

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

Blue Sheet No. 20030211

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$ 7,400.00, for Parcel 114, 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: 06

COMMISSION DISTRICT #: 2 AND 5

C6P

3. MEETING DATE:

03-11-2003

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. 20020762 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* *2-14-03*

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 vacant property, further identified as part of 3601 Hanson Street, Ft. Myers, FL (STRAP Number 30-44-25-00-00002.0050).

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 December 11, 2002, performed by Woodward S. Hanson, MAI, CCIM, CRE, indicating a value of \$6,400.00. The binding offer to the property owner, Luettich Enterprises, a Florida General partnership, is for \$7,400.00. 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>2/14/03</i> N/A	<i>John J. ...</i> 2-20-03	OA <i>2/20/03</i>	OM <i>2/20/03</i>	RISK <i>2/20/03</i>	GC <i>2/20/03</i>	<i>2-20-03</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *2/19/03*
Time: *11:45 a.m.*
Forwarded To:
Co. ADM
2/20/03

RECEIVED BY
COUNTY ADMIN.
2-20-03
11:00
COUNTY ADMIN.
FORWARDED TO: *PN*
2-20-03
400

This document prepared by
Lee County Division of County Lands
Project: Palmetto Extension Project
Parcel: 114
STRAP No.: 30-44-25-00-00002.0050

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 **Luetlich Enterprises, a Florida General Partnership;** hereinafter referred to as SELLER, whose address is 3601 Hanson Street, Ft. Myers, FL 33916, 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 0.09 **acres** more or less, and located at 3511 Palmetto Avenue, Ft. 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 **Seven thousand four hundred and no/100 dollars (\$7,400.00)**, 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 **\$7,400.00**, 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:

Luetlich Enterprises, a Florida General Partnership

President

Printed Name

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)

Exhibit "A"

Page 1 of 2

August 19, 2002

DESCRIPTION

**PARCEL IN
SECTION 30, TOWNSHIP 44 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA**

PARCEL NO. 114

PARENT STRAP NO. 30-44-25-00-00002.0050

A tract or parcel of land lying in the North Half (N-1/2) of the Northeast Quarter (NE-1/4) of Section 30, Township 44 South, Range 25 East, Lee County, Florida which tract or parcel is described as follows:

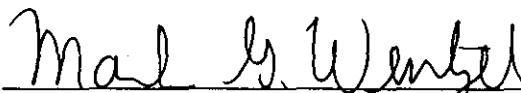
From the northeast corner of Section 30 run S 88° 48' 54" W along the north line of said section for 30.00 feet to an intersection with the westerly right-of-way line of Palmetto Avenue (50 feet wide) and the Point of Beginning.

From said Point of Beginning run S 01° 12' 56" E along the said westerly line for 55.00 feet; thence run N 46° 12' 01" W for 49.51 feet; thence run S 88° 48' 54" W for 148.83 feet; thence run N 01° 12' 56" W for 20.00 feet to an intersection with said north line; thence run N 88° 48' 54" E along said north line for 183.83 feet to an intersection with said westerly line and the Point of Beginning.

Parcel contains 4,289 square feet, more or less.

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

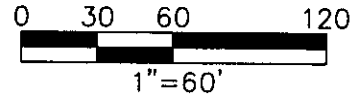
Bearings hereinabove mentioned are based on the north line of Section 30, Township 44 South, Range 25 East to bear S 88° 48' 54" W.



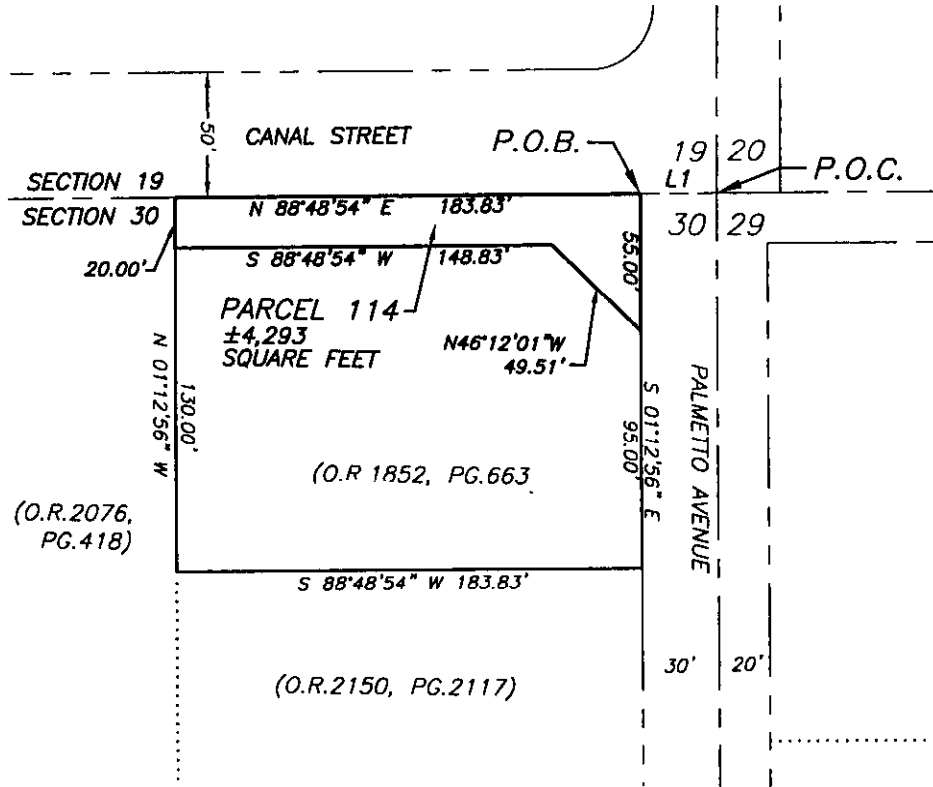
Mark G. Wentzel (For The Firm LB-642)
Professional Land Surveyor
Florida Certificate No. 5247

19991321\Parcel No. 114 - 081902

Exhibit "A"



u:\19991321\surveying\outocad\Legal Sketches\Parcel 114.dwg



LINE TABLE		
LINE	LENGTH	BEARING
L1	30.00	S88°48'54"W

NOTES:

1. SUBJECT TO ALL EASEMENTS, RESERVATIONS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD.
2. BEARINGS ARE BASED ON THE EAST LINE OF SECTION 30, TOWNSHIP 44 SOUTH, RANGE 25 EAST, LEE COUNTY FLORIDA AS BEING S01°12'56"E.
3. PARCEL CONTAINS ±4,289 SQUARE FEET, MORE OR LESS.

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

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.

PARCEL NO. 114
 PARENT STRAP NO. 30-44-25-00-00002.0050
 A PARCEL IN THE
 N.E. 1/2 OF THE N.E. 1/4 OF
 SEC. 30, TWP. 44 S., RGE. 25 E.
 (O.R.1852, PG.663,
 LEE COUNTY RECORDS)
 SECTION 30, T.44 S., R.25 E.
 LEE COUNTY, FLORIDA



3501 DEL PRADO BOULEVARD
 SUITE 110
 CAPE CORAL, FLORIDA 33904
 PHONE (941) 334-0048
 FAX (941) 841-1383
 E.B. #642 & L.B. #642

SKETCH TO ACCOMPANY DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
08-20-02	19991321	30-44-25	1"=60'	1

Division of County Lands

Third Updated In House Title Search

Search No. 21881/A

Date: January 24, 2003

Parcel: 114

Project: Palmetto Avenue Extension

Project 4073

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

From: Shelia A. Bedwell, CLS
Shelia A. Bedwell
Property Acquisition Assistant

STRAP: 30-44-25-00-00002.0050

Up update has been requested of In House Title Search No. 21881/A which covers the period beginning January 1, 1940, at 8:00 a.m. and is now complete through January 7, 2003, at 5:00 p.m.

Subject Property: The North 150 feet of the North 1,300 feet of the West 183.83 feet of the East 213.83 feet of the Northeast 1/4 of Section 30, Township 44 South, Range 25 East, Lee County, Florida.

Title to the subject property is vested in the following:

Luetlich Enterprises, a dissolved Florida partnership

by those certain instruments dated June 17, 1986, recorded June 17, 1986, in Official Record Book 1852, Pages 659, 660, 661, 662 and 663, 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.

Tax Status: 2001 taxes have been paid in full; 2002 taxes are now due and payable
(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.

December 17, 2002

Robert G. Clemens
Acquisition Program Manager
Division of County Lands
P.O. Box 398
Fort Myers, Florida 33902-0398

SUBJECT: File Number: 02-03-03.114
Project: Palmetto Avenue Extension
Project No.: 4073
Parcel No.: 114
Owner: Luettich Enterprises
County: Lee County, Florida 33916

Dear Mr. Clemens:

Integra Realty Resources-Southwest Florida is pleased to transmit this summary report of a complete appraisal that was prepared on the above referenced property. The purpose of this appraisal is to develop an opinion of the market value of those property rights proposed to be acquired by Lee County, Florida together with all legally compensable diminution in value to the remaining land (if any) which can be attributed to the proposed partial taking, or the uses and/or activities proposed thereon. The attached report sets forth the data, research, analyses and conclusions for this appraisal.

The report has been prepared in conformity with the *Uniform Standards of Professional Appraisal Practice (USPAP)* and the *Code of Professional Ethics and Standards of Professional Appraisal Practice* of the Appraisal Institute. Our opinion of market value is premised upon the Assumptions and Limiting Conditions contained within this report. The definition of market value is in Addendum B.

The **parent tract**, containing 27,574 square feet of gross land area, is located at the southwest corner of Palmetto Avenue and Canal Street in the Southside Industrial Park market area of Fort Myers, Lee County, Florida. The property is zoned IL, Light Industrial and is designated Industrial Development on the Lee County Comprehensive Plan Future Land Use Map. The appraisers have estimated the highest and best use of the property to be potential industrial development.

The **partial acquisition area** is identified as Parcel 114 and contains 4,289 square feet. This proposed acquisition area is for the improvement/widening of Palmetto Avenue (and associated improvements with Canal Street) and is located along the northerly portion of the parent tract along the Canal Street frontage. Parcel 114 is a proposed fee simple acquisition for road right-of-way for Palmetto Avenue extension.

LOCAL EXPERTISE...NATIONALLY

Parcel 114 has a northerly measurement of 183.83 feet along the south side of the existing Canal Street right-of-way; an easterly side of 55.00 feet along the existing Palmetto Avenue right-of-way; a south side composed of a diagonal alignment of 49.51 feet and an alignment paralleling Canal Street of 148.83 feet; and, a west side of 20.00 feet.

The **remainder property**, containing 23,285 square feet, consists entirely of unencumbered surface area. The remainder property, similar to the parent tract before the takings, has a basically rectangular shape and its highest and best use remains to be held for potential industrial development.

By reason of our investigation and analysis, data contained in this report and our experience in the real estate appraisal business, it is our opinion that the amount due the owner (as a result of the proposed partial acquisition), as of December 11, 2002 , is:

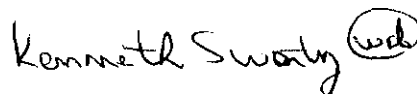
Value of Part Taken :	
• Land Taken:	\$6,400
• Improvements Taken:	<u>-0-</u>
Sub Total (Part Taken):	\$6,400
Net Cost to Cure:	-0-
Incurable Severance Damages:	<u>-0-</u>
AMOUNT DUE OWNER	\$6,400

If you have any questions or comments, please contact the undersigned. Thank you for the opportunity to be of service.

Respectfully submitted,



Woodward S. Hanson, MAI, CCIM, CRE
State-Certified General Real Estate Appraiser
Florida Certificate RZ 0001003



Kenneth F. Swartz, Analyst
State-Certified General Real Estate Appraiser
Florida Certificate RZ 0001297

5-Year Sales History

Parcel No. 114

Palmetto Extension Project, No. 4073

NO SALES in PAST 5 YEARS

02/12/2003 WED 17:40 FAX 239 479 8391

LEE COUNTY-COUNTY LANDS

002



BOARD OF COUNTY COMMISSIONERS

239.479.8508
239.479.8391 FAX

Writer's Direct Dial Number: _____

Bob Janas
District One

VIA FAX TO 332-8804

Douglas R. St. Comy
District Two

~~January 16, 2003~~ February 12, 2003

Ray Judeh
District Three

Andrew W. Coy
District Four

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

John E. Ablon
District Five

Donald D. Suttwell
County Manager

RE: PARCEL 114, PALMETTO EXTENSION PROJECT
Request for review and sign-off on acquisition proposal

James G. Yaeger
County Attorney

Dear Saeed:

Diana M. Parker
County Hearing Examiner

The appraisal for parcel 114 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, SRWA
Property Acquisition Agent

Parcel 114

Property Owner: Luettich Enterprises, a Florida General Partnership
Appraiser: Integra Realty Resources (W.S. Hanson, MAI, CCIM, CRE)
Appraisal Date: 12/11/02
Appraised Amount: \$6,400
Binding Offer Amount: \$7,400

Binding Offer Approved:

Funds are available in account:

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

310-4315-541-6100