

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

Blue Sheet No. 20030110

1. REQUESTED MOTION:

ACTION REQUESTED: Accept the donation of a Grant of Perpetual Utility Easement, which is necessary for a well to provide irrigation for the Daniels Parkway Median Landscaping Project No. 6024; authorize the Division of County Lands to handle and accept all documentation necessary to accept the donation; authorize payment of recording fees.

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

WHAT ACTION ACCOMPLISHES: Approval of the Requested Motion will provide for the acceptance of the donated easement for the Daniels Parkway Median Landscaping Project No. 6024.

2. DEPARTMENTAL CATEGORY:

COMMISSION DISTRICT #:

CG

3. MEETING DATE:

02-11-2003

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON

TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

(Specify)

- STATUTE 125
- ORDINANCE
- ADMIN.
- OTHER

6. REQUESTOR OF INFORMATION

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

SS 1-24-03
[Signature]

7. BACKGROUND:

The Division of County Lands has been requested by the Department of Transportation to acquire a perpetual utility easement for an irrigation well to serve the Daniels Parkway landscaped median. The property owner, KB Holdings, Ltd., a Florida Limited Partnership has donated the easement.

The original document is in the files of County Lands and will be recorded upon approval by the Board of County Commissioners. Recording fees are expected to be approximately \$25.00.

Funds are available in Account Number: 20602430700.506110.

Staff Recommends Board approve the Requested Motion.

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>		<i>NIA</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>OA</i>	<i>COM</i>	<i>RISK</i>	<i>GC</i>	<i>[Signature]</i>
			<i>1-29-03</i>	<i>1-29-03</i>	<i>1-30-03</i>	<i>1/30/03</i>	<i>01/30/03</i>	<i>1-30-03</i>	

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *1/29/03*
Time: *11am*
Forwarded To:
CO. ADM
1/29/03 SP4

RECEIVED BY
COUNTY ADMIN. *[Signature]*
1-30-03
7:45
COUNTY ADMIN.
FORWARDED TO:
1/30 20

This Instrument Prepared by:

Public Works/County Lands
Post Office Box 398
Fort Myers, Florida 33902-0398

Project: Daniels Parkway Landscaping
STRAP No.: Part of 22-45-25-07-00000.0060

THIS SPACE FOR RECORDING

GRANT OF PERPETUAL UTILITY EASEMENT

This INDENTURE, made and entered into this ^{22nd} day of JANUARY, 2003, between **KB INVESTMENT HOLDINGS, LTD.**, a Florida Limited Partnership, Owner, whose address is 4340 W. Hillsborough Avenue, Suite 212, Tampa, FL 33614 hereinafter **GRANTOR**, and **LEE COUNTY**, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398 hereinafter **GRANTEE**:

WITNESSETH:

1. For and in consideration of the sum of One Dollar and other good and valuable consideration, receipt of which is hereby acknowledged, **GRANTOR** hereby grants and transfers to the **GRANTEE**, its successors and assigns, the use of a perpetual public utility easement situated in Lee County, Florida, and located and described as set forth in Exhibit "A" attached.

2. **GRANTEE**, its successors, appointees and assigns, are granted the right, privilege, and authority to construct, replace, renew, extend and maintain a water distribution system, together with, but not limited to, all necessary service connections, valves, and appurtenances, to be located on, under, across and through the easement which is located on the property described (Exhibit "A"), with the additional right, privilege and authority to remove, replace, repair and enlarge said system, and to trim and remove roots, trees, shrubs, bushes and plants and remove fences or other improvements which may affect the operation of lines, mains and/or facilities.

ORIGINAL DOCUMENTS RETAINED IN
COUNTY LANDS FILES FOR HANDLING
UPON BOARD ACCEPTANCE.

3. The total area of this public utility easement is to be reserved for utility lines, mains, or facilities and for any landscaping (excluding trees), walkways, roadways, drainage ways, or similar uses. Houses, fences, buildings, carports, garages, storage sheds or any other structures will not be constructed upon or placed in this easement, at any time, present or future, by **GRANTOR**, or its heirs, successors or assigns.

4. Title to the utilities constructed hereunder will remain in the **GRANTEE**, **GRANTEE'S** successors, appointees and/or assigns.

5. Subject to any existing easements for public highways or roads, railroads, laterals, ditches, pipelines and electrical transmission or distribution lines and telephone and cable television lines covering the land herein described, **GRANTORS** covenant that they are lawfully seized and possessed of the described real property (Exhibit "A"), have good and lawful right and power to sell and convey it, and that the property is free and clear of all liens and encumbrances, except as herein stated, and accordingly, **GRANTORS** will forever warrant and defend the title and terms to this said easement and the quiet possession thereof against all claims and demands of all other entities.

6. **GRANTOR**, its heirs, successors or assigns, will indemnify and hold the **GRANTEE** harmless for any consequential damages to any houses, fences, buildings, carports, garages, storage sheds or any other structures subsequently constructed by **GRANTOR** in violation of paragraph 3. within the above easement, which result from the required activities of the **GRANTEE** for any construction, maintenance or repairs to the utilities located within the above-described easement.

7. **GRANTEE** will have a reasonable right of access across **GRANTOR'S** property for the purposes of reaching the described easement (Exhibit "A") on either paved or unpaved surfaces. Any damage to **GRANTOR'S** property or permitted improvements thereon as the result of such access to the described easement or the construction, maintenance, or repairs located within the above-described easement will be restored by the County, to the condition in which it existed prior to the damage.

8. THIS AGREEMENT will be binding upon the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the GRANTOR has caused this document to be executed on the date and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF TWO WITNESSES:

Kelly C Schmidt
1st WITNESS Signature

KB INVESTMENT HOLDINGS, LTD.,
a Florida Limited Partnership

Kelly C Schmidt
Printed name of 1st Witness

[Signature]
Robert E. Schmidt, Jr.
General Partner

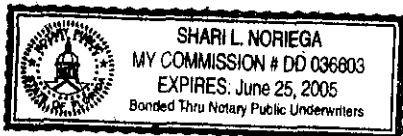
R. Sullivan
2nd WITNESS Signature

Rebecca Sullivan
Printed name of 2nd Witness

STATE OF Florida)
)
COUNTY OF Hillsborough)

The foregoing instrument was acknowledged before me this 22nd day of January, 2003, by Robert E. Schmidt, Jr., General Partner of KB INVESTMENT HOLDINGS, LTD., a Florida Limited Partnership, on behalf of the partnership. He is personally known to me or has produced _____ as identification.

(type of identification)



Shari L. Noriega
(Signature of Notary Public)

Shari L. Noriega
(Name typed, printed or stamped)
(Title or Rank)
(Serial Number, if any)

EXHIBIT A

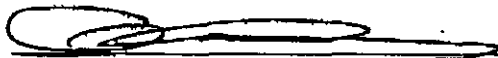
DESCRIPTION

OF

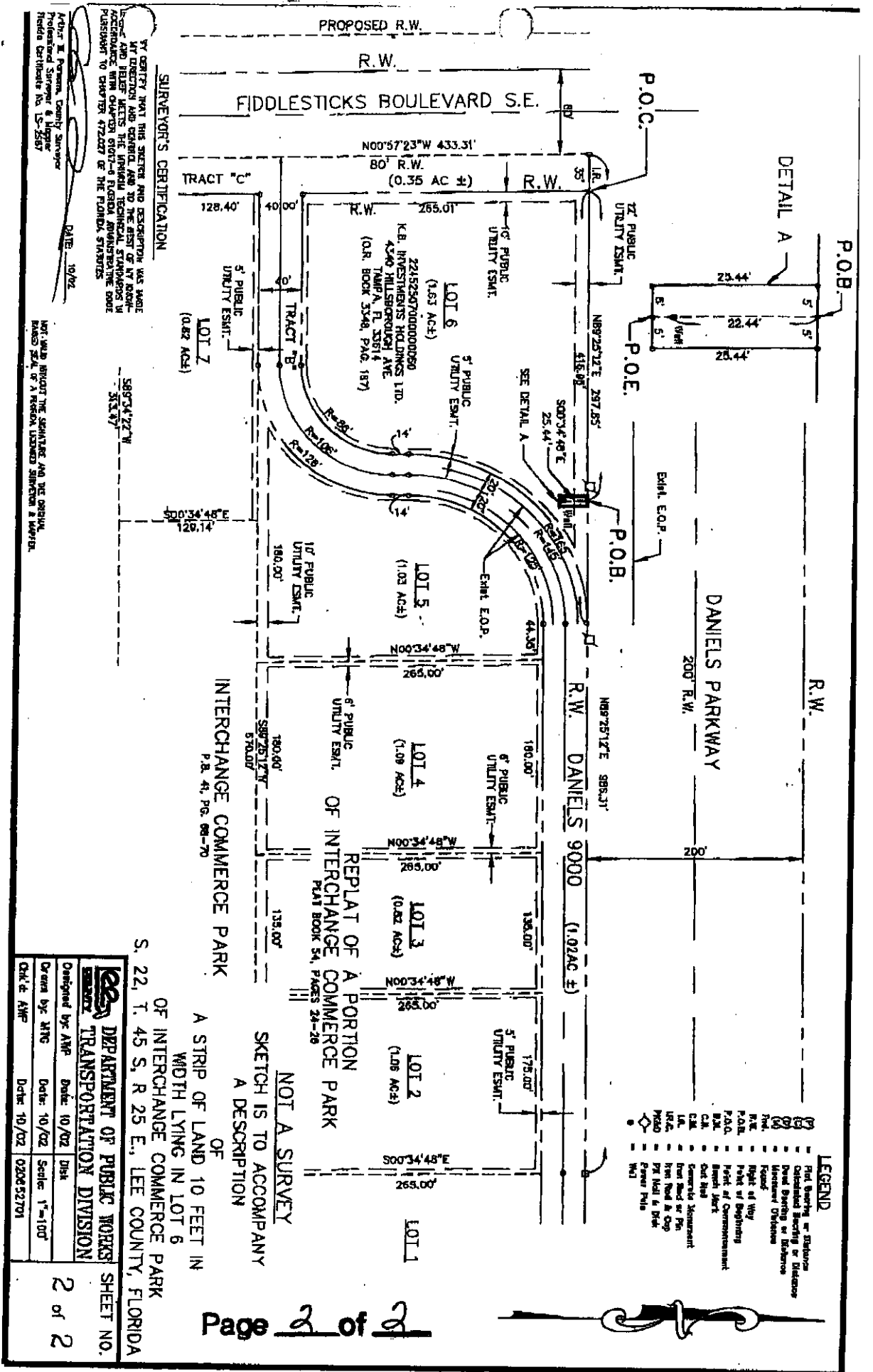
A strip of land 10 feet in width lying in Lot 6, Replat of a portion of Interchange Commerce Park According to the Map or Plat thereof, as recorded in Plat Book 54, pages 24 through 26, inclusive, of the Public Records of Lee County, Florida, the centerline of said 10 foot wide strip of land being described as follows:

Commencing at the Northwest Corner of aforesaid Lot 6; thence run N89°25'12"E along the north line of said Lot 6 for a distance of 297.85 feet to the point of beginning of the herein described centerline; thence run S00°34'48"E for a distance of 25.44 feet to the point of ending, containing 254.40 square feet more or less.

Basis of bearings are plat showing the north line of aforesaid Lot 6 as bearing N89°25'12"E.



Arthur W. Parsons, County Surveyor
Professional Surveyor and Mapper
Florida Certificate No. LS-2987



Division of County Lands

Ownership and Easement Search

Search No. 22237

Date: November 1, 2002

Parcel:

Project: Daniels Parkway Landscaping #6024

To: Michele S. McNeill, SR/WA
Property Acquisition Agent

From: Shelia A. Bedwell, QLS *Shelia A. Bedwell*
Real Estate Title Examiner

STRAP: 22-45-25-07-00000.0060

*No changes except as noted
as of 1/9/03. S. McNeill*

Effective Date: October 24, 2002, at 5:00 p.m.

Subject Property: Lot 6, Replat of a portion of Interchange Commerce Park according to the map or plat thereof, as recorded in Plat Book 54, Page 24, Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

KB Investment Holdings, LTD, a Florida limited partnership

by that certain instrument dated December 29, 2000, recorded January 19, 2001, in Official Record Book 3348, Page 187, Public Records of Lee County, Florida.

Easements:

1. Five foot public utility easement along the front of each lot adjacent to Tract "B", as shown on recorded plat.
2. A twelve foot public utility easement along each side lot line with six (6) feet each side of line as recited on recorded plat.
3. A ten foot public utility easement along each rear lot line as recited on recorded plat.
4. Twelve foot public utility easement along the northerly boundary as shown on recorded plat.

NOTES:

- a) Notice of Development Order recorded in Official Record Book 2014, Page 4512, Public Records of Lee County, Florida.
- b) Declaration of Covenants and Restrictions for Interchange Commerce Park, recorded in Official Record Book 2053, Page 623, as amended in Official Record Book 2058, Page 4208; Official Record Book 2103, Page 2004; Official Record Book 2161, Page 3228; and Official Record Book 2957, Page 1044, Public Records of Lee County, Florida.

Division of County Lands

Ownership and Easement Search

Search No. 22237

Date: November 1, 2002

Parcel:

Project: Daniels Parkway Landscaping
#6024

- c) Notice of Development Order recorded in Official Record Book 2212, Page 4621, Public Records of Lee County, Florida.
- d) Notice of Development Order Approval recorded in Official Record Book 3047, Page 2270, Public Records of Lee County, Florida.
- e) Mortgage executed by KB Investment Holdings, LTD, a Florida limited partnership, in favor of First Union National Bank, dated December 28, 2000, recorded January 9, 2001, in Official Record Book 3348, Page 191, as modified by instrument recorded in Official Record Book 3745, Page 3734, Public Records of Lee County, Florida.
- f) Absolute Assignment of Leases and Rents between KB Investment Holdings, LTD, a Florida limited partnership and First Union National Bank, dated December 28, 2000, recorded January 9, 2001 in Official Record Book 3348, Page 213, Public Records of Lee County, Florida.
- g) U.C.C. between KB Investment Holdings, LTD, a Florida limited partnership and First Union National Bank, recorded January 9, 2001 in Official Record Book 3348, Page 223, Public Records of Lee County, Florida.
- h) Notice of Development Order Approval recorded in Official Record Book 3740, Page 748, Public Records of Lee County, Florida.
- i) Short Form Lease between KB Investment Holdings, LTD, a Florida limited partnership, and Eckerd Corporation, a Delaware corporation, recorded in Official Record Book 3745, Page 3739, Public Records of Lee County, Florida.
- j) Notice of Commencement recorded October 8, 2002 in Official Record Book 3745, Page 3742, Public Records of Lee County, Florida.
- k) Subordination, Non-Disturbance + Attachment Agreement recorded 11/12/02 in O.R. 3772, page 3084, Public Records of Lee County, Florida

Tax Status: 2001 Ad Valorem Taxes are PAID IN FULL; 2002 taxes due and payable on November 1, 2002.
(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.

l) Easement recorded 12/13/02 in O.R. 3797, page 2271, Public Records of Lee County, Florida.