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

Blue Sheet No. 20061391

- 1. ACTION REQUESTED/PURPOSE: Approve Purchase Agreement for acquisition of Parcel 314, Ortiz Avenue Project 4072, in the amount of \$51,000, pursuant to the terms and conditions set forth in the Agreement. Authorize payment of costs to close and the Division of County Lands to handle and accept all documentation necessary to complete this transaction.
- 2. WHAT ACTION ACCOMPLISHES: The Board must accept all real estate conveyances to Lee County.

3. MANAGEMENT RECOMMENDATION:	Approve.
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4. Depa	artmental Category: 6		CGA		5. Meeting	Date: ~		NOV	07	200	6
6. Ager	ıda:	7. Requir	rement/Purpose: (s	specify)	8. Request	Initiated:					
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	Appeals		Admin. Code		Division			County			/}
	Public		Other		By:	Karen L.	.W. For	syth, Dire	ector	Ril	${\mathscr L}$
	Walk-On								14	700	_

9. Background:

Negotiated for: Department of Transportation

Interest to Acquire: Fee simple interest in residential property, improved with a mobile home.

**Property Details:** 

Owner: Larry K. and Shirley A. Duke

Location: 4968 Luckett Road

STRAP No.: 16-44-25-02-0000A.0130

**Purchase Details:** 

Purchase Price: \$51,000

Costs to Close: Estimated to be \$1,250

The property owners originally required \$60,000 for the property. However, through negotiations, they have now agreed to accepting \$51,000.

**Appraisal Information:** 

Company: Carlson, Norris & Associates, Inc.

Appraised Value: \$49,000

<u>Staff Recommendation</u>: Staff is of the opinion that the purchase price increase of approximately 4% can be justified considering costs of condemnation to be over \$5,000, excluding attorney fees and value increases. Therefore, staff recommends the Board approve the Action Requested.

Account: 20407218823.506110

Attachment	s: Purchase A	Agreement; A	Appraisal (L	ocation Map	Included); Title Data	; 5-Year Sa	les History		
10. Review f	or Scheduling	•							
Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget	Services		Man	County lager/P.W. Director
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11. Comm	ission Action:		V	10-25:06	.,		September 10 March 10	A CONTRACTOR OF THE PARTY OF TH	
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This document prepared by

Lee County County Lands Division Project: Ortiz Avenue 4072

Parcel: 314/Duke

STRAP No.: 16-44-25-02-0000A.0130

### **BOARD OF COUNTY COMMISSIONERS**

### LEE COUNTY

### AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

THIS AGREEMENT for purchase and sale of real property is made this day of
, 20_ by and between Larry K. Duke and Shirley A. Duke, husband and
wife, hereinafter referred to as SELLER, whose address is 1329 Merrett Street, Old Hickory,
TN 37138, 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 7,920 square feet more or less, and located at 4968 Luckett Road, Fort Myers, Florida 33905, and more particularly described as Lot 13, Block A, Golden Lake Heights Subdivision, as recorded in Plat Book 10, Page 11, Public Records of Lee County, Florida, hereinafter called "the Property" This Property will be acquired for the Ortiz Avenue Widening Project No. 4072, hereinafter called "the Project."
- 2. **PURCHASE PRICE AND TIME OF PAYMENT:** The total purchase price ("Purchase Price") will be Fifty-One Thousand (\$51,000.00), payable at closing by County Warrant.
- 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

# AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE Page 2 of 5

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, and if closing occurs between October 31 and January 1, then the SELLER is responsible for the full year's ad valorem real estate taxes for the year;
  - (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) documentary stamps on deed;
  - (c) 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. BUYER is exempt from ad valorem taxation. SELLER will pay all taxes determined to be legally due and payable by the County Tax Collector.

- 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 30 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 the 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 or covenants of this Agreement, upon notice to the SELLER, the BUYER may elect to treat those discrepancies, violations 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 hereby 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.

# AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE Page 4 of 5

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.

# AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE Page 5 of 5

18. SPECIAL CONDITIONS: Any and all special conditions will be attached to this Agreement and signed by all parties to this Agreement. See attached Special Conditions.

WITNESSES:	SELLER:
	Larry K. Dyke (DATE)
WITNESSES:	SELLER:
	Shirley A. Duke (DATE)
CHARLIE GREEN, CLERK	BUYER: LEE COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS
BY:	BY:CHAIRWOMAN OR VICE CHAIRMAN
	APPROVED AS TO LEGAL FORM AND SUFFICIENCY
	COUNTY ATTORNEY (DATE)

# SPECIAL CONDITIONS Page 1

**BUYER**: Lee County **SELLER**: Duke

PARCEL NO. 4968 Luckett Rd.

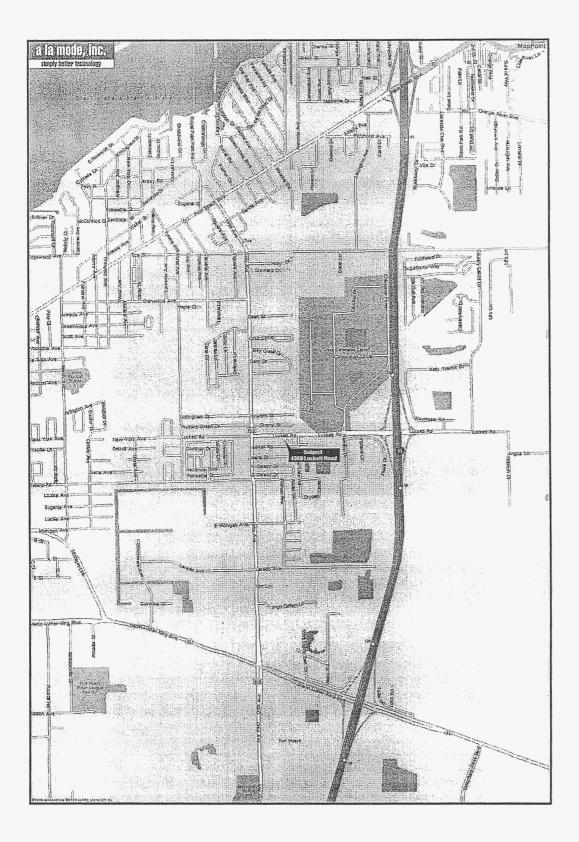
- 1. BUYER and SELLER hereby covenant that the purchase price recited herein, except as noted below, includes payment for that certain 1964 Hill mobile home, (Identification No. 511223F, Title No. 5652923) improvements, screen enclosures, shed, windows, doors, floor covering, fencing, landscaping, moving expenses, and all fixtures, including but not limited to, air conditioning unit, hot water heater, as of the date of the BUYER's appraisal.
- 2. BUYER's authorized agent will inspect the home and all other real property and improvements prior to closing. Removal of any fixtures(s) by SELLER or occupant/tenant may cause a delay in closing and a reduction in the purchase price. All additional costs associated with any breach of this covenant will be paid by the SELLER. This covenant shall survive closing.
- 3. SELLER hereby agrees to deliver possession of the Property, absent of any resident(s) or tenant(s), to BUYER at the time of closing and further agrees that the purchase of the Property is NOT subject to any written or verbal lease agreement(s) of the SELLER.
- 4. Upon the BUYER's written acceptance of this Agreement, SELLER(S) hereby give permission allowing entry to the premises by County Representatives, upon first receiving 48 hours prior notice, in order for the premises to be inspected for asbestos containing materials and to determine if relocating any or all real estate improvements is feasible subsequent to closing and the County taking possession of the Property.

WITNESSES:	SELLER:  January M. Duke 10-12-06  Larry K. Dyke (DATE)
WITNESSES:	SELLER; Shirley A. Duke 10-12-06 Shirley A. Duke (DATE)
CHARLIE GREEN, CLERK  BY: DEPUTY CLERK (DATE)	BUYER: LEE COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS  BY: CHAIRMAN OR VICE CHAIRMAN
	APPROVED AS TO LEGAL FORM AND SUFFICIENCY  OFFICE OF THE COUNTY ATTORNEY (DATE

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Price/Gross Living Area	\$ #		\$ 300	79.27 ⊄		\$ 77.53 ⊄	
Data and/or	Inspection	Instr. 2006000083722		nstr. 20060002685		Instr. 20060001198	
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nergy Efficient Items	Typical	Typical		Typical		Typical	
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orch, Patio, Deck,	168sf Encl.Porch			None	<del>1</del>	None	+1,700
ireplace(s), etc.	153sf Cov.Patios	•		120sf Cov.Patio	! !	None	+800
ence, Pool, etc.	Fenced	Fenced		Fenced		Fenced	
Other Features	110sf MH Utility	80sf MH Utility		Detached Sheds	+500		+500
let Adj. (total)	100000000000000000000000000000000000000	□ + ⋈ - s 4	1,400 [	X + ∏ - \$	7,500	+ 🛛 - \$	2,900
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he effective date of	this report were nec	essarily utilized. These sales	s are va	ilid indications of v	alue in a stabili	zing market.	
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### **Location Map**

Borrower/Client Owner: DUKE	, Larry K.+ Shirley A.				
Property Address 4968 Luckett	Road				
City Fort Myers	County	Lee	State	FL	Zip Code 33905-4423
Lender Lee County - County	Lands				



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## First American Title Insurance Company

### **SCHEDULE A**

Agent File No: 2006480

Commitment Date: October 06, 2006

2. Policy (or Policies) to be issued:

(a) Owner's Policy (Identify policy type below) Policy Amount \$ 51,000.00

ALTA Owners Policy (10-17-92)(with Florida Modifications)

Proposed Insured: Lee County, a Political Subdivision of the State of Florida

(b) Loan Policy (Identify policy type below) Policy Amount \$ 0.00 ALTA Loan Policy (10-17-92)(with Florida Modifications)

Proposed Insured:

(c) Other Policy (Identify policy type below)
Proposed Insured:

Policy Amount \$

3. A Fee Simple interest in the land described in this Commitment is owned, at the Commitment Date, by:

Larry K. Duke and Shirley A. Duke, husband and wife

4. The land referred to in this Commitment is described as follows:

See Attached Schedule A (Continued)

Duncan and Tardif, P.A.

Authorized Signatory

THIS COMMITMENT IS FURNISHED BY FIRST AMERICAN TITLE INSURANCE COMPANY OR ITS POLICY ISSUING AGENT SOLELY FOR THE ISSUANCE OF A POLICY OR POLICIES OF TITLE INSURANCE OF FIRST AMERICAN TITLE INSURANCE COMPANY. THIS COMMITMENT IS NOT AN ABSTRACT OR AN OPINION OF TITLE. LIABILITY UNDER THIS COMMITMENT IS DEFINED BY AND LIMITED TO THE TERMS AND CONDITIONS OF THIS COMMITMENT AND THE TITLE INSURANCE POLICY TO BE ISSUED. PERSONS AND ENTITIES NOT LISTED ABOVE AS PROPOSED INSUREDS ARE NOT ENTITLED TO RELY UPON THIS COMMITMENT FOR ANY PURPOSE.

## **Schedule A (Continued)**

Agent File No.: 2006480

Lot 13, Block A of GOLDEN LAKE HEIGHTS SUBDIVISION, according to the Plat thereof as recorded in Plat Book 10, Page(s) 11, of the Public Records of Lee County, Florida;

TOGETHER WITH: a 1964 Hill Mobile Home, ID No. 511223F and Title No. 5652923.

# SCHEDULE B - SECTION 1 REQUIREMENTS

Agent File No.: 2006480

### The following requirements must be met:

- Pay and/or disburse the agreed amounts for the interest in the land to be insured and/or according to the mortgage to be insured.
- 2. Pay us the premiums, fees and charges for the policy.
- Pay all taxes and/or assessments, levied and assessed against the land, which are due and payable.
- 4. The following documents, satisfactory to us, creating the interest in the land and/or the mortgage to be insured, must be signed, delivered and recorded:
  - a. Warranty Deed conveying the land from Larry K. Duke and Shirley A. Duke, husband and wife, as a single person or joined by spouse, if married, to Lee County, a Political Subdivision of the State of Florida.
- 5. The following requirements relative to the mobile home unit must be complied with:
  - a. Certificate of Title for the mobile home with such assignments thereon as may be necessary to show title in the purchaser must be filed with the Department of Highway Safety and Motor Vehicles. Note: One certificate of title for a single unit; two certificates of title for a double unit.
  - b. Proof that the mobile home is taxed as real property, i.e., proof that "RP" tag has been issued to the purchaser and that it has been affixed to the mobile home.
  - c. Endorsement of satisfaction on the Certificate of Title of any prior lien to be satisfied to be filed with the Department of Highway Safety and Motor Vehicles. Note: Any unsatisfied lien shown on the Certificate of Title must be shown as an exception in Schedule "B" of the policy.
  - d. Endorsement on the Certificate of Title, if applicable, showing the mortgagee as a lienholder and stating the appropriate priority of the mortgage (i.e., second mortgage) by filing a sworn Notice of Lien signed by the mortgagor/purchaser with the Department of Highway Safety and Motor Vehicles, showing: (a) the date of the lien; (b) the name and address of the registered owner; (c) description of the mobile home, showing the make, type and vehicle identification number; (d) the name and address of the lienholder.
  - e. Affidavit from the seller/owner that there are no liens against the mobile home except those noted on the Certificate of Title and that the mobile home has been within the state of Florida for the preceding four months.
  - f. Affidavit from the buyer, if any, or the owner, if a refinance, that there are no liens against the mobile home except those disclosed to be noted on the Certificate of Title; the mobile home is presently permanently affixed to the land; and it is the intention of the buyer that the mobile home will continue to be so affixed.

g. If there is a mortgage to be insured, the Company requires that the legal description in the mortgage to be insured includes the make, type and vehicle identification number of the mobile home unit.

- Proof of payment of Golden Lake Heights Streetlighting MSBU.
- Written evidence, from appropriate governmental authorities, that Special Taxing District, City and County Special Assessment Liens, MSBU Assessment Liens, Impact Fees, and Water, Sewer and Trash Removal Charges, if any, have been paid.
- Note: 2005 ad valorem taxes show PAID in the gross amount of \$685.84 for Tax
   Identification No. 16-44-25-02-0000A-0130.
- Note: If the subject property has been a rental unit or non-owner occupied property, it
  may be subject to Tangible Taxes, which are not covered by this commitment, or any
  policies issued pursuant hereto, nor has an examination been made of said taxes.
- 10. Note: Items 1, 2, 3, 4 and 5 of Schedule B, Section 2 of the Commitment, will be deleted from any policies issued pursuant thereto upon our review and acceptance of a survey acceptable to the Company, certified in accordance with Florida Statutes, or such other proof as may be acceptable to the Company, relating to any rights, interests or claims affecting the land which a correct survey would disclose, and an Affidavit of Possession and No Liens in accordance with Florida Statutes, and the Company's review of the potential exposure for construction liens. The Company reserves the right to include exceptions from coverage relating to matters disclosed by the survey or other proof, the Affidavit, or discovered in the Company's review of the potential exposure for construction liens, and to make such additional requirements as it may deem necessary.
- 11. The following note is incorporated herein for information purposes only and is not part of the exceptions from coverage (Schedule B-II of the commitment and Schedule B-I of the policy):

The following instrument affecting said land is the last conveyancing instrument filed for record within 24 months of the effective date of this commitment: N/A

12. Note: Immediately prior to disbursement of the closing proceeds, the search of the public records must be continued from the effective date hereof. The Company reserves the right to raise such further exceptions and requirements as an examination of the information revealed by such search requires, provided, however, that such exceptions or requirements shall not relieve the Company from its liability under this Commitment arising from the matters which would be revealed by such search, to the extent that Company, or its Agent countersigning this Commitment, has disbursed said proceeds,

# SCHEDULE B - SECTION 2 EXCEPTIONS

Agent File No.: 2006480

Any policy we issue will have the following exceptions, unless they are taken care of to our satisfaction:

- 1. Any rights, interests or claims of parties in possession of the land not shown by the public records.
- 2. Any rights, interest or claims affecting the land which a correct survey would disclose and which are not shown by the public records.
- 3. Any lien for services, labor, or materials in connection with improvements, repairs or renovations provided before, on, or after Date of Policy, not shown by the public records.
- 4. Any dispute as to the boundaries caused by a change in the location of any water body within or adjacent to the land prior to Date of Policy, and any adverse claim to all or part of the land that is, at Date of Policy, or was previously under water.
- 5. Taxes or special assessments not shown as lien in the public records or in the records of the local tax collecting authority, at Date of Policy.
- 6. Any minerals or mineral rights lease, granted or retained by current or prior owners.
- 7. Taxes and assessments for the year 2006 and subsequent years, which are not yet due and payable.
- 8. Restrictions, dedications, conditions, reservations, easements and other matters shown on the plat of GOLDEN LAKE HEIGHTS SUBDIVISION, as recorded in Plat Book 10, Page(s) 11, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).
- 9. Declaration of Covenants, Conditions, Restrictions and Easements, recorded in Book 276, Page 182, and as subsequently amended, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).
- 10. Public Utility Easement(s) along rear side of each tract as set forth in the aforesaid restrictions.
- 11. Property lies within the Golden Lake Heights Streelighting Unit and is subject to any acts and/or assessments thereof.

12. The improvements located on said land consist of a mobile home. As long as said mobile home retains its characteristic as personal property, the coverage under this policy does not include the mobile home located on the property described in Schedule A, but explicitly excludes such personal property from the coverage hereof. In the event, as of the date hereof, said mobile home is so affixed to said land as to be a part of the realty under terms and provisions of this policy and under the laws of the State of Florida, the coverage of this policy does include the mobile home as part of the land and improvements. The burden of proof to establish that such mobile home is a fixture shall be on the named insured.

## 5-Year Sales History

Parcel 314/Duke

Ortiz Avenue Widening Project No. 4072

**NO SALES in PAST 5 YEARS**