

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

Blue Sheet No. 20070346

1. ACTION REQUESTED/PURPOSE: Approve Purchase Agreement for acquisition of a \pm .85 acre (6 lot) parcel located at 303 Burnt Store Road, in the amount of \$177,000 for the Burnt Store Road Widening Project No. 4088. Authorize payment of costs to close and the Division of County Lands to handle all documentation necessary to complete the transaction.

2. FUNDING SOURCE: Fund: Transportation Capital Improvement Surplus Capital Cape Coral; Program: Capital Projects; Project: Burnt Store 4 Lane/78-Van Buren

3. WHAT ACTION ACCOMPLISHES: Acquisition of integral property necessary for the widening of Burnt Store Road Project.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: 06 *CC* **6. Meeting Date:** APR 03 2007

7. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	8. Requirement/Purpose: (specify) Statute <u>125</u> Ordinance _____ Admin. Code _____ Other _____	9. Request Initiated: Commissioner _____ Department <u>Independent</u> Division <u>County Lands</u> By: <u>Karen Forsyth, Director</u>
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10. Background:
Negotiated for: Department of Transportation

Interest to Acquire: Fee-simple interest in \pm .85 acres (6 lots).

Property Details:
 Owner: Jo'Ann D. Schlotter and Blue Heron Construction, Inc.
 Address: 303 Burnt Store Road N., Cape Coral, FL 33993
 STRAP No. 08-44-23-C4-03987.0260

Purchase Details:
 Purchase Price: \$177,000
 Costs to Close: \$3,500

Appraisal Information: Comparable market information was used in lieu of an appraisal. Please refer to the attached Market Data sheet.

Staff Recommendation: Staff recommends the Board approve the action requested.

Account: 20408830721.506110

Attachments: Market Data, Purchase Agreement, Affidavit of Interest, Location Map, Title Data, Sales History

11. 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>BAD 3/13</i> <i>3/23/07</i>	<i>Robert</i> <i>3-20-07</i>	<i>3/20/07</i>	<i>3/20/07</i>	<i>3/20/07</i>	<i>3/20/07</i>	<i>AS 3/21/07</i>

12. Commission Action:
 Approved
 Deferred
 Denied
 Other

RECEIVED BY COUNTY ADMIN: *fw*
3/20/07
 COUNTY ADMIN FORWARDED TO: *MC*
3/21/07
10am

RECEIVED
 Rec. by CoAtty
 Date: *3/20/07* MAR 14 2007
 Time: *11:30am*
 Forwarded To: *Admin*
3/21/07 1:49

Market Data

Burnt Store Road Widening Project No. 4088

STRAP No. 08-44-23-C4-03987.0260

± 37,200 square feet

STRAP No.	Purchase Date	Purchase Price	Square Footage	Price/ Sq Ft
06-44-23-C2-04272.0360	1/5/2006	\$132,500	14,400	\$10.69
08-44-23-C4-03986.0170	7/10/2006	\$250,000	31,775	\$7.87
05-44-23-C4-04061.0030	6/12/2006	\$82,500	10,625	\$7.76
32-43-23-C1-04114.0110	6/1/2006	\$67,800	13,485	\$5.03

Subject 08-44-23-C4-03987.0260		\$177,000	37,200	\$4.76
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The subject property is listed on Greater Fort Myers and The Beach - Multiple Listing Service (MLS) for \$220,000 (\$5.91 price/sq. ft.) since January 8, 2007. Based on the softening of the Real Estate market, reduced number of transactions and increased availability, staff is of the opinion that the purchase is realistic and reflects the trend of reducing prices.

This document prepared by:
Lee County
County Lands Division
Project: Burnt Store Road Widening – Project No. 4088
Parcel: No 139
STRAP No.: 08-44-23-C4-03987.0260

BOARD OF COUNTY COMMISSIONERS

LEE COUNTY

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

THIS AGREEMENT for purchase and sale of real property is made this ___ day of _____, 20__ by and between **Jo'Ann D. Schlotter and Blue Heron Construction, Inc.**, hereinafter referred to as SELLER, whose address is 1105 NE 4th Street, Cape Coral, FL 33909 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 a six (6) lot site (.85 acres more or less), and located at 303 Burnt Store Road N., Cape Coral, FL 33993 and more particularly described in "Exhibit A" attached hereto and made a part hereof, hereinafter called "the Property" This property will be acquired for the Burnt Store Road Widening Project No. 4088, hereinafter called "the Project."
- 2. PURCHASE PRICE AND TIME OF PAYMENT:** The total purchase price ("Purchase Price") will be One Hundred Seventy Seven Thousand (\$177,000), payable at closing by County Warrant.
- 3. EVIDENCE OF TITLE:** SELLER will obtain at SELLER'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

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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: SELLER will pay for and provide:

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 (deed/affidavit to be prepared by BUYER'S title company);

5.01 SELLER'S EXPENSES: SELLER will pay for and provide:

- (a) Utility services up to, but not including the date of closing, if applicable;
- (b) taxes or assessments for which a bill has been rendered on or before the date of closing;
- (c) documentary stamps on deed;
- (d) payment of partial release of mortgage fees, if any;
- (f) 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. BUYER is exempt from ad valorem taxation. SELLER will pay all taxes determined to be legally due and payable by the County Tax Collector. If closing occurs between October 31 and January 1, then the SELLER is responsible for the full year's ad valorem real estate taxes for the year without proration.

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

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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 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

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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 sixty (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.

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18. REMOVAL OF REFUSE:

SELLER, at their expense, are to remove all refuse, clean up areas and dispose of said items and refuge off site in accordance with Governmental regulations.

19. BUYER'S AGENT COMMISSION:

BUYER's purchase price reflects the reduction of the 3% Buyer Agent Commission as documented in the Realtor Association of Greater Fort Myers and The Beach, Inc. MLS (Multiple Listing Service) listing number 200701771 page 1 dated February 21, 2007 Exhibit B).

20. SPECIAL CONDITIONS: Any and all special conditions will be attached to this Agreement and signed by all parties to this Agreement.

WITNESSES:

X [Signature]

X [Signature]

X [Signature]

X [Signature]

SELLER:

X [Signature]
By: JoAnn D. Schlotter (DATE)
JoAnn D. Schlotter

SELLER:

Blue Heron Construction, Inc
A Florida Corporation

X [Signature]
By: James G. Schlotter Jr. (DATE)
James G. Schlotter Jr.
Its: Managing Member

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CHARLIE GREEN, CLERK

BUYER:
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)

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Exhibit A

Parcel: No 139
Burnt Store Road Widening – Project No. 4088
STRAP No. 08-44-23-C4-03987.0260

Lots 26, 27, 28, 29, 30 and 31, Block 3987, Cape Coral, Unit 55, a subdivision according to the map or plat thereof recorded in Plat Book 19, Page 97, Public Records of Lee County, Florida

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MLS

Exhibit "B"

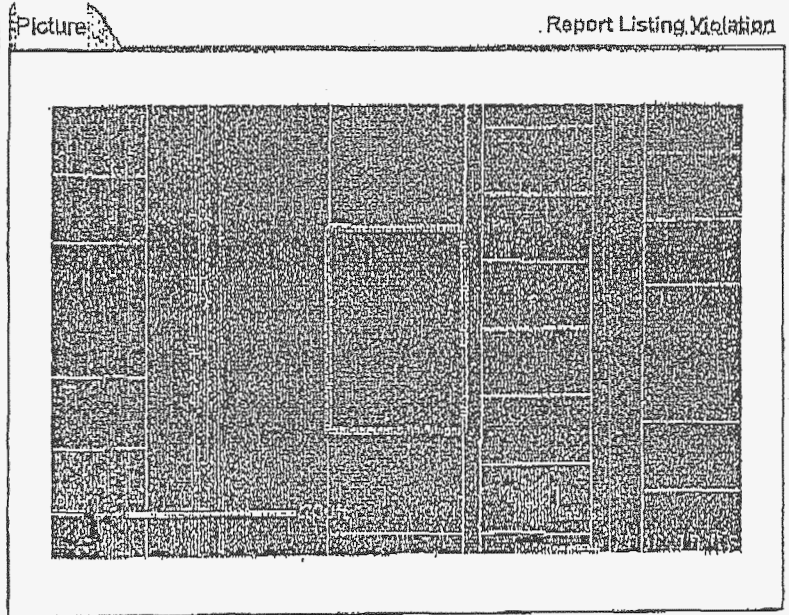
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Listing Summary	
Listing #200701771 \$220,000 (LP)	303 Burnt Store Rd N, Cape Coral, FL 33993 * Active (01/08/07) DOM: 46 Acres: 0.854 Lot Sz: 37200sqft*
Price/Acre: 257,611.24	GEO Area: CC42-cape c

Remarks

!!! WONDER

Up and coming Burnt Store Road. Possible future zoning commercial. THIS SIX LOT SITE IS AN INVESTORS DREAM. Own a piece of the future. Buyer to assume future assessments.



[See Map](#)

Agent	Sheryl L. Frazier (ID: 3066063) Primary: 239-840-0553
Office	Gulf Coast Realty Network, Inc (ID: FGULF) Phone: 239-873-7355, FAX: 239-242-7355
Property Type	Lot/Land/Boat Dock Property Subtype(s) Acreage
Status	Active (01/08/07)
Status Type	Resale Property
GEO Area	CC42 - cape c
Subdivision	Cape Coral
County	Lee PID 084423C4039870280
Directions To Property	On Burnt Store Rd 6 blocks south of Tropicalina on east side of Burnt Store Rd.
Showing Instructions	Short Notice OK, Sign On Property, Vacant
Publish To Internet	Yes

Confidential Showing Instr.	
Appointment Required	No
Sign Info on Sign	No
Contact Sign to Show	No

Listing Information			
Listing Date	01/08/07		
Listing Type	Excl Right to Sell		
Legal Description	Cape Coral Unit 55 Blk 3987 Pk 19 Pg 97 Lots 26 Thru 31		
Commission	Trans Broker Comp 3%	Buyer / Single Agent 3%	Non-Rep Comp 3%
DOM	46		Variable Rate Commis No

Features	
Lot Size- Frontage	240
Lot Size- Left	155
Lot Size- Back	240
Lot Size- Right	155

Sinkhole Disclosure
FLORIDA ASSOCIATION OF REALTORS®



The following representations are made by the Seller(s) and are not the representations of any real estate licensees.

Are You Aware:

- 1. of any past or present settling, soil movement, or sinkhole problems on the property or on adjacent properties? NO YES
 - a. of any sinkhole insurance claim that has been made on subject property? NO YES
 - b. if claim made, was claim paid? NO YES
 - c. was the full amount of the Insurance proceeds used to repair the sinkhole damage? NO YES

ACKNOWLEDGEMENT OF SELLER

The undersigned Seller represents that the information set forth in the above disclosure statement is accurate and complete to the best of the Seller's knowledge on the date signed below. Seller does not intend for this disclosure statement to be a warranty or guaranty of any kind. Seller hereby authorizes disclosure of the information contained in this disclosure statement to prospective Buyers of the property. Seller understands and agrees that Seller will notify the Buyer in writing within five business days after Seller becomes aware that any information set forth in this disclosure statement has become inaccurate or incorrect in any way during the term of the pending purchase by the Buyer.

Seller: *Jo'Ann D. Schlotter* / JO'ANN D. SCHLOTTER Date: 01-08-07
(signature) (print)

Seller: *James Schlotter Jr* / JAMES Schlotter Jr Date: 1-8-07
(signature) (print)

RECEIPT AND ACKNOWLEDGMENT OF BUYER

Seller is using this form to disclose Seller's knowledge of the condition of the real property and improvements located on the property as of the date signed by Seller. This disclosure form is not a warranty of any kind. The information contained in the disclosure is limited to information to which the seller has knowledge. It is not intended to be a substitute for any inspections or professional advice the Buyer may wish to obtain. An independent professional inspection is encouraged and may be helpful to verify the condition of the property and to determine the cost of repairs, if any. Buyer understands these representations are not made by any real estate licensee.

Buyer hereby acknowledges having received a copy of this disclosure statement.

Buyer: _____ / _____ Date: _____
(signature) (print)

Buyer: _____ / _____ Date: _____
(signature) (print)

Division of County Lands**Updated Ownership and Easement Search**

Search No. 08-44-23-C4-03987.0260

Date: March 6, 2007

Parcel: 139

Project: Burnt Store Road Widening, Project
4088To: Pat Fischer
Property Acquisition AgentFrom: Shelia A. Bedwell, CLS
Property Acquisition Assistant

STRAP: 08-44-23-C4-03987.0260

Effective Date: March 1, 2007, at 5:00 p.m.**Subject Property:** Lots 26, 27, 28, 29, 30 and 31, Block 3987, Unit 55, Cape Coral Subdivision, according to the plat thereof, as recorded in Plat Book 19, Pages 92 to 106 inclusive, in the Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

Jo'Ann D. Schlotter and Blue Heron Construction, Inc., a Florida corporationby that certain instrument dated March 15, 1985, recorded April 9, 1985, in Official Record Book 1777, Page 1959 and that certain instrument dated June 15, 2005, recorded June 15, 2005, in Official Record Book 4755, Page 2219, as corrected by instrument recorded February 26, 2007, as Instrument number 2007000063664, Public Records of Lee County, Florida.**Easements:**

- 1) Easements, not to exceed six feet, dedicated for drainage and utility purposes along each side of each boundary, as stated on recorded plat of the subdivision.
- 2) Thirty foot (30') Road and Drainage Easement along the westerly boundary of subject property, as shown on recorded plat of the subdivision.

NOTE 1) Deed of Restrictions for Unit 55, Cape Coral Subdivision, recorded in Official Record Book 521, Page 335, Public Records of Lee County, Florida.

NOTE 2) Resolution 48-01, confirming a preliminary delinquent user fee roll for lot mowing accounts, recorded in Official Record Book 3534, Page 2041, Public Records of Lee County, Florida.

Tax Status: 2006 taxes paid November 28, 2006 in the amount of \$3,065.79.*(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 guarantee or warranty as to its accuracy.**

5-Year Sales History

Parcel No. 139

STRAP No. 08-44-23-C4-03987.0260

Burnt Store Road Widening Project,
No. 4088

Grantor	Grantee	Price	Date	Arms Length Y/N
Irving Herman (50%)	James G. Schlotter, Jr.	\$10,000	July 28, 2003	N

James G. Schlotter Jr. (50% owner) is the son of Jo'Ann D. Schlotter the other 50% owner. James G. Schlotter Jr. Quitclaim Deeded to his business - Blue Heron Construction, Inc. recorded February 26, 2007.