

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20051302

1. ACTION REQUESTED/PURPOSE: Approve Agreement for Purchase and Sale of Real Estate in Lieu of Condemnation for acquisition of Parcel 320 Three Oaks Parkway South Extension Project No. 4043, in the amount of \$230,000; authorize payment of costs to close and the Division of County Lands to handle all documentation necessary to complete transaction.

2. WHAT ACTION ACCOMPLISHES: The acquisition of property required for the Three Oaks Parkway South Extension, without the necessity of an eminent domain action.

3. MANAGEMENT RECOMMENDATION: Management recommends Board approve the Action Requested.

| | | | |
|---|--|--|------------------------------------|
| 4. Departmental Category: 6 | | <i>CLF</i> | 5. Meeting Date: 10-11-2005 |
| 6. Agenda: | 7. Requirement/Purpose: (specify) | 8. Request Initiated: | |
| <input checked="" type="checkbox"/> Consent | <input checked="" type="checkbox"/> Statute 73 & 125 | Commissioner _____ | |
| <input type="checkbox"/> Administrative | <input type="checkbox"/> Ordinance | Department Independent | |
| <input type="checkbox"/> Appeals | <input type="checkbox"/> Admin. Code | Division County Lands | |
| <input type="checkbox"/> Public | <input checked="" type="checkbox"/> Other BS 20050292, 20050844 | By: Karen L.W. Forsyth, Director <i>KLF</i> | |
| <input type="checkbox"/> Walk-On | Res. 05/03/23 | | |

9. Background:
Negotiated for: Department of Transportation

Interest to Acquire: Fee simple interest in vacant, single-family residential property.

Property Details:

Owner: Eugene Bolliger
Property Address: 24065 Roger Dodger Street, Bonita Springs
STRAP No.: 14-47-25-B1-00200.0850

Purchase Details:

Purchase Price: \$230,000
Estimated Closing Costs: Approximately \$6,000 (inclusive of attorney and expert fees and costs of \$4,000).
 The property owner originally required \$235,000 for the property. However, through negotiations, they have now agreed to accepting \$230,000.
 (The County is responsible for future district assessments for road and drainage improvements, which are estimated to be \$16,000. The Three Oaks Parkway project will benefit from the construction of the improvements).

Appraisal Information:

Appraisal Firm: Carlson, Norris & Associates, Inc.
Appraised Value: \$205,000

Staff Recommendation: Staff is of the opinion that the purchase price increase (12%) above the appraised value can be justified, considering the costs associated with condemnation proceedings are estimated to be \$4,000 - \$6,000, excluding value increases and additional attorney fees.

Account: 20404330709.506110

Attachments: Purchase and Sale Agreement, Appraisal Data, Title Data, Sales History

| Department Director | Purchasing or Contracts | Human Resources | Other | County Attorney | Budget Services | | | County Manager/P.W. Director | |
|---------------------|-------------------------|-----------------|-------------|--------------------|------------------------|---------------------|-----------------------|------------------------------|-------------------|
| <i>KLF</i> | | | <i>9/13</i> | <i>[Signature]</i> | Analyst <i>9/19/05</i> | Risk <i>9/14/05</i> | Grants <i>9/19/05</i> | Mgr. <i>9/19/05</i> | <i>HS 9/22/05</i> |

11. Commission Action:

Approved

Deferred

Denied

Other

RECEIVED BY
 COUNTY ADMIN: *[Signature]*
 9-16-05
 COUNTY ADMIN
 FORWARDED TO: *[Signature]*
 9/22/05

CO. ATTY.
 FORWARDED TO: *[Signature]*

REC'D - 9/16/05
 by CO. ATTY.
 CO. ATTY.
 FORWARDED TO:

This document prepared by:

Lee County
County Lands Division
Project: Three Oaks Parkway South Extension, No. 4043
Parcels: 320/Bolliger
STRAP No.: 14-47-25-B1-00200.0850

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 **EUGENE BOLLIGER**, whose address is 2815 SW 37th Terrace, Cape Coral, Florida 33914, Owner, hereinafter referred to as SELLER, 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 ±1.24 acres, located at 24066 Cock Robin Lane, Bonita Springs, Florida 34135 and more particularly described as set forth in Exhibit "A", attached hereto and made a part hereof by reference, hereinafter called "the Property." This Property will be acquired for the Three Oaks Parkway South Extension 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 of the Property ("Purchase Price") will be Two Hundred Thirty Thousand and No/100 (\$230,000), plus attorney's and expert witness fees and costs, 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, if applicable;
- (c) taxes or assessments for which a bill has been rendered on or before the date of closing;

6. **BUYER'S INSTRUMENTS AND EXPENSES:** BUYER will pay for:

- (a) Recording fee for deed and easement;
- (b) survey, (if desired by BUYER);
- (c) SELLER's attorney and expert fees and costs of \$4,000.

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 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 15 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 the 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 or covenants of this Agreement, upon notice to the SELLER, the BUYER may elect to treat those discrepancies, violations 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 hereby 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 ninety (90) 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:

Joseph Keith Gomez
Signature of Witness
Joseph Keith Gomez
Print Name of Witness

Eugene Bolliger 10-9-05
EUGENE BOLLIGER (DATE)

Barbara J. Fries
Signature of Witness
BARBARA J. FRIES
Print Name of Witness

BUYER:

CHARLIE GREEN, CLERK

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)

February 18, 2005

Page 1 of 1

DESCRIPTION

THREE OAKS PARKWAY

PARCEL 320

TRACT 85

SAN CARLOS ESTATES

LYING IN SECTION 14, TOWNSHIP 47 SOUTH, RANGE 25 EAST

CITY OF BONITA SPRINGS

LEE COUNTY, FLORIDA

Tract 85, San Carlos Estates, according to the map thereof recorded in Official Record Book 557, Pages 354 and 355, in the Public Records of Lee County, Florida, lying in the Northwest Quarter (NW-1/4) of Section 14, Township 47 South, Range 25, East, City of Bonita Springs, Lee County Florida, being more particularly described as follows:

Commencing at the northeast corner of the Northwest Quarter (NW-1/4) of said section; thence run S 00° 28' 27" E along the east line of said Northwest Quarter (NW-1/4) for 495.24 feet to an intersection with the north line of Tract 101 of said San Carlos Estates; thence run N 82° 32' 57" W along the north line of said tract for 60.68 feet to the southeast corner of said Tract 85 and the Point of Beginning. From said Point of Beginning thence run N 82° 29' 12" W along the south line of said Tract 85 for 329.99 feet to the southwest corner; thence run N 00° 13' 03" W along the west line of said tract for 165.00 feet to the northwest corner; thence run S 82° 29' 12" E along the north line of said tract for 329.99 feet; thence run S 00° 13' 03" E along the east line of said tract for 165.00 feet to the Point of Beginning.

Containing 53,950.93 square feet or 1.24 acres, more or less.

Bearings hereinabove mentioned are State Plane Coordinate for the West Zone of Florida (NAD 83/90 Adjustment) and are based on the east line of the Northwest Quarter (NW-1/4) of Section 14, Township 47 South, Range 25 East to bear S 00° 27' 27" E.

20013033 Parcel 320 022105

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

PROJECT AND PARCEL NUMBER: Three Oaks Parkway Extension 4043, Parcel Number 320 - Bolliger

OWNER OF RECORD: Eugene Bolliger

LOCATION: 24066 Cock Robin Lane, Bonita Springs, FL

LAND AREA: 53,951 square feet

IMPROVEMENTS: None

COMPREHENSIVE LAND USE PLAN CLASSIFICATION: Low Density Single Family

ZONING: AG-2

HIGHEST AND BEST USE: Residential

ESTIMATED LAND VALUE/SF: \$3.80 per square foot

ESTIMATED VALUE BY THE COST APPROACH: Not Applicable

ESTIMATE VALUE BY THE INCOME APPROACH: Not applicable

ESTIMATED VALUE BY THE SALES COMPARISON APPROACH: \$205,000

TOTAL COMPENSATION DUE THE PROPERTY OWNER: \$205,000 ~~_____~~

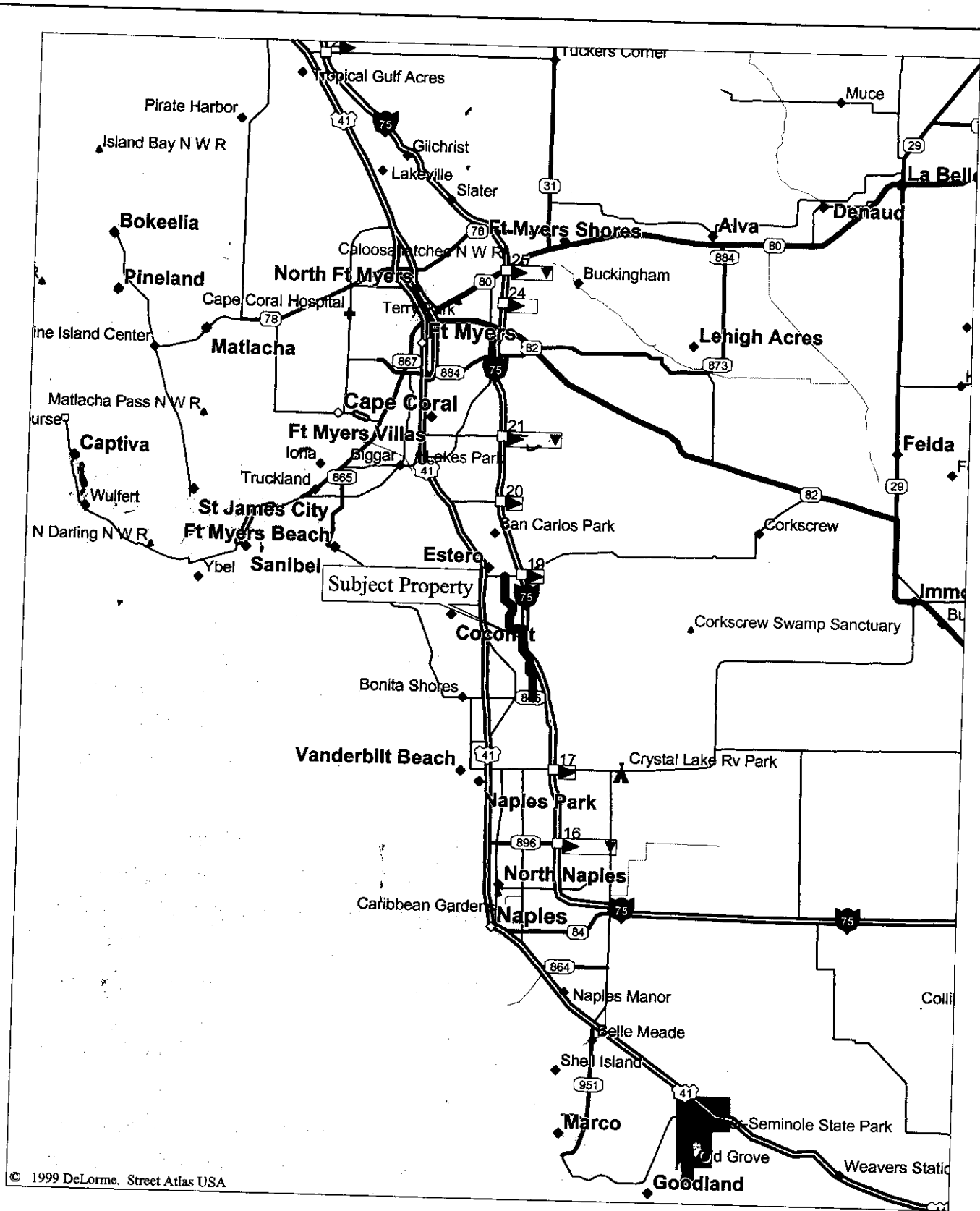
DATE OF VALUE ESTIMATE: May 21, 2005 ~~_____~~

DATE OF REPORT: June 7, 2005

USPAP APPRAISAL TYPE: Complete

USPAP REPORT TYPE: Summary

APPRAISER: J. Lee Norris, MAI, SRA
State Certified General Appraiser RZ0000643



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LOCATION MAP

Division of County Lands

Ownership and Easement Search

- Search No. 14-47-25-B1-00200.0850
- Date: November 4, 2003
- Parcel: 320
- Project: Three Oaks Parkway South Extension, Project 4043

To: J. Keith Gomez
Property Acquisition Agent

From: Shelia A. Bedwell, CLS 
Property Acquisition Assistant

STRAP: 14-47-25-B1-00200.0850

Effective Date: ~~October 13, 2003~~ ⁵⁻²³⁻⁰⁵, at 5:00 p.m.

Subject Property: Tract 85, San Carlos Estates, according to the plat thereof recorded in Official Record Book 557, Pages 354 and 355, of the Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

✓ **Eugene Bolliger**

by those certain instruments dated February 10, 1989, recorded February 21, 1989 in Official Record Book 2050, Page 3311 and dated October 22, 1998, recorded October 26, 1998, in Official Record Book 3028, Page 1551 and re-recorded in Official Record Book 3065, Page 378, Public Records of Lee County, Florida.

Easements:

1. Dedication of Easements for drainage, roads and streets, recorded in Official Record Book 535, Page 826, Public Records of Lee County, Florida.
2. Non-exclusive utility and roadway easement over and across or below all roadways shown on plat of San Carlos Estates, recorded in Official Record Book 1307, Page 36, Public Records of Lee County, Florida.

NOTE (1): Judgment creating and incorporating San Carlos Estates Drainage District, recorded in Official Record Book 521, Page 120, Public Records of Lee County, Florida.

Tax Status: Taxes paid for the year 2002; 2003 taxes are now due and payable.
(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.

5-Year Sales History

Parcel No. 320

Three Oaks Parkway South Extension
Project No. 4043

NO SALES in PAST 5 YEARS