

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

Blue Sheet No. 20030287

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$15,500.00, for Parcel 145, Palmetto Extension, Project No. 4073, pursuant to the terms and conditions set forth in the Purchase Agreement; authorize Chairman on behalf of the BoCC to execute Purchase Agreement if offer is accepted by Seller; authorize the Division of County Lands to handle and accept all documentation necessary to complete this transaction and payment of all recording fees.

WHY ACTION IS NECESSARY: The Board must formally authorize the making of a binding offer to a property owner pursuant to F.S. §73.015 prior to initiation of condemnation proceedings.

WHAT ACTION ACCOMPLISHES: Makes binding offer to property owner as required by F.S. §73.015, as amended.

2. DEPARTMENTAL CATEGORY:

COMMISSION DISTRICT #: *C6C*

3. MEETING DATE:

04/22/2003

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON

TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

- (Specify)
- STATUTE 73.125
 - ORDINANCE _____
 - ADMIN. _____
 - OTHER Resolution of Necessity
Blue Sheet No. 20030281 and Interlocal Agreement Blue Sheet No. 20020586

6. REQUESTOR OF INFORMATION

- A. _____
- B. DEPARTMENT Independent Division
- C. DIVISION County Lands
- BY Karen L.W. Forsyth, Director *4-3-03*

7. BACKGROUND:

The Division of County Lands has been requested by the Department of Transportation and the City of Fort Myers to acquire property that is necessary for the Palmetto Extension, Project No. 4073.

This acquisition consists of 29,010 square feet of vacant property, further identified as Lot 26 Godden & Hansons Resubdivision Plat Book 3, Page 65, (STRAP Number 19-44-25-09-00000.0110).

F.S. §73.015, as amended, requires the County to submit a binding offer to the property owner prior to the initiation of condemnation proceedings. The County obtained an appraisal dated November 4, 2002, performed by J. Lee Norris, MAI, SRA, indicating a value of \$14,500.00. The binding offer to the property owners, Earl P. Williams and Franceil A. Williams, husband and wife and Bert A. Williams and Carol A. Williams, husband and wife is for \$15,500.00. Should the property owner agree to accept this offer, condemnation proceedings will not be required. If the property owner elects not to accept this offer, then condemnation proceedings may be commenced.

Staff is of the opinion that the purchase price increase of \$1,000.00 above the appraised value can be justified considering the costs associated with condemnation proceedings, estimated between \$3,000 - \$5,000 excluding land value increases and attorney fees.

Staff recommends the Board approve the Requested Motion.
Funds are available in City of Fort Myers Acct # 310-4315-541-6100

ATTACHMENTS:

- Purchase and Sale Agreement
- In-House Title Search
- Appraisal Letter
- Sales History
- City Engineer Approval

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>		N/A	<i>N/A</i>	<i>4/8/03</i>	OA	OM	RISK	GC	
					<i>4/8/03</i>	<i>4/8/03</i>	<i>4/9/03</i>	<i>4/8/03</i>	<i>[Signature]</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *4/8/03*
Time: *12:00 pm*
Forwarded To:
CO, ADM.
4/8/03 4PM

RECEIVED BY
COUNTY ADMIN. *EW*
4/8/03
4:30pm
bH
4/10/03 1:00

This document prepared by
Lee County Division of County Lands
Project: Palmetto Extension Project
Parcel: 145
STRAP No.: 19-44-25-09-00000.0110

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 **Earl P. Williams and Franceil A. Williams, husband and wife, and Bert A. Williams and Carol A. Williams, husband and wife**, hereinafter referred to as SELLER, whose address is **20121 S. River Road, Alva, Florida 33920**, 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 **0.66 acres** more or less and located in Fort Myers, 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 Palmetto Extension, 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 **Fifteen thousand five hundred and no/100 dollars (\$15,500.00)**, 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 **\$15,500.00**, 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:

CHARLIE GREEN, CLERK

BY: _____
DEPUTY CLERK (DATE)

SELLER:

Earl P. Williams (DATE)

Franceil A. Williams (DATE)

Bert A. Williams (DATE)

Carol A. Williams (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)



August 19, 2002

DESCRIPTION

**PARCEL IN
SECTION 19, TOWNSHIP 44 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA**

PARCEL NO. 145

PARENT STRAP NO. 19-44-25-09-00000.0110

A tract or parcel of land located in part of Lots 22 and 23 and all of Lots 24, 25 and 26, of Godden & Hanson's Re-Subdivision of Lot 2, Hanson's Highland Subdivision as recorded in Plat Book 3 at Page 65, of the Public Records of Lee County, Florida, lying in the Northeast Quarter (NE-1/4) of Section 19, Township 44 South, Range 25 East, Lee County, Florida, which tract or parcel is described as follows:

Beginning at the northeast corner of said Lot 26 run S 00° 05' 21" E the east line of said Lot 26 for 142.41 feet to an intersection with the south line of said Godden & Hanson's Re-Subdivision of Lot 2, Hanson's Highland Subdivision; thence run S 89° 10' 15" W along said south line for 195.22 feet to an intersection with a non-tangent curve; thence run northwesterly along an arc of a curve to the right of radius 3,040.50 feet (delta 02° 42' 04") (chord bearing N 06° 53' 10" W) (chord 143.33 feet) for 143.34 feet to an intersection with the south right-of-way line of Coahatchee Street (20 feet wide); thence run N 89° 12' 17" E along said south Right-of-Way line for 212.17 feet to the Point of Beginning.

Parcel contains 29,020 square feet, more or less.

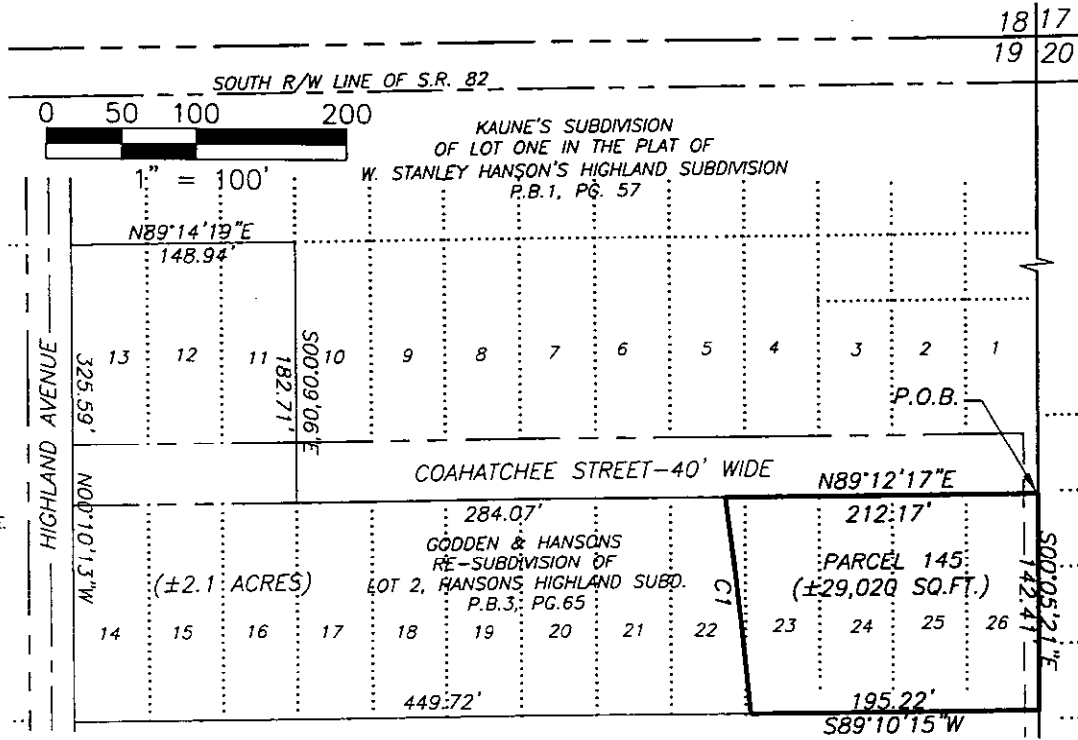
SUBJECT TO easements, reservations, restrictions and right-of-ways of record.

Bearings hereinabove mentioned are based on the east line of the Northeast Quarter (NE-1/4) of Section 19, Township 44 South, Range 25 East to bear S 00° 05' 21" E.

Mark G. Wentzel (For The Firm LB-642)
Professional Surveyor And Mapper
Florida Certificate No. 5247

19991321\Parcel No. 145 - 081902

Exhibit "A"



NOTES:

1. SUBJECT TO ALL EASEMENTS, RESERVATIONS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD.
2. BEARINGS ARE BASED ON THE EAST LINE OF THE N.E. 1/4 OF SECTION 19, TOWNSHIP 44 SOUTH, RANGE 25 EAST, LEE COUNTY FLORIDA AS BEING S00°05'21"E.
3. PARCEL CONTAINS 29,020 SQUARE FEET MORE OR LESS.

THIS IS NOT A SURVEY

Mark G. Wentzel

MARK G. WENTZEL (FOR THE FIRM - L.B. 642)
PROFESSIONAL SURVEY AND MAPPER
FLORIDA CERTIFICATE NO. 5247

DATE SIGNED: 8/21/02

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

LEGEND

- COR. = CORNER
- DESC. = DESCRIPTION
- FD. = FOUND
- L.B. = LAND SURVEYOR BUSINESS
- MON. = MONUMENT
- O.R. = OFFICIAL RECORD
- P.B. = PLAT BOOK
- PG. = PAGE
- P.O.B. = POINT OF BEGINNING
- P.O.C. = POINT OF COMMENCEMENT
- R. = RANGE
- T. = TOWNSHIP

PARCEL NO. 145

... PARENT STRAP NO. 19-44-25-09-00000.0110
PART OF LOTS 22, 23 AND ALL
OF LOTS 24, 25 AND 26 OF
GODDEN & HANSONS
RE-SUBDIVISION OF LOT 2,
HANSONS HIGHLAND SUBDIVISION
(PLAT BOOK 3, PAGE 65-LEE COUNTY PUBLIC RECORDS
SECTION 19, T.44 S., R.25 E.
LEE COUNTY, FLORIDA

CURVE TABLE					
CURVE	RADIUS	DELTA	LENGTH	CHORD	CHORD BEARING
C1	3040.50	02°42'04"	143.34	143.33	N06°53'10"W

JOHNSON
ENGINEERING

3501 DEL PRADO BOULEVARD
SUITE 110
CAPE CORAL, FLORIDA 33904
PHONE (941) 334-0046
FAX (941) 541-1383
E.B. #642 & L.B. #642

SKETCH TO ACCOMPANY DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
08-08-02	19991321	19-44-25	1"=100'	1

u:\19991321\surveying\outlocad\Legal Descriptions\Desc145.dwg

Division of County Lands

Updated In House Title Search

Search No. 21887/A

Date: July 18, 2002

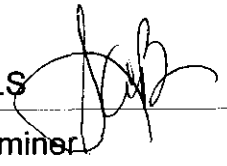
Parcel: 145

Project: Palmetto Avenue

Extension Project #4073

To: Michele S. McNeill, SR/WA
Property Acquisition Agent

From: Shelia A. Bedwell, CLS
Real Estate Title Examiner



No changes as of 3/19/03



STRAP: 19-44-25-09-00000.0110

An update has been requested of In House Title Search No. 21887/A which covers the period beginning January 1, 1940, at 8:00 a.m. and is now complete through July 8, 2002, at 5:00 p.m.

Subject Property: Lot 26, Godden and Hansons Re-Subdivision of Lot 2, Hanson's Highland Subdivision, according to the map or plat thereof filed and recorded in the Office of the Clerk of the Circuit Court, in Plat Book 3, Page 65, Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

Earl P. Williams and Franceil A. Williams, husband and wife and Bert A. Williams and Carol A. Williams, husband and wife.

by that certain instrument dated September 8, 1995, recorded September 14, 1995, in Official Record Book 2635, Page 830, 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.

NOTE: The Plat of W. Stanley Hanson's High Land Subdivision recorded in Plat Book 1, Page 57, Public Records of Lee County, Florida has language describing a 10 foot drainage ditch with a fall of 9 ft. per mile. The language also states that the ditch is used for subsoil irrigation. The drainage ditch appears to abut the East line of subject property.

NOTE: The Plat of Godden and Hansons Re-Subdivision of Lot 2 Hanson's Highland Subdivision recorded in Plat Book 3, Page 65, Public Records of Lee County, Florida has language describing a 12 foot drainage canal. The drainage canal appears to abut the East line of subject property.

Tax Status: 2001 taxes have been 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.

Carlson, Norris and Associates, Inc.

APPRAISAL • CONSULTATION • REALTORS

C. William Carlson, MAI, SRA
State Certified General Appraiser #0000667
ccarl1@hotmail.com

J. Lee Norris, MAI, SRA
State Certified General Appraiser #0000643
leenor56@hotmail.com

February 10, 2003

Lee County/City of Fort Myers
P.O. Box 398
Fort Myers, Florida 33902
Attention: Robert Clemens, Project Acquisition Manager

Re: Vacant Land - Partial Take
Parcel 145 - Palmetto Avenue Extension
Fort Myers, Florida

Dear Mr. Clemens:

In accordance with your request, we have inspected the above referenced property for the purpose of estimating the market value of the parent tract, the remainder parcel thereby yielding a value for the part taken. This parcel is within the alignment of the Palmetto Extension Right of Way.

The parent tract contains road frontage along the Highlands Avenue right of way south of Dr. Martin Luther King Jr. Boulevard. The parent tract contains 120,496 square feet. The remainder parcel is estimated to contain 91,476 square feet. Based upon documentation provided to the appraiser the part taken contains 29,020 square feet.

This analysis has utilized the most current market value definition which is contained within the attached appraisal report. The site is being valued under market conditions existing as of the last date of physical inspection of the property. As per your request this is a **Complete-Summary Appraisal Report** which presents summary data and analysis that were used in the appraisal process to develop the appraiser's opinion of value. As this is a complete appraisal, the departure provision of the Uniform Standards of Professional Appraisal Practice was not invoked.

Based on market conditions existing as of the date of appraisal and in consideration of the property as it existed on this date, it is our opinion the parent tract warranted a market value in fee simple ownership on November 4, 2002 of:

SIXTY THOUSAND TWO HUNDRED FIFTY DOLLARS (\$60,250.00).

The remainder parcel has a market value as of that same date of:

FORTY FIVE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$45,750.00).

The market value of the part taken as of the effective date of appraisal was:

FOURTEEN THOUSAND FIVE HUNDRED DOLLARS (\$14,500.00).

Robert Clemens
February 10, 2003
Page 2

This value represents all property rights to be acquired including all legally compensable diminution in value to the remaining land.

This report is made subject to certain assumptions and limiting conditions as set forth in the body of the appraisal. The analyst was engaged by the Lee County Government in association with the City of Fort Myers to prepare the appraisal of the subject property.

If you should have any questions relating to this or any other matter, please do not hesitate to call upon us.

Respectfully submitted,

CARLSON, NORRIS AND ASSOCIATES, INC.



J. Lee Norris, MAI, SRA
State Certified General Appraiser #0000643

5-Year Sales History

Parcel No. 145

Veronica S. Shoemaker Blvd. (formerly Palmetto Avenue)
Extension Project, No. 4073

NO SALES in PAST 5 YEARS

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

04/02/2003 WED 16:55 FAX 239 479 8391

LEE COUNTY-COUNTY LANDS

003



LEE COUNTY

SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

239.479.8505
239.479.8391 FAX

Writer's Direct Dial Number: _____

Bob James
District One

VIA FAX TO 332-6604

Douglas B. St. Cerny
District Two

April 2, 2003

Ray Judah
District Three

Saeed Kazemi, P.E. City Engineer
City of Fort Myers
P.O. Box 2217
Fort Myers Fl 33902-2217

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stillwell
County Manager

RE: **PARCEL 145, PALMETTO EXTENSION PROJECT**
Request for review and sign-off on acquisition proposal

James G. Yeager
County Attorney

Dear Saeed:

Diana M. Parker
County Hearing Examiner

The appraisal for parcel 145 has been reviewed and approved by County Staff and we are preparing to request Board approval to make a binding offer. Below is the relevant data for this parcel. Please review and approve on behalf of the City as well as confirm that funds are available. Thank you.

Sincerely,

Michele S. McNeill, SR/WA
Property Acquisition Agent

Parcel 145

Property Owner: Earl P. and Franceil A. Williams husband & wife and Bert A. and Carol A. Williams, husband & wife

Appraiser: Carlson Norris and Associates, Inc.

Appraisal Date: 11/4/02

Appraised Amount: \$14,500

Binding Offer Amount: \$15,500

Binding Offer Approved:

Funds are available in account:

Saeed Kazemi, P.E.
City Engineer, City of Fort Myers

310-4315-541-6100

S:\POOL\PalmettoExt\Correspondence\145 City Engineer Approval.wpd