

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

**Blue Sheet No. 20070608**

- 1. ACTION REQUESTED/PURPOSE:** Approve the Purchase Agreement in Lieu of Condemnation for a 5 acre ± parcel, further identified as STRAP No. 05-46-25-00-000002.0090, in the amount of \$525,000, for the Alico Widening Project No. 4030 – Alico Filter Marsh. Authorize the payment of costs to close and the Division of County Lands to handle and accept all documentation necessary to complete the transaction. Approve transfer from Road Impact Fee District 24 Reserves in the amount of \$1,500,000 and amend the FY 06/07-10/11 CIP accordingly.
- 2. FUNDING SOURCE:**  
(\$262,500) Fund-Capital Improvement; Program-Capital Projects; Project-Briarcliff Ditch Filter Marsh.  
(\$262,500) Fund-Transportation Capital Improvement; Program-Capital Projects; Project-Alico Road 4 Lane
- 3. WHAT ACTION ACCOMPLISHES:** Allows the County to proceed with the acquisition in lieu of condemnation of the required parcel to improve the water quality and comply with the required special conditions set forth in the Alico Road Project No. 4030 permit. Also, transfer of funds allows DOT to begin work on additional items on Alico Road.
- 4. MANAGEMENT RECOMMENDATION:** Approve

<b>5. Departmental Category:</b> 06 <span style="font-size: 2em; margin-left: 20px;">CUB</span>		<b>6. Meeting Date:</b> MAY 01 2007
<b>7. Agenda:</b> <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public  <input type="checkbox"/> Walk-On	<b>8. Requirement/Purpose: (specify)</b> <input checked="" type="checkbox"/> Statute <span style="float: right;">73,74,125,127</span> <input type="checkbox"/> Ordinance <input type="checkbox"/> Admin. Code  <input checked="" type="checkbox"/> Other <small>Blue Sheet 20061400 -Resolution of Necessity 06-10-43 Blue Sheet 20070279 for Binding Offer</small>	<b>9. Request Initiated:</b> <b>Commissioner</b> _____ <b>Department</b> <u>Independent</u> <b>Division</b> <u>County Lands</u> <b>By:</b> Karen Forsyth, Director <span style="float: right; font-family: cursive;">K.F.</span>

**10. Background:**  
The Alico Road Widening Project No. 4030 was planned to provide a safer corridor (six lanes) to accommodate a significantly higher volume of traffic on Alico Road. Additional runoff was anticipated as a result of the road widening project. Therefore, special permitting conditions were set forth to create a filter marsh to manage the runoff on Alico Road and the Briarcliff Ditch. The transfer of funds will also provide for an additional frontage road, turn lanes, signal construction and filter marsh work which is required as part of the road widening project.

**Negotiated for:** Department of Transportation  
**Interest to Acquire:** Fee Interest for ± 5 acres  
**Property Details:**  
**Owner:** Charlotte A. Briscoe  
**Address:** 7351 Green Acre Lane, Ft. Myers, FL 33912  
**Strap:** 05-46-25-00-00002.0090  
**Purchase Details:**  
 Purchase Price: \$525,000

**Appraisal Information:**  
**Company:** Diversified Appraisal, Inc.  
**Appraised Value:** \$500,000 (± 5 acres @ \$100,000/acre)

**Staff Recommendation:** Staff is of the opinion that the purchase price increase of 5% over the appraised value can be justified considering the costs of condemnation to be between \$10,000 - \$15,000, not including value increases and additional owner's attorney fees/costs.  
**Accounts:** \$262,500 from 20854530100.506110 and \$262,500 from 20403030700.506110  
**Attachments:** Purchase Agreement, Title Data, Appraisal Data, Location Map, 5-Year Sales History

**11. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/ P.W. Director
K. Forsyth			BDO 4/12 8/09 4/12/07	B. Smith 4-17-07	Analyst	Risk	Grants	Mgr.	4-18-07
						4-18-07	4-18-07	4-18-07	

**12. Commission Action:**

Approved  
 Deferred  
 Denied  
 Other

RECEIVED BY COUNTY ADMIN: EW  
 4-17-07  
 3:45pm  
 COUNTY ADMIN FORWARDED TO: PL  
 4-18-07  
 1pm

Rec. by COAtty  
 Date: 4/17/07  
 Time: 11:33 AM  
 Forwarded To: Admin

4/17/07 3:09 pm

**REQUEST FOR TRANSFER OF FUNDS**

FUND NAME: Road Impact Fees-Southwest DATE: 04/11/07 BATCH NO.: \_\_\_\_\_

FISCAL YEAR: 06-07 FUND NO.: 18824 DOC. TYPE: YB LEDGER TYPE: BA

TO: Capital Projects Transportation Capital Projects  
 (Division Name) (Program Name)

NOTE: Please list the account number below in the following order:  
 Business Unit (dept/div, program, fund, subfund); Object Account; Subsidiary; Subledger  
 (Example: BB 5120100100.503450)

<u>Account Number</u>	<u>Object Name</u>	<u>DEBIT</u>
20403018824.506540	Improvement Construction	\$1,500,000

TOTAL TO: \$1,500,000

FROM: Non-Departmental Reserves  
 (Division Name) (Program Name)

<u>Account Number</u>	<u>Object Name</u>	<u>CREDIT</u>
GC5890118824.509930	Res. Future Capital Outlay	\$1,500,000

TOTAL FROM: \$1,500,000

EXPLANATION: Transfer from reserves for additional work to Alico Road Multi-Laning project.

\_\_\_\_\_  
 DIVISION DIRECTOR SIGNATURE/DATE

[Signature] 4/14/07 *Alic*  
 DEPARTMENT HEAD SIGNATURE/DATE

DBO: APPROVAL  DENIAL \_\_\_\_\_

[Signature] 4-20-07  
 OPS. ANALYST SIGNATURE DATE

OPS. MGR.: APPROVAL  DENIAL \_\_\_\_\_

[Signature] 4-18-07  
 OPS. MGR. SIGNATURE DATE

CO. MGR.: APPROVAL \_\_\_\_\_ DENIAL \_\_\_\_\_

\_\_\_\_\_  
 CO. MANAGER SIGNATURE DATE

BCC APPROVAL DATE: \_\_\_\_\_

\_\_\_\_\_  
 BCC CHAIRMAN SIGNATURE

BA. NO. \_\_\_\_\_ AUTH CODE \_\_\_\_\_ TRANS DATE \_\_\_\_\_

This document prepared by  
Lee County Division of County Lands  
Project: Alico Filter Marsh Project 4030  
STRAP No.: 05-46-25-00-00002.0090

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 7<sup>th</sup> day of April, 2007 by and between Charlotte A. Briscoe, hereinafter referred to as SELLER, whose address is 8320 Whiskey Preserve Circle #322, Fort Myers, FL 33919, 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 five (5) acres more or less, and located at 7351 Green Acre Lane, Fort Myers, FL 33912 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 Alico Filter Marsh Project No. 4030, 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 Five Hundred Twenty Five Thousand (\$525,000), payable at closing by County warrant. The Purchase Price is mutually agreeable to both the SELLER and BUYER and represents the voluntary sale and purchase of the property in lieu of BUYER's condemnation.
- 3. EVIDENCE OF TITLE:** BUYER will obtain at BUYER's expense an American Land Title Association Form B Title Commitment and provide title insurance Owner's Policy in the amount of the purchase price, from a title company acceptable to BUYER. The commitment will be accompanied by one copy of all documents that constitute exceptions to the title commitment. The commitment will also show title to be good and marketable with legal access, subject only to real estate taxes for the current year, zoning and use restrictions imposed by governmental authority, and restrictions and easements common to the area.

4. **CONDITION OF PROPERTY; RISK OF LOSS:** BUYER has inspected the Property and, except as is otherwise provided herein, accepts the Property in the condition inspected. Any loss and/or damage to the Property occurring between the date of this offer and the date of closing or date of possession by BUYER, whichever occurs first, will be at SELLER'S sole risk and expense. However, BUYER may accept the damaged property and deduct from the purchase price any expenses required to repair the damage, or BUYER may cancel this Agreement without obligation.

5. **SELLER'S INSTRUMENTS AND EXPENSES:** SELLER will pay for and provide:

- (a) A statutory warranty deed, and an affidavit regarding liens, possession, and withholding under FIRPTA in a form sufficient to allow "gap" coverage by title insurance;
- (b) utility services up to, but not including the date of closing;
- (c) taxes or assessments for which a bill has been rendered on or before the date of closing, 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) 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. 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 without proration.

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.

cb

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 sixty (60) days from the date this Agreement is made. The time and location of closing may be changed by mutual agreement of the parties.

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

15. **REAL ESTATE BROKERS:** SELLER hereby agrees to indemnify and hold the BUYER harmless from and against any claims by a real estate broker claiming by or through SELLER.

16. **POSSESSION:** SELLER warrants that there are no parties in possession other than SELLER unless otherwise stated herein. SELLER agrees to deliver possession of Property to BUYER at time of closing unless otherwise stated herein.



17. **TYPEWRITTEN/HANDWRITTEN PROVISIONS:** Typewritten and handwritten provisions inserted herein or attached hereto as addenda, and initialed by all parties, will control all printed provisions in conflict therewith.

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

WITNESSES:

James M. Medley Jr.  
Ryan E Baker

CHARLIE GREEN, CLERK

BY: \_\_\_\_\_  
DEPUTY CLERK (DATE)

SELLER:

Charlotte A. Briscoe 4/10/07  
Charlotte A. Briscoe (DATE)

BUYER:  
LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
CHAIRMAN OR VICE CHAIRMAN

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY

\_\_\_\_\_  
COUNTY ATTORNEY (DATE)

CB

Lee County Division of County Lands  
Project: Alico Filter Marsh Project No. 4030  
STRAP No. 05-46-25-00-00002.0090

**Exhibit "A"**

Beginning at the NE corner of S  $\frac{1}{2}$  of N  $\frac{2}{3}$  of NW  $\frac{1}{4}$  of Section 5, T46S, R25E; thence S  $89^{\circ}07'20''$ W, 330.0', alg the N line of said S  $\frac{1}{2}$  of N  $\frac{2}{3}$  of NW  $\frac{1}{4}$  of said Section 5; thence S  $0^{\circ}36'00''$ E, 636.71'; parallel to the E line of said NW  $\frac{1}{4}$ , to the centerline of 60' road easement; thence N  $89^{\circ}07'50''$ E, 330.0', alg the centerline of said road easement to the said E line of NW  $\frac{1}{4}$ ; thence N  $0^{\circ}36'00''$ W, 636.76' alg said E line of said NW  $\frac{1}{4}$  to the P.O.B.



**Division of County Lands****2<sup>nd</sup> Updated Ownership and Easement Search**

Search No. 05-46-25-00-00002.0090

Date: April 9, 2007

Parcel: 11

Project: Alico Filter Marsh, Project # 4030

To: Pat Fischer  
Property Acquisition AgentFrom: Bill Abramovich *B.A.*  
Real Estate Title Examiner

STRAP: 05-46-25-00-00002.0090

Effective Date: April <sup>6</sup>~~9~~, 2007, at 5:00 p.m.

**Subject Property:** Beginning at the NE corner of S ½ of N 2/3 of NW ¼ of Section 5, T46S, R25E; thence S 89°07'20"W, 330.0', alg the N line of said S ½ of N 2/3 of NW ¼ of said Section 5; thence S 0°36'00"E, 636.71'; parallel to the E line of said NW ¼, to the centerline of 60' road easement; thence N89°07'50"E, 330.0', alg the centerline of said road easement to the said E line of NW ¼; thence N 0°36'00"W, 636.76' alg said E line of said NW ¼ to the P.O.B.

Title to the subject property is vested in the following:

**Charlotte Ann Briscoe**

By that certain instrument dated May 8, 2006, recorded May 9, 2006, in Instrument Number 2006000189110, Public Records of Lee County, Florida.

**Easements:**

1. Easement for road purposes over the South thirty feet as recited in Official Record Book 1015, Page 948, Public Records of Lee County, Florida.

NOTE (1): Oil, Gas and Mineral Lease in Miscellaneous Book 23, Page 5, Public Records of Lee County, Florida.

NOTE (2): Assignment of Oil, Gas and Mineral Lease in Miscellaneous Book 24, Page 19, Public Records of Lee County, Florida.

NOTE (3): Lee County Ordinances relating to garbage and solid waste collection, recorded in Official Record Book 2189 Pages 3281 and 3334, Public Records of Lee County, Florida.

NOTE (4): Final Judgment of Dissolution of Marriage recorded May 9, 2006, in Instrument Number 2006000189110, Public Records of Lee County, Florida.

**Tax Status:** Taxes for 2006 in the amount of \$3,141.61 have been paid on February 5, 2007.  
(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.**

EXECUTIVE SUMMARY

PROJECT NAME: Plantation Road Extension

PARCEL LOCATION: 7351 Green Acre Lane

PROJECT NUMBER: 4030

OWNER OF RECORD: Jon M + Charlotte Briscoe

STRAP NUMBER: 05-46-25-00-00002.0090

SIZE: 5 Acres

IMPROVEMENTS: None

ZONING/LAND USE: Ag-2/ Open Lands

HIGHEST AND BEST USE: Residential Development

ESTIMATE OF VALUE - COST APPROACH: N/A

ESTIMATE OF VALE - SALES COMPARISON APPROACH: \$500,000

ESTIMATE OF VALUE - INCOME APPROACH: N/A

JUST COMPENSATION DUE PROPERTY OWNER: \$500,000

PRICE PER ACRE: \$100,000

INTEREST APPRAISED: Fee Simple

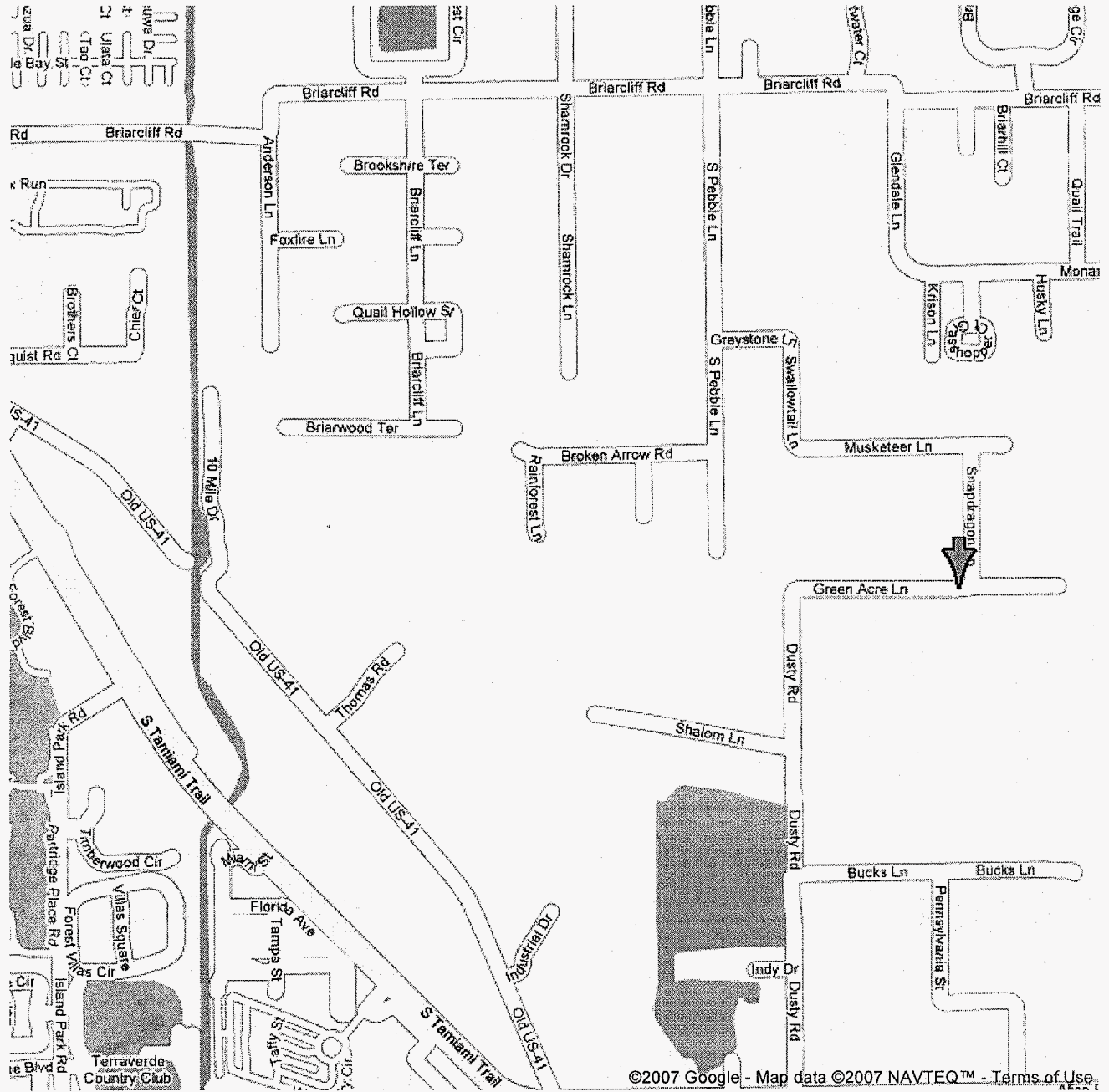
DATE OF VALUATION: 29 January 2007

APPRAISER: David C. Vaughan, MAI





Address **Green Acre Ln**  
**Fort Myers, FL 33912**



©2007 Google - Map data ©2007 NAVTEQ™ - Terms of Use

 **Green Acre Ln**  
**Fort Myers, FL 33912**

# 5-Year Sales History

Project: Alico Road Widening – Alico Filter Marsh

No.: 4030

**STRAP No. 05-46-25-00-00002.0090**

**NO SALES in PAST 5 YEARS**