

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

Blue Sheet No. 20030428

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$12,300.00, for Parcel 143, 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

CLB

3. MEETING DATE:

04-29-2003

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

4-7-03
[Signature]

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 12,730 square feet of vacant property, further identified as part of 2229 Highland Avenue (STRAP Number 19-44-25-06-00003.1000)

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 4, 2003, performed by J. Lee Norris, MAI, SRA, indicating a value of \$11,300.00. The binding offer to the property owner, Ralph J. Williams, is for \$12,300.00. 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>[Signature]</i>		N/A	<i>[Signature]</i>	<i>[Signature]</i>	QA <i>[Signature]</i>	OM <i>[Signature]</i>	RISK <i>[Signature]</i>	REC <i>[Signature]</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *4/11/03*
Time: *3:43*
[Signature]
Forwarded to:
Co. ADM.
4/11/03 4PM

RECEIVED BY
COUNTY ADMIN. *[Signature]*
4-11-03
4:50
COUNTY ADMIN.
FORWARDED TO:
[Signature]

This document prepared by
Lee County Division of County Lands
Project: Palmetto Extension Project
Parcel: 143
STRAP No.: 19-44-25-06-00003.1000

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 **Ralph J. Williams** hereinafter referred to as SELLER, whose address is 18476 Pioneer Rd., Ft. Myers, FL 33908, 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 **0.29 acres** more or less, and located at **2229 Highland Avenue, Ft. Myers, FL**, 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 **Eleven thousand three hundred and no/100 dollars (\$11,300.00)**, 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 **\$11,300.00**, 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:

Ralph J. Williams (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)



January 15, 2003

DESCRIPTION

PARCEL IN
SECTION 19, TOWNSHIP 44 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

(REVISED) PARCEL NO. 143

PARENT STRAP NO. 19-44-25-06-0003.1000

A tract or parcel of land located in Lot 3 of 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 893.28 feet the Point of Beginning.

From said Point of Beginning continue S 00° 05' 25" E along said east line for 81.21 feet to the southeast corner of said Lot 3; thence run S 89° 06' 12" W along the south line of said Lot 3 for 153.09 feet to an intersection with a non-tangent curve; thence run northwesterly along an arc of a curve to the left of radius 2759.50 feet (delta 01° 41' 33") (chord bearing N 05° 28' 35" W) (chord 81.51 feet) for 81.51 feet; thence run N 89° 07' 13" E for 160.74 feet to the Point of Beginning.

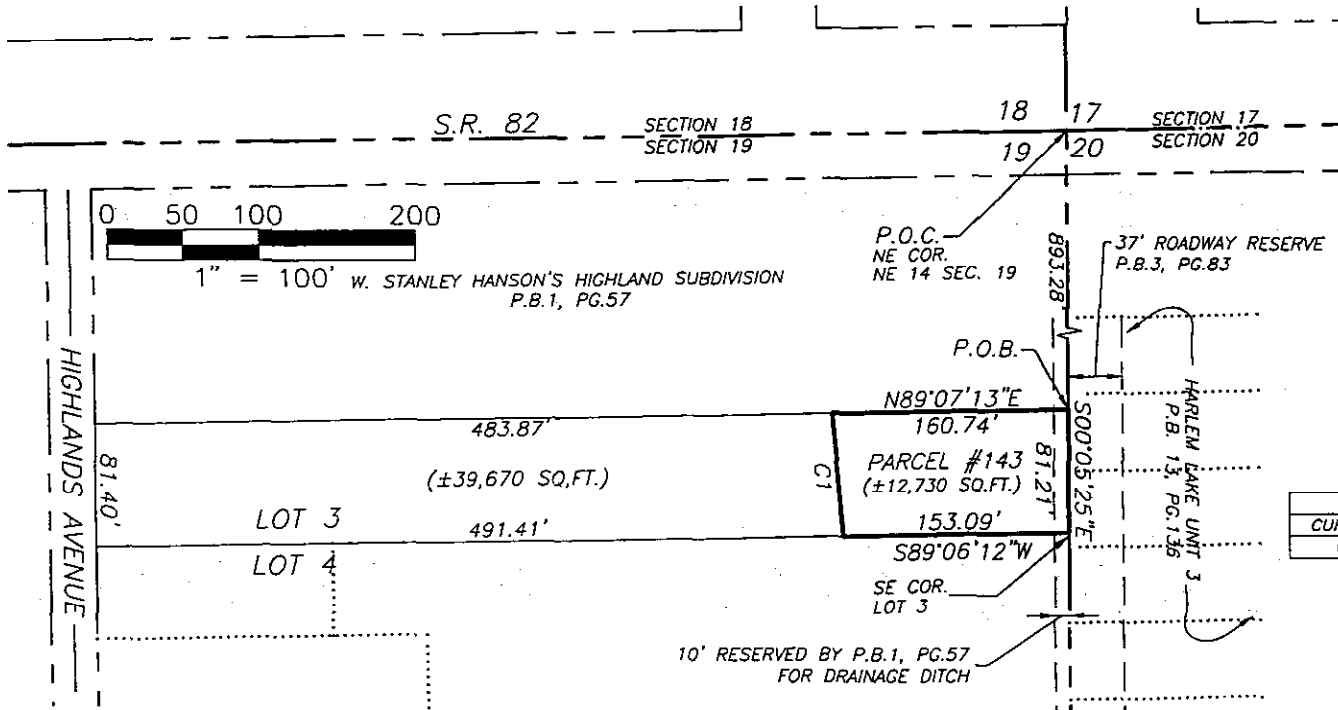
Parcel contains 12,730 square feet, more or less.

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 Land Surveyor
Florida Certificate No. 5247

19991321\Parcel No. 143 011503

v:\1999.1321\surveying\outocad\Legal Sketches\Desc143.dwg



LEGEND

- COR. = CORNER
- DESC.FD. = DESCRIPTION
- L.B. = FOUND
- 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

CURVE TABLE					
CURVE	RADIUS	DELTA	LENGTH	CHORD	CHORD BEARING
C1	2759.50	01°41'33"	81.51	81.51	N05°28'35"W

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.

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 500'05'25"E.
3. PARCEL CONTAINS 12,730 SQUARE FEET MORE OR LESS.

PARCEL NO. 143 (REVISED)
PARENT STRAP NO. 19-44-25-06-00003.1000
PART OF LOT 3
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

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
DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
08-08-02	19991321	19-44-25	1"=100'	1

Exhibit "A"

**Updated Ownership and Easement
Search**

Search Nos. 21886/C and 21886/D

Date: July 16, 2002

Parcel: 143 & 144

Project: Palmetto Extension, #4073

To: Michele McNeill
Property Acquisition Agent

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

STRAP: 19-44-25-06-00003.1000 and 19-44-25-06-00003.2000

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

Subject Property: Lot 3, W. Stanley Hanson's High Land Subdivision, Plat Book 1, Page 57, Lee County, Florida.

Title to the subject property is vested in the following:

Ralph J. Williams

by that certain instrument dated September 8, 1995, recorded September 14, 1995, in Official Record Book 2635, Page 829, Public Records of Lee County, Florida.

Easements:

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.

NOTE: There is a plat/map attached to the Deed recorded in Deed Book 317, Page 317, Public Records of Lee County, Florida. Said plat/map is referenced in the instrument as "an unrecorded plat of the resubdivision of Lot 3 of W. Stanley Hanson's High Land Subdivision in Section 19, Township 44 S, Range 25 East the plat of which is recorded in Plat Book 1, Page 57, Lee County, Florida." This must be addressed and resolved by the Title Company or Attorney that handles the transfer to the County.

Tax Status: 19-44-25-06-00003.1000 - 2001 Ad Valorem Taxes are PAID IN FULL.

19-44-25-06-00003.2000 - 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.

5-Year Sales History

Parcel No. 143

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

NO SALES in PAST 5 YEARS

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

S:\POOL\LAND\DFRM\HISTORY.WPD

04/04/2003 FRI 12:06 FAX 239 479 8391

LEE COUNTY-COUNTY LANDS

001



BOARD OF COUNTY COMMISSIONERS

239 479 8505
239.479.8391 FAX

Writer's Direct Dial Number: _____

Bob James
District One

VIA FAX TO 332-6604

Douglas R. St. Conny
District Two

April 4, 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. Albion
District Five

Donald D. Stikvell
County Manager

RE: **PARCEL 143, PALMETTO EXTENSION PROJECT**
Request for review and sign off on acquisition proposal

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing
Examiner

Dear Saeed:

The appraisal for parcel 143 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 143

Property Owner: Ralph J. Williams
Appraiser: Carlson Norris and Associates, Inc.
Appraisal Date: 11/4/02
Appraised Amount: \$11,300.00
Binding Offer Amount: \$12,300.00

Binding Offer Approved:

Funds are available in account:

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

310 - 4315 - 541 - 6100

S:\POOL\Palmetto Ext Correspondence\143 City Engineer Approval.wpd