

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

Blue Sheet No. 20030289

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$50,400.00, for Parcel 140, 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:

COMMISSION DISTRICT #:

CL6A

3. MEETING DATE:

04/22/2003

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON

5. REQUIREMENT/PURPOSE:

- (Specify)*
- STATUTE *73.125*
 - ORDINANCE
 - ADMIN.
 - OTHER *Resolution of Necessity
Blue Sheet No. 20030281 and Interlocal
Agreement Blue Sheet
No. 20020586*

6. REQUESTOR OF INFORMATION

- A.
- B. DEPARTMENT *Independent Division*
- C. DIVISION *County Lands*
- BY *Karen L.W. Forsyth, Director*

TIME REQUIRED:

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 4981 square feet of improved property, further identified as part of 3590 S. Grimsley Court, Fort Myers, (STRAP Number 19-44-25-06-00004.017A).

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 November 22, 2002, performed by J. Lee Norris, MAI, SRA, indicating a value of \$46,900.00. The binding offer to the property owner, W.H. Grimsley, Jr., is for \$50,400.00. 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 \$3,500.00 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	N/A	<i>[Signature]</i> <i>4-8-03</i>	OA <i>[Signature]</i> <i>4-9-03</i>	OM <i>[Signature]</i> <i>4/8/03</i>	RISK <i>[Signature]</i> <i>4/9/03</i>	GC <i>[Signature]</i> <i>4/9/03</i>	<i>[Signature]</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *4/8/03*
Time: *12:00 PM*
Forwarded To:
*CC: ADH
4/8/03 4PM*

RECEIVED BY
COUNTY ADMIN. *[Signature]*
4/8/03
4:30 PM
BH
4/10 100

This document prepared by
Lee County Division of County Lands
Project: Palmetto Extension Project
Parcel: 140
STRAP No.: 19-44-25-06-00004.017A

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 _____, 20____ by and between **William H. Grimsley, Jr.**, hereinafter referred to as SELLER, whose address is 2255 Highland Avenue, Fort Myers, Florida 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 **0.11 acres** more or less and located at 3590 South Grimsley Court, Fort Myers, Florida and more particularly described in "Exhibit A" attached hereto and made a part hereof, hereinafter called "the Property." This property is being acquired for the 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 **Fifty thousand four hundred and no/100 dollars (\$50,400.00)**, 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 **\$50,400.00**, 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:

William H. Grimsley, Jr. (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)

SPECIAL CONDITIONS

BUYER: Lee County
SELLER: Grimsley
PARCEL NO. 140

Buyer and Seller hereby covenant that the purchase price recited herein, except as noted below, includes payment for all fixtures, including but not limited to, built-in appliances, air conditioning units, hot water heaters, ceiling fans, screen enclosures, windows, doors, floor covering and landscaping, as of the date of the Buyer's appraisal (November 4, 2002).

Buyer's authorized agent will inspect the house and all other real property and improvements prior to closing. Removal of any fixtures(s) by Seller, except as noted below, may cause a delay in closing and a reduction in the purchase price. All additional costs associated with any breach of this covenant will be paid by the Seller. This covenant shall survive closing.

Upon the Buyer's written acceptance of this Agreement, Seller hereby give permission allowing entry to the premises by County Representatives, upon first receiving 48 hours prior notice, in order for the premises to be inspected to determine if relocating any or all real estate improvements is feasible subsequent to closing and the County taking possession of the property.

Prior to closing, in consideration of the purchase and sale of the subject property, Seller may carefully remove and/or replace only those appliances, fixtures, or improvements to the subject property under the terms identified below. Title to all other fixtures and improvements will remain part of the subject property for purposes of transfer.

Items that may be removed: _____

All removal and/or replacements must be done in good workmanship manner and no part of the structure damaged including holes in walls, ceilings, or exterior.

WITNESSES:

SELLER:

William H. Grimsley (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)

January 24, 2003

REVISED DESCRIPTION

**PARCEL IN
SECTION 19, TOWNSHIP 44 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA**

(REVISED) PARCEL NO. 140

PARENT STRAP NO. 19-44-25-06-000004.017A

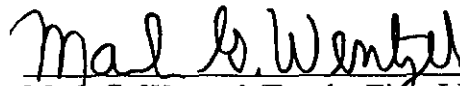
A tract or parcel of land located in Lot 4, W. Stanley Hanson's Highland Subdivision as recorded in Plat Book 1 at Page 57 of the Public Records of Lee County, Florida lying in the Northeast Quarter (NE-1/4) Section 19, Township 44 South, Range 25 East, Lee County, Florida which tract or parcel is described as follows:

From the northeast corner of said fraction run S 00° 05' 25" E along the east line of said fraction for 1,199.32 feet; thence run S 89° 02' 08" W parallel with the south line of said Lot 4 for 94.20 feet to the Point of Beginning.

From said Point of Beginning run S 00° 10' 09" E for 100.00 feet to an intersection with the south line of said Lot 4; thence run S 89° 02' 08" W along said south line for 49.49 feet; thence run N 00° 32' 04" W for 99.99 feet; thence run N 89° 02' 08" E for 50.13 feet to the Point of Beginning.

Parcel contains 4,981 square feet, more or less.

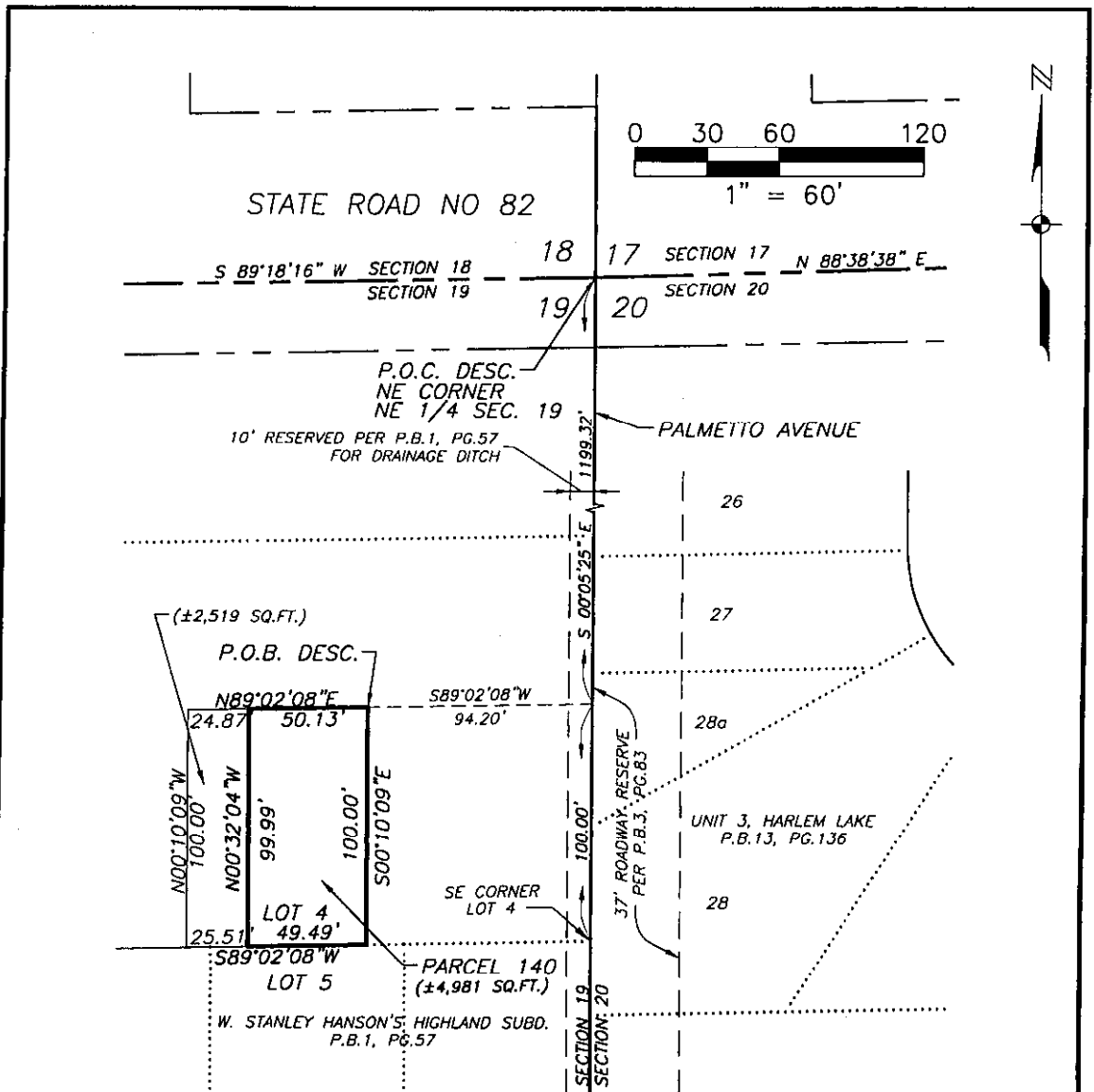
Bearings hereinabove mentioned are based on the east line of the Northeast Quarter (NE-1/4) of Section 19, Township 44 South, Range 25 East to bear S 00° 05' 25" E.



Mark G. Wentzel (For the Firm LB-642)
Professional Surveyor and Mapper
Florida Certificate No. 5247

19991321/Parcel No. 140 012403

Exhibit "A"



NOTES:

1. BEARINGS ARE BASED ON THE EAST LINE OF THE N.E.1/4 OF SECTION 19, TOWNSHIP 44 SOUTH, RANGE 25 EAST, LEE COUNTY FLORIDA AS BEING S00°05'25"E.
2. PARCEL CONTAINS 4,981 SQUARE FEET, MORE OR LESS.

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: 2/4/03

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF FLORIDA LICENSED SURVEYOR AND MAPPER.

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

PARCEL NO. 140 (REVISED)
PARENT STRAP NO. 19-44-25-06-00004.017A
PART OF LOT 4
W. STANLEY HANSONS
HIGHLAND SUBDIVISION
 (PLAT BOOK 1, PAGE 57, LEE COUNTY PUBLIC RECORDS)
SECTION 19, T.44 S., R.25 E.
LEE COUNTY, FLORIDA

REVISED 1/24/03: CORRECTED LOT CORNER LABEL

JOHNSON ENGINEERING

3501 DEL PRADO BOULEVARD
 SUITE 110
 CAPE CORAL, FLORIDA 33904
 PHONE (941) 334-0046
 FAX (941) 541-1383
 E.B. #642 & L.B. #642

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
08-08-02	19991321	19-44-25	1"=60'	1

S:\19991321\Surveying\autocad\Legal Sketches\Desc 140(REVISED).dwg (Layout1) by Jan 31, 2003 - 7:39am

Updated Ownership and Easement Search

Search No. 21886/A

Date: July 16, 2002

Parcel: 140

Project: Palmetto Extension No. 4073

To: Michele McNeill
Property Acquisition Agent

From: Linda K. Fleming, CLS, SRWA *LKF*
Real Estate Title Examiner

STRAP: 19-44-25-06-00004.017A

*No charges as of
3-19-03* *SE*

Effective Date: July 8, 2002, at 5:00 p.m.

Subject Property: The East 75 feet of the West 550 feet of the South 100 feet of Lot 4, Hanson's Highlands Subdivision as recorded in Plat Book 1, at Page 57 of the Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

William H. Grimsley, Jr.

by that certain instrument dated October 16, 1980, recorded November 17, 1980, in Official Record Book 1467, Page 1925, Public Records of Lee County, Florida.

Easements:

1. Easement granted to Florida Power & Light Company recorded in Deed Book 253, Page 443, Public Records of Lee County, Florida.
2. Utility Easement granted to Lee County recorded in Official Record Book 804, Page 601, Public Records of Lee County, Florida.
3. NOTE: The Plat of W. Stanley Hanson's High Land Subdivision recorded in Plat Book 1, Page 57, Public Records of Lee County, Florida has language describing a 10 foot drainage ditch with a fall of 9 ft. per mile. The language also states that the ditch is used for subsoil irrigation. The drainage ditch appears to abut the East line of subject property.
4. Subject to and together with a roadway Easement 30 feet wide lying over and across the North 15 feet thereof as recited on Warranty Deed recorded in Official Record Book 1467, Page 1925, Public Records of Lee County, Florida.

Tax Status: 2001 Ad Valorem Taxes are PAID IN FULL.

(The end user of this report is responsible for verifying tax and/or assessment information.)

The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.

Carlson, Norris and Associates, Inc.

APPRAISAL • CONSULTATION • REALTORS

C. William Carlson, MAI, SRA
State Certified General Appraiser #0000667
ccarl1@hotmail.com

J. Lee Norris, MAI, SRA
State Certified General Appraiser #0000643
leenor56@hotmail.com

November 22, 2002

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

Re: Single Family Residence - Partial Take
Parcel 140 - Palmetto Avenue Extension
Fort Myers, Florida

Dear Mr. Clemens:

In accordance with your request, we have inspected the above referenced property for the purpose of estimating the market value of the parent tract, the remainder parcel thereby yielding a value for the part taken. This parcel is within the alignment of the Palmetto Extension Right of Way.

The parent tract contains road frontage along the Thomas Street right of way south of Dr. Martin Luther King Jr. Boulevard and east of Highlands Avenue. The parent tract contains 7,500 square feet. The remainder parcel is estimated to contain 2,519 square feet. Based upon documentation provided to the appraiser the part taken contains 4,981 square feet. The improvements included in this take include a single family residence.

This analysis has utilized the most current market value definition which is contained within the attached appraisal report. The site is being valued under market conditions existing as of the last date of physical inspection of the property. As per your request this is a **Complete-Summary Appraisal Report** which presents summary data and analysis that were used in the appraisal process to develop the appraiser's opinion of value. As this is a complete appraisal, the departure provision of the Uniform Standards of Professional Appraisal Practice was not invoked.

Based on market conditions existing as of the date of appraisal and in consideration of the property as it existed on this date, it is our opinion the subject property (a partial take parcel) warranted a market value in fee simple ownership on November 4, 2002 of:

FORTY SIX THOUSAND NINE HUNDRED DOLLARS (\$46,900.00).

This value represents all property rights to be acquired including all legally compensable diminution in value to the remaining land.

This report is made subject to certain assumptions and limiting conditions as set forth in the body of the appraisal. The analyst was engaged by the Lee County Government in association with the City of Fort Myers to prepare the appraisal of the subject property.

Mr. Robert Clemens
November 22, 2002
Page 2

If you should have any questions relating to this or any other matter, please do not hesitate to call upon us.

Respectfully submitted,

CARLSON, NORRIS AND ASSOCIATES, INC.



J. Lee Norris, MAI, SRA
State Certified General Appraiser #0000643

5-Year Sales History

Parcel No. 140

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

NO SALES in PAST 5 YEARS

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

04/02/2003 WED 17:06 FAX 239 479 8391

LEE COUNTY-COUNTY LANDS

002



BOARD OF COUNTY COMMISSIONERS

239 479 8505
239.479.8391 FAX

Writer's Direct Dial Number: _____

Bob Janes
District One

VIA FAX TO 332-6604

Douglas R. St. Geroy
District Two

April 2, 2003

Ray Judah
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. Allison
District Five

Donald D. Stilwell
County Manager

RE: **PARCEL 140, PALMETTO EXTENSION PROJECT**
Request for review and sign-off on acquisition proposal

James G. Yeager
County Attorney

Dear Saeed

Diana M. Parker
County Hearing Examiner

The appraisal for parcel 140 has been reviewed and approved by County Staff and we are preparing to request Board approval to make a binding offer. Below is the relevant data for this parcel. Please review and approve on behalf of the City as well as confirm that funds are available. Thank you

Sincerely,

Michele S. McNeill, SR/WA
Property Acquisition Agent

Parcel 140
Property Owner: William H. Grimsley
Appraiser: Carlson Norris and Associates, Inc.
Appraisal Date: 11/4/02
Appraised Amount: \$46,900
Binding Offer Amount: \$50,400

Binding Offer Approved:

Funds are available in account:

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

310-4315-541-6100

S:\POO\PalmettoExt Corr\spendence\140 City Engineer Approval.vpd