

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

Blue Sheet No. 20051844

1. ACTION REQUESTED/PURPOSE: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$54,000 for Parcel 1019, Imperial Street Widening, Project No. 4060, pursuant to the Purchase Agreement; and authorize the Division of County Lands to handle all documentation necessary to complete transaction.

2. WHAT ACTION ACCOMPLISHES: Makes binding offer to property owner prior to initiation of condemnation proceedings as required by Florida Statutes.

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

4. Departmental Category: 6 **CGG** **5. Meeting Date:** 01-24-2006

6. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify)		8. Request Initiated: Commissioner Department Independent Division County Lands TLM 1/4/06 By: Karen L.W. Forsyth, Director <i>KLF</i>
	<input checked="" type="checkbox"/> Statute	73 & 125	
	<input type="checkbox"/> Ordinance		
	<input type="checkbox"/> Admin. Code		
	<input type="checkbox"/> Other		

9. Background:
Negotiated for: Department of Transportation

Interest to Acquire: Fee simple interest in 9,481 square feet of vacant land

Property Details:

Owner: Horst Mangold
Address: 11460 East Terry Street, Bonita Springs, FL 34135
STRAP No. 36-47-25-B1-00006.0110

Purchase Details:

Binding Offer Amount: \$54,000 (inclusive of attorney and expert fees/costs, and severance damages to the remainder)
In order to expedite acquisition efforts, staff recommends Board make a binding offer in the amount of \$54,000, and commence Eminent Domain procedures.

Appraisal Information:

Company: Maxwell & Hendry Valuation Services, Inc., by W. Michael Maxwell, MAI, SRA
Appraised Value: \$49,740 (\$36,028 value of land and \$13,712 severance damages)
Date of Appraisal: November 21, 2005

Staff Recommendation: Staff is of the opinion that the purchase price increase above the appraised value (8.6%) can be justified and may secure an agreement for the acquisition of the property without the full expense of an Eminent Domain action. Staff recommends the Board approve the Action Requested.

Account: 20406063000.506110

Attachments: Purchase Agreement; Title Data; Appraisal Data (Location Map Included); Letter from City of Bonita Springs; 5-Year 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	
<i>K. Forsyth</i>			<i>BAO/HS</i>	<i>Robert Spang</i>	<i>Jaw</i>	<i>1/10/06</i>	<i>1/10/06</i>	<i>1/10/06</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: *1-10-06*
1:09
COUNTY ADMIN FORWARDED TO: *1/10/06*
1/10

Rec. by CoAtty
Date: *1/9/06*
Time: *4:15pm*
Forwarded To:

This document prepared by
Lee County Division of County Lands
Project: Imperial Street Widening, #4060
Parcels: 1019
STRAP No.: 36-47-25-B1-00006.0110

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 _____, 200__, by and between Horst Mangold, hereinafter referred to as SELLER, whose address is 1199 Linbrook Road, Oakville, Ontario L6J 2L5, Canada, 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 9,481 square feet, more or less, and located at 11460 East Terry Street, Bonita Springs, Florida 34135, 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 Imperial Street 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, inclusive of damages to the remainder, ("Purchase Price") will be Fifty-Four Thousand Dollars (\$54,000), 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) 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 and expert fees/costs, 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:

SELLER:

Horst Mangold (DATE)

CHARLIE GREEN, CLERK

BY: _____
DEPUTY CLERK (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)



Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard
Fort Myers, Florida 33919-5910
email - fmoffice@bwk.net
(Ph) 239-481-1331 (Fax) 239-481-1073

Exhibit "A"

Page 1 of 2

LEGAL DESCRIPTION

Parcel 1019 (Revised 06-03-05)

A parcel of land in Section 36, Township 47 South, Range 25 East, Bonita Springs, Lee County, Florida, more particularly described as follows:

Commence at the northeast corner of the northwest quarter of Section 36, Township 47 South, Range 25 East, thence S.88°59'29"W. along the north line of said northwest quarter for 665.38 feet to an intersection with the west line of the northeast quarter of the northeast quarter of the northwest quarter of said Section 36; thence S.01°02'11"E. along said west line for 25.00 feet to an intersection with a line parallel with and 25.00 feet south of as measured at right angles to the north line of said northwest quarter and the point of beginning of the herein described parcel of land; thence continue S.01°02'11"E. for 60.00 feet to an intersection with a line parallel with and 85.00 feet south of as measured at right angles to the north line of said northwest quarter; thence N.88°59'29"E. along said parallel line for 160.25 feet; thence N.01°01'33"W. for 35.01 feet to the point of curvature of a circular curve concave to the southwest; thence northerly, northwesterly and westerly along the arc of said curve having for its elements a radius of 25.00 feet and a central angle of 89°58'58" for 39.26 feet to the point of tangency; thence S.88°59'29"W. for 135.27 feet to the point of beginning.

Bean, Whitaker, Lutz & Kareh, Inc.
Certificate of Authorization Number LB0004919

Date: 03/11/05

James R. Coleman
Registered Land Surveyor
Florida Certificate Number LS3205

Pcl1019.doc

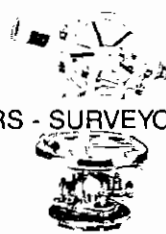
PRINCIPALS:

WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT
JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

ASSOCIATES

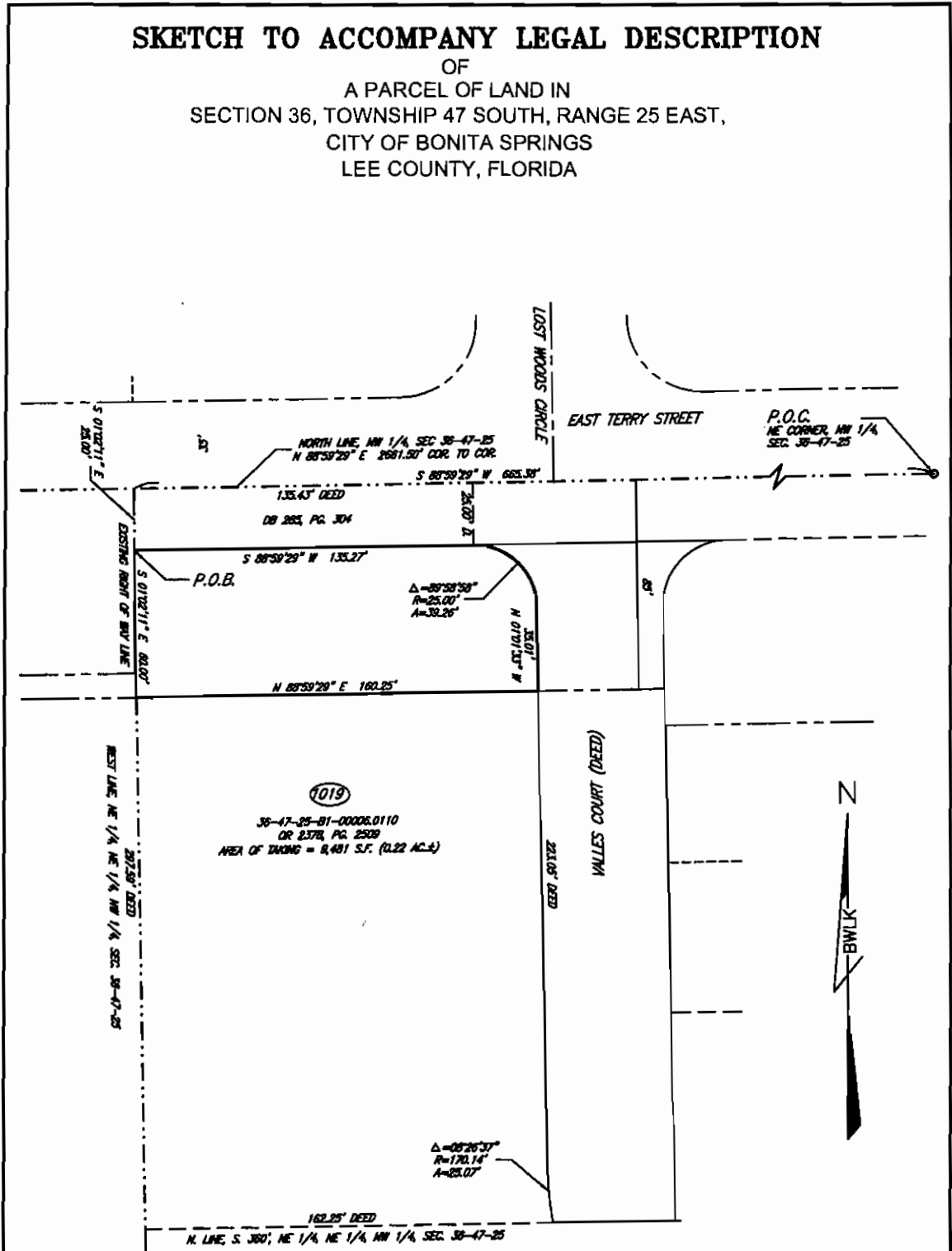
TRACY N. BEAN, AICP
CHARLES D. KNIGHT, PSM
W. BRITT POMEROY, JR., PSM
STEPHEN H. SKORUPSKI, PSM
ELWOOD FINEFIELD, PSM
JAMES A. HESSLER, PSM
JAMES R. COLEMAN, PSM
RUDOLF A. NORMAN, PE



SKETCH TO ACCOMPANY LEGAL DESCRIPTION
 OF
 A PARCEL OF LAND IN
 SECTION 36, TOWNSHIP 47 SOUTH, RANGE 25 EAST,
 CITY OF BONITA SPRINGS
 LEE COUNTY, FLORIDA

Exhibit "A"

Page 2 of 2



SURVEYORS NOTES

1. THE ATTACHED SKETCH IS INTENDED TO BE A GRAPHIC REPRESENTATION OF THE LANDS DESCRIBED HEREWITH AND IS NOT TO BE CONSIDERED A SURVEY.
2. THE BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NAD83 DATUM, 1990 ADJUSTMENT.
3. REPRODUCTIONS OF THE ATTACHED SKETCH ARE NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYORS SEAL.

BEAN, WHITAKER, LUTZ & KAREH, INC.
 CERTIFICATE OF AUTHORIZATION NUMBER LB0004919

James R. Coleman DATE: 03/14/05
 JAMES R. COLEMAN (FOR THE FIRM)
 REGISTERED LAND SURVEYOR
 FLORIDA CERTIFICATE NUMBER 3205

Bean, Whitaker, Lutz & Kareh, Inc. (L2 4816)
 CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
 12041-1 MOOREBORO BOWLEHARD, FORT MYERS, FLORIDA 33919-0910 (239) 481-1331

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-10)
06-03-05	35955	J.R.C.	1"= 50'	1 OF 1	36-47-25

Division of County Lands

Ownership and Easement Search

Search No. 22471

Date: April 11, 2003

Parcel: 1019

Project: Imperial Street Widening
#4060

To: Teresa L. Mann, SR/WA

Property Acquisition Agent

From: Kenneth Pitt

Real Estate Title Examiner

STRAP: 36-47-25-B1-00006.0110

12-28-2005

Effective Date: ~~March 8, 2003~~, at 5:00 p.m.

Subject Property: See attached Schedule "X"

Title to the subject property is vested in the following:

Horst Mangold

by that certain instrument dated April 6, 1993, recorded April 16, 1993, in Official Record Book 2378, Page 2509, Public Records of Lee County, Florida.

Easements:

None found of record.

NOTE 1: Property is not encumbered by a mortgage.

NOTE 2: The North 25 feet of the subject property was reserved for road right of way as recited in a Deed recorded in Official Record Book 1945, Page 4002, Public Records of Lee County, Florida.

Tax Status: \$587.76 paid on November 30, 2002 for tax year 2002.

(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

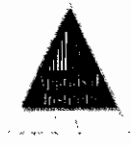
Parcel 1019

Project: Imperial Street Widening #4060

Search No. 22471

A parcel of land lying in and being a part of the NE 1/4 of the NW 1/4 of Section 36, Township 47 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

Commencing at the North 1/4 corner of said Section 36; thence along the North line of said NE 1/4 of the NE 1/4 of the NW 1/4, S 89°59'07" W 528.98 feet to the Point of Beginning of the parcel herein described; thence continue along said North line, S 89°59'07" W 135.43 feet to the West line of said NE 1/4 of the NE 1/4 of the NW 1/4; thence along the West line of said NE 1/4 of the NE 1/4 of the NW 1/4, S 00°01'55" E 297.59 feet to the North line of the Southerly 360 feet of the Westerly 360 feet of said NE 1/4 of the NE 1/4 of the NE 1/4 as described in Official Record Book 1725, pages 3707 and 3708, Public Records of Lee County, Florida; thence along the North line of the Southerly 360 feet of the Westerly 360 feet of said NE 1/4 of the NE 1/4 of the NW 1/4, S 89°51'42" E 162.25 feet; thence 25.07 feet along the arc of a non-tangential curve to the right, having a radius of 170.14 feet and subtended by a chord which bears N 04°15'14" W 25.05 feet; thence N 00°01'55" W 223.05 feet; thence 39.26 feet along the arc of a curve to the left, having a radius of 25.00 feet and subtended by a chord which bears N 45°01'24" W 35.35 feet; thence N 00°00'53" W 25.00 feet to the Point of Beginning. Less and except the North 25 feet for road right of way. (Also known as Parcel 2, VALLES CROSSROADS, unrecorded.)



Maxwell & Hendry Valuation Services, Inc.

Real Estate Appraisers - Consultants

PRESIDENT

W. Michael Maxwell, MAI, SRA
State-Certified General
Appraiser, RZ 55

VICE-PRESIDENT

Gerald A. Hendry, MAI
State-Certified General
Appraiser, RZ 2245

ASSOCIATES

William E. McInnis
State-Certified General
Appraiser, RZ 2232

Timothy D. Rieckhoff
State-Certified General
Appraiser, RZ 2261

Andrea R. Terregassa
Registered Trainee
Appraiser, RI 10787

Matthew H. Caldwell
Registered Trainee
Appraiser, RI 9277

Matthew S. Simmons
Registered Trainee
Appraiser, RI 12369

Scott H. Simmons
Registered Trainee
Appraiser, RI 13108

12600-1 World Plaza Lane, Building #63
Fort Myers, Florida 33907
www.maxwellhendry.com

Commercial
Phone: (239) 337-0555
Fax: (239) 337-3747
E-mail: commercial@maxwellhendry.com

Residential
Phone: (239) 333-1060
Fax: (239) 333-1066
E-mail: residential@maxwellhendry.com

11/22/2005

Lee County Board of County Commissioners
Department of Public Works
Division of County Lands
Post Office Box 398
Fort Myers, FL 33902-0398
ATTN: Mr. Robert G. Clemens

RE: Project #4060, STA #33, Parcels #1019 Mangold, Vacant Residential Land located at 11460 East Terry Street, Bonita Springs, Lee County, FL in Section 36, Township 47S, Range 25E

Dear Mr. Clemens,

In accordance with your request, we have appraised the above referenced property. The report is attached.

The purpose of this appraisal is to estimate the market value of the property described in this appraisal report, as vacant, in unencumbered fee simple title of ownership.

This report is based on a physical analysis of the site and improvements, a locational analysis of the neighborhood and city, and an economic analysis of the market for properties such as the subject.

This appraisal was developed and the report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice.

This appraisal report is created in conjunction with the Imperial Street / East Terry Street Data Book. The conclusions and reporting in this appraisal cannot be understood without the use of the Data Book.

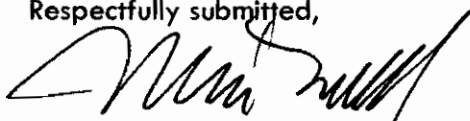
The Compensation Due the Owner, as of November 21, 2005, is

FORTY NINE THOUSAND SEVEN HUNDRED FORTY DOLLARS—(\$49,740)
*(Value of the Part Taken - \$36,028; Severance Damages - \$13,712)

This value is contingent upon the certification and the departures, assumptions, & conditions of this appraisal, if any.

It has been a pleasure to assist you. Please do not hesitate to contact myself or any of my staff if we can be of additional service to you.

Respectfully submitted,



W. Michael Maxwell, MAI, SRA
President
State Certified General Appraiser, RZ 55



Matthew H. Caldwell
Associate Appraiser
State Registered Trainee Appraiser, RI 9277



W. MICHAEL MAXWELL, MAI, SRA
GERALD A. HENDRY, MAI

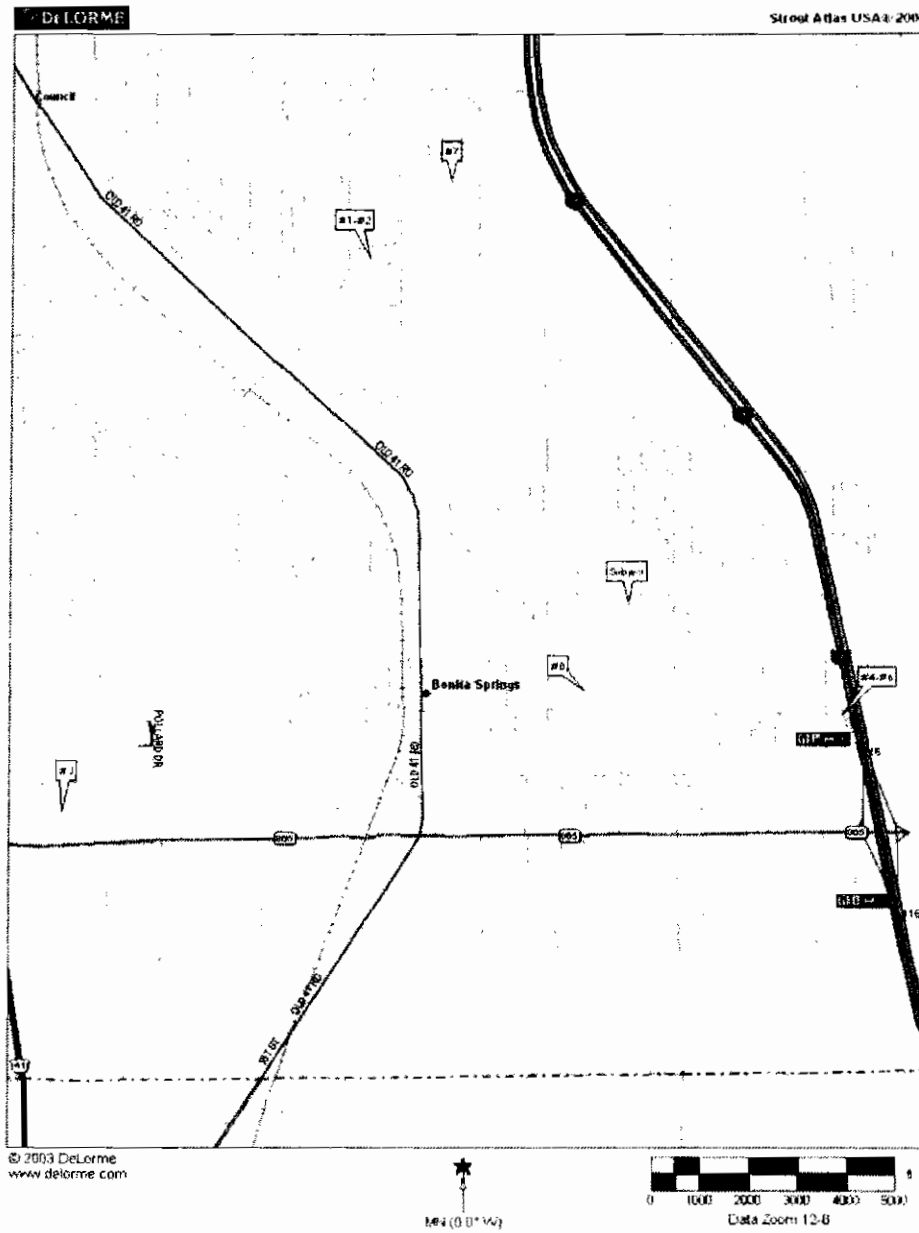
Section One – Executive Summary

Property type:	Vacant Residential Land
Address:	11460 East Terry Street, Bonita Springs, Lee County, FL 34135 in Section 36, Township 47S, Range 25E.
Location:	Located on the south side of East Terry Street, 1/8 mile west of Imperial Street
STRAP:	36-47-25-B1-00006.0110
Census Tract:	504
Owner of Record:	Horst Mangold
Site area (sq. ft./acres):	45,522 / 1.045
Fee Take area (sq. ft./acres):	9,481 / 0.2177
Remainder Site area (sq. ft./acres):	36,041 / 0.8274
Zoning:	AG-2
Land Use:	Moderate Density Single Family Residential
Highest & Best Use - Vacant:	Residential development
Highest & Best Use - After Take:	Residential development
Condition appraised:	As Is
Interest appraised:	Fee Simple
Value appraised:	Market Value
Date of inspection:	11/21/2005
Date of value:	11/21/2005
Date of report:	11/22/2005
Cost Approach:	Not applicable
Sales Comparison Approach:	\$173,000
Income Capitalization Approach:	Not applicable
Amount Due Owner:	\$49,740 *(Value of the Part Taken - \$36,028; Severance Damages - \$13,712)
Departures Invoked:	See Imperial Street Data Book
Hypothetical Conditions:	See Imperial Street Data Book
Extraordinary Assumptions:	See Imperial Street Data Book
Appraisers:	W. Michael Maxwell, MAI, SRA; Matthew H. Caldwell

Section Five – Valuation

Sales Comparison Approach

Land Sales Map





*City of
Bonita Springs*

9101 BONITA BEACH ROAD
BONITA SPRINGS, FL 34135
TEL: (239) 949-6262
FAX: (239) 949-6239
www.cityofbonitasprings.org

Jay Arend
Mayor

Wayne P. Edsall
Councilman
District One

Alex Grantt
Councilman
District Two

R. Robert Wagner
Councilman
District Three

John Joyce
Councilman
District Four

David T. Piper, Jr.
Councilman
District Five

Ben L. Nelson, Jr.
Councilman
District Six

Gary A. Price
City Manager
Tel. (239) 949-6238

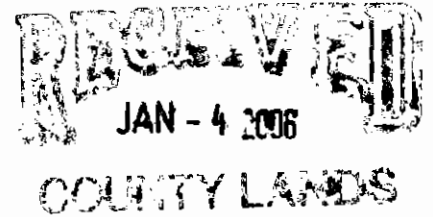
Audrey E. Vance
City Attorney
Tel. (239) 949-6254

City Clerk/Treasurer
Tel: (239) 949-6250

Public Works
Tel: (239) 949-6246

Code Enforcement
Tel: (239) 949-6257

Parks & Recreation
Tel: (239) 992-2556



January 3, 2006

Ms. Teresa L. Mann
Property Acquisition Agent
Lee County
PO Box 398
Fort Myers, FL 33902

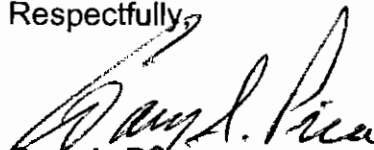
RE: Acquisition – Imperial Street Widening Project
Project No. 4060
Parcels 317-E, 317-W, 318, 533, 1011, 1013, 1002, 1004, 1017,
1019, and 1021

Dear Ms. Mann:

The binding offer amounts for the aforementioned parcels are reasonable and acquisition is recommended by my office.

If you need further authorization, feel free to contact me. Please send me copies of the appraisals for the aforementioned appraisals.

Respectfully,



Gary A. Price
City Manager

GAP/kd

cc: Ken Hoffman, Community Project Coordinator

5-Year Sales History

Parcel No. 1019

Imperial Street Widening

Project No. 4060

Grantor	Grantee	Price	Date	Arms Length Y/N

NO SALES in PAST 5 YEARS