

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

Blue Sheet No. 20050610

- 1. ACTION REQUESTED/PURPOSE:** Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$255,000 for Parcels 92 and 93, Gladiolus Drive Widening, Project No. 4083, pursuant to the Purchase Agreement; authorize the Division of County Lands to handle all documentation necessary to complete transaction.
- 2. WHAT ACTION ACCOMPLISHES:** Authorizes binding offer to property owner.
- 3. MANAGEMENT RECOMMENDATION:** Management recommends Board approve the Action Requested

4. Departmental Category: 6 <i>C6B</i>		5. Meeting Date: <i>05-24-2005</i>
6. Agenda:	7. Requirement/Purpose: (specify)	8. Request Initiated:
<input checked="" type="checkbox"/> Consent	<input checked="" type="checkbox"/> Statute <i>73 and 125</i>	Commissioner _____
<input type="checkbox"/> Administrative	<input type="checkbox"/> Ordinance _____	Department <i>Independent</i>
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code _____	Division <i>County Lands 5-47</i>
<input type="checkbox"/> Public	<input type="checkbox"/> Other _____	By: <i>Karen L.W. Forsyth, Director</i>
<input type="checkbox"/> Walk-On		

9. Background:
Negotiated for: Department of Transportation

Interest to Acquire: Fee Interest in 49,851.5 square feet (1.14 acres) of vacant land.

Property Details:

Owner: Dwight S. Baird, Trustee
Address: 15560 and 15650 Bass Road, Fort Myers, FL
STRAP No.: 33-45-24-00-00006.0020 and 33-45-24-00-00006.002A

Purchase Details:

Binding Offer Amount: \$255,000

The property owner has been unresponsive to Staff contact efforts. Therefore, staff recommends Board make a binding offer in the amount of \$255,000, and commence Eminent Domain procedures.

Appraisal Information:

Company: Diversified Appraisal Inc.
Appraised Value: \$249,258

Staff Recommendation: Staff is of the opinion that the purchase price increase of \$5,742 above appraised value can be justified considering costs associated with condemnation proceedings, estimated between \$5,000 and \$10,000 excluding land value increases and attorney fees. Staff recommends the Board approve the action requested.

Account: 20408330700.506110

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

10. 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>K. Forsyth</i>			<i>11/11/05</i>	<i>[Signature]</i>	<i>5/12/05</i>	<i>5/12/05</i>	<i>5/12/05</i>	<i>5/14/05</i>	<i>[Signature]</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

Rec. by CoAtty
Date: *5/11/05*
Time: *10:50*
Forwarded To: _____

RECEIVED BY COUNTY ADMIN: <i>[Signature]</i>
<i>5-11-05 10:50</i>
<i>2:22</i>
COUNTY ADMIN FORWARDED TO: <i>[Signature]</i>
<i>5-12-05</i>

Lee County
County Lands Division
Project: Gladiolus Drive Widening Project
Parcel: 92 and 93
STRAP No.: Part of 33-45-24-00-00006.0020 and .002A

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 **Dwight S. Baird, Trustee** whose address is 1765-7 Red Cedar Drive, Fort Myers, FL 33907, 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 1.14 acres more or less, and located at 15560 and 15650 Bass Road, Fort Myers, FL 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 Gladiolus Drive Widening Project, 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 Two hundred fifty five thousand and no/100 dollars (\$255,000.00), 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) axes 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:

CHARLIE GREEN, CLERK

BY: _____
DEPUTY CLERK (DATE)

SELLER:

Dwight S. Baird, Trustee (DATE)

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

BY: _____
CHAIRMAN OR VICE CHAIRMAN

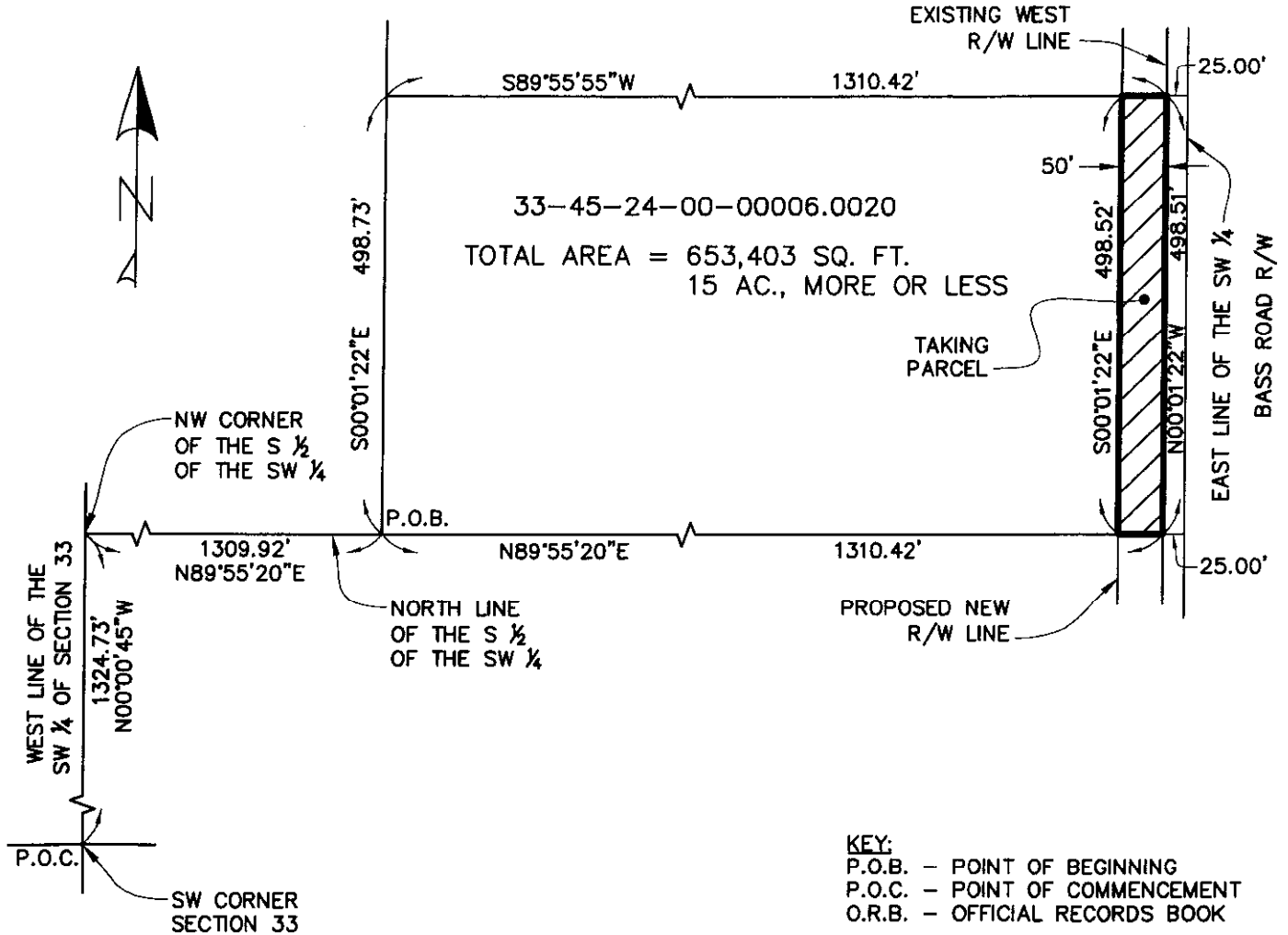
APPROVED AS TO LEGAL FORM
AND SUFFICIENCY

COUNTY ATTORNEY (DATE)

Exhibit "A"

SKETCH OF DESCRIPTION

OF A PARCEL LYING IN THE S 1/2 OF THE SW 1/4 OF SECTION 33, TWP 45 S, RGE 24 E, LEE COUNTY, FLORIDA



REVISED MAY 1, 2005

PARCEL NO. 92
PROPERTY OWNER: DWIGHT S. BAIRD, JR. TRUSTEE
REFERENCE: O.R.B. 2227, PG 1579
STRAP NO.: 33-45-24-00-00006.0020
AREA OF TAKE: 24,926 Sq. Ft., 0.57 Ac., MORE OR LESS
AREA OF REMAINDER: 628,477 Sq. Ft., 14.43 Ac., MORE OR LESS

Jeffrey C. Cooner
JEFFREY C. COONER
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NO. 4052
(FOR THE FIRM - LB 6773)
THIS 2ND DAY OF MAY, 2005

THIS IS NOT A SURVEY

Page 1 of 4

COONER & ASSOCIATES, INC.

SURVEYING AND MAPPING
5670 ZIP DRIVE, FORT MYERS, FLORIDA 33905
TELEPHONE: 239.277.0722 FAX: 239.277.7179 EMAIL: SURVEYING@COONER.COM

TAKE PARCEL IN THE N 1/2 OF

COUNTY:	LEE	DWG DATE:	9/9/04
SEC.:	33	SURVEY DATE:	2/25/04

FOR:

LEE COUNTY DOT ENGINEERING

1 OF 2

Exhibit "A"

SKETCH AND DESCRIPTION

OF A PARCEL LYING IN THE S 1/2 OF THE NW 1/4 OF SECTION 33, TWP 45 S, RGE 24 E, LEE COUNTY, FLORIDA

DESCRIPTION

THE EAST 50.00 FEET OF:

A TRACT OR PARCEL OF LAND IN SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST; THENCE N 00°00'45" W ALONG THE WEST LINE OF THE SOUTHWEST ONE QUARTER OF SAID SECTION 33 FOR 1324.73 FEET TO THE NORTHWEST CORNER OF THE SOUTH ONE HALF OF THE SOUTHWEST ONE QUARTER OF SAID SECTION 33; THENCE N 89°55'20" E FOR 1309.92 FEET ALONG THE NORTH LINE OF THE SOUTH ONE HALF OF THE SOUTHWEST ONE QUARTER OF SAID SECTION 33 TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE ALONG SAID NORTH LINE N 89°55'20" E FOR 1310.42 FEET TO AN INTERSECTION WITH A LINE PARALLEL WITH AND 25 FEET WEST OF AS MEASURED AT RIGHT ANGLES TO THE EAST LINE OF THE SOUTHWEST ONE QUARTER OF SAID SECTION 33, BEING THE WEST RIGHT OF WAY LINE OF BASS ROAD; THENCE N 00°01'22" W ALONG SAID WEST RIGHT OF WAY LINE FOR 498.51 FEET; THENCE S 89°55'55" W FOR 1310.42 FEET; THENCE S 00°01'22" E FOR 498.73 FEET TO THE POINT OF BEGINNING.

REVISED MAY 1, 2005

THIS IS NOT A SURVEY

Page 2 of 4

COONER & ASSOCIATES, INC.

SURVEYING AND MAPPING

5670 ZIP DRIVE, FORT MYERS, FLORIDA 33905

TELEPHONE: 239.277.0722 FAX: 239.277.7179 EMAIL: SURVEYING@COONER.COM

TAKE PARCEL IN THE N 1/2 OF

COUNTY:	LEE	DWG DATE:	9/9/04
SEC.:	33	SURVEY DATE:	2/25/04

FOR:

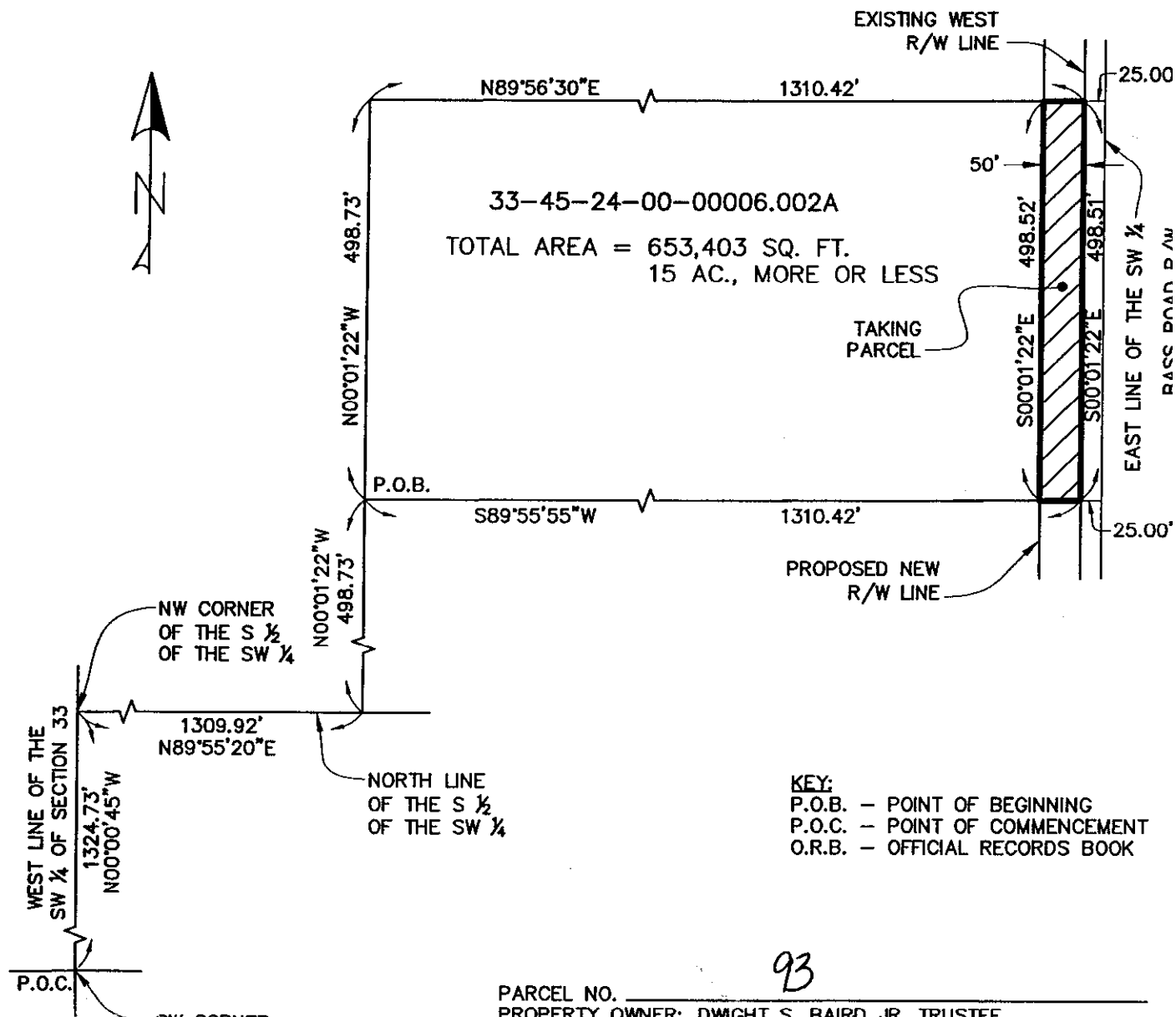
LEE COUNTY DOT ENGINEERING

2 OF 2

Exhibit "A"

SKETCH OF DESCRIPTION

OF A PARCEL LYING IN THE N 1/2 OF THE SW 1/4 OF SECTION 33, TWP 45 S, RGE 24 E, LEE COUNTY, FLORIDA



KEY:
 P.O.B. - POINT OF BEGINNING
 P.O.C. - POINT OF COMMENCEMENT
 O.R.B. - OFFICIAL RECORDS BOOK

James N. Wilkison
 JAMES N. WILKISON (FOR THE FIRM LB6773)
 PROFESSIONAL SURVEYOR AND MAPPER
 FLORIDA LICENSE NO. LS 4876
 THIS ~~1st~~ DAY OF ~~Sept~~ 2004.

93
 PARCEL NO. _____
 PROPERTY OWNER: DWIGHT S. BAIRD JR. TRUSTEE
 REFERENCE: O.R.B. 2186, PG 3273
 STRAP NO.: 33-45-24-00-00006.002A
 AREA OF TAKE: 24,926 Sq. Ft., 0.57 Ac., MORE OR LESS
 AREA OF REMAINDER: 628,477 Sq. Ft., 14.43 Ac., MORE OR LESS

THIS IS NOT A SURVEY

JEFFREY C. COONER AND ASSOCIATES, INC.

SURVEYING AND MAPPING
 3900 COLONIAL BLVD., SUITE 4, FORT MYERS, FLORIDA 33912
 PHONE: (239)277-0722 FAX: (239)277-7179 EMAIL: SURVEYING@COONER.COM

CLIENT: LEE COUNTY D.O.T. ENGINEERING	DRAWN BY: JRF	CHECKED BY: J.N.W.
PARCEL DESCRIPTION: TAKE PARCEL IN THE N 1/2 OF THE SW 1/4 OF SEC 33-45-24	DATE: 9/9/04	SCALE: 1"=200'
	PROJECT No: 020504	DWG No: BR-TAKE 06.002A
		SHEET: 1 OF 2

Exhibit "A"

SKETCH AND DESCRIPTION

OF A PARCEL LYING IN THE S 1/2 OF THE NW 1/4 OF SECTION 33, TWP 45 S, RGE 24 E, LEE COUNTY, FLORIDA

DESCRIPTION

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THIS IS NOT A SURVEY

JEFFREY C. COONER AND ASSOCIATES, INC.

SURVEYING AND MAPPING

3900 COLONIAL BLVD., SUITE 4, FORT MYERS, FLORIDA 33912

PHONE: (239)277-0722 FAX: (239)277-7179 EMAIL: SURVEYING@COONER.COM

CLIENT: LEE COUNTY D.O.T. ENGINEERING

DRAWN BY: JNM

CHECKED BY: J.N.W.

PARCEL DESCRIPTION:

TAKE PARCEL IN THE N 1/2 OF
THE SW 1/4 OF SEC 33-45-24

DATE: 2/25/03

SCALE: 1"=200'

PROJECT No: 020504

DWG No: BR-TAKE
06.002A

SHEET: 2 OF 2

Division of County Lands

Ownership and Easement Search

Search No. 22368

Date: February 10, 2003

Parcel: 92

Project: Gladiolus Drive Project 4083

To: Karen L.W. Forsyth
Director

From: Shelia A. Bedwell, CLS
Property Acquisition Assistant

STRAP: 33-45-24-00-00006.002A

Effective Date: January 22, 2003, at 5:00 p.m.

No changes as of 4/13/05
[Signature]

Subject Property: See attached Schedule "X"

Title to the subject property is vested in the following:

Dwight S. Baird, Jr., Trustee

by that certain instrument dated November 13, 1990, recorded November 14, 1990, in Official Record Book 2186, Page 3723, Public Records of Lee County, Florida.

Easements:

None found of record.

2004

Tax Status: 2002 Ad Valorem Taxes are PAID IN FULL.

(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

Project: Gladiolus Drive Project 4083
Search No. 22368

A tract or parcel of land in Section 33, Township 45 South, Range 24 East, Lee County, Florida, more particularly described as follows:

Commence at the Southwest corner of Section 33, Township 45 South, Range 24 East; thence N 00°00'54" W along the West line of the Southwest One Quarter of said Section 33 for 1324.73 feet to the Northwest corner of the South One Half of the Southwest One Quarter of said Section 33; thence N 89°55'20" E for 1309.92 feet along the North line of the South One Half of the Southwest One Quarter of said Section 33; thence N 00°01'22" W for 498.73 feet to the Point of Beginning of the herein described parcel of land; thence continue N 00°01'22" W for 498.73 feet; thence N 89°56'30" E for 1310.42 feet to an intersection with a line parallel with and 25 feet West of as measured at right angles to the East line of the Southwest One Quarter of said Section 33, being the West Right of Way line of Bass Road; thence S 00°01'22" E along said West Right of Way line for 498.51 feet; thence S 89°55'55" W for 1310.42 feet to the Point of Beginning.

Division of County Lands

Ownership and Easement Search

Search No. 22369

Date: February 12, 2003

Parcel: 93

Project: Gladiolus Drive Project 4083

To: Karen L.W. Forsyth
Director

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

STRAP: 33-45-24-00-00006.0020

Effective Date: January 22, 2003, at 5:00 p.m. *No changes as of 4/12/05*

Subject Property: See attached Schedule "X"

Title to the subject property is vested in the following:

Dwight S. Baird, Jr., Trustee

by that certain instrument dated June 7, 1991, recorded June 12, 1991, in Official Record Book 2227, Page 1579, Public Records of Lee County, Florida.

Easements:

1. Sixty foot ingress-egress, drainage and utility easement along the southerly boundary as recorded in Official Record Book 2223, Page 4564, Public Records of Lee County, Florida.

2004

Tax Status: 2002 Ad Valorem Taxes are PAID IN FULL.
(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

Project: Gladiolus Drive Project 4083

Search No. 22369

A tract or parcel of land in Section 33, Township 45 South, Range 24 East, Lee County, Florida, more particularly described as follows;

Commence at the Southwest corner of Section 33, Township 45 South, Range 24 East; thence N 00°00'45" W, along the West line of the Southwest One Quarter of said Section 33 for 1324.73 feet to the Northwest corner of the South One Half of the Southwest One Quarter of said Section 33; thence N 89°55'20" E for 1309.92 feet along the North line of the South One Half of the Southwest One Quarter of said Section 33 to the Point of Beginning of the herein described parcel of land; thence continue N 89°55'20" E, for 1310.42 feet to an intersection with a line parallel with and 25 feet West of as measured at right angles to the East line of the Southwest One Quarter of said Section 33, being the West Right of Way line of Bass Road; thence N 00°01'22" W along said West Right of Way line for 498.51 feet; thence S 89°55'55" W for 1310.42 feet; thence S 00°01'22" E for 498.73 feet to the Point of Beginning.

EXECUTIVE SUMMARY

PROJECT NAME: Gladiolus Drive Widening Project

OWNER OF RECORD: Dwight S. Baird, Jr., Trustee

STRAP #: 33-45-24-00-00006.0020 and .002A

LOCATION: Westerly Side of Bass Road; South of Gladiolus Drive

PARENT TRACT: 60 Acres (Two 15 Acre Parcels and One 30 Acre Parcel)

PARTIAL TAKE: ±49,851.5 Square Feet

ZONING: AG-2

IMPROVEMENTS: None

LAND USE: Urban Community

HIGHEST AND BEST USE: Commercial Development

ESTIMATE OF VALUE - COST APPROACH: N/A

ESTIMATE OF VALUE - MARKET APPROACH: \$249,258

ESTIMATE OF VALUE - INCOME APPROACH: N/A

FINAL VALUE ESTIMATE: \$249,258

PER S.F. VALUE ESTIMATE: \$5.00

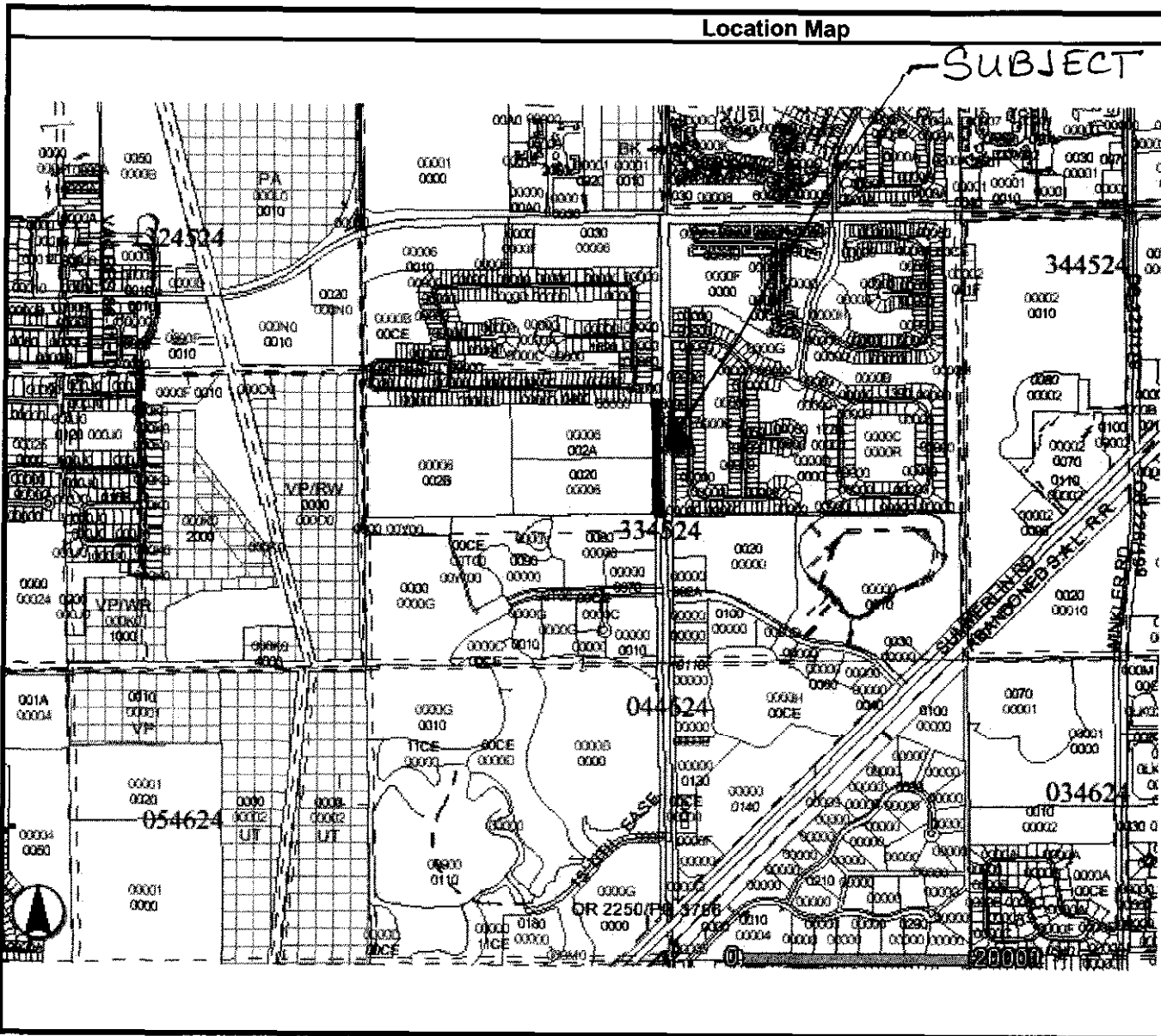
INTEREST APPRAISED: Fee Simple

DATE OF VALUATION: 14 April 2005

APPRAISER: Mr. David C. Vaughan, MAI

Location Map

SUBJECT



5-Year Sales History

Parcel No. 92 and 93

Gladiolus Drive Widening Project, No. 4083

NO SALES in PAST 5 YEARS

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