

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

**Blue Sheet No. 20041686**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Authorize: 1) the Division of County Lands to make a binding offer to property owner in the amount of \$41,800 for Parcel 105, Three Oaks Parkway Widening, Project No. 4081 pursuant to the Purchase Agreement; 2) the Division of County Lands to handle and accept all documentation necessary to complete transaction.

**WHY ACTION IS NECESSARY:** The Board must authorize the making of a binding offer to a property owner prior to initiation of condemnation proceedings.

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

**2. DEPARTMENTAL CATEGORY:** 06  
**COMMISSION DISTRICT #** 3 *C6B*

**3. MEETING DATE:** *01-25-2005*

**4. AGENDA:**  
 CONSENT  
ADMINISTRATIVE  
APPEALS  
PUBLIC  
WALK ON  
TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**  
(Specify)  
 STATUTE 73 & 125  
ORDINANCE  
ADMIN. CODE  
OTHER  
 Res of Nec. 04-09-06

**6. REQUESTOR OF INFORMATION:**  
A. COMMISSIONER  
B. DEPARTMENT Independent  
C. DIVISION County Lands  
BY: Karen L. W. Forsyth, Director *KLF*

**7. BACKGROUND:**

**Negotiated for:** Department of Transportation

**Interest to Acquire:** Fee interest in 16,086 square feet for road right of way.

**Property Details:**

**Owner:** Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, a Utah corporation sole

**STRAP No.:** 26-46-25-00-00001.4010

**Purchase Details:**

**Purchase Price:** \$41,800

**Estimated Closing Costs:** \$2,500

**Appraisal Information:**

**Company:** W. Michael Maxwell & Associates, Inc.

**Appraised Value:** Salient appraisal data attached

**Staff Recommendation:** Staff is of the opinion that the purchase price increase of approximately \$5,931 above the appraised value can be justified considering the costs associated with condemnation proceedings, estimated between \$7,000 - \$12,000 excluding the value of the property. Staff recommends the Board approve the Requested Motion.

**Account:** 20408118804.506110

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

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services			G County Manager	
<i>K. Forsyth</i>			<i>ASD 1/12/05</i>	<i>Att 1/12/05</i>	<i>OA 1-11-05</i>	<i>OM 1/12</i>	<i>Risk 1/12/05</i>	<i>GC 1/12/05</i>	<i>1-12-05</i>

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty  
Date: *1/10/05*  
Time: *2:30*

RECEIVED BY  
COUNTY ADMIN:  
*1/10/05*  
*9:45 am*  
COUNTY ADMIN.  
FORWARDED TO:  
*1/13/05*  
*11 am*

Forwarded To:  
*1/10/05 3:54 pm*

This document prepared by  
Lee County Division of County Lands  
Project: Three Oaks Parkway Widening Project No. 4081  
Parcel: 105  
STRAP No.: 26-46-25-00-00001.4010

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 Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, a Utah corporation sole, hereinafter referred to as SELLER, whose address is 50 East North Temple Street, Salt Lake City, UT 84150, 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 .3693 acres more or less, and located at Three Oaks Parkway, Estero, Florida 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 Three Oaks Parkway Widening Project No. 4081, 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 Forty One Thousand Eight Hundred and no/100 (\$41,800.00), 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;
- (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.

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: Corporation of the  
Presiding Bishop of the Church of  
Jesus Christ of Latter-day Saints,  
a Utah corporation sole

\_\_\_\_\_

\_\_\_\_\_  
Signature (DATE)

\_\_\_\_\_

\_\_\_\_\_  
Printed Name and Title

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 "A"

**PARCEL 105**

A portion of the lands described in Official Record Book 4127, Page 2485, lying in Section 26, Township 46 South, Range 25 East, Lee County Florida, being more particularly described as follows:

COMMENCE at the southwest corner of said Section 26, Township 46 South, Range 25 East, said point being a 3"x 3" concrete monument; thence N 89°43'11" E along the south line of said Section 26, 70.65 feet to survey base line station 113+08.25 of Three Oaks Parkway per Lee County Project No. CN-02-06 (Three Oaks Parkway Project Right of Way Maps); thence continue N 89°43'11" E along the south line of said Section 26, 50.01 feet to the east right of way line of Three Oaks Parkway per Lee County Department of Transportation Corlico Parkway project 84-026; thence departing the south line of said Section 26, N 01°18'25" W along said east right of way line 30.45 feet; thence N 03°18'25" W along said east right of way line 593.09 feet; thence N 01°18'46" W along said east right of way line 1480.72 feet to the south line of those lands described in Official Record Book 4127, page 2485, Public Records of Lee County, Florida said point being S 90°00'00" E, 50.01 feet right of survey base line station 134+12.80 said point also being the POINT OF BEGINNING; thence continue N 01°18'46" W along said east right of way line 321.75 feet to a point on the north line of those lands described in Official Record Book 4127, Page 2485, Public Records of Lee County, Florida said point being S 90°00'00" E, 50.01 feet right of station 137+34.55; thence S 90°00'00" E along said north line 50.01 feet; thence departing said north line S 01°18'46" E 321.75 feet to the south line of those lands described in Official Record Book 4127, Page 2485, Public Records of Lee County, Florida; thence N 90°00'00" W, along said south line 50.01 feet to the east right of way line of Three Oaks Parkway and the POINT OF BEGINNING.

Said lands contain 16,086 square feet, more or less.

**NOTE:**

BEARINGS SHOWN HEREON ARE BASED UPON THE SURVEY BASE LINE OF THREE OAKS PARKWAY HAVING A BEARING OF N 01°18'46" W FROM P.I. STATION 119+30.02 BEING A SET PARKER-KALON NAIL AND DISK "LB 3114" TO P.I. STATION 139+58.34 BEING A SET 5/8" IRON ROD WITH CAP "AIM ENG LB 3114".


PREPARED BY:  
AIM ENGINEERING & SURVEYING, INC.

*[Signature]* 04/20/04  
BOB POTTER, P.S.M. DATE  
PROFESSIONAL SURVEYOR AND MAPPER  
FLORIDA CERTIFICATE NO. 5688

**THIS IS NOT A SURVEY SHEET 1 OF 2**

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

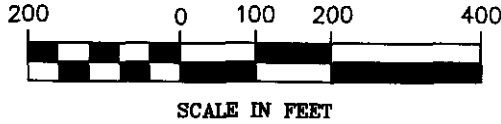
**AIM Engineering & Surveying, Inc.**  
5300 LEE BLVD.  
P.O. BOX 1235  
LEHIGH ACRES  
FLORIDA 33970  
239/332-4569  
FX:239/332-8734  
Licensed Business Number 3114



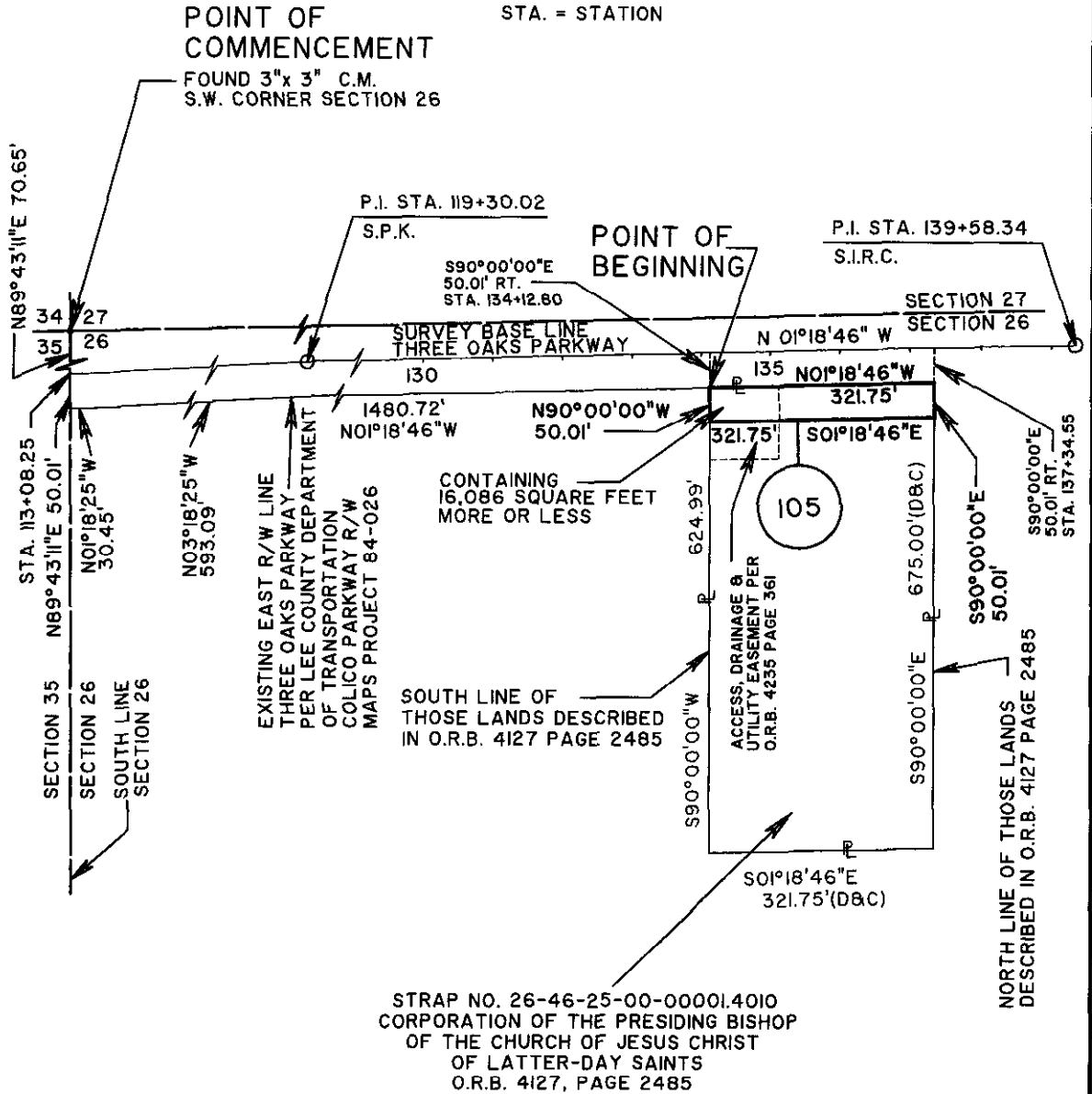
PROJECT NUMBER: 02-8240	DESCRIPTION: THREE OAKS PARKWAY LEE COUNTY PROJECT NUMBER CN-02-06	LEGAL AND SKETCH PARCEL 105	
DRAWN BY: LWC	CLIENT: LEE COUNTY		
DATE: 4/20/04	SEC-TWP-RGE: 26-46S-25E	FILE: 8240-105	COUNTY: LEE COUNTY



# Exhibit "A"



- LEGEND**  
 C.M. = CONCRETE MONUMENT  
 O.R.B. = OFFICIAL RECORD BOOK  
 P.I. = POINT OF INTERSECTION  
 P.K. = PARKER-KALON NAIL  
 P = PARENT TRACT PROPERTY LINE  
 RT. = RIGHT  
 R/W = RIGHT OF WAY  
 S.I.R.C. = SET 5/8" IRON ROD WITH  
 CAP "AIM ENG LB 3114"  
 S.P.K. = SET P.K. AND DISK  
 "LB 3114"  
 STA. = STATION



AIM Engineering & Surveying, Inc.



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 239/332-4569  
 FX:239/332-8734

Licensed Business Number 3114

**THIS IS NOT A SURVEY**

**SHEET 2 OF 2**

PROJECT NUMBER: 02-8240	DESCRIPTION: LEGAL AND SKETCH PARCEL 105 THREE OAKS PARKWAY LEE COUNTY PROJECT NUMBER CN-02-08		
DRAWN BY: LWC	CLIENT: LEE COUNTY		
DATE: 4/20/04	SEC-TWP-RRE 26-46S-25E	FILE: 8240-105	COUNTY: LEE COUNTY

## Division of County Lands

## Updated In House Title Search

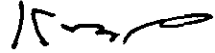
Search No. 26-46-25-00-00001.4010

Date: November 5, 2004

Parcel: 105

Project: Three Oaks Pkwy #4081

To: Michael J. O'Hare SR/WA  
Property Acquisition Agent

From: Kenneth Pitt   
Real Estate Title Examiner

STRAP: 26-46-25-00-00001.4010

An update has been requested of In House Title Search No. 22058 which covers the period beginning January 1, 1960, at 8:00 a.m. and is now complete through September 29, 2004, at 5:00 P.M.

**Subject Property:** See attached Schedule "X"

Title to the subject property is vested in the following:

***Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, a Utah corporation sole***

by that certain instrument dated September 9, 2003, recorded September 12, 2003, in Official Record Book 4056, Page 2333, Public Records of Lee County, Florida.

### **Subject to:**

1. Title to oil, gas and mineral rights and leases on subject property is specifically omitted from this report.
2. Agreements to Game and Freshwater Commission of the State of Florida recorded in Miscellaneous Book 47, Page 87, Miscellaneous Book 58, Page 53, and Official Record Book 270, Page 381, Public Records of Lee County, Florida. **These agreements were for a period of 5 years and no longer apply.**
3. Right-of-Way Easement between Corkscrew Properties, Ltd. and Alico, Inc. together with reservation as recited on document recorded in Official Record Book 1281, Page 2119 and further assigned in Official Record Book 1289, Page 1116 and Official Record Book 1292, Page 152 all in the Public Records of Lee County, Florida.
4. Quit Claim Deed recorded in Official Record Book 1698, Page 3418 from Corkscrew Properties, Ltd. to Gulf Utility Company; conveyance of a Waterline Easement lying with Roadway easement deeded to Lee County in Official Record Book 1739, Page 777 and re-recorded in Official Record Book 1928, Page 1796, all in the Public Records of Lee County, Florida.
5. Resolution #85-9-130, dated September 24, 1985, recorded November 5, 1985 in Official Record Book 1812, Page 3507, Public Records of Lee County, Florida. Said resolution

## Division of County Lands

### Updated In House Title Search

Search No. 26-46-25-00-00001.4010

Date: November 5, 2004

Parcel: 105

Project: Three Oaks Pkwy #4081

pertains to the Corlico Parkway M.S.B.U.

6. Subject to a Notice of Lot Split Approval, recorded in Official Record Book 4127 Page 2485, Public Records of Lee County, Florida.
7. Subject to an Easement Agreement, recorded in Official Record Book 4235 Page 361, Public Records of Lee County, Florida.
8. Subject to a Notice of Commencement, recorded in Official Record Book 4367 Page 4204, Public Records of Lee County, Florida.

**Tax Status:** \$4,235.58 due & owing 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.**



# MAXWELL & HENDRY VALUATION SERVICES, INC.

APPRAISERS - CONSULTANTS

12600-1 World Plaza Lane  
Building #63  
Fort Myers, Florida 33907

(239)-337-0555  
(239)-337-3747 - FAX

(e-mail)-appr@maxwellhendry.com  
(web)-www.maxwellhendry.com

## ASSOCIATE APPRAISERS

**William E. McInnis**  
State-Certified General Appraiser  
Certification 0002232

**Timothy D. Rieckhoff**  
State-Certified General Appraiser  
Certification 0002261

**Andrea R. Terregrossa**  
Registered Trainee Appraiser  
RI10787

**Matthew H. Caldwell**  
Registered Trainee Appraiser  
RI9277

**W. MICHAEL MAXWELL, MAI, SRA**  
State-Certified General Appraiser  
Certification 0000055

**GERALD A. HENDRY, MAI**  
State-Certified General Appraiser  
Certification 0002245

2 June 2004

Lee County Board of County Commissioners  
Division of County Lands  
P.O. Box 398  
Fort Myers, Florida 33902-0398

Attention: Mr. Michael O'Hare  
Property Acquisitions Agent

Re: Appraisal of partial taking for Three Oaks Parkway  
widening, Parcel 105 (Church of Jesus Christ of  
Latter Day Saints), in Section 26-46-25, Lee County,  
Florida

STA #11

Dear Mr. O'Hare:

As per your request, an inspection and analysis have been made of the above property, which is legally described in the attached appraisal report. The purpose of this assignment is to estimate the market value of the undivided fee simple interest in the land as if free and clear of liens, mortgages, encumbrances, and/or encroachments except as amended in the body of this report. This appraisal report is a complete appraisal in summary report format.

Market value for this purpose is understood to be 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, knowledgeably and assuming the price is not affected by undue stimulus. A full definition of market value can be found in the body of this report.

As per the Uniform Standards of Professional Appraisal Practice (USPAP), there are three report writing options. These options would include either a self-contained report format, summary report, or restricted use report. A summary report format has been requested and will be used for this appraisal. The only difference between the self-contained report and a summary report is the level of detail of presentation.

The function or intended use of this report is understood to be for use as a basis of value for the acquisition of a portion of the subject property for purposes of widening Three Oaks Parkway. The proposed taking consists of the westerly 50.01' of the parent tract of 4.98 acres. This complete appraisal in summary report format has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice. The subject property was last inspected on 13 May 2004 by Andrea Terregrossa, Registered Trainee Appraiser. Mr. W. Michael Maxwell, MAI, SRA has made a subsequent inspection of the property. Our compensation in this assignment is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the obtainment of a stipulated result, or the occurrence of a subsequent event. In addition to the Assumptions and Limiting Conditions as contained in the Addenda to this report, this appraisal is made subject to the Special Assumptions as outlined on the Executive Summary on the following pages.

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 just compensation due the property owner, as of 13 May 2004, is:

**THIRTY FIVE THOUSAND EIGHT HUNDRED SIXTY NINE DOLLARS.....(\$35,869.00)**

Respectfully submitted,



W. Michael Maxwell, MAI, SRA  
State-Certified General Appraiser  
Certification 0000055



Andrea Terregrossa  
Registered Trainee Appraiser  
License Number RI10787



W. MICHAEL MAXWELL, MAI, SRA  
GERALD A. HENDRY, MAI

# 5-Year Sales History

Parcel No. 105

Three Oaks Parkway Widening Project, No. 4081

Grantor	Grantee	Price	Date	Arms Length Y/N
Corporation of the President Bishop of the Church of Jesus Christ Of Latter-day Saints	Southern Homes of Estero II, LLC, a Fl. limited liability company	\$2,310,000.	3/12/04	Y
Marshall A. Peeples, as trustee	Corporation of the President Bishop of the Church of Jesus Christ Of Latter-day Saints	\$1,380,000	12/18/01	Y

NOTE: Sales are for parent tract  
2004 sale = 21 acres  
2001 sale = 26 acres