Lee County Board Of County Commissioners Agenda Item Summary

Blue Sheet No. 20051312

1. ACTION REQUESTED/PURPOSE:

Authorize the Division of County Lands to make binding offer to property owners in the amount of \$1,540,000 for STRAP No. 11-46-23-00-0009.0040, required for the San Carlos Bay/Bunche Beach Preserve Project, pursuant to the Purchase Agreement, and authorize the Division of County Lands to handle and accept all documentation necessary to complete transaction. Approve transfer from Regional Park Impact Fee Reserves to the San Carlos Bay/Bunche Beach Preserve Project in the amount of \$460,000 and amend the FY 05/06 - FY 09/10 CIP accordingly.

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

4. Departmental Category: 6	\mathcal{C}	lo H	5. Meeting Date:	0-11-2005
6. Agenda:	7. Requirement/	Purpose: (specify)	8. Request Initiated:	
X Consent	X Statut	e 73 & 125	Commissioner	
Administrative	Ordin	ance	Department	Independent
Appeals		n. Code	Division	County Lands
Public	X Other	: Resolution of Necessity		W. Forsyth, Director
Walk-On		Blue Sheet 2005061	4	<u> </u>
9. Background:				
Negotiated for: Parks and R	Lecreation Department			
Interest to Assure Fee Int.	anagt in 1 42 ages	a a ant muan antre		
Interest to Acquire: Fee Inte	erest in 1.43 acres – va	acant property		
Property Details:				
Owner: Danny M. Kelly	and Cathy D. Kelly			
Address: 17950 John Mo	•			
STRAP No.: 11-46-23-00	, ,			
Purchase Details:	7-00007.0040			
Purchase Price: \$1,540,0	ሰበ			
Costs to Close: \$10,000	00			
The property owner has been	unresponsive to Staff	contact efforts There	fore staff recommends	Roard make a hinding
offer in the amount of \$1,540				Dourd make a briding
Appraisal Information:	,000, una commence	Emment Domain proces	. a. Co.	
Company: Maxwell and	Hendry Valuation Ser	vices Inc		
Appraised Value: \$1,405		vices, nic.		
Staff Recommendation: Sta	*	it the nurchase prices in	crease of \$135,000 (9.6)	%) above the appraised
value, can be justified consideration.				
time increase in value. Staff				varue/00st commutes and
Account: Funds will be mad				110
Attachments: Transfer of Fu				
10. Review for Scheduling:	ands, I urchase and Sa	ie Agreement, in-House	Title Scaren, Appraisa	Data, Location Wap
Durchasing	····	_		County
Department Furchasing F	Iuman Other	County	Budget Services	Manager/P.W.
		Attorney		
	Sources CIN		Catyle in a	
Director Or Re	CCINC	Analyst		Director Mgr.
Director Or Re	10 W/	January Analyst	- 1 , 	Director Mgr.
Director Or Re	CCINC	January Analyst	Risk Grants	Director

COUNTY ADMIN

4:34

MARDED TO:

Deferred Denied Other

REQUEST FOR TRANSFER OF FUNDS

FUND NAME: Regional Park	Impact Fees 1	DATE: <u>10/01/05</u>	_BATCH NO).:
FISCAL YEAR: 05-06 FUN	ID NO.: <u>187-00</u>	DOC. TYPE: <u>YB</u>	LEDGER T	YPE: <u>BA</u>
TO: Capital Projects (Division Name)		Park	s Capital Proje	ects
		(Program Name)		
NOTE: Please list the account r Business Unit (dept/div (Example: BB 5120100	, program, fund,	the following order: subfund); Object Ac	count; Subsidia	ary; Subledger
Account Number	<u>Ob</u>	ject Name	Ī	<u>DEBIT</u>
20203518700.506110	La	nd Acquisition	\$	460,000
TOTAL TO:			<u>\$</u>	460,000
	M:Non-Departmental Re		Reserves	
(Division Name)		(P	rogram Name)	
Account Number GC5890118700.509930		ject Name serve-Future Capital		CREDIT 460,000
TOTAL FROM:			<u>\$</u>	<u>460,000</u>
EXPLANATION: Transfer fun Preserve project in the amount	ds from reserves of \$460,000. Bl	to increase the San Cue Sheet # 20051312	Carlos Bay/Bun	iche Beach
DIVISION DIRECTOR SIGNA	TUDE/DATE	John Jo	vh(9.19.05
DIVISION DIRECTOR SIGNA	TURE/DATE	DEPARTMENT I	HEADSIGNA'	
DBO: APPROVAL 🗹	DENIAL	OPS. ANALYST	CICNIATINE	9-20-05
			•	DATE
OPS. MGR.: APPROVAL <u></u>	DENIAL	OPS. MGR. SIGN	ATURE	9/12/38 DATE
CO. MGR.: APPROVAL				
BCC APPROVAL DATE:				
	·———	BCC CHAIRMAN	I SIGNATURE	3
BA. NO	AUTH CO	DE TI	RANS DATE	

This document prepared by Lee County County Lands Division Project: Bunche Beach Preserve

STRAP No.: 11-46-23-00-00009.0040

BOARD OF COUNTY COMMISSIONERS LEE COUNTY

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE IN LIEU OF CONDEMNATION PROCEEDINGS

THI	S AGREEMENT	for pur	chase a	nd sale	of re	al prop	erty is	made
this	day of _	,	20	by and	between	n Danny	M. Kelly	y and
Cathy D	. Kelly, her	einafter	referr	ed to a	s SELL	ER, whos	se addres	ss is
15775 P	ine Ridge Ro	ad, Fort	Myers,	Florid	la 3390	8, and I	Lee Count	су, а
politica	al subdivisi	on of th	e State	of Flo	rida, h	nereinaf	ter refe	erred
to as B	UYER.							

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 1.43 acres more or less, and located at 17950 John Morris Road, Fort Myers 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 Bunche Beach Preserve 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 ("Purchase Price") will be One million, five hundred forty thousand dollars and no/100 (\$1,540,000.00), payable at closing by County Warrant.
- 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 \$1,540,000.00, 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).

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE Page 3 of 6 $\,$

- 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.
- 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 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. 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.

AGREEMENT FOR PURCHASE AND SALE Page 6 of 6	OF REAL ESTATE
WITNESSES:	SELLER:
	Danny M. Kelly (DATE)
WITNESSES:	SELLER:
	Cathy D. Kelly (DATE)
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)

EXHIBIT "A"

That portion of the North Half (N $\frac{1}{2}$) of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) and the Southeast Quarter (SE 1/4) of Section 11, Township 46 South, Range 23 East, Lee County, Florida, lying South of Rock Creek.





PRESIDENT

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

VICE-PRESIDENT

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

ASSOCIATES

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

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

Andrea R. Terregrossa 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 31 August 2005

Lee County Board of County Commissioners Division of County Lands P.O. Box 398 Fort Myers, Florida 33902-0398

Attention: Mr. Robert G. Clemens

Acquisition Program Manager

Re: Appraisal of Bunche Beach Preserve parking area (STRAP #11-46-23-00-

00009.0040), Project No. 1673, Lee County, Florida

Dear Mr. Clemens:

As you requested, an inspection and analysis have been made of the above property, which is legally described in the attached appraisal report. The purpose of this assignment is to estimate the market value of the undivided fee simple interest in the land only as if free and clear of liens, mortgages, encumbrances, and/or encroachments, except as amended in the body of this report.

Market value for this purpose is understood to be the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. The full definition of market value can be found in the body of this report.

As per the Uniform Standards of Professional Appraisal Practice (USPAP), there are three report writing options. These options would include either a self-contained report format, summary format, or restricted use format. A summary report format has been requested and will be used for this appraisal. The only difference between the self-contained format and a summary format is the level of detail of presentation. This is considered to be a complete appraisal, in that all appropriate approaches to value that apply have been used. This complete appraisal in summary report format has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP).

The function or intended use of this report is understood to be for use as a basis of value for acquisition purposes by Lee County for establishing needed parking in connection with the Bunche Beach recreational area to the south of the subject property. This acquisition is a complete and total acquisition of the parent tract owned by Danny and Cathy Kelly. The subject property was last inspected on 25 August 2005 by Mr. W. Michael Maxwell, MAI, SRA. My compensation in this assignment is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the obtainment of a stipulated result, or the occurrence of a subsequent event. In addition to the standard Assumptions and Limiting Conditions as contained in the Addenda to this report, this appraisal is made subject to certain Extraordinary Assumptions as outlined on the Executive Summary.

By reason of my investigation and analysis, data contained in this report, and my experience in the real estate appraisal business, it is my opinion the market value of the subject property, as of 25 August 2005, is:

ONE MILLION FOUR HUNDRED FIVE THOUSAND DOLLARS.....(\$1,405,000.00)

Respectfully submitted,

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

Certification 0000055



EXECUTIVE SUMMARY

OWNER OF RECORD:

Danny M./Cathy D. Kelly (per 2004 Lee County tax roll).

LOCATION:

The subject property's address is 17950 John Morris Road, Fort Myers, Florida 33908. The subject property is located on the west side of John Morris Road, a few hundred feet north of the south terminus and Bunche Beach.

LAND AREA:

The subject site contains 1.43 acres of total area, according to a recent survey prepared by Metron Surveying & Mapping, on 21 July 2005. The subject property has a total upland area of 1.1156 acres, or 48,597 square feet. The Lee County Property Appraiser records indicate the total size at 1.43 acres. The environmental report, which is contained in the Addenda to this report, indicates there is 1.05 acres of uplands and 0.83 acre of jurisdictional wetlands. The recent survey size of 1.1156 acres will be used for valuation purposes.

IMPROVEMENTS:

None.

ZONING/LAND USE:

C-2 (Commercial)/Wetlands Land Use

HIGHEST AND BEST USE:

Single Family Homesite (one unit)

ESTIMATES OF VALUE:

Cost Approach to Value:

N/A \$1,405,000

Sales Comparison Approach: Income Approach to Value:

N/A

FINAL VALUE ESTIMATE:

\$1,405,000

INTEREST APPRAISED:

Fee Simple Interest

DATE OF VALUATION:

25 August 2005

DATE OF REPORT:

31 August 2005

APPRAISER:

W. Michael Maxwell, MAI, SRA

EXTRAORDINARY ASSUMPTIONS:

This appraisal report has been prepared subject to and with the reliance upon technical reports prepared by an environmentalist and a land planner. Both of these reports are included in the Addenda to this report. The environmentalist has obviously determined the amount of uplands and wetlands as well as other issues. The land planner has determined the appropriate and legal uses for the property as well as determined several costs for utility extensions, increases in piling costs, and other issues.

Sales Comparison Approach to Value

superior to the subject, as they are all much smaller. Typically, smaller tract sales tend to sell for higher units of value. All of the comparable sales are superior to the subject with regard to boat access. Sale 1 is located in the Siesta Isles area, just east of the subject. Sales 2 through 5 are located on Connie Mack Island, north and west of the subject. All five sales have deep water access, which would allow for larger boats and/or sailboat access. All of the sales are located in gated communities. In the final analysis, nearly equal weight is given to all five sales. I estimate the market value for the subject property to be \$60.00 per square foot, before adjustments for boat access, gated security, and size. A downward adjustment of 25% is made for the comparables sales' superior boat access. An additional downward adjustment of 10% is made for size, and another 10% downward for security/gated community. The combined downward adjustment is therefore 45% for all three factors. The adjusted market value for the subject is therefore \$33.00 per square foot. Additional adjustment considerations are needed for the increased cost of construction (piling construction), utility extensions, and clearing/cleanup. construction costs and utility extensions were estimated by the land planner at \$80,000 and 70,000, respectively. An additional \$50,000 is also being deducted to allow for clearing, site preparation, and cleanup, which does not exist on the comparable sales. The final market value for the subject property, after all deductions and adjustments, can now be shown as follows:

1.1156 Acres or 48,597 Sq. Ft. @ \$33.00 P.S.F. =	\$1,603,701
Less Extra Costs (Piling Construction)	- 80.000
Less Utility Extension Costs	- 70,000
Less Clearing/Site Preparation/Cleanup	50,000
"As is" Market Value	\$1,403,701
Market Value Rounded	\$1,405,000

Division of County Lands

In House Title Search

Search No. 11-46-23-00-00009.0040

Date: June 8, 2005

Parcel:

Project: San Carlos Bay/Bunche Beach

Preserve, Project 202035

To:

Robert G. Clemens, SR/WA

From:

Shelia A. Bedwell, CL

Acquisition Program Manager

Property Acquisition Assistant

STRAP:

11-46-23-00-00009.0040

This search covers the period of time from January 1, 1940, at 8:00 a.m. to May 17, 2005, at 5:00 p.m.

Subject Property: That portion of the North Half (N1/2) of the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) and the Southeast Quarter (SE1/4) of Section 11, Township 46 South, Range 23 East, Lee County, Florida, lying South of Rock Creek.

Title to the subject property is vested in the following:

Danny M. Kelly and Cathy D. Kelly, as tenants in common.

by that certain instrument dated July 16, 1981, recorded, July 20, 1981, in Official Record Book 1529, Page 1699, Public Records of Lee County, Florida.

Subject to:

- Title to oil, gas and mineral rights and leases on subject property is specifically omitted from this report.
- Mortgage executed by Cynthia Kay Tant in favor of M.J. Burges, Jr., Trustee, dated June 12, 1980, recorded June 13, 1980, in Official Record Book 1434, Page 971, Public Records of Lee County, Florida.
- 3. Mortgage executed by Danny M. Kelly and Cathy D. Kelly, husband and wife, in favor of Cynthia Kay Tant, dated July 16, 1981, recorded July 20, 1981, in Official Record Book 1529, Page 1700, Public Records of Lee County, Florida.

NOTE(1): Final Judgment of Dissolution of Marriage between Cathy Dean Kelly and Daniel Michael Kelly recorded in Official Record Book 2868, Page 2642, Public Records of Lee County, Florida.

Division of County Lands

In House Title Search

Search No. 11-46-23-00-00009.0040

Date: June 8, 2005

Parcel:

Project: San Carlos Bay/Bunche Beach

Preserve, Project 202035

Tax Status: 2004 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.

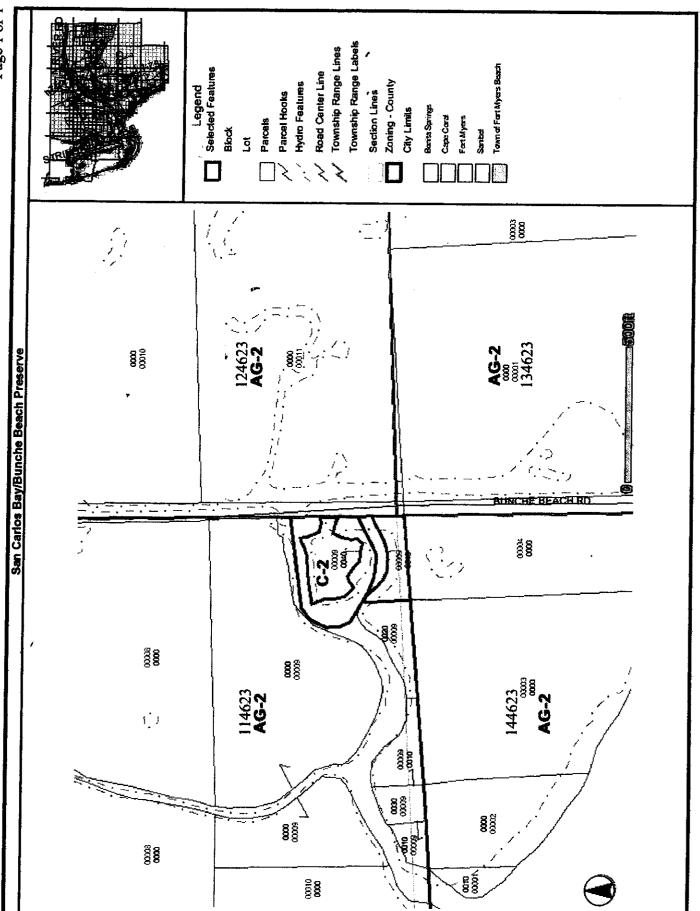
RUNCH BEACH RD

SUBJECT

SUMMERLIN RD

DE CAVISION HAS FRANCISCO DE CAVISTO DE CAVI

RLOS BLVD



(p://gis.pa.lee.fl.us/servlet/com.esri.esrimap.Esrimap?ServiceName=msLeePAIntranet&ClientVersion=3.1&Form=True&Enc... 5/20/2005

5-Year Sales History

Parcel STRAP No. 11-46-23-00-00009.0040

SAN CARLOS BAY/BUNCHE BEACH PRESERVE Project No. 1673

NO SALES in PAST 5 YEARS