent, part of the Summerlin Crossing CPD. Furthermore, these commercial areas are unaffected by the acquisition and, for the purposes of this appraisal, will not be considered as part of the parent tract.

The parent tract is improved with a tomato and strawberry farm known as Biggar Farms U-Pick. Site improvements include, but are not limited to: vegetable and fruit stand, and irrigation systems. The highest and best use "as improved" is for interim utilization as a fruit and vegetable farm. The parent tract value is exclusive of the improvements located outside of the proposed acquisition area, which are considered to be unaffected by the taking.

The partial acquisition area, identified as Parcel 91 (Perpetual Public Utility Easement), shall encumber 3,353.57 square feet and is located along a portion of the parent tract's northerly edge, within the agricultural component. This proposed acquisition area is for a utility easement. A Perpetual Public Utility Easement gives the easement owner the right, privilege, and authority to construct, replace, renew, extend and maintain public utility facilities, to include, but not limited to: electric power, telephone, water systems, sewer transmission and collection systems with all appurtenances thereto, to be located on, under, above, across, through and within the easement area.

No houses, fences, buildings, carports, garages, storage sheds or any other structures will be constructed upon or placed within this easement area. The easement is characterized by a northerly edge measuring 330.00 feet along the southerly right-of-way of Gladiolus Drive, a westerly edge measuring 10.00 feet, a southerly edge measuring 340.56 feet, and an easterly edge measuring 14.55 feet along the southerly right-of-way of Gladiolus Drive. There are no improvements of any consequence located within this partial acquisition area.

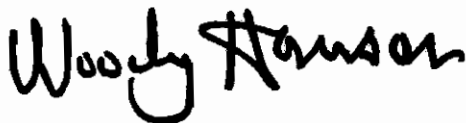
The remainder property, containing 52.26 acres (2,276,446 SF) of gross land area inclusive of 3,353.57 square feet of area encumbered by Parcel 91 (Perpetual Public Utility Easement), has approximately 1,400 feet of frontage along the southerly right-of-way of Gladiolus Drive, and approximately 1,400 feet of frontage along the westerly right-of-way of Winkler Road. The property is characterized by mostly level, cleared topography and has access to all infrastructure and services. The parent tract is zoned AG-2 (Agricultural) and is designated Urban Community on the Future Land Use Map of the Lee County Comprehensive Plan. The highest and best use, "as vacant" remains for potential residential 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 March 15, 2006, is:


Value of Property Rights Taken:	
Parcel 91 (Perpetual Public Utility Easement):	\$8,400
Value of Improvements Taken:	-0-
Incurable Severance Damages:	<u>-0-</u>
TOTAL AMOUNT DUE OWNER:	\$8,400

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

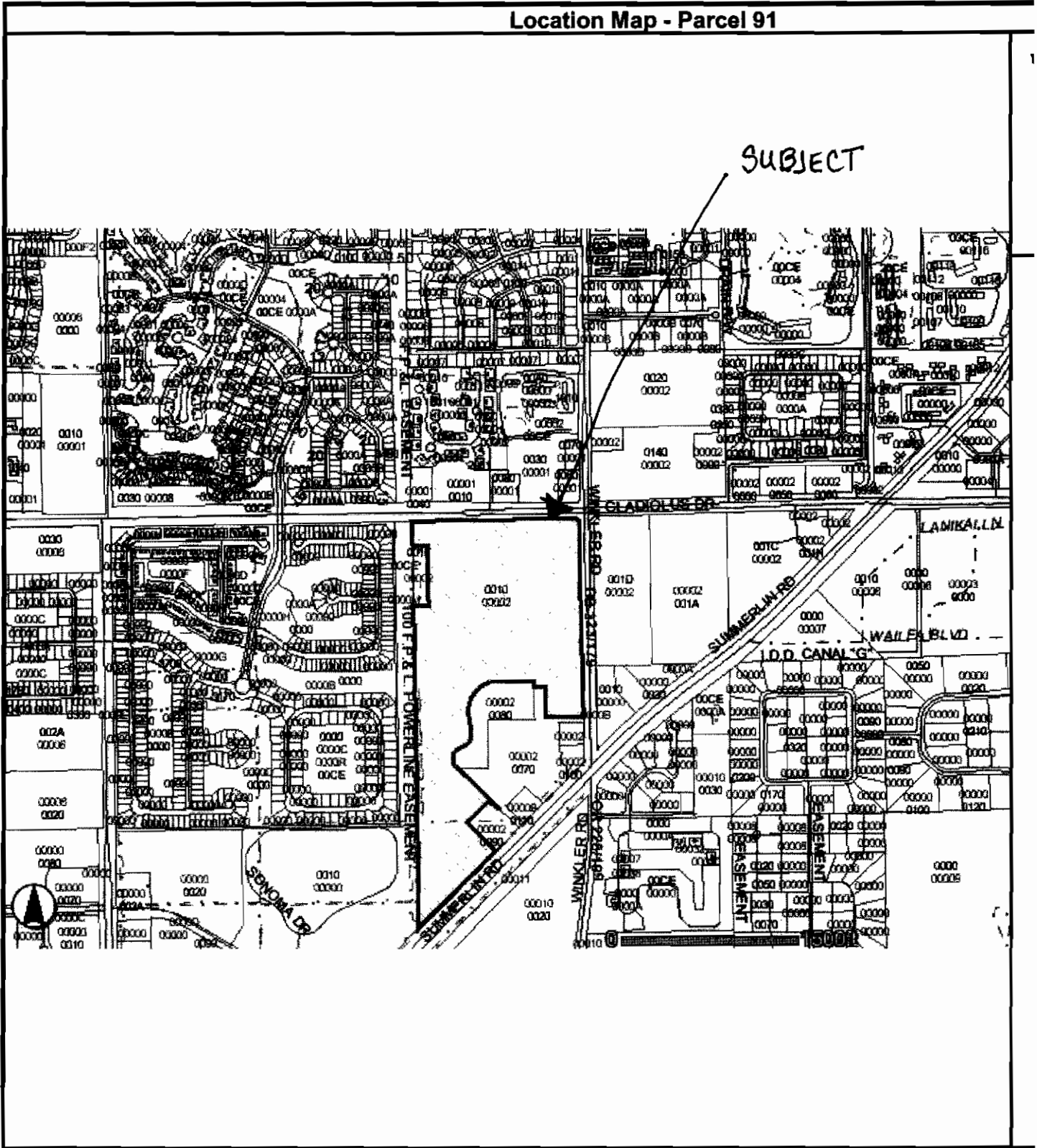


Andrew D. Anderson
Registered Appraiser Trainee RI 14189



Christopher G. Reublin
Registered Appraiser Trainee RI 16310

Location Map - Parcel 91



5-Year Sales History

Parcel No. 91

Gladiolus Drive Widening Project, No. 4083

NO SALES in PAST 5 YEARS

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