

Agenda Item Summary

**1. ACTION REQUESTED/PURPOSE:** Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$360,276 for Parcel 110, Plantation Road Extension, Project No. 4065, pursuant to the Purchase Agreement; authorize the Division of County Lands to handle all documentation necessary to complete transaction.

**2. FUNDING SOURCE:** Fund – Central District Road Impact Fees; Program: Capital Projects; Project: Plantation Road Extension.

**3. WHAT ACTION ACCOMPLISHES:** Authorizes binding offer to property owner.

**4. MANAGEMENT RECOMMENDATION:** Approve.

**5. Departmental Category:** 06

*CLB*

**6. Meeting Date:** JUN 05 2007

**7. Agenda:**

Consent

Administrative

Appeals

Public

Walk-On

**8. Requirement/Purpose: (specify)**

Statute 125

Ordinance

Admin. Code

Other BS 20061315

RSN # 06-10-34

**9. Request Initiated:**

Commissioner

Department Independent

Division County Lands

By: Karen Forsyth, Director

*Handwritten initials and numbers: 5/16, 1/10, #*

**10. Background:**

**Negotiated for:** Department of Transportation

**Interest to Acquire:** Fee Interest in 30,023 square feet of unencumbered vacant land and fee interest in 60,046 square feet of land encumbered by a Florida Power and Light easement.

**Property Details:**

Owner: BNV Investments Inc.  
STRAP: 06-45-25-00-00007.0040  
Site Address: 6241 Idlewild Street

**Purchase Details:**

**Purchase Price:** \$360,276  
**Costs to Close:** \$2,600

**Appraisal Information:**

**Appraised Value:** \$360,276  
**Company:** Diversified Appraisal, Inc.

**Staff Recommendation:** In order to expedite acquisition efforts, staff recommends Board make a binding offer in the amount of \$360,276 (appraised value), and commence Eminent Domain procedures.

**Account:** 20406518823.506110

**Attachments:** Purchase and Sale Agreement, In-House Title Search, Appraisal Summary, Location Map, Sales History

**11. 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>			BAD 5117 <i>[Signature]</i>	<i>[Signature]</i>	5/23/07	5/23/07	5/23/07	<i>[Signature]</i>	5-24-07

**12. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN:  
5/23/07 3:30  
203 NP.  
COUNTY ADMIN FORWARDED TO: *[Signature]*  
5/23/07 9am

Rec. by CoAtty  
Date: 5/21/07  
Time: 3:45pm

forwarded to: Admin 5/23/07

2:36 pm

This document prepared by  
Lee County Division of County Lands  
Project: Plantation Extension Project No. 4065  
Parcel: 110  
STRAP No.: 06-45-25-00-00007.0040

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 BNV Investments Inc., a Florida corporation, hereinafter referred to as SELLER, whose address is PO Box 5271, Hialeah, FL 33014, 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 2.07 acres more or less, located at 6241 Idlewild Street, Fort Myers 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 Plantation Extension Project No. 4065, 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 Three Hundred Sixty Thousand Two Hundred Seventy Six and no/100 (\$360,276.00), 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, 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.

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 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:

\_\_\_\_\_  
\_\_\_\_\_

SELLER: BNV Investments Inc., a Florida corporation

\_\_\_\_\_  
Nicole Cruz, President

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

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

# Banks Engineering

Exhibit "A"

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE

DESCRIPTION  
OF  
A PARCEL OF LAND  
LYING IN  
SECTION 6, TOWNSHIP 45 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

(PARCEL 110)

THE EAST 150 FEET OF THE SOUTH HALF (S ½) OF THE SOUTH HALF (S ½) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION 6, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, LESS THE SOUTH 60.00 FEET, ALSO BEING DESCRIBED AS:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 6, TOWNSHIP 45 SOUTH, RANGE 25 EAST, OF SAID LEE COUNTY, FLORIDA, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

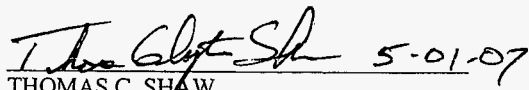
COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 6; THENCE S 00°51'33" E ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION FOR 125.00 FEET TO AN INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF COLONIAL BOULEVARD, STATE ROAD S-82-B (250.00 FEET WIDE); THENCE S 88°56'23" W ALONG SAID SOUTH LINE FOR 527.87 FEET TO AN INTERSECTION WITH THE SURVEY BASELINE OF THE PROPOSED PLANTATION ROAD EXTENSION, STATION 68+45.38; THENCE S 00°51'33" E ALONG SAID BASELINE FOR 151.77 FEET TO STATION 66+93.61 AND THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 799.95 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE AND SAID BASELINE THROUGH A CENTRAL ANGLE OF 55°10'38" FOR 770.38 FEET TO STATION 59+23.23; THENCE S 54°19'05" W ALONG SAID BASELINE FOR 1,741.53 FEET TO STATION 41+81.70 AND THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 799.95 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE AND SAID BASELINE THROUGH A CENTRAL ANGLE OF 55°09'44" FOR 770.17 FEET TO STATION 34+11.53; THENCE S 00°50'39" E ALONG SAID BASELINE FOR 69.70 FEET TO STATION 33+41.84, THE CENTER OF SAID SECTION AND THE NORTHWEST CORNER OF FLORIMOND MANOR, AS RECORDED IN PLAT BOOK 7, AT PAGE 6 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S 00°49'38" E ALONG SAID BASELINE AND THE WESTERLY LINE OF SAID FLORIMOND MANOR FOR 1,981.38 FEET TO STATION 13+60.46 AND THE NORTH LINE OF THE SOUTH HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION AND TO THE **POINT OF BEGINNING**; THENCE CONTINUE S 00°49'38" E ALONG SAID BASELINE AND SAID WESTERLY LINE FOR 600.46 FEET TO STATION 7+60.00 AND THE NORTHERLY RIGHT-OF-WAY LINE OF IDLEWILD STREET (60.00 FEET WIDE); THENCE S 88°50'09" W ALONG SAID NORTHERLY RIGHT-OF-WAY FOR 150.00 FEET; THENCE N 00°49'38" W FOR 600.45 FEET TO THE NORTHERLY LINE OF SAID FRACTION OF SECTION; THENCE N 88°49'57" E ALONG THE NORTHERLY LINE OF SAID FRACTION OF SECTION FOR 150.00 FEET TO THE **POINT OF BEGINNING**.

PARCEL 110 CONTAINS 2.07 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

BEARINGS AND DISTANCES ARE BASED ON THE "STATE PLANE COORDINATE SYSTEM" WEST ZONE 1983/90 ADJUSTMENT. WHERE THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 45 SOUTH, RANGE 25 EAST BEARS S 00°51'33" E. THE AVERAGE SCALE FACTOR IS 0.999943727.

DESCRIPTION PREPARED 03-29-07, REVISED 05-01-07.

 5-01-07

THOMAS C. SHAW,  
PROFESSIONAL SURVEYOR AND MAPPER  
FLORIDA CERTIFICATION NO. 4672  
DATE SIGNED 05-01-07

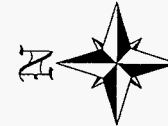
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SHEET 1 OF 2

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# SKETCH OF DESCRIPTION

OF  
A TRACT OR PARCEL OF LAND LYING IN  
SECTION 6, TOWNSHIP 45 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA  
(PARCEL 110)



1" = 80'

## NOTES:

- 1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.
- 2.) BEARINGS AND DISTANCES ARE BASED ON "THE STATE PLANE COORDINATES SYSTEM" WEST ZONE 1983/90 ADJUSTMENT. WHEREIN THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 45 SOUTH, RANGE 25 EAST BEARS S 00°51'33" E. THE AVERAGE SCALE FACTOR IS 0.999943727.

## LEGEND:

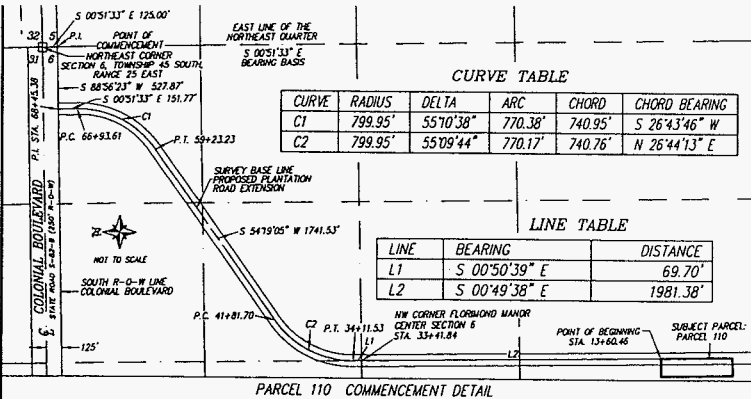
- PG. INDICATES PAGE
- P.B. INDICATES PLAT BOOK
- C. INDICATES CENTERLINE
- R-O-W INDICATES RIGHT-OF-WAY
- L1 INDICATES LINE 1 FROM TABLE
- P.T. INDICATES POINT OF TANGENCY
- P.C. INDICATES POINT OF CURVATURE
- M.B. INDICATES MISCELLANEOUS BOOK
- C1 INDICATES CURVE 1 FROM TABLE
- P.I. INDICATES POINT OF INTERSECTION
- O.R. INDICATES OFFICIAL RECORDS BOOK
- STA. INDICATES SURVEY BASELINE STATION
- F.P.L.E. INDICATES FLORIDA POWER AND LIGHT EASEMENT

## CURVE TABLE

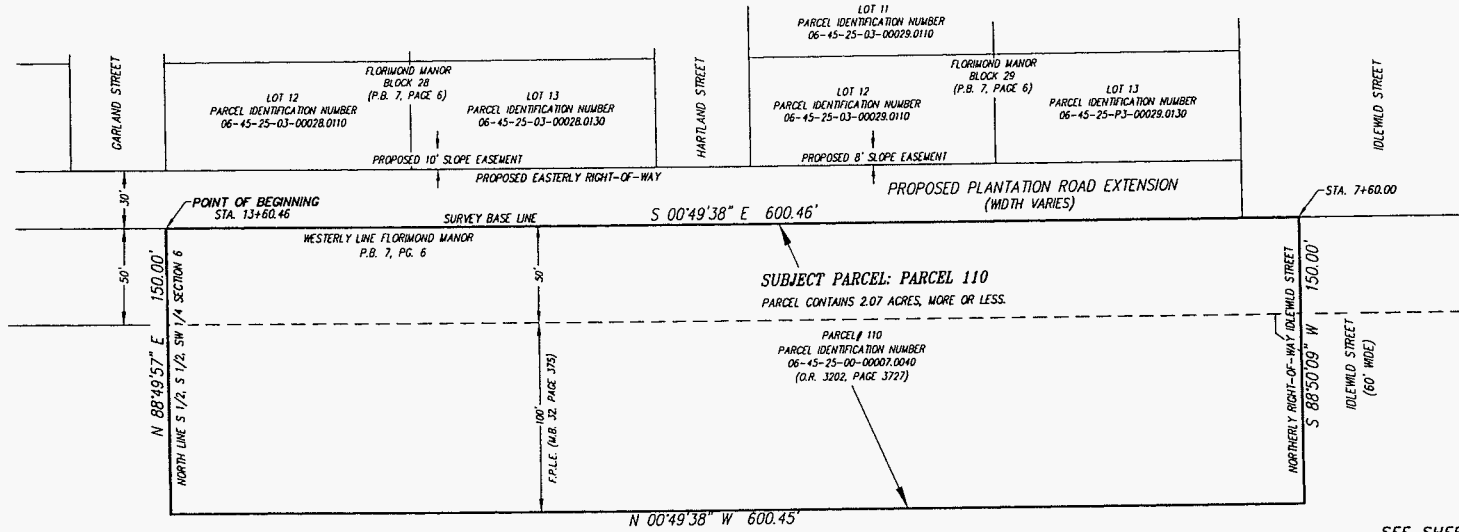
CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	799.95'	55°10'38"	770.38'	740.95'	S 26°43'46" W
C2	799.95'	55°09'44"	770.17'	740.76'	N 26°44'13" E

## LINE TABLE

LINE	BEARING	DISTANCE
L1	S 00°50'39" E	69.70'
L2	S 00°49'38" E	1981.38'



PARCEL 110 COMMENCEMENT DETAIL



SEE SHEET 1 OF 2 FOR COMPLETE METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION IS NOT A BOUNDARY SURVEY

*Thomas C. Shaw* 5-01-07

THOMAS C. SHAW  
PROFESSIONAL SURVEYOR AND MAPPER  
FLORIDA CERTIFICATION NO. 4672  
- DATE SIGNED: 03-30-07, REVISED 5-01-07  
- THIS SKETCH OF DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PREPARED 03-29-07  
REVISED 05-01-07  
SHEET 2 OF 2

**Banka Engineering**

PROFESSIONAL ENGINEERS, LAND SURVEYORS & PLANNERS  
FLORIDA BUSINESS CERTIFICATION NUMBER LB 6890  
10511 SIX MILK CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33906  
(889) 938-5490

S:\Jobs\21xx\2100\SURVEY\DESCRIPTIONS\2100\_PCL TAKE\_110.DOC  
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Exhibit "A"



**Division of County Lands****Updated Ownership and Easement Search**

Search No. 06-45-25-00.00007.0040

Date: November 22, 2006

Parcel: 110

Project: Plantation Extension, Project #4065

To: Michele S. McNeill SR/WA  
Property Acquisition AgentFrom: Bill Abramovich B.A.  
Real Estate Title Examiner

STRAP: 06-45-25-00-00007.0040

Effective Date: November 17, 2006, at 5:00 p.m.

*No changes as of  
2/15/07*  
*[Signature]***Subject Property:** The East 150 feet of the S ½ of the S ½ of the SW ¼, of Section 6, Township 45 South, Range 25 East.

Title to the subject property is vested in the following:

**B.N.V. Investments, Inc., a Florida Corporation**

By that certain instrument dated March 12, 2005, recorded May 18, 2005, in Official Record Book 4714, Page 487 and Official Record Book 4714, Page 489, Public Records of Lee County, Florida.

**Easements:**

1. Subject to an Easement granted to the Florida Power & Light Company, recorded in Miscellaneous Book 32, Page 249, Public Records of Lee County, Florida.
2. Subject to a Perpetual Easement for buried water line granted to Lee County recorded in Official Record Book 1337, Page 1325 and corrected by Official Record Book 1345, Page 237, Public Records of Lee County, Florida.

NOTE (1): Subject property is not encumbered by a mortgage found of record.

NOTE (2): 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.

RSN 2-73-59

**Tax Status:** Taxes for 2005, Certificate issued #06-010575, balance due of \$103.93 as of November 21, 2006; Taxes for 2006 show outstanding balance of \$69.11 as of November 21, 2006.  
(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 #: 110

PROJECT NUMBER: 4065

OWNER OF RECORD: B N V Investments, Inc.

STRAP NUMBER: 06-45-25-00-00007.0040

LOCATION: 6241 Idlewild Street

PARENT TRACT: 90,069 s.f.

PART TAKEN: 90,069 s.f.

IMPROVEMENTS: None

ZONING/LAND USE: C-2/Intensive Development

HIGHEST AND BEST USE: Industrial Development

ESTIMATE OF VALUE - COST APPROACH: N/A

ESTIMATE OF VALUE - SALES COMPARISON APPROACH: \$360,276

ESTIMATE OF VALUE - INCOME APPROACH: N/A

JUST COMPENSATION DUE PROPERTY OWNER: \$360,276

PRICE PER SQUARE FOOT: \$8.00 unencumbered, \$2.00 encumbered

INTEREST APPRAISED: Fee Simple

DATE OF VALUATION: 22 November 2006

APPRAISER: Mr. David C. Vaughan, MAI

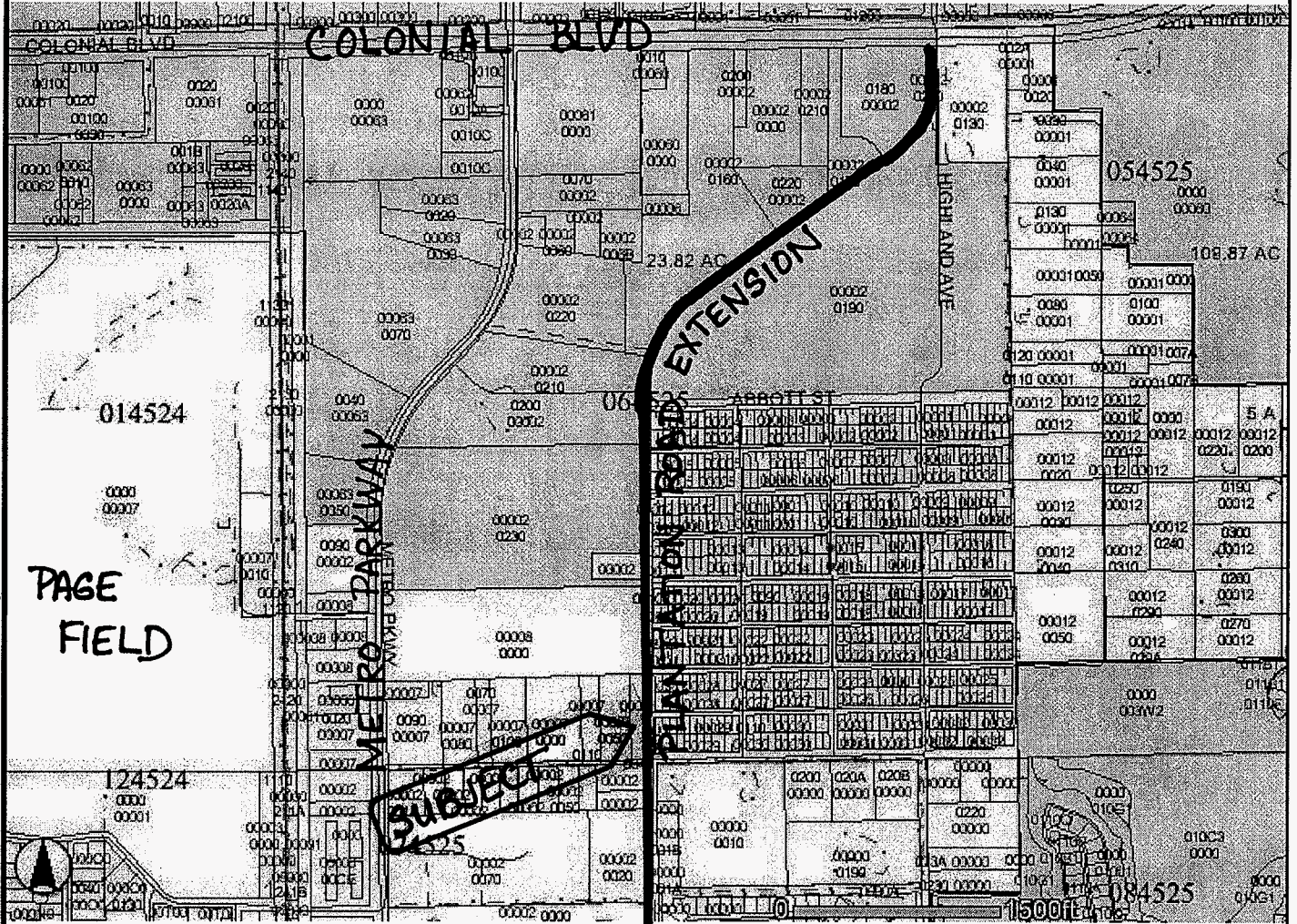
**RECONCILIATION (Continued)**

**MARKET VALUE BEFORE THE TAKING:** In this instance, I have presented sales that range from a low of \$7.80 per square foot to a high of \$9.98 per square foot. The most recent sale indicated \$9.98 per square foot and is considered to be most similar to the subject property. Because of the 100' easement on the westerly portion of the site, it would be at best difficult for the subject property to be developed. It is my opinion that the subject property has a value of \$8.00 per square foot for the unencumbered portion. I conclude a 75% reduction in value to the land on the westerly 100' that has the restrictive easement on it. This portion would therefore have a value of \$2.00 per square foot. Therefore, the market value of the parent tract is as follows:

Unencumbered - 30,023 s.f. x \$8.00 p.s.f. =	\$241,084
Encumbered - 60,046 s.f. x \$2.00 p.s.f. =	<u>\$120,092</u>
Total Market Value	\$360,276

**MARKET VALUE OF PART TAKEN:** The acquisition areas consists of the entire subject parcel. The market value for the part taken in fee is therefore \$360,276.

Location Map



# 5-Year Sales History

Parcel No. 110

Plantation Extension Project, No. 4065

Grantor	Grantee	Price	Date	Arms Length Y/N
Darren W. Devore	BNV Investments, Inc., a Florida Corporation	\$7,500	3/12/05	N
David G. Devore	BNV Investments, Inc., a Florida Corporation	\$7,500	3/12/05	N

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