

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

Blue Sheet No. 20050067

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize: (1) approval of Easement Purchase Agreement for acquisition of Parcel 121, Alico Road Widening. Project 4030, in the amount of \$3,000, plus \$400 in attorney fees; (2) Chairman, on behalf of the Board, to sign the Purchase Agreement; (3) payment of costs and fees to close; (4) Division of County Lands to handle and accept all documentation necessary to complete this transaction.

WHY ACTION IS NECESSARY: The Board must accept all real estate conveyances to Lee County.

WHAT ACTION ACCOMPLISHES: Allows the County to proceed with the project without resorting to Eminent Domain proceedings.

2. DEPARTMENTAL CATEGORY: 6
COMMISSION DISTRICT: #5 *C6B*

3. MEETING DATE: *02-08-2005*

4. AGENDA:

| | |
|-------------------------------------|----------------|
| <input checked="" type="checkbox"/> | CONSENT |
| <input type="checkbox"/> | ADMINISTRATIVE |
| <input type="checkbox"/> | APPEALS |
| <input type="checkbox"/> | PUBLIC |
| <input type="checkbox"/> | WALK ON |
| <input type="checkbox"/> | TIME REQUIRED: |

5. REQUIREMENT/PURPOSE:
(Specify)

| | | |
|-------------------------------------|-------------|-----|
| <input checked="" type="checkbox"/> | STATUTE | 125 |
| <input type="checkbox"/> | ORDINANCE | |
| <input type="checkbox"/> | ADMIN. CODE | |
| <input type="checkbox"/> | OTHER | |

6. REQUESTOR OF INFORMATION:

| | |
|-----------------|------------------------------------|
| A. COMMISSIONER | |
| B. DEPARTMENT | <u>Independent</u> |
| C. DIVISION | <u>County Lands</u> <i>1-19-05</i> |

BY: *Kauf*
Karen L. W. Forsyth, Director

7. BACKGROUND:

Negotiated for: Department of Transportation

Interest to Acquire: Drainage Easement

Property Details:

Owner: Joe & Bruce, LLC, a Florida limited liability corporation
Address: c/o West Coast Roofing, 8090 Supply Drive, Fort Myers, FL 33912
STRAP No.: 04-46-25-00-00001.003A

Purchase Details:

Purchase Price: \$3,000 plus attorney fees of \$400
Costs to Close: Approximately \$500.00

Appraisal Information: David Vaughan MAI, Diversified Appraisal – Appraised value \$1,860.

Staff Recommendation: Considering the costs associated with condemnation proceedings estimated to be between \$3,000 and \$5,000, excluding land value, Staff recommends the Board approve the Requested Motion.

Account: 20403030700.506110

Attachments: Easement Purchase Agreement; Affidavit of Interest in Real Estate; Title Search

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 |
|--------------------------|------------------------------|----------------------|--------------------|----------------------|----------------------|--------------------|--------------------|--------------------|---------------------|
| | | | | | OA | OM | Risk | GC | |
| <i>[Signature]</i> | | | <i>BAD 1/30/05</i> | <i>[Signature]</i> | <i>[Signature]</i> | <i>[Signature]</i> | <i>[Signature]</i> | <i>[Signature]</i> | <i>[Signature]</i> |

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *1/26/05*
Time: *11:00*
Forwarded To: *[Signature]*

RECEIVED BY
COUNTY ADMIN: *[Signature]*
3:20 pm 5/1
COUNTY ADMIN
FORWARDED TO: *[Signature]*
1/27/05
4pm

Exhibit "A"

This Instrument Prepared by:
COUNTY LANDS DIVISION
P.O. Box 398
Fort Myers, FL 33902-0398
Parcel: 121
Project: Alico Road Widening, Project 4030

Strap No.: 04-46-25-00-00001.003A

THIS SPACE FOR RECORDING

PERPETUAL STORMWATER DRAINAGE EASEMENT

This easement grant is made between Joe & Bruce, LLC, a Florida limited liability company, owner, whose address is c/o West Coast Roofing, 8090 Supply Drive, Fort Myers, FL 33912 (Grantor) and LEE COUNTY, a political subdivision of the State of Florida, whose address is P.O. Box 398, Fort Myers, Florida 33902-0398 (Grantee) as follows:

1. In consideration of the sum of one dollar and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor grants to Grantee, its successors and assigns, a drainage easement in, over and across that portion of Grantor's property legally described in Exhibit "A".
2. Grantee has the right and authority to construct and maintain stormwater drainage facilities, including the installation of pipe, within the easement area in accordance with appropriate permits issued for construction and maintenance.
3. Grantee also has the right and authority to remove or trim any roots, trees or other vegetation or structures, including fencing, within the easement area in order to properly install the stormwater drainage facilities.
4. Grantor may use the easement area for landscaping (except trees), walkway, drainage or similar uses, provided no structures, such as sheds, carports, garages or other buildings, are constructed within the easement area. Grantor may use for purpose that does not interfere with Grantee's use; subject to the foregoing, the Grantor's use for water management purposes, may be allowed if the use is permitted by regulatory agencies.
5. Title to any drainage facilities constructed in the easement area will remain in the Grantee, its successors or assigns.

Exhibit "A"

6. Grantor warrants that subject to any existing public roadway or utility easements, Grantor is in lawful possession of the subject property free and clear of all liens and encumbrances, except those recorded in the public records, and has the right and power to convey this easement.

7. This easement runs with the land and is binding on Grantor and Grantor's successors and assigns.

Dated: 12-15, 2004

Jessica DeLaCruz
1st Witness Signature

Jessica DeLaCruz
Printed Name of 1st Witness

Debi Stuart
2nd Witness Signature

Debi Stuart
Printed Name of 2nd Witness

[Signature]
Joe & Bruce, LLC., a Florida limited liability company
by: Bruce Nicholas
as Managing Partner

STATE OF FLORIDA

COUNTY OF LEE _____

The foregoing instrument was acknowledged before me this 15th day of December, 2004, by M. Bruce Nicholas, as Managing Partner of Joe & Bruce, LLC, a Florida limited liability company, who is personally known to me or who has produced _____ as identification.
(type of identification)

SEAL



Sandra Duckworth
Commission #DD318521
Expires: May 11, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

[Signature]
Signature of Notary Public

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

HM PROJECT #1997051
07/02/2003
REF. DWG. #B-4300

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

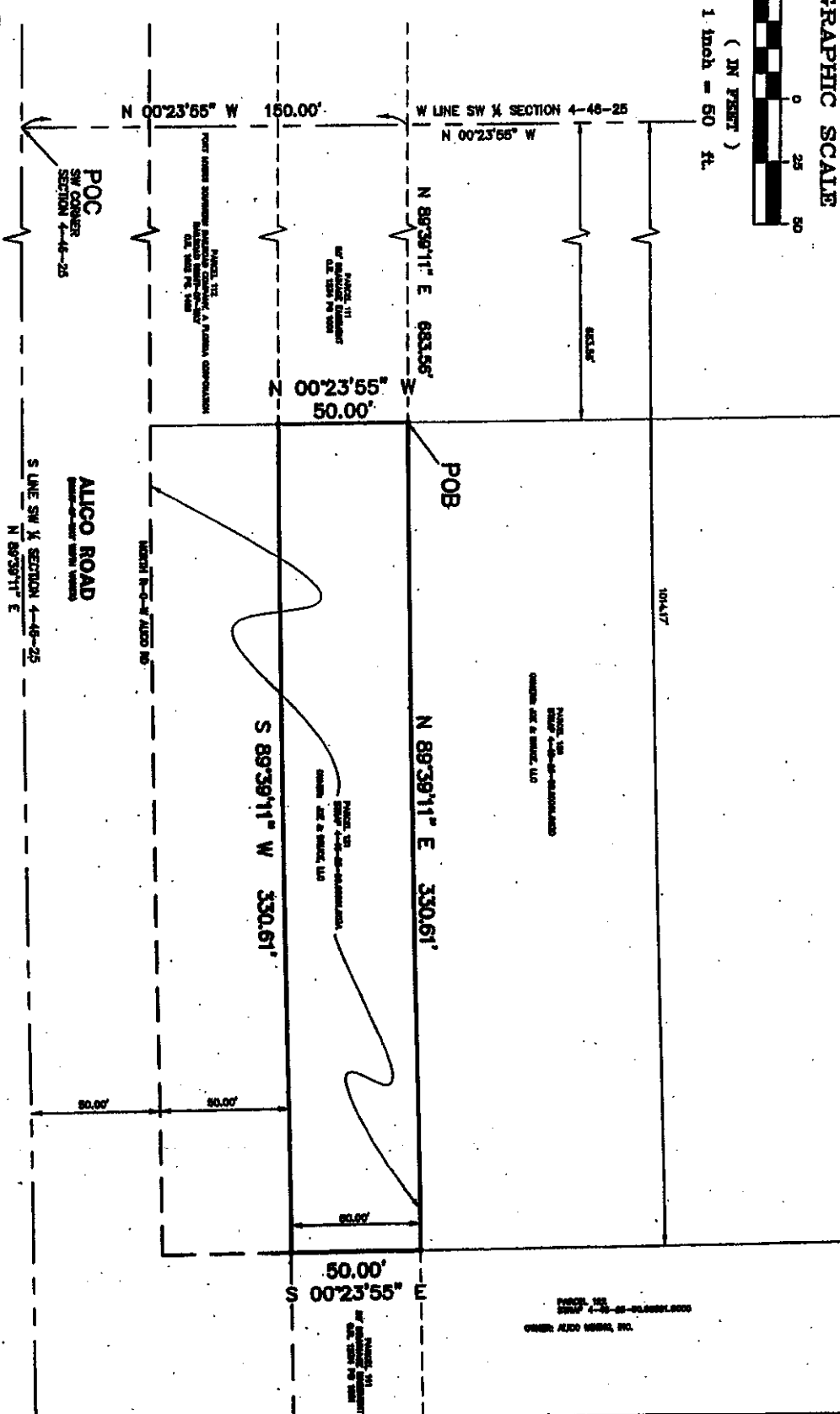
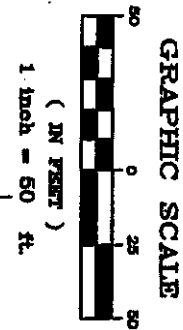
COMMENCE AT THE SOUTHWEST CORNER OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY FLORIDA; THENCE RUN N.00°23'55"W., ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 4, FOR A DISTANCE OF 150.00 FEET TO A POINT ON THE NORTH LINE OF A 50.00 FOOT DRAINAGE EASEMENT AS RECORDED IN O.R. BOOK 1234 AT PAGE 1001 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.89°39'11"E. ALONG THE NORTH LINE OF SAID 50.00 FOOT DRAINAGE EASEMENT, FOR A DISTANCE OF 683.56 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.89°39'11"E., ALONG THE NORTH LINE OF SAID 50.00 FOOT DRAINAGE EASEMENT, FOR A DISTANCE OF 330.61 FEET; THENCE RUN S.00°23'55"E., FOR A DISTANCE OF 50.00 FEET TO A POINT ON THE SOUTH LINE OF SAID 50.00 FOOT DRAINAGE EASEMENT; THENCE RUN S.89°39'11"W., ALONG THE SOUTH LINE OF SAID 50.00 DRAINAGE EASEMENT, FOR A DISTANCE OF 330.61 FEET; THENCE RUN N.00°23'55"W., FOR A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.380 ACRE MORE OR LESS.

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

BEARINGS REFER TO THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING N.89°39'11"E.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION LB # 1772

BY Jerry L. Riffelmacher P.S.M. #6130
JERRY L. RIFFELMACHER STATE OF FLORIDA



LEGEND

POC POINT OF COMMENCEMENT
POB POINT OF BEGINNING

| | | | |
|--|------|---|------|
| PROJECT NO. | DATE | PROJECT NO. | DATE |
| 57/001 | 7/03 | 57/001 | 7/03 |
| | | | |
| 850 Encore Way Naples, FL 34110 Phone: (239) 254-2000 60 Certificate of Authorization No. 1772 | | NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND LAYERS. | |
| SKETCH TO ACCOMPANY A L I . . . AL DESCRIPTION | | PANEL NO. POB DATE 5-1-200 | |

* NOT A SURVEY *



850 Encore Way
Naples, FL 34110
Phone: (239) 254-2000
60 Certificate of
Authorization No. 1772

NOT VALID WITHOUT
THE SIGNATURE AND
SEAL OF A FLORIDA
LICENSED SURVEYOR
AND LAYERS.

SKETCH TO ACCOMPANY
A L I . . . AL DESCRIPTION

PANEL NO.
POB
DATE
5-1-200

Parcel: 121
STRAP: 04-46-25-00-00001.003A
Project: Alico Road Widening, No. 4030

AFFIDAVIT OF INTEREST IN REAL PROPERTY

THIS AFFIDAVIT OF INTEREST IN REAL PROPERTY is made and entered this ___ day of ___
_, 20___ for the sole purpose of compliance with Section 286.23 of the Florida Statutes.

The undersigned hereby swears and affirms under oath, subject to the penalties prescribed for perjury, that the following is true:

The Name and Address of the Grantor is:

Joe & Bruce, LLC, a Florida limited liability company

C/o West Coast Roofing, 8090 Supply Drive, Fort Myers, FL 33912

The name(s) and address(es) of every person having a beneficial interest in real property that will be conveyed to Lee County are:

1. Mitchell Bruce Nicholas 578 Ridge Drive Naples Fla. 34108
2. Terry Waters 60 Northst Naples Fla. 34108
3. _____
4. _____
5. _____
6. _____

The real property to be conveyed to Lee County is known as: Exhibit "A" attached hereto
and made a part hereof.

FURTHER AFFIANT SAYETH NAUGHT.

Signed, sealed and delivered
in our presences:

Jessica DeLaCruz
Witness Signature

Jessica DeLaCruz
Printed Name

Debi Stuart
Witness Signature

Debi Stuart
Printed Name

Bruce Nicholas
Signature of Affiant

Bruce Nicholas
Printed Name

Affidavit of Interest in Real Property
Parcel: 121
STRAP: 04-46-25-00-00001.003A
Project: Alico Road Widening, No. 4030

STATE OF Florida
COUNTY OF Lee

SWORN TO AND SUBSCRIBED before me this 15th day of December, 2004 by _____
M. Bruce Nicholas
(name of officer or agent, title of officer or agent)

of Joe & Bruce, LLC, a Florida Limited Liability
(name of corporation acknowledged)

corporation, on behalf of the corporation.

(SEAL)



Sandra Duckworth
Commission #DD318521
Expires: May 11, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

Sandra Duckworth
(Notary Signature)

Sandy Duckworth
(Print, type or stamp name)

Personally known
OR Produced Identification _____
Type of Identification _____

HM PROJECT #1997051
07/02/2003
REF. DWG. #B-4300

LEGAL DESCRIPTION:

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COMMENCE AT THE SOUTHWEST CORNER OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY FLORIDA; THENCE RUN N.00°23'55"W., ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 4, FOR A DISTANCE OF 150.00 FEET TO A POINT ON THE NORTH LINE OF A 50.00 FOOT DRAINAGE EASEMENT AS RECORDED IN O.R. BOOK 1234 AT PAGE 1001 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.89°39'11"E. ALONG THE NORTH LINE OF SAID 50.00 FOOT DRAINAGE EASEMENT, FOR A DISTANCE OF 683.56 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.89°39'11"E., ALONG THE NORTH LINE OF SAID 50.00 FOOT DRAINAGE EASEMENT, FOR A DISTANCE OF 330.61 FEET; THENCE RUN S.00°23'55"E., FOR A DISTANCE OF 50.00 FEET TO A POINT ON THE SOUTH LINE OF SAID 50.00 FOOT DRAINAGE EASEMENT; THENCE RUN S.89°39'11"W., ALONG THE SOUTH LINE OF SAID 50.00 DRAINAGE EASEMENT, FOR A DISTANCE OF 330.61 FEET; THENCE RUN N.00°23'55"W., FOR A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.380 ACRE MORE OR LESS.

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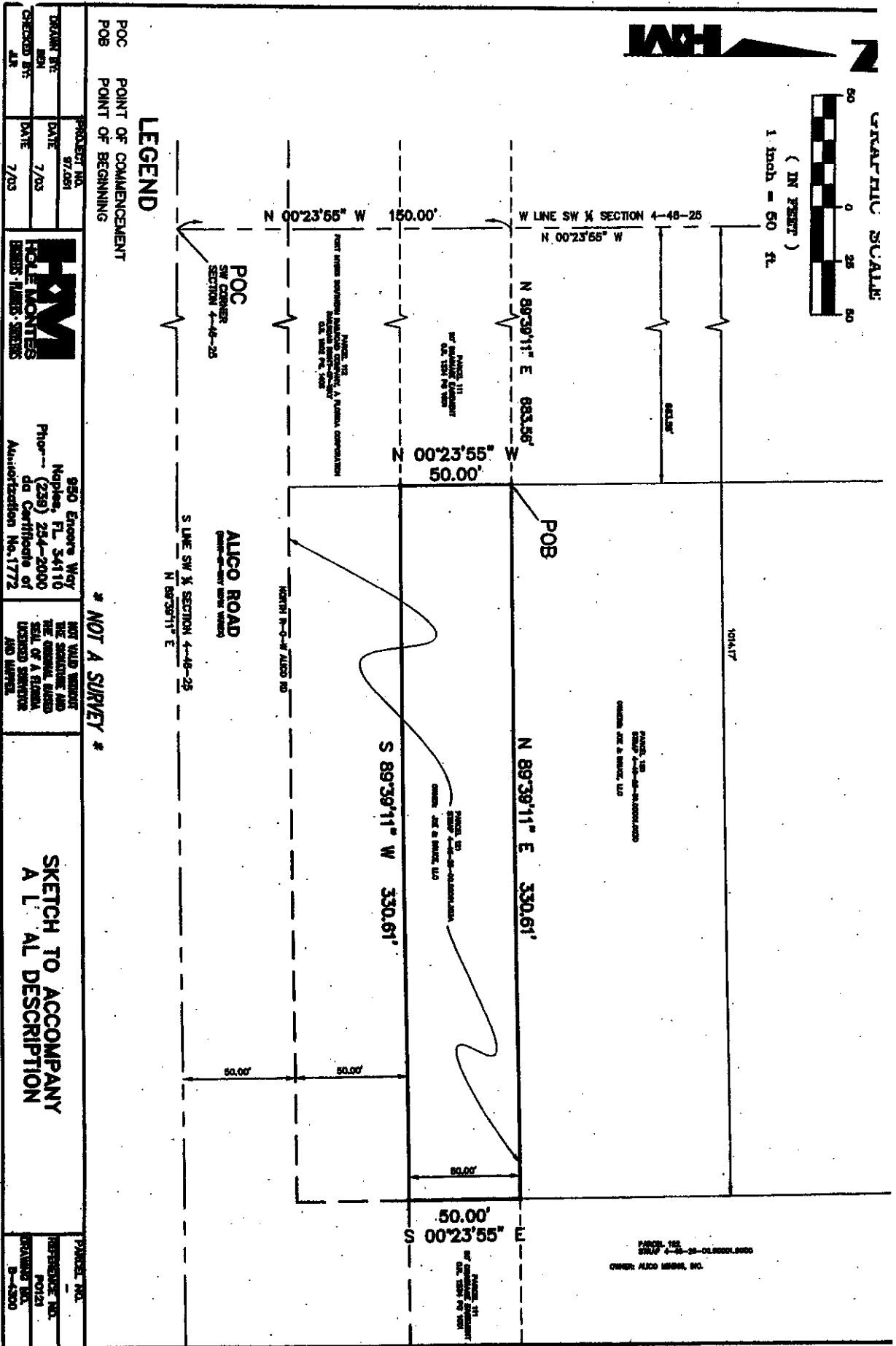
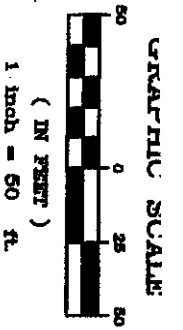
HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION LB # 1772

BY


JERRY L. PIFFELMACHERP.S.M. #6130
STATE OF FLORIDA

2/2

Exhibit "A"



LEGEND

POC POINT OF COMMENCEMENT
POB POINT OF BEGINNING

| | | | | | | |
|-----------------------|--------------|---|--|---|--|------------------------|
| PROJECT NO. 97/001 | DATE 7/03 |  | 950 Encore Way Naples, FL 34110 Phone: (239) 254-2000 do Certificate of Authorization No. 1772 | NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A REGISTERED LICENSED SURVEYOR AND MAPPER | SKETCH TO ACCOMPANY A LEGAL DESCRIPTION | PARCEL NO. B-4500 |
| DRAWN BY MHL | DATE 7/03 | | | | | REFERENCE NO. P0121 |

* NOT A SURVEY *

Division of County Lands

Updated In House Title Search

Search No. 21401/B

Date: April 15, 2003

Parcel: 121

Project: Alico Road Widening

Project 4030

To: Robert G. Clemens, SR/WA
Acquisition Program Manager

From: Shelia A. Bedwell, CLS *Shelia A. Bedwell*
Property Acquisition Assistant

STRAP: 04-46-25-00-00001.003A

An update has been requested of In House Title Search No. 21401/B which covers the period beginning January 1, 1940, at 8:00 a.m. and is now complete through ~~March 30, 2003~~, at 5:00 p.m.

12/7/04 ASB

Subject Property: See attached Schedule "X"

Title to the subject property is vested in the following:

Joe & Bruce, LLC, a Florida limited liability company

by that certain instrument dated May 30, 2002, recorded June 5, 2002, in Official Record Book 3659, Page 3396, 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. Reservation in favor of Alico, Incorporated for the right to use the canal located on a 50 foot wide right of way which runs along and parallel to the North boundary of Fort Myers Southern Railroad Company right of way, as recited in Official Record Book 1234, Page 998, Public Records of Lee County, Florida. Said easement is perpetual non-exclusive.
3. Mortgage executed by Joe & Bruce, LLC, a Florida limited liability company in favor of AmSouth Bank, dated May 30, 2002, recorded June 5, 2002, in Official Record Book 3659, Page 3400, Public Records of Lee County, Florida.
4. U.C.C. between Joe & Bruce, LLC and AmSouth Bank, recorded June 5, 2002 in Official Record Book 3659, Page 3408, Public Records of Lee County, Florida.

Tax Status: ~~2002 taxes are delinquent.~~ *No taxes are assessed to this parcel*
(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

Parcel 121

Project: Alico Road Widening Project 4030

Search No. 21401/B

A parcel of land in the Southwest 1/4 of the Southwest 1/4 of Section 4, Township 46 South, Range 25 East, being more particularly described as follows:

Commencing at the Southwest corner of Section 4, Township 46 South, Range 25 East, measure N 0°57'02"W along the West line of Section 4 a distance of 150.0 feet; thence measure N 89°40'14"E a distance of 683.56 feet to the Southwest corner of that certain parcel excepted from the conveyance of Curtis W. Bostick, Trustee to Jonbo Corporation recorded in Official Records Book 1545, pages 312 and 313 and the Point of Beginning; thence continuing North 89°40'14" East along the Southerly line of the aforementioned excepted parcel, a distance of 330.0 feet; thence South 0°34'41" East a distance of 100 feet to the Northerly line of the Alico Road right of way; thence South 89°40'14" West along the Northrly line of said Alico Road right of way, a distance of 330.0 feet; thence North 0°34'41" West, a distance of 100 feet to the Point of Beginning.

TOGETHER WITH a non-exclusive Easement over and across the following described Parcels Three and Four:

PARCEL THREE:

A parcel of land located in the Southeast 1/4 of Section 5, Township 46 South, Range 25 East, Lee County, Florida, being described as follows:

Begin at the Southwest corner of said Southeast 1/4 of Section 5; thence North 89°48'25" East along the South line of said Southeast 1/4 of Section 5, 1562.63 feet; thence North 0°29'30" West, 50 feet to the North right of way line of Alico Road and Point of Beginning for this parcel; thence continue North 0°29'30" West, 1480.00 feet; thence North 89°48'25" East, 70 feet; thence South 0°29'30" East, 1480 feet to the North right of way line of Alico Road; thence South 89°48'25" West along said North right of way line of Alico Road 70 feet to Point of Beginning.

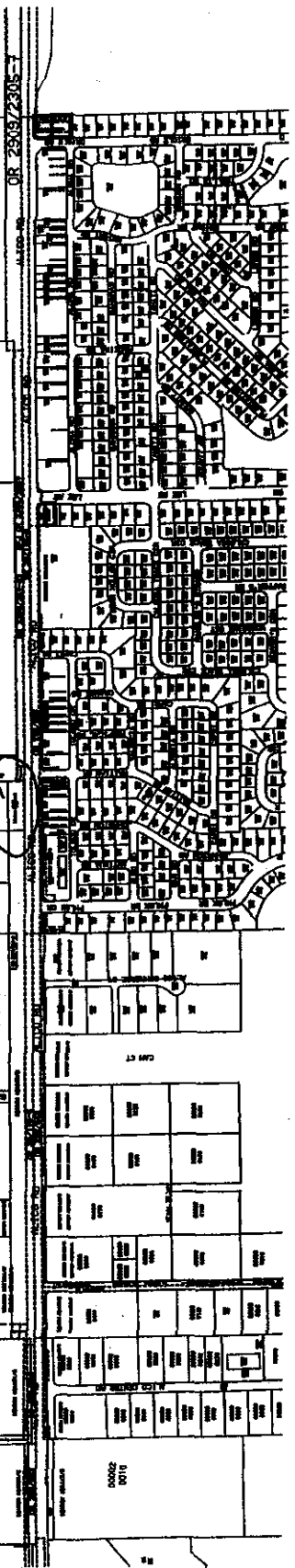
PARCEL FOUR:

A parcel of land situated in the State of Florida, County of Lee, being a part of Alico Industrial Park as recorded in Plat Book 43, at pages 51-52, inclusive, and further bounded and described as follows:

Beginning at the Southeast corner of Lot 13 of said subdivision; thence South 0°15'09" East along the Easterly boundary of said subdivision for 60.00 feet; thence South 89°48'25" West along the Southerly line of Supply Drive (60 feet wide) for 1703.89 feet to the Southwest corner of said subdivision being the Easterly line of Gator Road; thence North 0°29'30" West along the Westerly line of said subdivision for 89.84 feet to a point of cusp with a curve concave to the Northeast having a radius of 30.00 feet and to which point a radial line bears South 89°30'30" West; thence Southeasterly along said curve and the Northerly line of Supply Drive through a central angle of 89°42'05" for 46.97 feet to a point of tangency; thence North 89°48'25" East along said Northerly line of Supply Drive 1674.30 feet to the Point of Beginning.

Bearings are based on the plat of Alico Industrial Park (Plat Book 43, pages 51-52).

| | | | | |
|---------------|---------------|---------------|---------------|---------------|
| 00003 0011 | 00003 0030 | 00003 0040 | 00003 0000 | 00003 0020 |
| 000 10 | 0000 106 | 0 1 | 00 10 | 000 10 |
| | | | SEARCH # | SEARCH # |



SUBJECT AREA

| | | | | |
|---------------|---------------|---------------|---------------|---------------|
| 00003 0011 | 00003 0030 | 00003 0040 | 00003 0000 | 00003 0020 |
| 000 10 | 0000 106 | 0 1 | 00 10 | 000 10 |
| | | | SEARCH # | SEARCH # |

00 00

5-Year Sales History

Parcel No. 121

Alico Road Six Lining, Project No. 4030

| Grantor | Grantee | Sale Date | Purchase Price | Arms Length Y/N |
|------------------------------|-----------------------------|---------------------------|--------------------|-----------------|
| Harper Trust and McNew Trust | Joe & Bruce, LLC | 5/30/02 | \$1,275,000 | Y |
| | | | | |
| Harper and McNew | Harper Trust and McNewTrust | 7/13/90 and 3/29/95 | \$100 and \$100 | N |