#### Lee County Board Of County Commissioners Agenda Item Summary

**Blue Sheet No. 20051744** 

- 1. ACTION REQUESTED/PURPOSE: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$3,150 for Parcel 316-A, Imperial Street Widening, Project No. 4060, pursuant to the Purchase Agreement; and authorize the Division of County Lands to handle all documentation necessary to complete transaction.
- **2. WHAT ACTION ACCOMPLISHES**: Makes binding offer to property owner prior to initiation of condemnation proceedings as required by Florida Statutes.
- 3. MANAGEMENT RECOMMENDATION: Management recommends Board approve the Action Requested.

4. Departmental Category: 6	C6D		5. Meeting Date:	1-10-2006
6. Agenda:	7. Requirement/Purpose:	(specify)	8. Request Initiated	
X Consent	X Statute	73 & 125	Commissioner	
Administrative	Ordinance		Department	Independent
Appeals	Admin. Code		Division	County Lands TLM 12/5/05
Public	Other		By: Karen L	.W. Forsyth, Director $\mathcal{L}_{i_{0}}$
Walk-On				pul

9. Background:

Negotiated for: Department of Transportation

<u>Interest to Acquire:</u> Fee simple interest in 15,604 square feet of vacant property

**Property Details:** 

Owner: The Estate of John Brossard, deceased

Purchase Details:

Binding Offer Amount: \$3,150 (inclusive of attorney and expert fees/costs)

In order to expedite acquisition efforts, staff recommends Board make a binding offer in the amount of \$3,150 (appraised value), and commence Eminent Domain procedures.

**Appraisal Information:** 

Company: Maxwell & Hendry Valuation Services, Inc., by W. Michael Maxwell, MAI, SRA

Appraised Value: \$3,150

Date of Appraisal: October 19, 2005

Staff Recommendation: Staff recommends the Board approve the Action Requested.

Account: 20406063000.506110

Attachments: Purchase Agreement; Title Data; Appraisal Data (Location Map Included); Letter from City of Bonita Springs; 5-Year Sales History

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget S	Services 17/19	County Manager/P.W. Director
Klosik	<b>S</b>	₹. <b>1</b>	to the	1/2-	Analyst (Risk	Grants Mgr.	JP6 12/15/05
11. Com	nission Actio	n:	•			·	
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Agreement for Purchase and Sale of Real Estate Page 1 of 5

This document prepared by Lee County Division of County Lands Project: Imperial Street Widening, #4060

Parcel: 316-A

## 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
, 200, by and between the Estate of John Brossard, deceased, hereinafter
referred to as SELLER, whose address is c/o John Raymond Brossard, 708 Tamiami Trail
South, Apt. 315, Venice, FL 34285, 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 15,604 square feet, more or less, and located in Bonita Springs, Florida 34135, 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 Imperial Street Widening 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 Three Thousand One Hundred Fifty Dollars (\$3,150), 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 the 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) 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 and expert fees/costs, 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.

and signed by all parties to this Agreement.

WITNESSES:	SELLER:
	The Estate of John Brossard, deceased
	By:
	(DATE)
CHARLIE GREEN, CLERK	BUYER: LEE COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS
BY:	BY:
DEPUTY CLERK (DATE)	CHAIRMAN OR VICE CHAIRMAN
	APPROVED AS TO LEGAL FORM AND SUFFICIENCY
	COUNTY ATTORNEY (DATE)

18. SPECIAL CONDITIONS: Any and all special conditions will be attached to this Agreement

## James R. Coleman & Associates, Inc.

Land Surveying Consultants

6238 Presidential Court Unit 2 Fort Myers, Florida 33919 Phone (239) 433-2070 Fax (239) 433-5126

Exhibit "A"

Page 1\_of 2\_

LEGAL DESCRIPTION Parcel 316-A

A parcel of land in Section 36, Township 47 South, Range 25 East, Bonita Springs, Lee County, Florida, more particularly described as follows:

Begin at the southwest corner of the northwest quarter of the southeast quarter of Section 36, Township 47 South, Range 25 East, thence N.00°56'51" W. along the west line of said southeast quarter for 430.95 feet to an intersection with the mean high water line of the Imperial River as located on January 9 and 10, 2003; thence along said mean high water line for the following three (3) courses, (1) N.85°03'50"E. for 3.25 feet; (2) thence N.06°13'59"E. for 9.41 feet; (3) thence N.49°40'36"W. for 5.88 feet to an intersection with the aforementioned west line of said southeast quarter; thence N.00°56'51"W. along said west line for 56.20 feet to an intersection with the aforementioned mean high water line; thence along said mean high water line for the following two (2) courses, (1) N.69°25'49"E. for 12.80 feet; (2) thence N.63°03'55"E. for 14.40 feet to an intersection with a line parallel with and 25.00 feet east of as measured at right angles to the aforementioned west line of said southeast quarter; thence S00°56'51"E along said parallel line for 486.10 feet to an intersection with a line parallel with and 25.00 feet north of as measured at right angles to the south line of the aforementioned northwest quarter of the southeast quarter of said Section 36; thence N.88°49'03"E. along said parallel line for 120.51 feet; thence S.00°58'24"E. for 25.00 feet to an intersection with the south line of the aforementioned northwest quarter of the southeast quarter of said Section 36; thence S.88°49'03"W. along said south line for 145.53 feet to the point of beginning.

Date: 27-102 2003

James R. Coleman & Associates, Inc.

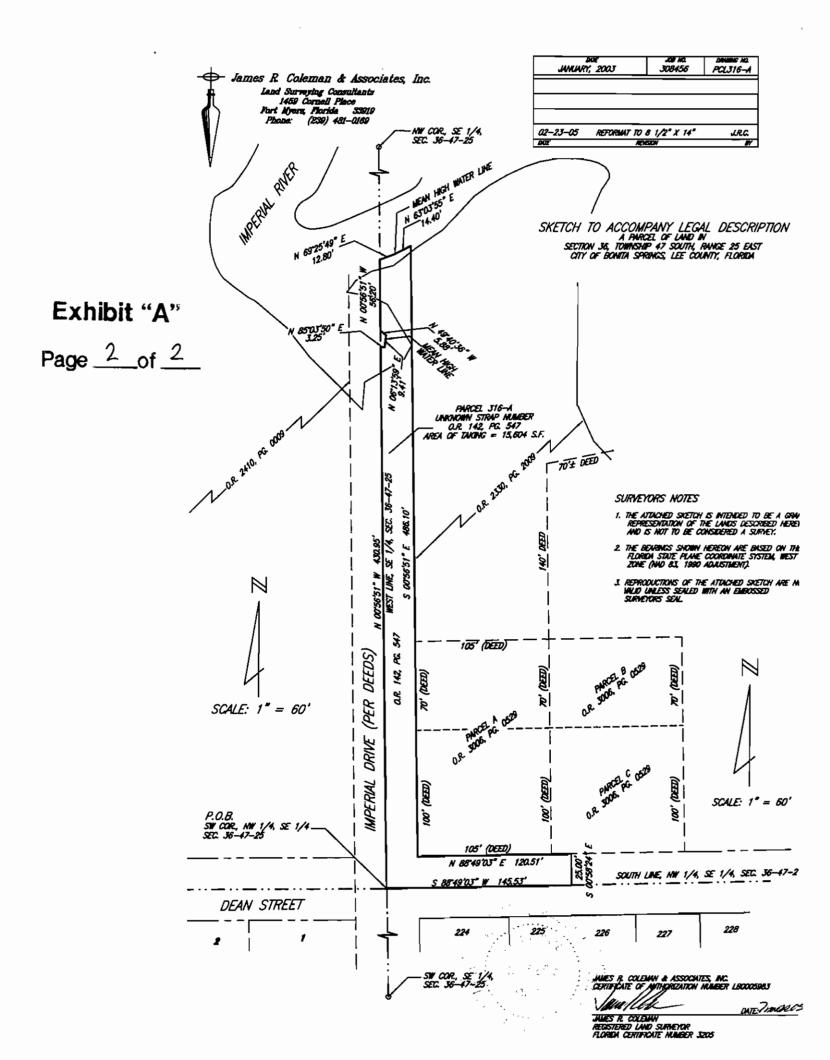
Certificate of Authorization Number LB0005983

James R. Coleman

Registered Land Surveyor

Florida Certificate Number LS3205

JRCAPCL316-A



# Memorandum From The Office of County Lands

To: Teresa L. Mann SR/WA
Property Acquisition Agent

From: Kenneth Pitt
Title Examiner

1500

RE: Imperial Street Widening, Project# 4060, Parcel 316A.

Search Request: Determine the owners of the lands that comprise the East 25 feet of Imperial Street, South of the Imperial River and North of Dean Street, located in Section 36, Township 47 South, Range 25 East, Lee County, Florida.

The Easterly 25 feet of Imperial Street South of the Imperial River and North of Dean Street) is the Westerly 25 feet of the Northwest ¼ of the Southeast ¼ of Section 36, Township 47 South Range 25 East.

The fee title to the land comprising the aforementioned portion of Imperial Street is found in the Estate of John Brossard. He acquired title to the West ½ of the NW ¼ of the SE ¼ by deed recorded in Official Record Book 142 Page 547, Public Records of Lee County, Florida.

Brossard later sold the land as part of an unrecorded subdivision known as Bonita Gardens, Unit 1, Lots 1-6, both inclusive bound the easterly line of Imperial Street. Lots 3-6 both inclusive were conveyed to Kenneth and Josephine Hogue by deed recorded in official Record Book 678 Page 603, Public Records of Lee County, Florida. Said conveyance did not convey any portion of Imperial Street. Lots 1 & 2, were conveyed to Morgan and Mildred Briggs by deed recorded in Official Record Book 678 Page 53, Public Records of Lee County, Florida. Said conveyance did not convey any portion of Imperial Street.

John Brossard later died and on August 25, 1977, Ralph Richardson as Personal Representative of his Estate obtained an Order for Authority to Execute Corrective Warranty Deeds and to Dedicate Roads, recorded in Official Record Book 1219 Page 583, Public Records of Lee County, Florida. The order gave Ralph Richardson as Personal Representative of John Brossard, deceased, the authority to dedicate the roads in the Bonita Gardens Subdivision to the owners in said subdivision for ingress, egress and utility purposes and thereby divest the decedent and/or his heirs from all title thereto. However Ralph Richardson only gave a perpetual and non exclusive right of way for roads and utilities for Taylor Drive and Donegal Drive in a deed recorded in Official Record Book 1222 Page 1205, Public Records of Lee County, Florida. So Richardson never divested the Estate of John Brossard of Title to the Easterly 25 feet of Imperial Street (South of the Imperial River and North of Dean Street) nor the Northerly 25 feet of Dean Street located in the unrecorded subdivision known as Bonita Gardens.



#### PRESIDENT

W. Michael Maxwell, MAI, SRA State-Certified General Appraiser, RZ 55

#### VICE-PRESIDENT

Gerald A. Hendry, MAI State-Certified General Appraiser, RZ 2245

#### **ASSOCIATES**

William E. McInnis State-Certified General Appraiser, RZ 2232

Timothy D. Rieckhoff State-Certified General Appraiser, RZ 2261

Andrea R. Terregrossa Registered Trainee Appraiser, RI 10787

Matthew H. Caldwell Registered Trainee Approiser, RI 9277

Matthew S. Simmons Registered Trainee Appraiser, RI 12369

Scott H. Simmons Registered Trainee Appraiser, RI 13108



12600-1 World Plaza Lane, Building #63 Fort Myers, Florida 33907 www.maxwellhendry.com Commercial

Phone: (239) 337-0555
Fax: (239) 337-3747
E-mail: commercial@maxwellhendry.com

#### Residential

Phone: (239) 333-1060 Fax: (239) 333-1066 E-mail: residential@maxwelthendry.com

10/31/2005

Lee County Board of County Commissioners
Department of Public Works
Division of County Lands
Post Office Box 398
Fort Myers, FL 33902-0398
ATTN: Mr. Robert G. Clemens

RE: Project #4060, STA #28, Parcel #316A, Appraisal of Right-of-Way Land located on the south side of the Imperial River and occupying the east portion of Imperial Street and the north portion of Dean Street, Bonita Springs, Lee County, FL in Section 36, Township 47S, Range 25E

Dear Mr. Clemens,

As you requested, an inspection and analysis have been made of the real property referenced above, which is described in the attached appraisal report. The purpose of this assignment is to formulate an opinion of the market value of the remaining fee simple\*(see below) interest in the land on an as is basis, as if free and clear of all liens, mortgages, encumbrances, and/or encroachments, except as amended in the body of this report.

As discussed in the analysis of Highest and Best Use, the shape, size, and orientation of the subject parcel makes the property undevelopable, except under a very few circumstances. In addition to being generally undevelopable, the subject property is also utilized as the access for the adjacent parcels and has a highest and best use of right-of-way. In valuing a property of this type, we are able to utilize the Across the Fence Method. At one point in the early 1900's, there was a bridge over the Imperial River at Imperial Street. In the case of Parcel 316A (located on the south side of the river and occupying the east portion of Imperial Street and the north portion of Dean Street), it appears that when Mr. John Brossard platted the unrecorded subdivision of Bonita Gardens, he set this parcel aside for right-of-way. However, for reasons unbeknownst to us, the ownership still remains with the Estate of John Brossard.

Data, information, and calculations leading to the value conclusion are incorporated in the report following this letter. The report, in its entirety, including all assumptions and limiting conditions, is an integral part of, and inseparable from, this letter. The appraiser qualifications, licenses, and general assumptions and limiting conditions are included in the Imperial Street Widening Data Book. The Data Book is an integral part of this report and this report cannot be fully understood without the Data Book.

The following appraisal sets forth the most pertinent data gathered, the techniques employed, and the reasoning leading to the opinion of value. The analyses, opinions and conclusions were developed based on, and this report has been prepared in conformance with, our interpretation of the guidelines and recommendations set forth in the Uniform Standards of Professional Appraisal Practice (USPAP), the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), & Title XI Regulations.

Maxwell & Hendry Valuation Services, Inc. does not authorize the out-of-context quoting from or partial reprinting of this appraisal report. Further, neither all nor any part of this appraisal report shall be disseminated to the public by the use of media for public communication without the prior written consent of the appraiser signing this report.

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 the Amount Due Owner, as of 10/19/2005, is:

THREE THOUSAND ONE HUNDRED FIFTY DOLLARS - (\$3,150)

Please refer to the attached appraisal report, and exhibits, for documentation of these value opinions contained herein. It has been a pleasure to assist you in this assignment. If you have any questions concerning the analysis, or if we can be of further service, please feel free to contact us.

Respectfully submitted,

W. Michael Maxwell, MAI, SKA

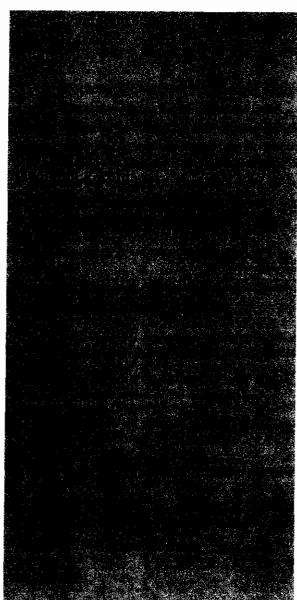
President RZ 55

Matthew H. Caldwell, Associate Appraiser

RI 9277



## Section One - Executive Summary



Imperial Street Right-of-Way

Right-of-Way Land

Located on the south side of the Imperial River and occupying the east portion of Imperial Street and the north portion of Dean Street, Bonita Springs, Lee County, FL 34135 in Section 36, Township 47S, Range 25E

N/A

504

Estate of John Brossard, c/o of John Raymond Brossard

15,604 / 0.3582

15,604 / 0.3582

TFC-2

Medium Density Single Family/Duplex Residential

Right-of-Way

Right-of-Way

As Is

Fee Simple Remainder \*(Subject to right-of-way use)

Market Value

10/19/2005

10/19/2005

10/31/2005

Not applicable

\$3,150

Not applicable

\$3,150

None.

None.

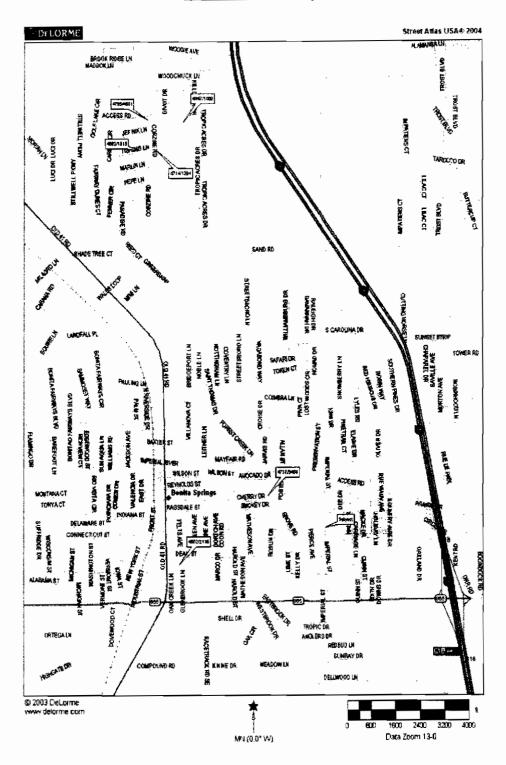
See Section Eight – Assumptions and Limiting

Conditions.

W. Michael Maxwell, MAI, SRA; Matthew H. Caldwell,

## Sales Comparison Approach

## Land Sales Map



#### Teresa Mann - RE: Imperial Street Widening

From: "Gary Price" <gary.price@cityofbonitasprings.org>

"Teresa Mann" <MANNTL@leegov.com> To:

Date: 12/5/2005 2:05 PM

Subject: RE: Imperial Street Widening

I have reviewed and agree upon the purchase of parcels 316-A, 317-A, 1005, 1007, 1009, 1012, and 1014, please find a copy of the approval letter. A signed copy of the letter will follow in the mail.

Thank you,

Gary A. Price City Manager City of Bonita Springs 9101 Bonita Beach Road Bonita Springs, FL 34135 Phone: (239) 949-6238

Fax: (239) 949-6239

E-mail: gary.price@cityofbonitasprings.org

From: Teresa Mann [mailto:MANNTL@leegov.com] Sent: Saturday, December 03, 2005 6:39 PM To: Gary Price

Subject: Imperial Street Widening

Mr. Price,

Attached is a letter regarding binding offers for the above project. In an effort to expedite finalizing these acquisitions, I am sending this letter via facsimile and e-mail.

Please review and advise if acceptable. Thank you.

Teresa L. Mann, SR/WA Property Acquisition Agent Division of County Lands E-Mail: manntl@leegov.com Telephone (239) 479-8505 Fax (239) 479-8391

Please note: Florida has a very broad public records law. Most written communications to or from County officials regarding County business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Add Emotion Icons to your Emails



Please note: Florida has a very broad public records law. Most written communications to or from Bonita Springs officials regarding City business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

December 5, 2005

Ms. Teresa L. Mann Property Acquisition Agent Lee County PO Box 398 Fort Myers, FL 33902

RE: Purchase Agreement – Imperial Street Widening Project Project No. 4060 Parcels 316-A, 317-A, 1005, 1007, 1009, 1012, and 1014

Dear Ms. Mann:

The agreed upon purchase conditions for the aforementioned parcels are reasonable and purchase is recommended by my office.

If you need further authorization, feel free to contact me.

Respectfully,

Gary A. Price City Manager

GAP/kd

cc: Ken Hoffman, Community Project Coordinator

## 5-Year Sales History

Parcel No. 316-A

## Imperial Street Widening Project No. 4060

Grantor	Grantee	Price	Date	Arms Length Y/N
			-	

### **NO SALES in PAST 5 YEARS**