

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

Blue Sheet No. 20030769

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$1,500.00, for Parcel 129A, Veronica S. Shoemaker Blvd. (formerly Palmetto Avenue) Extension, Project No. 4073, pursuant to the Purchase Agreement; authorize the Division of County Lands to handle all documentation necessary to complete transaction.

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

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

2. DEPARTMENTAL CATEGORY: 06

COMMISSION DISTRICT #: 2 AND 5

C6C

3. MEETING DATE:

08-05-2003

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON

TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

(Specify)

- STATUTE 73 and 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

Handwritten initials and date: 7-3-03

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

This acquisition consists of 1,500 square feet of vacant property, further identified as part of STRAP Number 20-44-25-P4-00501.0070.

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 February 20, 2003, performed by J. Lee Norris, MAI, SRA, indicating a value of \$1,000.00. The binding offer to the property owners Ray West and Nevernan West, husband and wife, is for \$1,500.00. Should the property owners agree to accept this offer, condemnation proceedings will not be required. If the property owners elect not to accept this offer, then condemnation proceedings may be commenced.

Staff is of the opinion that the purchase price increase of \$500.00 above the appraised value can be justified considering the costs associated with condemnation proceedings, estimated between \$3,000.00 - \$5,000.00 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	N/A	<i>John J. Neill</i> 7-7-03	QA <i>7-8-03</i>	DM <i>7/8/03</i>	RISK <i>7/8/03</i>	<i>HS</i> 7-9-03

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED
by CO. ATTY.
1:30 PM
7/9/03
CO. ATTY.
FORWARDED TO
CO. ADM.
7/17/03 3:14

RECEIVED BY
COUNTY ADMIN
9/7/03
4:30 pm
COUNTY ADMIN
FORWARDED TO
7/16/03
8:28 AM

This document prepared by
Lee County Division of County Lands
Project: Veronica S. Shoemaker Blvd. Extension Project #4073
Parcel: 129A
STRAP No.: 20-44-25-P4-00501.0070

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 _____, 2003 by and between **Ray West and Nevernan West, husband and wife;** hereinafter referred to as SELLER, whose address is 2165 Willard Street, Fort Myers, Florida 33901, 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 1,500 square feet more or less, and located on Edison Avenue, 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 Veronica S. Shoemaker Blvd. 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 **One Thousand Five Hundred and no/100 dollars (\$1,500.00)**, 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 **\$1,500.00**, 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:

Ray West (DATE)

NeVERNAN West (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)

January 15, 2003

DESCRIPTION

PARCEL IN
SECTION 20, TOWNSHIP 44 SOUTH, RANGE 25 EAST
CITY OF FORT MYERS, LEE COUNTY, FLORIDA

PARCEL NO. 129A

PARENT STRAP NO. 20-44-25-P4-00501.0070

A tract or parcel of land being part of Lots 7 and 8, Block 1 as shown on the plat of Fort Myers Estates, Addition 2 recorded in Plat Book 8 at Page 7 of the Public Records of Lee County, Florida and lying in Section 20, Township 44 South, Range 25 East, City of Fort Myers, Lee County, Florida described as follows:

Beginning at northwest corner of said Lot 7; thence run North 88° 44' 26" East along the north line of said lots 7 and 8 for 100.00 feet to an intersection with the east line of said Lot 8; thence run South 00° 58' 24" East along said east line for 15.00 feet; thence run South 88° 44' 26" West for 100.00 feet to an intersection with the west line of said Lot 7; thence run North 00° 58' 24" West along said west line for 15.00 feet to the Point of Beginning.

Parcel Contains 1,500 feet, more or less.

Bearings hereinabove mentioned are based on the west line of the Southwest Quarter (SW-1/4) of Section 20, Township 44 South, Range 25 East to bear South 00° 58' 24" East.

Mark G. Wentzel

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

19991321/Parcel 129A 011503

S:\19991321\Surveying\autocad\Legal Sketches\Desc129-A.dwg (Layout) rlm Jun 17, 2003 - 11:40am

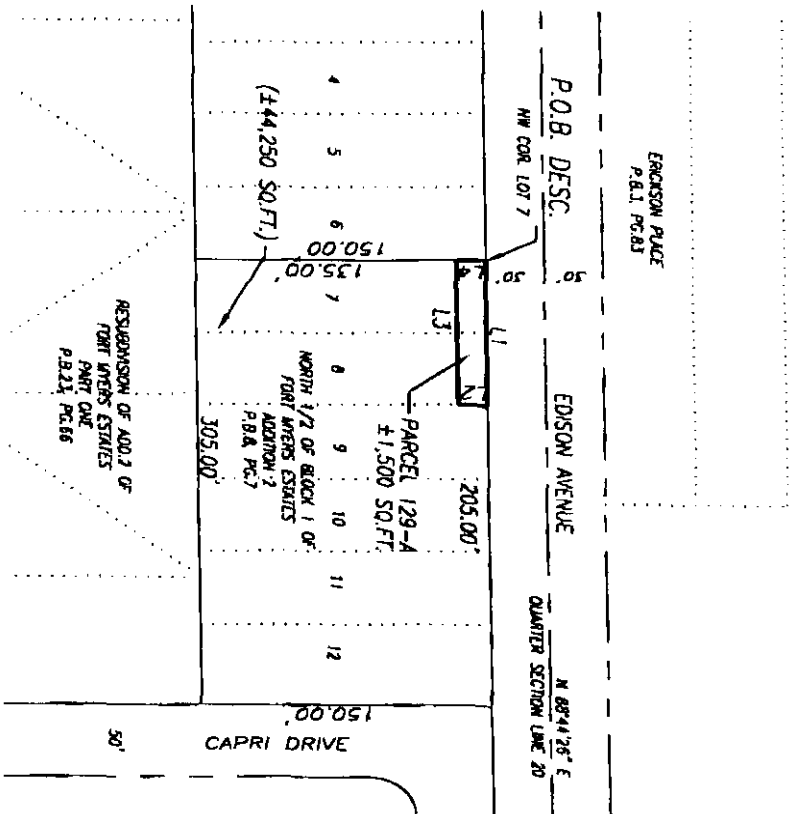
Exhibit "A"

- LEGEND**
- COR. = CORNER
 - DESC. = DESCRIPTION
 - FD. = FOUND
 - L.B. = LAND SURVEYOR BUSINESS MONUMENT
 - 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

THIS IS NOT A SURVEY

MARK G. WENZEL (FOR THE FIRM-LB642)
PROFESSIONAL SURVEY AND MAPPER
FLORIDA CERTIFICATE NO. 52417

DATE SIGNED: _____
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF FLORIDA LICENSED SURVEYOR AND MAPPER.



- NOTES:**
1. BEARINGS ARE BASED ON THE WEST LINE OF THE S.W. 1/4 OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING S00°58'24"E.
 2. PARCEL CONTAINS 1,500 SQUARE FEET, MORE OR LESS.

JOHNSON ENGINEERING

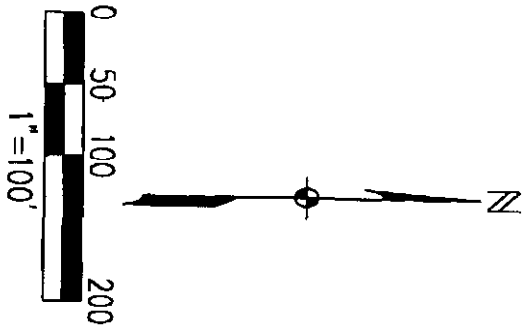
3301 DEL PRADO BOULEVARD
SUITE 110
OPE CONEL, FLORIDA 33004
PHONE (941) 334-0046
FAX (941) 541-1303
C.B. PAGE & L.B. PAGE

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
01-17-03	19991321	20-44-25	1"=100'	1

PARCEL NO. 129-A
PARENT STRAP NO. 20-44-25-P4-00501.0070
PART OF LOTS 7 & 8, BLOCK 1
FORT MYERS ESTATES, ADDITION 2
(PLAT BOOK 8, PAGE 7, LEE COUNTY RECORDS)
SECTION 20, T.44 S., R.25 E.
CITY OF FORT MYERS
LEE COUNTY, FLORIDA

LINE TABLE

LINE	LENGTH	BEARING
L1	100.00	N88°44'26"E
L2	15.00	S00°58'24"E
L3	100.00	S88°44'26"W
L4	15.00	N00°58'24"W



Division of County Lands

Updated In House Title Search

Search No. 22127

Date: July 17, 2002

Parcel: 129A

Project: Palmetto Avenue Extension

Project 4073

To: Michele S. McNeill, SR/WA

Property Acquisition Agent

From: Linda K. Fleming, CLS, SRWA *LKF*

Real Estate Title Examiner

STRAP: 20-44-25-P4-00501.0070 This parcel does not exist in the 2001 data base. Taxes are paid under STRAP # 20-44-25-P4-00501.0060.

This search covers the period of time from January 1, 1940, at 8:00 a.m. to July 8, 2002 at 5:00 p.m.

Subject Property: Lots 7, 8, 9, 10, 11 and 12, Block 1, Fort Myers Estates, Addition 2, according to the plat thereof, as recorded in Plat Book 8, Page 7, of the Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

Ray West and Nervernan West, husband and wife

by that certain instrument dated October 1, 1999, recorded October 7, 1999 in Official Record Book 3176, Page 254, 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. Mortgage executed by Ray West and Nervernan C. West, husband and wife in favor of Kendall S. Atkinson, III, as Trustee of the Edison Avenue Trust dated January 16, 1998 and Margaret S. Atkinson, a single person, dated October 1, 1999, recorded October 7, 1999, in Official Record Book 3176, Page 282, as partially released in Official Record Book 3595, Page 1801, Public Records of Lee County, Florida.
3. Five foot (5') easement along the rear boundary of subject property, as recited on recorded plat of the subdivision.

No search has been made regarding the status of liens and/or assessments levied by the City of Fort Myers.

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 20, 2003

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

Re: Partial Take
Parcel 129A - Veronica S. Shoemaker Boulevard
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 Edison Avenue for Veronica S. Shoemaker Boulevard.

The parent tract contains road frontage on the south side of Edison Avenue at Capri Drive. The parent parcel contains 45,750 square feet. The remainder parcel is estimated to contain 44,250 square feet. Based upon documentation provided to the appraiser the part taken contains 1,500 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 was 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 subject property (a partial take parcel) warranted a market value in fee simple ownership on November 4, 2002 of:

ONE THOUSAND DOLLARS (\$1,000.00).

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.

Mr. Robert Clemens
February 20, 2003
Page 2

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. 129A

Veronica S. Shoemaker Blvd. Extension Project,
No. 4073

NO SALES in PAST 5 YEARS

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



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 R. St. Cerny
District Two

June 30, 2003

Roy Judah
District Three

Andrew W. Coy
District Four

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

John E. Atison
District Five

Fort Myers, FL 33902-2217

Donald D. Stilwell
County Manager

RE: PARCEL 129A, PALMETTO EXTENSION PROJECT
Request for review and sign-off on acquisition proposal

James G. Yocum
County Attorney

Dear Saeed:

Diana M. Parker
County Hearing Examiner

The appraisal for parcel 129A 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 129A

Property Owner: Ray West and Nevevan West, husband and wife

Appraiser: Carlson Norris and Associates, Inc.

Appraisal Date: 2/20/03

Appraised Amount: \$1,000

Binding Offer Amount: \$1,500

Binding Offer Approved:

Funds are available in account:

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

310-4315-541-6100

S:\FOUL\PalmettoExt\Correspondence\129A City Engineer Approval.wpd