

Meeting Date
07/07/2015



AGENDA	
Section	Consent
Item No.	II A 11

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approval Re: Contract for Sale and Purchase for the acquisition of property located at 1689 SE Wyoming Drive, Palm Bay as part of the Babcock Street, SE Wyoming Drive and Valkaria Road Intersection Improvement Project - District 3.
DEPT/OFFICE:	Public Works Department / Land Acquisition Section

Requested Action:
 It is requested that the Board of County Commissioners approve and authorize the Chairman to execute the Contract for Sale and Purchase for the acquisition of property located at 1689 SE Wyoming Drive, Palm Bay as part of the Babcock Street, Wyoming Drive and Valkaria Road Intersection Improvement Project.

Summary Explanation & Background:
 The subject property is located in Section 16, Township 29 South, Range 37 East.
 On October 10, 2014, the Board approved the reallocation of the available funding for allocation to transportation projects, including funding for the Babcock & Valkaria Intersection Improvement Project.
 Brevard County Public Works will be improving the intersection of Babcock Street, SE Wyoming Drive and Valkaria Road which will require the acquisition of three parcels along SE Wyoming Drive. The property located at 1689 SE Wyoming is currently a bank owned property recently foreclosed on by the Bank of New York Mellon, FKA the Bank of New York, as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-2, the title holder. There has been a Limited Power of Attorney issued authorizing ISERVE REAL ESTATE OPERATION, INC. for representation in the real estate transactions related to this property. This Power of Attorney has not been recorded as yet. Notwithstanding the issue regarding the Seller's authorization to sign, it is requested that the Chair be authorized to execute this contract with the stipulation that closing can only occur at such time as the Title Insurance Company is satisfied that the owner of record properly executed the required documents to complete the transaction.
 It is requested that the Board approve the acquisition of parcels needed for the Intersection Improvement Project to include properties located at 1689 SE Wyoming Drive (the parcel included in this contract), 1681 SE Wyoming (vacant lot not yet under contract) and 1697 Wyoming SE Drive (vacant lot not yet under contract).
 The contract for the 1689 SE Wyoming parcel is in the amount of \$55,000.00 which is the price established in an appraisal ordered by Brevard County from WH Benson Appraisals.
 Fiscal Impact: FY 2014 – 2015: \$55,000.00 – Fund 1163/265150/5610000
FY2015 – 2016: No impact

Clerk to the Board Instructions: Return executed Contract for Sale and Purchase and Board Approval Memo to the Department.

Exhibits Attached: Contact for Sale and Purchase with Sketch and Descriptions, Property Fact Sheet, Location Map

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager 	Assistant County Manager	Department Director / Extension
Stockton Whitten	Assistant County Manager Venetta Valdengo	John P Denninghoff / 57202



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972

July 8, 2015

MEMORANDUM

TO: John Denninghoff, Public Works Director

RE: Item II.A.11., Contract for Sale and Purchase for the Acquisition of Property Located at 1689 SE Wyoming Drive, Palm Bay as Part of Babcock Street, SE Wyoming Drive and Valkaria Road Intersection Improvement Project

The Board of County Commissioners, in regular session on July 7, 2015, executed Contract for Sale and Purchase with the Bank of New York Mellon for the acquisition of property located at 1689 SE Wyoming Drive, Palm Bay as part of the Babcock Street, Wyoming Drive, and Valkaria Road Intersection Improvement Project. Enclosed is the executed Contract for Sale and Purchase.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

/af

Encl. (1)

cc: Contracts Administration
Finance
Budget

CONTRACT FOR SALE AND PURCHASE

Seller: Bank of New York Mellon, FKA the Bank of New York, as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-2

Buyer: Board of County Commissioners, Brevard County, Florida
2725 Judge Fran Jamieson Way, Viera, Florida 32940

Legal description of property being transferred: See Exhibit "A" attached

The transfer shall be made pursuant to the following terms and conditions and the Standards for Real Estate Transactions, on the reverse side of this contract.

Purchase price: \$55,000.00 (FIFTY FIVE THOUSAND DOLLARS AND NO CENTS)

Deposit: \$100 to be transferred to an escrow account established and held by the Brevard County Clerk, such deposit to be applied to the purchase price.

Time for acceptance of offer; effective date; facsimile: If this offer is not executed by and delivered to all parties OR FACT OF EXECUTION communicated in writing between the parties on or before July 7, 2015, the deposit(s) will, at Buyer's option, be returned and this offer withdrawn.

Title evidence: At least 15 days before closing date, [] Seller shall, at Seller's expense, deliver to Buyer or Buyer's attorney or [X] Buyer shall at Buyer's expense obtain [X] a title search and/or [] title insurance commitment

Closing Date: This transaction shall be closed and the deed and other closing papers delivered on September 1, 2015, unless modified by other provisions of this Contract.

Warranties: The following warranties are made and shall survive closing. a. SELLER warrants that there are no parties in occupancy other than Seller. b. SELLER warrants there is no hazardous waste or other environmental contamination located in or upon the property being acquired by the County. Seller shall indemnify and defend Buyer from any and all claims or expenses resulting from hazardous waste or environmental contamination located in or upon the property provided such waste or contamination was not placed on the property by the Buyer. c. SELLER warrants that he/she has no knowledge of any fact or restriction which would prevent use of the property for purposes. d. SELLER hereby represents and warrants to COUNTY that SELLER has not engaged or dealt with any agent, broker or finder, in regard to this Agreement or to the sale and purchase of the property contemplated hereby.

Inspections: The BUYER shall have 60 days after the Brevard County Board of County Commissioners executes the contract within which to complete physical inspection and evaluation of the property for environmental, hazardous materials, developability, access, drainage and subsurface conditions. In the event a Phase I environmental assessment meeting ASTM standards is prepared and environmental issues objectionable to BUYER are detected, SELLER shall 1) take all steps necessary to remove BUYER'S objections prior to the expiration of the 60 day inspection period, if possible or 2) if acceptable to BUYER, SELLER shall allow an additional 90 days to provide adequate time to conduct a Phase II assessment meeting ASTM standards.

Condemnation: This property [] is [X] is not being acquired under threat of condemnation. If so, this agreement, includes and settles all issues of full compensation for the property being acquired, including fees and costs.

SELLER shall comply with §196.295, Fla. Stat.

SELLER hereby agrees to provide the necessary information and execute a beneficial interest and disclosure affidavit as required by §286.23, Fla. Stat.

Special Clauses: [] See attached addendum [X] NOT APPLICABLE

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Robin Fisher, CHAIRMAN
As approved by the Board 07-07-15
Date: 07-21-15

Bank of New York Mellon, FKA the Bank of New York, as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-2

[Signature]
(Seller) Paul Funk, Limited Power of Attorney
Date 7/2/2015
BANK OF AMERICA, N.A.

STANDARDS FOR REAL ESTATE TRANSACTIONS

A. EVIDENCE OF TITLE: A title insurance commitment issued by a Florida licensed title insurer agreeing to issue to Buyer, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the purchase price insuring Buyer's title to the Real Property, subject only to liens, encumbrances, exceptions or qualifications set forth in this Contract and those which shall be discharged by Seller at or before closing. Seller shall convey marketable title subject only to liens, encumbrances, exceptions or qualifications specified in this Contract. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Buyer shall have 5 days from date of receiving evidence of title to examine it. If title is found defective, Buyer shall within 3 days thereafter, notify Seller in writing specifying defect(s). If the defect(s) render title unmarketable, Seller will have 30 days from receipt of notice to remove the defects, failing which Buyer shall, within five (5) days after expiration of the thirty (30) day period, deliver written notice to Seller either: (1) extending the time for a reasonable period not to exceed 120 days within which Seller shall use diligent effort to remove the defects; or (2) requesting a refund of deposit(s) paid which shall immediately be returned to Buyer. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the title as it then is. Seller shall, if title is found unmarketable, use diligent effort to correct defect(s) in the title within the time provided therefor. If Seller is unable to remove the defects within the times allowed therefor, Buyer shall either waive the defects or receive a refund of deposit(s), thereby releasing Buyer and Seller from all further obligation under this Contract.

B. SURVEY: Buyer, at Buyer's expense, within time allowed to deliver evidence of title and to examine same, may have the Real Property surveyed and certified by a registered Florida surveyor. If survey shows encroachment on Real Property or that improvements located on Real Property encroach on setback lines, easements, lands of others or violate any restrictions, Contract covenants or applicable governmental regulation, the same shall constitute a title defect.

C. INGRESS AND EGRESS: Seller warrants and represents that there is ingress and egress to the Real Property sufficient for its intended use as described in the Warranties section of the agreement.

D. LIENS: Seller shall furnish to Buyer at time of closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statement, claims of lien or potential liens known to Seller and further attesting that there have been no improvements or repairs to the Property for 90 days immediately preceding date of closing. If Property has been improved or repaired within that time Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen and further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at closing of this Contract.

E. TIME PERIOD: Time is of the essence in this Contract.

F. DOCUMENTS FOR CLOSING: Seller shall furnish the deed, bill of sale, construction lien affidavit, owner's possession affidavit, assignments of leases, tenant and mortgagee estoppel letters and corrective instruments. Buyer shall furnish closing statement.

G. EXPENSES: Documentary stamps on the deed, if required, and recording of corrective instruments shall be paid by Seller. Buyer will pay for the cost of recording the deed.

H. PRORATIONS; CREDITS: Taxes, assessments, rent, interest, insurance and other expenses and revenue of Property shall be prorated through day before closing. Buyer shall have the option of taking over any existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at closing shall be increased or decreased as may be required by prorations. Prorations will be made through day prior to occupancy if occupancy occurs before closing. Advance rent and security deposits will be credited to Buyer and escrow deposits held by mortgagee will be credited to Seller. Taxes shall be prorated based on the current year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If closing occurs at a date when the current year's millage is not fixed and current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If current year's assessment is not available, then taxes will be prorated on the prior year's tax. If there are completed improvements on the Real Property by January 1st of year of closing, which improvements were not in existence on January 1st of the prior year, then taxes shall be prorated based upon the prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, request will be made to the County Property Appraiser for an informal assessment taking into consideration available exemptions. Any tax proration based on an estimate shall, at request of either Buyer or Seller, be subsequently readjusted upon receipt of tax bill on condition that a statement to that effect is in the closing statement.

I. SPECIAL ASSESSMENT LIENS: Certified, confirmed and ratified special assessment liens as of date of closing (not as of Effective Date) are to be paid by Seller. Pending liens as of date of closing shall be assumed by Buyer. If the improvement has been substantially completed as of Effective Date, any pending lien shall be considered certified, confirmed or ratified and Seller shall, at closing, be charged an amount equal to the last estimate of assessment for the improvement by the public body.

J. PROCEEDS OF SALE; CLOSING PROCEDURE: The deed shall be recorded upon clearance of funds. If abstract of title has been furnished, evidence of title shall be continued at Buyer's expense to show title in Buyer, without any encumbrances or change which would render Seller's title unmarketable from the date of the last evidence. Proceeds of the sale shall be held in escrow by Seller's attorney or by another mutually acceptable escrow agent for a period of not more than 5 days after closing date. If Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 5-day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect. If Seller fails to timely cure the defect, all deposit(s) and closing funds shall, upon written demand by Buyer and within 5 days after demand, be returned to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and reconvey the Property to Seller by special warranty deed and bill of sale. If Buyer fails to make timely demand for refund, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale. The escrow and closing procedure required by this Standard shall be waived if title agent insures adverse matters pursuant to Section 627.7841, F.S. (1993), as amended.

K. FAILURE OF PERFORMANCE: If Buyer fails to perform this Contract within the time specified, including payment of all deposit(s), the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be retained by or for the account of Seller as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under this Contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this Contract. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects or refuses to perform this Contract, the Buyer may seek specific performance or elect to receive the return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach. In the event of any litigation arising out of this contract, each party shall bear its own attorney's fees and costs. The parties hereby agree to waive trial by jury.

L. CONVEYANCE: Seller shall convey title to the Real Property by statutory warranty, trustee's, personal representative's or guardian's deed, as appropriate to the status of Seller. Personal Property shall, at request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

M. OTHER AGREEMENTS: No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

N. WARRANTY: Seller warrants that there are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed.

Reviewed for legal form and content:

 County Attorney

Exhibit "A"

Lot 15, Block 929, PORT MALABAR UNIT EIGHTEEN, according to the Plat thereof, as recorded in Plat Book 15, Pages 109 through 119, inclusive, Public Records of Brevard County, Florida

BOARD OF COUNTY COMMISSIONERS

AGENDA: CONTRACT FOR SALE AND PURCHASE FOR ACQUISITION OF
PROPERTY – 1689 SE WYOMING DRIVE – BABCOCK, WYOMING &
VALKARIA INTERSECTION IMPROVEMENTS PROJECT – DISTRICT 3

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION

AGENCY CONTACT: DAN JONES LAND ACQUISITION SUPERVISOR

CONTACT PHONE: 321-690-6847 (5-2726)

REVIEW

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Dan Jones, Supervisor	<u>APJ</u>	_____	<u>7/1/15</u>
COUNTY ATTORNEY County Attorney	<u>EB</u>	_____	<u>7/1/15</u>
PUBLIC WORKS John Denninghoff, Director	<u>[Signature]</u>	_____	<u>7/1/15</u>

AGENDA DUE DATE: June 22, 2015 for the July 7, 2015 Board meeting

IF ANY REVIEWING OFFICE HAS QUESTIONS OR CONCERNS REGARDING THIS PACKAGE, PLEASE ADVISE AGENCY CONTACT IMMEDIATELY.

PLEASE CALL DEBBIE CRUZ AT 690-6847 (5-6847) WHEN READY TO BE PICKED UP.

THANK YOU.



Dana Blickley, CFA
Brevard County Property Appraiser

BOA Parcel 1689 SE Wyoming Drive



North Government Complex
400 South St, 5th Floor
Titusville, FL 32780
Phone: (321) 264-6700
Fax: (321) 264-6954

Merritt Island Services Complex
2575 N Courteney Pkwy
Merritt Island, FL 32953
Phone: (321) 454-6620
Fax: (321) 454-6618

Viera Government Center
2725 Judge Fran Jamleson Wy
Viera, FL 32940
Phone: (321) 690-6880
Fax: (321) 690-6883

South Services Complex
1515 Samo Rd
Melbourne, FL 32935
Phone: (321) 255-4440
Fax: (321) 255-4439

Palm Bay Service Complex
450 Cogan Dr, SE
Palm Bay, FL 32909
Phone: (321) 952-4574
Fax: (321) 952-4573

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Printed Wednesday, June 24, 2015 at 8:47 AM. www.bcpao.us

PROPERTY FACT SHEET

PROJECT: Babcock Street, SE Wyoming Drive & Valkaria Road Intersection Improvements

OWNER: Bank of New York Mellon, FKA the Bank of New York, as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-2

PARCEL LOCATION: 1689 SE Wyoming Drive, Palm Bay, Florida

PARCEL SIZE: .23 Acre (per Property Appraiser Site)

ZONING/LANDUSE: R – Single Family Residence

IMPROVEMENTS: 1,157 SQFT residential structure

TOPOGRAPHY: Level with road grade, no wetlands indicated

FLOOD ZONE: X (outside 500-year flood)

TAX PARCEL ID#: 29-37-16-GR-00929.0-0015.00

MARKET VALUE: \$53,690.00 (2014 Assessment)(Property Appraiser's Records)
\$55,000.00 (per appraisal by WH Benson)

PUBLIC UTILITIES: All utilities

PROPERTY TRANSACTION: Purchase date: 3/10/2005 (owner before foreclosure)
(Clerk of the Court Records) Sale amount: \$147,000.00