

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

Blue Sheet No. 20020852

1. REQUESTED MOTION:

Approve the purchase of Parcel 1508, a vacant non-waterfront property in Cape Coral, for the Veterans Memorial Parkway Extension, from Surfside Boulevard to Chiquita Boulevard, Project No. 5020, pursuant to the terms and conditions set forth in the Purchase Agreement; authorize Chairman on behalf of the BoCC to execute Purchase Agreement; authorize payment of necessary fees to close; authorize the Division of County Lands to handle and accept all documentation necessary to complete this transaction.

WHY ACTION IS NECESSARY: The Board must formally accept all real estate conveyances to Lee County.

WHAT ACTION ACCOMPLISHES: Acquires the property, thus avoiding the Board's need to exercise its power of Eminent Domain.

2. DEPARTMENTAL CATEGORY: 06

3. MEETING DATE:

COMMISSION DISTRICT #: 1

CLA

08-13-2002

4. AGENDA:

- CONSENT ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON

TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

- (Specify)
- STATUTE 73, 125
 - ORDINANCE
 - ADMIN.
 - OTHER Blue Sheet No. 20020418
Blue Sheet No. 20020485

6. REQUESTOR OF INFORMATION

- A. COMMISSIONER
- B. DEPARTMENT Independent Division
- C. DIVISION County Lands TLM 7-22-02
- BY: *Karen L.W. Forsyth, Director* *KLF*

7. BACKGROUND:

The Division of County Lands has been requested by the Department of Transportation to acquire property that is necessary for the Veterans Memorial Parkway Extension, from Surfside Boulevard to Chiquita Boulevard, Project No. 5020.

This acquisition consists of a vacant non-waterfront property, further identified as Lots 67 and 68, Block 4849, Cape Coral, Unit 71, (Strap Number 28-44-23-C3-04849.0670).

Pursuant to F.S. §73.015, as amended, the County submitted a binding offer to the property owner, BMC & Associates, Inc., a Florida corporation for \$10,000.00. The owner countered at \$11,000.00 to finalize this transaction and eliminate the need for the County to condemn this parcel. The County will pay closing costs of approximately \$600.00. The Seller is responsible for attorney fees and real estate broker fees, if any.

The County obtained an appraisal dated March 31, 2002, performed by Woodward S. Hanson, MAI, CCIM, CRE, indicating a value of \$9,000.00.

Considering the costs associated with condemnation proceedings estimated to be between \$3,000 - \$5,000, excluding land value, staff recommends the Board approve the Requested Motion.

Funds are available in Account No. 20502031202.50.6110

- 20 - Capital Projects
- 5020 - Veterans Memorial Parkway Surfside to Chiquita
- 312 - Local Option Gas Taxes
- 02 - Series 95 Construction
- 50.6110 - Land

ATTACHMENTS:
Purchase and Sale Agreement
Affidavit of Interest in Real Property
In-House Title Search
Appraisal Letter
Sales History

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

| A Department Director | B Purchasing or Contracts | C Human Resources | D Other DOT | E County Attorney | F Budget Services | | | G County Manager | |
|--------------------------|------------------------------|----------------------|----------------|----------------------|----------------------|----------------|---------------|---------------------|-----------|
| | | | | | OA | OM | RISK | GC | |
| <i>K. Forsyth</i> | N/A | N/A | <i>DOT</i> | <i>7-29-02</i> | <i>7-29-02</i> | <i>7/29/02</i> | <i>8/1/02</i> | <i>7/29/02</i> | <i>BL</i> |

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *7/29/02*
Time: *1:00pm*
Forwarded To:
ADMIN
7-29-02 11:00

RECEIVED BY
COUNTY ADMIN. *EW*
7/29 12:00
COUNTY ADMIN.
FORWARDED TO:
7/30 9:00

This document prepared by
Division of County Lands
Project: Veterans Memorial Pkwy Ext. #5020
Surfside Blvd to Chiquita Blvd
Parcel: 1508
STRAP No.: 28-44-23-C3-04849.0670

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 11th day of July, 2002, by and between BMC & Associates, Inc., a Florida corporation, hereinafter referred to as SELLER, whose address is c/o Bill McFarland, 916-B Cape Coral Parkway, Cape Coral, Florida 33904, 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 10,875 square feet, more or less, and located at 2336 SW 19th Avenue, Cape Coral, FL 33991, 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 Veterans Memorial Parkway Extension, Surfside to Chiquita Boulevard 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 Eleven Thousand and 00/100 (\$11,000.00), 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 \$11,000.00, 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) payment of delinquent City of Cape Coral assessments, if any;
- (f) SELLER'S appraisal costs and attorney fees.

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.

A handwritten signature in black ink, appearing to be 'Bme', located in the bottom right corner of the page.

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~~ ^{Agreed upon} 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.~~

Bme

~~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.

Bmc

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:

[Signature]

SELLER:

BMC & Associates, Inc.,
a Florida corporation

By: *Bill McFarland* *7/11/02*
(DATE)

Name: *Bill McFarland*

Title: *President / Director who*
is a Florida Atty, and Licensed Florida
Real Estate Broker

BUYER:

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

CHARLIE GREEN, CLERK

BY: _____
DEPUTY CLERK (DATE)

BY: _____
CHAIRMAN OR VICE CHAIRMAN

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY

COUNTY ATTORNEY (DATE)

BMC

EXHIBIT "A"

Veterans Memorial Parkway Extension,
Surfside to Chiquita Boulevard, Project No. 5020

Parcel 1508

Lots 67 and 68, Block 4849, Unit 71, Cape Coral Subdivision according to the map or plat thereof filed and recorded in the Office of the Clerk of the Circuit Court, in Plat Book 22, Page 88, Public Records of Lee County, Florida.

L:\VetPkwyExt5020\Legal\1508.wpd



BMK

Parcel: 1501 & 1508
STRAP: 28-44-23-C3-04781.0010 and 28-44-23-C3-04849.0670
Project: Veterans Memorial Parkway Ext., Project 5020

AFFIDAVIT OF INTEREST IN REAL PROPERTY

THIS AFFIDAVIT OF INTEREST IN REAL PROPERTY is made and entered this 11th day of July, 2002 for the sole purpose of compliance with Section 286.23 of the Florida Statutes.

The undersigned hereby swears and affirms under oath, subject to the penalties prescribed for perjury, that the following is true:

The Name and Address of the Grantor is:

BMC & Associates, Inc., a Florida corporation, c/o Bill McFarland, 946-B Cape Coral Parkway, Cape Coral, Florida 33904 P.O. Box 101612, Cape Coral, Florida 33910
717 Sesame Court, Cape Coral, FL 33904

The name(s) and address(es) of every person having a beneficial interest in real property that will be conveyed to Lee County are:

1. Bill McFarland, 717 Sesame Court, Cape Coral FL 33904
2. Bonnie McFarland, 717 Sesame Court, Cape Coral FL 33904
3. _____
4. _____
5. _____
6. _____

The real property to be conveyed to Lee County is described on attached Exhibit A.

FURTHER AFFIANT SAYETH NAUGHT.

Signed, sealed and delivered in our presences:

Julie J. Andrews
Witness Signature

Julie J. Andrews
Printed Name

Christy Eweis
Witness Signature

Maitea Eweis
Printed Name

BMC & Associates, Inc., A Florida Corporation

By: Bill McFarland
Signature of Affiant

Name: Bill McFarland

Title: President / Director

Affidavit of Interest in Real Property

Parcel: 1501 & 1508

STRAP: 28-44-23-C3-04781.0010 and 28-44-23-C3-04849.0670

Project: Veterans Memorial Parkway Ext., Project 5020

STATE OF Florida

COUNTY OF LEE

SWORN TO AND SUBSCRIBED before me this 11 day of July, 2002, by

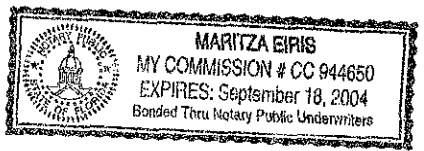
Bill McFarland, President / Director
(name of officer or agent, title of officer or agent)

of BMC & Associates, Inc. a Florida corporation, on behalf of the corporation.

Maritza Eiris
(Notary Signature)

(SEAL)

Maritza Eiris
(Print, type or stamp name of Notary)



Personally known _____
OR Produced Identification Drivers Lic
Type of Identification _____

EXHIBIT "A"

Veterans Memorial Parkway Extension,
Surfside to Chiquita Boulevard, Project No. 5020

Parcel 1501

Lots 1 and 2, Block 4781, Unit 71, Cape Coral Subdivision, according to the map or plat thereof filed and recorded in the Office of the Clerk of the Circuit Court, in Plat Book 22, Page 88, Public Records of Lee County, Florida.

EXHIBIT "A"

Veterans Memorial Parkway Extension,
Surfside to Chiquita Boulevard, Project No. 5020

Parcel 1508

Lots 67 and 68, Block 4849, Unit 71, Cape Coral Subdivision according to the map or plat thereof filed and recorded in the Office of the Clerk of the Circuit Court, in Plat Book 22, Page 88, Public Records of Lee County, Florida.

S:\POOL\VetPkwyExt5020\Legal\1508.wpd



20/11/2002

Department of Public Works
Division of County Lands

Page 1 of 2

Updated In House Title Search
Search No. 21542/C
Date: June 20, 2002
Parcel: 1508
Project: Veterans Memorial
Parkway Extension, Project #5020

To: Teresa Mann
Property Acquisition Agent

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

STRAP: 28-44-23-C3-04849.0670

An update has been requested of In House Title Search No. 21542/C which covers the period beginning January 1, 1940 at 8:00 a.m. and is now complete through June 9, 2002 at 5:00 p.m.

Subject Property: Lots 67 and 68, Block 4849, Unit 71, Cape Coral Subdivision according to the map or plat thereof filed and recorded in the Office of the Clerk of the Circuit Court, in Plat Book 22, Page 88, Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

BMC & Associates, Inc., a Florida Corporation

by that certain instrument dated April 30, 1999, recorded May 6, 1999, in Official Record Book 3114, Page 132, Public Records of Lee County, Florida.

Subject to:

1. Easement Dedication as shown on subject plat: "The Owners of this property do hereby dedicate easements along each boundary of each homesite for county drainage and for public utilities, said easements not to exceed 6 feet each side of said boundaries."
2. The City of Cape Coral has sewer, water, seawall, stormwater and lot mowing assessments. The assessments shown in this search, if any, are hereby limited to only that which the City of Cape Coral has filed in the Public Records of Lee County, Florida, which contains the property description, Name of Owner and lien amount. The City of Cape Coral should be contacted for any other assessment information. This must be addressed and resolved by the Title Company or Attorney that handles the transfer to the County.
3. Resolution 48-01 for lot mowing recorded in Official Record Book 3534, Page 2041 and in Official Record Book 3534, Page 2630, both in the Public Records of Lee County, Florida. This must be addressed and resolved by the Title Company or Attorney that handles the transfer to the County.

Updated In House Title Search
Search No. 21542/C
Date: June 20, 2002
Parcel: 1508
Project: Veterans Memorial
Parkway Extension, Project #5020

4. Stormwater Assessment for Customer ID 000255725 due in the amount of \$122.55 plus penalties. This must be addressed and resolved by the Title Company or Attorney that handles the transfer to the County.
5. Lot mowing for Customer ID 000164648 due in the amount of \$142.38 plus penalties. This must be addressed and resolved by the Title Company or Attorney that handles the transfer to the County.

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.

April 2, 2002

Teresa Mann
Property Acquisition Agent
Lee County Division of County Lands
P.O. Box 398
Fort Myers, Florida 33902-0398

SUBJECT: Market Value Appraisal
Project No. 5020, Parcel 1508
2336 SW 19th Avenue
Cape Coral, Lee County, Florida 33991
Integra Southwest Florida File No. 02-02-05-1508

Dear Ms. Mann:

Integra Realty Resources - Southwest Florida is pleased to transmit the summary report of a complete appraisal that was prepared on the referenced property. The purpose of this appraisal is to develop an opinion of the market value of the Fee Simple estate of the property as of March 31 2002, the effective date of the appraisal. 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 property is a vacant, unimproved parcel of land containing an area of approximately 0.2500 acres/10,875 square feet and having a highest and best use for single family residential development.

Based on the analyses and conclusions in the accompanying report, and subject to the definitions, assumptions, and limiting conditions expressed therein, it is our opinion that the market value of the Fee Simple estate of the property, as of March 31 2002, is:

NINE THOUSAND DOLLARS
(\$9,000).

LOCAL EXPERTISE...NATIONALLY

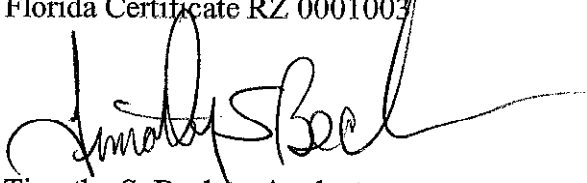
Teresa Mann
April 2, 2002
Page 2

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



Timothy S. Becker, Analyst
State Registered Assistant Real Estate Appraiser
Florida Certificate RI 0007079

5-Year Sales History

Parcel No. 1508

Veterans Memorial Parkway Extension,
Surfside to Chiquita Boulevard, Project No. 5020

| Grantor | Grantee | Sale Date | Purchase Price | Arms Length Y/N |
|--|---|-----------|----------------|-----------------|
| Leval, Inc., a Florida corporation | BMC & Associates, Inc., a Florida corporation | 5/99 | \$2,800 | Y |
| Ching Y. Wu and Zwe Hwa Wu, husband & wife | Leval, Inc. , a Florida corporation | 9/98 | \$3,500 | Y |