

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

Blue Sheet No. 20021495

1. REQUESTED MOTION:

ACTION REQUESTED: Approve the acquisition of Parcels 104 & 105 by accepting a Perpetual Easement for the Cypress Lake Drive Widening, Project No. 4064; pay necessary costs and fees to close; authorize the Division of County Lands to handle and accept all documentation necessary to complete this transaction.

WHY ACTION IS NECESSARY: All real estate acquisitions must be approved by the Board of County Commissioners pursuant to Florida Statute.

WHAT ACTION ACCOMPLISHES: Acquires the easement during the voluntary phase of the project, thereby the Board avoids the need to exercise its power of Eminent Domain at a future date.

2. DEPARTMENTAL CATEGORY: 06

3. MEETING DATE:

COMMISSION DISTRICT #: 3

C6T

03-11-2003

4. AGENDA:

5. REQUIREMENT/PURPOSE:

6. REQUESTOR OF INFORMATION

- CONSENT ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON

- (Specify)
- STATUTE 73.125
 - ORDINANCE
 - ADMIN.
 - OTHER

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

TIME REQUIRED:

7. BACKGROUND: Cypress Lake Drive Widening, Project No. 4064, will improve Cypress Lake Drive, from near Summerlin Road to Cypress Trace near US 41 in South Fort Myers, to an urban arterial with six lanes, raised median, landscaping, sidewalks, utilities, and a traffic signal at Reflection Lakes Parkway and Pebble Beach Drive. The four major property owners at this intersection have contributed a total of \$85,000 towards the construction cost of the signal and donated the necessary easements for the signal equipment.

These parcels are a portion of Seven Lakes Condominium Development, adjacent to a paved private street known as Lake Breeze Drive that enters Cypress Lake Drive across from Reflection Lakes Parkway. This acquisition consists of a Perpetual Traffic Signal Easement of approximately 1649 square feet over a portion of STRAP # 23-45-24-00-00000.00CE.

The owner, Seven Lakes Association, Inc., a Florida non-profit corporation, has agreed to donate the easement for the subject parcels. Lee County will be required to pay customary title examination, search and closing fees, title insurance, documentary stamps, and recording fees totaling approximately \$600.

Staff recommends the Board approve the requested motion.

ATTACHMENTS:
Traffic Signal Easement
Updated In-House Title Search

Funds are available in Account No. 20406418804.506110
204064 - Cypress Lake Drive Widening
18804 - Road Impact Fees - S.M./San Carlos
506110 - Purchase of Land & Related Costs

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>PAD</i>	<i>Handwritten</i>	OA	OM	RISK	GC	<i>Handwritten</i>
					<i>2/25/03</i>	<i>2/26/03</i>	<i>2/26/03</i>	<i>2/26/03</i>	

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by County
Date: *2/25/03*
Time: *1:00 PM*

RECEIVED BY
COUNTY ADMIN. *EW*
2-25-03
4:30
COUNTY ADMIN.
FORWARDED TO: *PH*
2/26/03

REC'D.
by CO. ATTY.
CO. ATTY.
FORWARDED TO:

This instrument prepared by:
Lee County
County Lands
Post Office Box 398
Fort Myers, Florida 33902-0398

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

Parcel: 104 & 105
Project: Cypress Lake Drive - 4064
Legal 104 & 105, Signal Easement
STRAP No.: 23-45-24-00-00000.00CE

**GRANT OF PERPETUAL
TRAFFIC SIGNAL EASEMENT**

This INDENTURE, made and entered into this 31st day of DECEMBER, 2002, between SEVEN LAKES ASSOCIATION, INC., a Florida non-profit corporation, Owner, whose address is 1965 Seven Lakes Blvd., Fort Myers, Florida 33907 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. In consideration of the benefits to be derived from the project, Grantor waives the right to any compensation from the Grantee and hereby grants, donates, and transfers to the Grantee, its successors and assigns, the use of a perpetual public 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 ingress and egress and the right, privilege, and authority to construct, replace, renew, extend and maintain a public roadway traffic signal, signalization equipment including overhead signal pole, and appurtenances, to be located on, under, across, and through the easement which is located on the property described in Exhibit "A", with the additional right, privilege and authority to remove, replace, repair and enlarge said signal system within the easement.

3. The Grantor may not construct any structures within said easement, nor will any foliage be placed in said easement.

4. Title to the constructed improvements 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, Grantor covenant that they are lawfully seized and possessed of the described real property in 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, Grantor 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, resulting from the required activities of the Grantee for any construction, maintenance or repairs to the signal system 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 in Exhibit "A" on either paved or unpaved surfaces. Any damage to Grantor's property or permitted improvements resulting from use of the access to property described in Exhibit "A" or the Grant of Perpetual Traffic Signal Easement construction, maintenance, or repairs located within the easement will be restored, to the extent reasonably practicable, by the Grantee, to the condition in which it existed prior to the damage. The completed work includes, but not be limited to, restoring or replacing sod, mailboxes, driveways, sprinkler systems, and landscaping. COUNTY agrees to coordinate each activity contemplated within the easement area in advance with the manager of the U.S. Postal Service, so as not to interfere with Postal Service operations.

8. GRANTEE will be liable for money damages in tort for any injury to or loss of property, personal injury, or death caused by the negligent or wrongful act(s) or omission(s) of any official or employee of the County while acting within the scope of the official's or employee's office or employment under circumstances in which a private person would be found to be liable in accordance with the general laws of the State of Florida, and subject to the limitations as set out in Section 768.28, Florida Statutes, as it may be revised, amended or

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

renumbered from time to time.

9. THIS AGREEMENT is binding upon the parties, their successors and assigns.

IN WITNESS WHEREOF, SEVEN LAKES ASSOCIATION, INC., a Florida non-profit corporation, OWNER, has caused this document to be signed on the date first above written.

TWO SEPARATE WITNESSES:

SEVEN LAKES ASSOCIATION, INC.
A Florida non-profit corporation

Nancy L. Schimming
1st Witness Signature

By: Donald Jahnke 12/31/02
Name Date

Nancy L. Schimming
Printed name of 1st Witness

DONALD JAHNKE
Printed Name
Title: President, Director

Ruby Woodcock
2nd Witness Signature

RUBY WOODCOCK.
Printed name of 2nd Witness

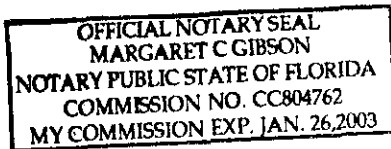
STATE OF Florida)

COUNTY OF Lee)



The foregoing instrument was acknowledged before me this 31st day of Dec, 2002, by DONALD JAHNKE PRESIDENT (name of officer or agent and title)

of Seven Lakes Association, Inc., a Florida non-profit corporation, on behalf of the corporation. He/she is personally known to me or who has produced _____ as identification.



Margaret C. Gibson
(Signature of Notary Public)

MARGARET C GIBSON
(Name typed, printed or stamped)
(Title or Rank)
(Serial Number, if any)

COUNTY PROJ. NO.
CN-97-01

COUNTY PROJ. NO. CN-97-01 (S.T.A. NO. 18) CYPRESS LAKE DRIVE LEE COUNTY, FLORIDA
 ORIGINAL DOCUMENTS RETAINED IN COUNTY DEPARTMENT OF TRANSPORTATION
 UPON BOARD ACCEPTANCE.

PARCEL 104
 PERPETUAL EASEMENT

A parcel of land lying within an Ingress / Egress Easement as recorded in Official Record Book 2846, Page 218, Lee County, Florida, lying in Section 23, Township 45 South, Range 24 East.

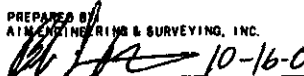
Being more particularly described as follows:

BEGIN at the southwest corner of said Ingress / Egress Easement being a point on the northerly existing right of way line of Cypress Lake Drive (per Hole, Montes & Associates, Inc. Right of Way Maps, Project Number 85.83); said point lying N 00°51'22"W, a distance of 50.00 feet from survey base line station 136+41.20 of Cypress Lake Drive (per Lee County Project Number CN-97-01, Contract Number III, Supplemental Task Authorization Number 18); thence along the northwesterly line of said Ingress / Egress Easement, N 49°42'59"E, a distance of 54.13 feet; thence S 00°50'55"E, a distance of 34.38 feet to the south line of said Ingress / Egress Easement and said northerly existing right of way line; thence along said south line and northerly existing right of way line, S 89°08'38"W, a distance of 41.81 feet to the POINT OF BEGINNING.

Said lands containing 719 square feet, more or less.

NOT A SURVEY

DEPARTMENT OF TRANSPORTATION LEE COUNTY			
PERPETUAL EASEMENT SKETCH			
CYPRESS LAKE DRIVE		LEE	COUNTY
	BY	DATE	APPROVED BY
PRELIM	DKT	4-17-01	
FINAL	DKT	4-19-01	
CHECKED	MJZ	4-19-01	
MAPS PREPARED BY		FIELD BOOK NO.'S	
AIW ENG. & SURVEYING, INC.		N/A	
S.T.A. NO. 18		SCALE: N/A	
CONTRACT No. 111			SHEET 1 OF 2

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
 PREPARED BY
 AIW ENGINEERING & SURVEYING, INC.

 BOB L. POTTER
 REGISTERED SURVEYOR AND MAPPER
 FLORIDA CERTIFICATE NO. 9688
 LICENSED BUSINESS #3114

AIW ENGINEERING & SURVEYING, INC.
 5300 LEE BLVD.
 P. O. BOX 1235
 LENIHG ACRES
 FLORIDA 33970
 1-800-226-4569
 FAX 239/332-8734

CHANGE R/W TO EASEMENT	DLB	10/16/02
REVISION	BY	DATE

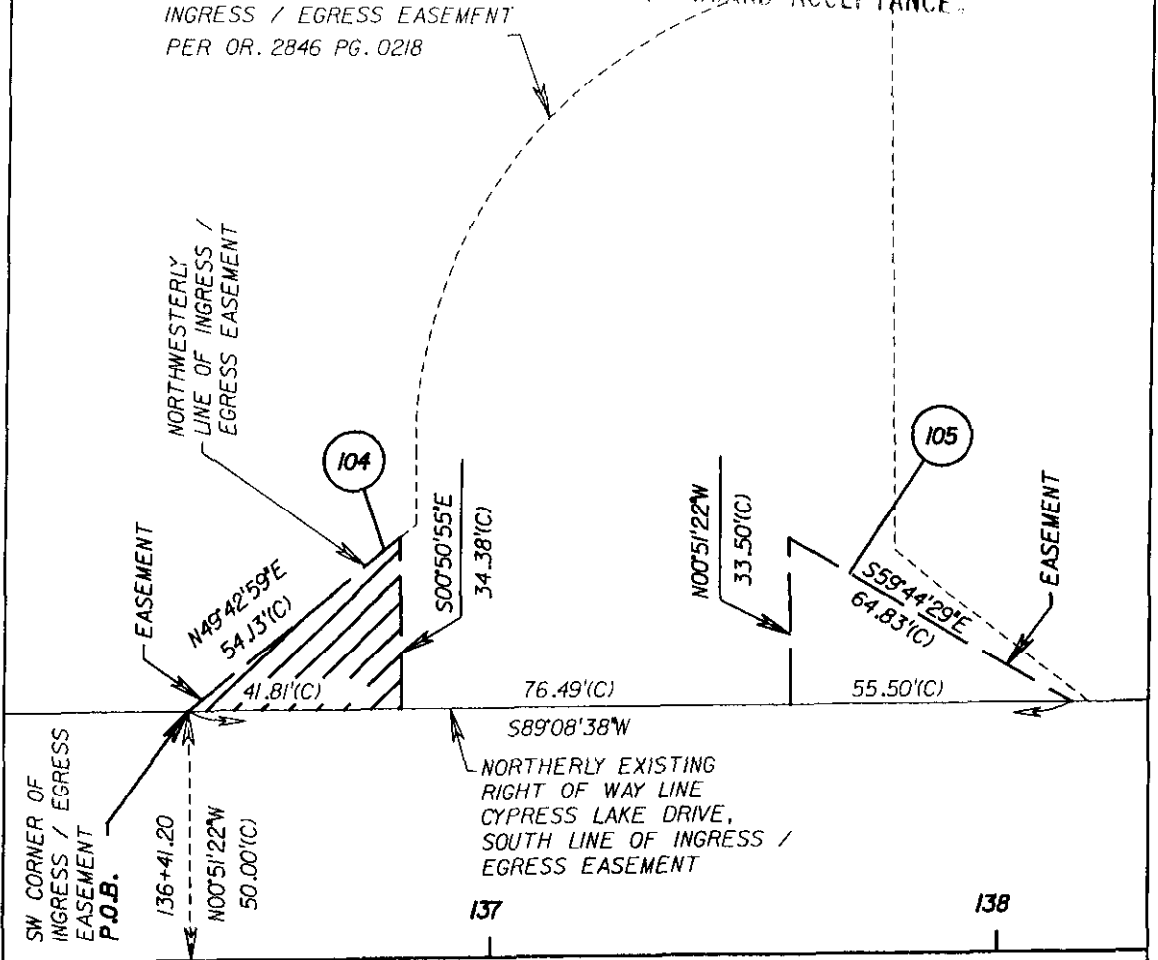
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Exhibit "A" Page 2 of 4

AREA PARCEL 104 = 719 SQUARE FEET +/-

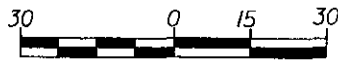
ORIGINAL DOCUMENTS RETAINED IN COUNTY LANDS FILES FOR HANDLING UPON BOARD ACCEPTANCE.

INGRESS / EGRESS EASEMENT PER OR. 2846 PG. 0218



SURVEY CENTER LINE CYPRESS LAKE DRIVE N 89°08'38" E

NOT A SURVEY



DEPARTMENT OF TRANSPORTATION
LEE COUNTY

PERPETUAL EASEMENT SKETCH

CYPRESS LAKE DRIVE LEE COUNTY

	BY	DATE	APPROVED BY	DATE
PRELIM	DKT	4-17-01		
FINAL	DKT	4-19-01		
CHECKED	MJZ	4-19-01		

MAPS PREPARED BY AIM ENG. & SURVEYING, INC.	FIELD BOOK NO.'S N/A
S.T.A. NO. 18	SCALE: 1" = 30'

AIM ENGINEERING & SURVEYING, INC.
5300 LEE BLVD.
P.O. BOX 1235
LEHIGH ACRES
FLORIDA 33970
1-800-225-4569
FX:239/332-8734

CHANGE R/W TO EASEMENT	BLB	DATE
REVISION	BY	DATE

CONTRACT No. 111 SHEET 2 OF 2

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COUNTY PROJ. NO. CN-97-01 (S.T.A. NO. 18) CYPRESS LAKE DRIVE LEE COUNTY DESCRIPTION

PARCEL 105

PERPETUAL EASEMENT

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

A parcel of land lying within an Ingress / Egress Easement as recorded in Official Record Book 2846, Page 218, Lee County, Florida lying in Section 23, Township 45 South, Range 24 East.

Being more particularly described as follows:

COMMENCE at the southeast corner of said Ingress / Egress Easement being a point on the northerly existing right of way line of Cypress Lake Drive (per Hole, Montes & Associates, Inc. Right of Way Maps, Project Number 85.83); thence along said northerly existing right of way line, S 89°08'38" W, a distance of 3.28 feet to the POINT OF BEGINNING; said point lying N 00°51'22" W, a distance of 50.00 feet from survey base line station 138+15.00 of Cypress Lake Drive (per Lee County Project Number CN-97-01, Contract Number III, Supplemental Task Authorization Number 18); thence N 59°44'29" W, a distance of 64.83 feet; thence S 00°51'22" E, a distance of 33.50 feet to said northerly existing right of way line; thence along said northerly existing right of way line, N 89°08'38" E, a distance of 55.50 feet; to the POINT OF BEGINNING.

Said lands containing 930 square feet, more or less.

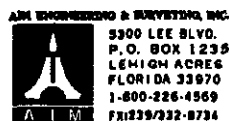
NOT A SURVEY

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PREPARED BY: AIM ENGINEERING & SURVEYING, INC.

10-16-02

BOB L. POTTER REGISTERED SURVEYOR AND MAPPER FLORIDA CERTIFICATE NO. 5688 LICENSED BUSINESS #3114



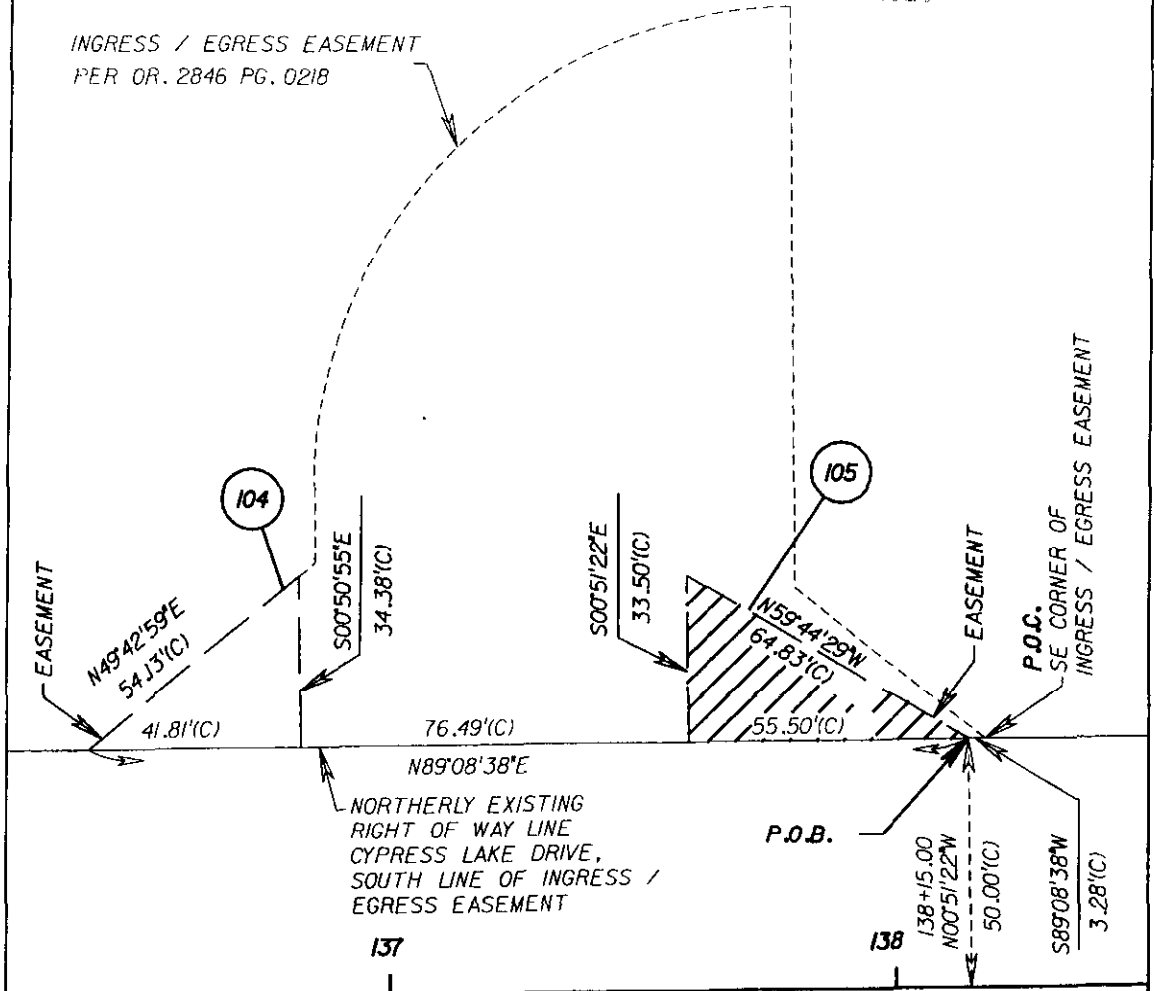
DEPARTMENT OF TRANSPORTATION			
LEE COUNTY			
PERPETUAL EASEMENT SKETCH			
CYPRESS LAKE DRIVE		LEE COUNTY	
BY	DATE	APPROVED BY	DATE
PRELIM DKT	4-17-01		
FINAL DKT	4-19-01		
CHECKED MJZ	4-19-01		
MAPS PREPARED BY AIM ENG. & SURVEYING, INC.		FIELD BOOK NO.'S N/A	
S.T.A. NO. 18		SCALE: N/A	
CHANGE R/W TO EASEMENT		BLD	10/16/02
REVISION	BY	DATE	
CONTRACT No. III			SHEET 1 OF 2

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Exhibit "A" Page 4 of 4

ORIGINAL DOCUMENTS RETAINED IN COUNTY RECORDS FILES FOR HANDLING UPON BOARD ACCEPTANCE.
 AREA PARCEL 105 = 930 SQUARE FEET

INGRESS / EGRESS EASEMENT
 PER OR. 2846 PG. 021B



SURVEY CENTER LINE
 CYPRESS LAKE DRIVE
 N 89°08'38" E

NOT A SURVEY



DEPARTMENT OF TRANSPORTATION LEE COUNTY			
PERPETUAL EASEMENT SKETCH			
CYPRESS LAKE DRIVE		LEE COUNTY	
BY	DATE	APPROVED BY	DATE
PRELIM DKT	4-17-01		
FINAL DKT	4-19-01		
CHECKED MJZ	4-19-01		
MAPS PREPARED BY AIM ENG. & SURVEYING, INC.		FIELD BOOK NO.'S N/A	
S.T.A. NO. 18		SCALE: 1" = 30'	
CONTRACT No. 111		SHEET 2 OF 2	

AIM ENGINEERING & SURVEYING, INC.
 5300 LEE BLVD.
 P.O. BOX 1235
 LEHIGH ACRES
 FLORIDA 33970
 1-800-226-4569
 FAX: 239/332-8734

CHANGE R/W TO EASEMENT	BLB	10/16/02
REVISION	BY	DATE


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Division of County Lands

Second Updated In House Title Search

Search No. 21871/A
Date: January 7, 2003
Parcel: 104 and 105
Project: Cypress Lake Drive
Widening Project #4064

To: Michael J. O'Hare, SR/WA
Property Acquisition Agent

From: Shelia A. Bedwell, ^{C/S}
Real Estate Title Examiner 

STRAP: 23-45-24-00-00000.00CE

An update has been requested of In House Title Search No. 21871/A which covers the period beginning January 1, 1940, at 8:00 a.m. and is now complete through December 16, 2002, at 5:00 p.m.

Subject Property: See the attached Schedule "X"

Title to the subject property is vested in the following:

Seven Lakes Association, Inc., a Florida non-profit corporation

by that certain instrument dated November 12, 1993, recorded December 29, 1993, in Official Record Book 2457, Page 3881, Public Records of Lee County, Florida.

Subject to:

1. Title to oil, gas and mineral rights and leases on subject property is specifically omitted from this report.
2. Easement granted to Florida Cities Water Company, as recorded in Official Record Book 498, Page 677, Public Records of Lee County, Florida.
3. Right-of-way, drainage and utility easements set forth in deed recorded in Official Record Book 1412, Page 1860, Public Records of Lee County, Florida.
4. Exclusive and Perpetual Pipeline Easement granted to Florida Cities Water Company, as recorded in Official Record Book 1721, Page 1393, Public Records of Lee County, Florida.
5. Easement for utility and drainage purposes, as recited on deed in Official Record Book 2112, Page 4331, Public Records of Lee County, Florida.
6. Easement Agreement regarding ingress and egress, drainage and utilities, as recorded in Official Record Book 2457, Page 3886, Public Records of Lee County, Florida.

7. Exclusive and Perpetual Gravity Sewer Main Easement granted to Florida Cities Water Company as recorded in Official Record Book 3009, Page 1757, recorded again in Official Record Book 3021, Page 2293, and recorded a third time in Official Record Book 3026, Page 1877, Public Records of Lee County, Florida.
8. Easement granted to Florida Power & Light Company, as recorded in Official Record Book 3021, Page 434, Public Records of Lee County, Florida. NOTE: Easement affects parent tract, but it cannot be determined if the power poles are outside the 100' right of way.

NOTE: The land described on the attached Schedule X is subject to any rights or interests granted by the various declarations created for the condominiums lying within the Seven Lakes property. Said individual rights were not searched for purposes of this report.

NOTE: There is a road known as Lake Breeze Drive running along the southerly boundary of the subject parcel. Lake Breeze Drive abuts a portion of the northerly right-of-way of Cypress Lake Drive. According to Lee County DOT records, this road is privately maintained. Lake Breeze Drive is included as part of the legal description shown on the attached Schedule X.

FOR INFORMATION ONLY: Copies of former easements recorded in Official Record Book 1388, Page 822; Official Record Book 1963, Page 3643; and Official Record Book 2033, Page 3800 are included for informational purposes, however, it appears that the title to these easements and the title to the fee simple ownership are now held by the same owner. Therefore, the title to the easements has merged into the fee simple.

Tax Status: *No taxes are assessed to this parcel
(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.

Schedule X

Parcel: 104 and 105

Project: Cypress Lake Drive Widening Project #4064

Search No. 21871/A

PARCEL 104:

A parcel of land lying within an Ingress/Egress Easement as recorded in Official Record Book 2846, Page 218, Lee County, Florida, lying in Section 23, Township 45 South, Range 24 East.

Being more particularly described as follows:

BEGIN at the Southwest corner of said Ingress/Egress Easement being a point on the Northerly existing right of way line of Cypress Lake Drive (per Hole, Montes & Associates, Inc. Right of Way Maps, Project Number 85.83); said point lying N 00°51'22" W, a distance of 50.00 feet from survey base line station 136+41.20 of Cypress Lake Drive (per Lee County Project Number CN-97-01, Contract Number III, Supplemental Task Authorization Number 18); thence along the Northwesterly line of said Ingress/Egress Easement, N 49°42'59" E, a distance of 54.13 feet; thence S 00°50'55" E, a distance of 34.38 feet to the South line of said Ingress/Egress Easement and said Northerly existing right of way line; thence along said South line and Northerly existing right of way line, S 89°08'38" W, a distance of 41.81 feet to the POINT OF BEGINNING.

Said lands containing 719 square feet, more or less.

PARCEL 105:

RIGHT OF WAY

A parcel of land lying within an Ingress/Egress Easement as recorded in Official Record Book 2846, Page 218, Lee County, Florida lying in Section 23, Township 45 South, Range 24 East.

Being more particularly described as follows:

COMMENCE at the Southeast corner of said Ingress/Egress Easement being a point on the Northerly existing right of way line of Cypress Lake Drive (per Hole, Montes & Associates, Inc. Right of Way Maps, Project Number 85.83); thence along said Northerly existing right of way line, S 89°08'38" W, a distance of 3.28 feet to the POINT OF BEGINNING; said point lying N 00°51'22" W, a distance of 50.00 feet from survey base line station 138+15.00 of Cypress Lake Drive (Per Lee County Project Number CN-97-01, Contract Number III, Supplemental Task Authorization Number 18); thence N 59°44'29" W, a distance of 64.83 feet; thence S 00°51'22" E, a distance of 33.50 feet to said Northerly existing right of way line; thence along said Northerly existing right of way line, N 89°08'38" E, a distance of 55.50 feet; to the POINT OF BEGINNING.

Said lands containing 930 square feet, more or less.