

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

**Blue Sheet No. 20030383**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Approve the acquisition of Parcel 136, for the Gunnery Road/State Road 82 to Lee Boulevard, Project No. 4055 in the amount of \$18,000, pursuant to the terms and conditions as set forth in the Agreement for Purchase and Sale of Real Estate in lieu of condemnation proceedings; authorize payment of necessary costs 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:** The acquisition of property during the voluntary phase of the project, thus avoiding the Board's need to exercise its power of Eminent Domain at a future date.

**2. DEPARTMENTAL CATEGORY:**

**COMMISSION DISTRICT #:**

**CLD**

**3. MEETING DATE:**

**04/22/2003**

**4. AGENDA:**

- CONSENT ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON

TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**

- (Specify)
- STATUTE FS 125
  - ORDINANCE \_\_\_\_\_
  - ADMIN. \_\_\_\_\_
  - OTHER \_\_\_\_\_

**6. REQUESTOR OF INFORMATION**

- A. COMMISSIONER \_\_\_\_\_
- B. DEPARTMENT Independent
- C. DIVISION County Lands
- BY: Karen L. W. Forsyth, Director

**7. BACKGROUND:** The Division of County Lands has been requested by the Department of Transportation to acquire right of way for the Gunnery Road/State Road 82 to Lee Boulevard, Project No. 4055. The project consists of widening the existing two lane roadway to a four lane divided roadway with curbs and gutters, sidewalks, stormwater management facilities, and accommodations for a future six lane expansion. The subject parcel is needed as a part of the Access Management Plan to construct a new street between Gunnery Road and Gretchen Avenue South across from 13<sup>th</sup> Street.

This acquisition consists of the fee interest in Parcel 136 further identified as STRAP No. 33-44-26-07-00017.0410. This parcel, containing 8,750 square feet of unimproved commercial land, is zoned C-2. The owners of Parcel 136, James M. Davis and Margaret H. Davis, husband and wife, have agreed to sell the subject parcel for \$18,000. Lee County is to pay closing costs of approximately \$1,500. Seller is responsible for real estate broker and attorney fees, if any. The parcel was appraised by David C. Vaughan, MAI, of Diversified Appraisal, Inc. The salient appraisal data is attached for reference.

Staff recommends the Board approve the requested motion.

Funds will be available in Account 20405518803.506110

- 20 - CIP
- 4055 - Gunnery Road/SR 82 to Lee Boulevard
- 18803 - Impact Fees - Roads - East Lee County
- 506110 - Land

- Attachments: Purchase Agreement  
Title Search  
Appraisal Letter  
Sales History

**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>			<i>BAD 4/11/03</i>	<i>John 4-8-03</i>	QA <i>4-9-03</i>	OM <i>4/8/03</i>	RISK <i>4/9/03</i>	GC <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: ADM.  
*4/8/03 4PM*

*4/8/03 4:30pm*  
*EW*  
*4/10 100*  
*BH*

This document prepared by

Lee County  
County Lands Division  
Project: Gunnery Road, Project No. 4055  
Parcel: 136  
STRAP No.: 33-44-26-07-00017.0410

BOARD OF COUNTY COMMISSIONERS

LEE COUNTY

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

THIS AGREEMENT for purchase and sale of real property is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between James M. Davis and Margaret H. Davis, husband and wife, hereinafter referred to as SELLER, whose address is 3405 Oak Street, Apartment C, Myrtle Beach, South Carolina 29577, 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 0.2 acres more or less, and located at 1130 Gunnery Road, Lehigh Acres, Florida 33971 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 Gunnery Road Project No. 4055, hereinafter called "the Project."

2. **PURCHASE PRICE AND TIME OF PAYMENT:** The total purchase price ("Purchase Price") will be ~~Fifteen~~ <sup>EIGHTEEN JMD MHD</sup> Thousand dollars and no/100 ~~(\$15,000.00)~~, payable at closing by County Warrant.

\$18,000.00

JMD MHD

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 Purchase Price, from a title company acceptable to BUYER. The commitment will be accompanied by one copy of all documents that constitute exceptions to the title commitment. The commitment will also show title to be good and marketable with legal access, subject only to real estate taxes for the current year, zoning and use 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) documentary stamps on deed;
- (c) utility services up to, but not including the date of closing;
- (d) taxes or assessments for which a bill has been rendered on or before the date of closing;
- (e) payment of partial release of mortgage fees, if any;
- (f) SELLER's attorney fees, if any.

6. **BUYER'S INSTRUMENTS AND EXPENSES:** BUYER will pay for:

- (a) Recording fee for deed;
- (b) survey, (if desired by BUYER).

7. **TAXES:** SELLER will be charged for Real Estate taxes and personal property taxes (if applicable) up to, but not including the date of closing.

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. 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:

Sherrill Mathis  
Linda C. Bobo

SELLER:

James M. Davis 3-18-03  
James M. Davis (DATE)

WITNESSES:

Sherrill Mathis  
Linda C. Bobo

SELLER:

Margaret H. Davis 3-18-03  
Margaret H. Davis (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"

Lot 41, Block 17, Unit 7, Lehigh Estates, Lehigh Acres, Florida.

According to the map or plat thereof on file in the office of the Clerk of the Circuit Court, recorded in Plat Book 15, Page 87, Public Records of Lee County, Florida. Reserving however, all oil, gas, and mineral rights.



# COMMITMENT

Plant #	Schedule A Commitment # CM-1-1862-199	Agent/Branch #
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Reinsurance #	Effective Date & Time March 09, 2003 @ 05:00 PM	State & County FL, Lee
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1. Policy or Policies to be issued:  
ALTA LOAN - 1992 (10-17-92) Florida Modified  
Proposed Insured: Amount  
**None**

ALTA OWNER'S - 1992 (10-17-92) Florida Modified  
Proposed Insured: Amount  
**None**

2. The estate or interest in the land described or referred to in the Commitment and covered herein is  
**Fee Simple**

and is at the effective date hereof vested in:

**James M. Davis and Margaret H. Davis, Husband & Wife**

3. The land is described as follows:

Lot 41, Block 17, Unit 7, Lehigh Estates, Lehigh Acres, according to the map or plat thereof on file in the office of the Clerk of the Circuit Court, recorded in Plat Book 15, Page 87, Public Records of Lee County, Florida.

Issued by:  
**Furlong Title Company**  
12651 McGregor Blvd., 1-102  
Ft. Myers, FL 33919

\_\_\_\_\_  
Countersigned Authorized Signatory

NOTE: This Commitment consists of insert pages labeled as Schedule A, Schedule B-Section 1, and Schedule B-Section 2. This Commitment is of no force and effect unless all schedules are included, along with any Rider pages incorporated by reference in the insert page.

## COMMITMENT

Plant #

Schedule B - Section 1  
Commitment # CM-1-1862-199

Agent/Branch #

The following are requirements to be complied with:

1. Instrument(s) creating the estate or interest to be insured must be approved, executed and filed for record, to-wit:  
(X) Deed in proper form from James M. Davis and Margaret H. Davis, Husband & Wife, vesting fee simple title in Lee County, a Political Subdivision of the State of Florida.
2. Payment of the full consideration to, or for the account of, the grantors or mortgagors.
3. Payment of all taxes, charges, assessments, levied and assessed against subject premises, which are due and payable.
4. Satisfactory evidence should be had that improvements and/or repairs or alterations thereto are completed; that contractor, subcontractors, labor and materialmen are all paid.
5. Exceptions 3 and 4 of Schedule B - Section 2 of this commitment may be amended in, or deleted from the policy to be issued if a survey, satisfactory to the company, is furnished to the company.
6. Evidence in satisfactory form must be furnished that James M. Davis and Margaret H. Davis were married continuously and without interruption.
7. Taxes for the year 2002 have been paid in the amount of \$216.41. Tax ID number is 33-44-26-07-00017.0410.

## COMMITMENT

Plant #

Schedule B - Section 2  
Commitment # CM-1-1862-199

Agent/Branch #

### Exceptions

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the company.

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Rights or claims of parties in possession not shown by the public records.
3. Encroachments, overlaps, boundary line disputes, and other matters which would be disclosed by an accurate survey and inspection of the premises.
4. Easements or claims of easements not shown by the public records.
5. Taxes or special assessments which are not shown as existing liens by the public records.
6. Taxes and assessments for the year 2003, and subsequent years, which are not yet due and payable.
7. Taxes for the year 2002 have been paid in the amount of \$216.41. Tax ID number is 33-44-26-07-00017.0410.
8. Oil, Gas & Mineral reserved in OR Book 1450, Page 2046, Public Records of Lee County, Florida.
9. **Subject to a Public Utility and Drainage easement dedicated along boundary of homesite, not to exceed 6' as recited on plat.**

*Diversified Appraisal, Inc.*  
*Real Estate Appraisers and Consultants*

*Ted A. Dickey, MAI*  
*State-Certified General Appraiser*  
*Certification #0000570*

*David C. Vaughan, MAI, MBA*  
*State-Certified General Appraiser*  
*Certification #0000569*



18 February 2003



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

Attention: Mr. Michael J. O'Hare

RE: Job #020305 - Complete Summary Appraisal Report of Parcel  
136, Parcel 33-44-26-07-00017.0410 Located on  
Gunnery Road, Gunnery Road/S.R. 82 to Lee  
Boulevard, Lehigh Acres, Project No. 4055

Dear Mr. O'Hare:

As requested, a detailed on-site inspection and analysis of the subject property has been made as of 13 February 2003. Within the attached summary appraisal report, please find enclosed a legal description of the subject property.

This is a Summary Appraisal Report which intended to comply with the reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Summary Appraisal Report. As such, it presents only summary discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated below. The appraiser is not responsible for unauthorized use of this report.

This appraisal is not based upon a minimum valuation, a specific valuation or the approval of a loan. The appraisal report is intended to comply with the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation, as well as the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute. I have complied with the Appraisal Standards of Professional Appraisal Practice, Competency Rule. I certify that I have had no past, present or future contemplated interest in the real estate, and to the best of my knowledge, the facts contained herein are true and correct.

The purpose of the appraisal is to estimate the market value of the subject property. Market value as set forth in Title 12 of the Code of Federal Regulations 564.2 (f) is:

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 and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- a. Buyer and seller are typically motivated.
- b. Both parties are well informed or well advised, and each acting in what they consider their own best interest.
- c. A reasonable time is allowed for exposure in the open market.
- d. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- e. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

The function of the appraisal is understood to be for use as a basis for negotiating the acquisition of the property. This appraisal is for the exclusive use of Lee County Division of County Lands who is the client.

The appraiser did not detect and has no knowledge of the existence of any hazardous materials or substances on the site. This appraisal assumes that no such materials exist to the extent that they would have an effect on the value. If any hazardous materials or substances are found on the site, then this appraisal is subject to re-analysis. The appraiser is not an expert in this field.

Lee County Division of County Lands  
Page Three  
18 February 2003

The subject property is appraised as of 13 February 2003. A detailed on-site inspection was made on that date by David C. Vaughan, MAI.

Based on my inspection, analysis, data research, and information contained in the appraiser's work file, it is my opinion that the market value of the undivided fee simple interest of the subject property, as of 13 February 2003, is:

**TWENTY TWO THOUSAND DOLLARS. . . . . (\$22,000)**

Sincerely,



David C. Vaughan, MAI  
State-Certified General Appraiser  
Certification #0000569

# 5-Year Sales History

Parcel No. 136

Gunnery Road Widening Project No. 4055

**NO SALES in PAST 5 YEARS**