

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

Blue Sheet No. 20040071

1. REQUESTED MOTION:

ACTION REQUESTED: Approve Right of Way Consent Agreement and Memorandum of Right of Way Consent Agreement for a parcel in Gladiolus Drive Widening Project #4083, authorize payment of costs to record the Memorandum and the Division of County Lands to handle all documentation necessary to complete transaction.

WHY ACTION IS NECESSARY: The agreement is necessary for construction of drainage facilities serving Gladiolus Drive.

WHAT ACTION ACCOMPLISHES: Provides the County with the ability to enter into an FPL Easement for the purpose of installing and maintaining an outfall drainage pipe.

2. DEPARTMENTAL CATEGORY: 06
COMMISSION DISTRICT # 3 *CLB*

3. MEETING DATE: *02-10-2004*

4. AGENDA:

<input checked="" type="checkbox"/>	CONSENT
<input type="checkbox"/>	ADMINISTRATIVE
<input type="checkbox"/>	APPEALS
<input type="checkbox"/>	PUBLIC
<input type="checkbox"/>	WALK ON
<input type="checkbox"/>	TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

<input checked="" type="checkbox"/>	STATUTE	125
<input type="checkbox"/>	ORDINANCE	
<input type="checkbox"/>	ADMIN. CODE	
<input type="checkbox"/>	OTHER	

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER	
B. DEPARTMENT	<i>Independent</i>
C. DIVISION	<i>County Lands 1-21-04</i>
BY:	<i>Karen L. W. Forsyth, Director</i>

7. BACKGROUND:

Negotiated for: Department of Transportation

Interest to Acquire: Consent to use easement for drainage purposes.

Property Details:

Easement Holder: Florida Power & Light Company, a Florida corporation
STRAP No.: Part of 33-45-24-15-0000M.0000

Purchase Details:

Costs to Close: \$25.00

Staff Recommendation: County staff recommends the Board approve the requested motion.

Account: 20408318804.506110

Attachments: Right of Way Consent Agreement (2 originals), Memorandum of Right of Way Consent Agreement, Location Map, Title Data

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>DAO 1/28/04</i>	<i>about 1-27-04</i>	<i>OA 1/28/04</i>	<i>OM 1/28/04</i>	<i>Risk 1/10/04</i>	<i>GC 1/28/04</i>

10. COMMISSION ACTION:

APPROVED
 DENIED
 DEFERRED
 OTHER

Rec. by CoAtty
 Date: *1/29/04*
 Time: *2:25*
 Forwarded To:
Co. Adm. 1/28/04 9AM

RECEIVED BY
 COUNTY ADMIN
1/28/04
10:35 am SLT
 COUNTY ADMIN
 FORWARDED TO:
1/29/04
9 AM

Prepared by:
Mark L. Byers
Florida Power & Light Company
P.O. Box 1119
Sarasota, FL 34230-1119

MEMORANDUM OF RIGHT-OF-WAY CONSENT AGREEMENT

THIS MEMORANDUM OF RIGHT-OF-WAY CONSENT AGREEMENT dated this _____ day of _____, 20____, by and between LEE COUNTY, a political subdivision of the State of Florida, (hereinafter referred to as "Licensee"), and FLORIDA POWER & LIGHT COMPANY, a Florida corporation (hereinafter referred to as "Company").

WITNESSETH:

WHEREAS, on the _____ day of _____, 20____, Company and Licensee entered into a written Right-of-Way Consent Agreement, hereinafter referred to as the "Agreement" related to certain property situated in the County of Lee, State of Florida as more particularly set forth in said Agreement and described in Exhibit "A" attached hereto and made a part hereof and hereinafter referred to as the "Lands", and

WHEREAS, the parties are desirous of placing their interest therein as a matter of public record.

NOW THEREFORE, in consideration of the mutual covenants herein contained and the parties intending to be legally bound thereby, the parties hereto agree as follows:

1. The property described in Exhibit "A" is subject to a right-of-way in favor of Company recorded in Official Record Book 385 at Page 501 of the Public Records of Lee County, Florida.
2. The Agreement provides, among other things, Licensee's right to construct certain improvements upon the Lands including, but not limited to, lighting, landscaping, automobile parking, and the encroachment of building footers upon certain portions of the Lands subject to certain conditions and restrictions.
3. The Agreement is assignable to purchasers of all or a portion of the Lands provided that the purchasers assume the obligations under the Agreement and specifically acknowledge and agree that the use of the property and improvements to be

placed on the property are strictly limited to those depicted on a certain plan of improvement and are otherwise subject to the terms of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement on the date hereinabove written.

Witnesses:

COMPANY:

FLORIDA POWER & LIGHT COMPANY

Signature: _____

By: _____

Its: West Area Real Estate Manager

Print Name: C. W. Mathys

Name (Print): _____

Signature: _____

Name (Print): _____

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by C. W. Mathys, as West Area Real Estate Manager, of FLORIDA POWER & LIGHT COMPANY, a Florida corporation, on behalf of the corporation. He/she is personally known to me or has produced a driver's license as identification and did take an oath.

(NOTARY SEAL)

Notary Public

Print Name: _____

My commission expires: _____

Commission Number: _____

(ACKNOWLEDGEMENTS CONTINUE ON NEXT PAGE)

Approved and accepted for and on behalf of Lee County, Florida, this ____ day of February, 2004.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

[Type or Print Name]

BY: _____
Chairman

Approved as to form by:

County Attorney's Office

EXHIBIT A

THAT PORTION OF THE FOLLOWING DESCRIBED PROPERTY LYING WITHIN TRACT "M", LAGUNA LAKES, A SUBDIVISION IN SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST AS RECORDED IN PLAT BOOK 74 AT PAGES 1 THROUGH 8 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA:

A STRIP OF LAND (15.00 FEET IN WIDTH) LYING WITHIN TRACT "L", PLATTED AS A LANDSCAPE AND BUFFER EASEMENT AND ALSO TRACT "M" DESIGNATED AS A 100 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY TRANSMISSION EASEMENT (OFFICIAL RECORD BOOK 385, PAGE 501) AS SHOWN ON THE PLAT OF LAGUNA LAKES, A SUBDIVISION IN SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST AS RECORDED IN PLAT BOOK 74 AT PAGES 1 THROUGH 8 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID 15.00 FOOT WIDE STRIP OF LAND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 87, LAGUNA LAKES, A SUBDIVISION IN SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST AS RECORDED IN PLAT BOOK 74 AT PAGES 1 THROUGH 8 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND THE POINT OF BEGINNING OF THE 15.00 FOOT WIDE STRIP OF LAND DESCRIBED HEREIN, THENCE RUN N01°02'33" W ALONG THE EAST LINE OF SAID LOT 87 FOR A DISTANCE OF 7.50 FEET, THENCE RUN N88°57'27" E ALONG THE EASTERLY PROLONGATION OF THE NORTHERLY LINE OF A 15.00 WIDE DRAINAGE EASEMENT AS SHOWN ON PLAT OF SAID LAGUNA LAKES TO A POINT ON THE EASTERLY LINE OF AFORESAID TRACT "L" AND THE WESTERLY LINE OF AFORESAID FLORIDA POWER AND LIGHT COMPANY EASEMENT FOR A DISTANCE OF 15.00 FEET; THENCE RUN S89°19'27"E FOR A DISTANCE OF 100.04 FEET TO THE EAST LINE OF SAID FLORIDA POWER AND LIGHT COMPANY EASEMENT AS RECORDED IN OFFICIAL RECORD BOOK 385, PAGE 501 OF SAID PUBLIC RECORDS; AND THE WESTERLY LINE OF IONA DRAINAGE DISTRICT EASEMENT B-1 AS RECORDED IN OFFICIAL RECORD BOOK 1264, PAGE 2142 OF SAID PUBLIC RECORDS; THENCE RUN S 01°02'23"E ALONG SAID EAST LINE FOR A DISTANCE OF 15.00 FEET; THENCE (DEPARTING SAID EAST LINE) RUN N89°19'27"W FOR A DISTANCE OF 100.04 FEET TO A POINT ON THE EASTERLY LINE OF SAID TRACT "L" AND THE WESTERLY LINE OF SAID FLORIDA POWER AND LIGHT COMPANY EASEMENT; THENCE RUN S88°57'27"W ALONG THE EASTERLY PROLONGATION OF THE SOUTHERLY LINE OF A 15.00 WIDE DRAINAGE EASEMENT AS SHOWN ON PLAT OF SAID LAGUNA LAKES TO A POINT ON THE EASTERLY LINE OF LOT 88 OF SAID LAGUNA LAKES; THENCE RUN N01°02'33"W ALONG THE EAST LINE OF SAID LOT 88 FOR A DISTANCE OF 7.50 FEET TO THE NORTHEAST CORNER OF SAID LOT 88 AND THE POINT OF BEGINNING. CONTAINING 1725.93 SQUARE FEET (0.0396 ACRES) MORE OR LESS.

RIGHT-OF-WAY CONSENT AGREEMENT

FLORIDA POWER & LIGHT COMPANY, a Florida corporation, whose mailing address is P.O. Box 14000, Juno Beach, Florida 33408-0420, Attn: Corporate Real Estate Department, hereinafter referred to as "Company", hereby consents to LEE COUNTY, a political subdivision of the State of Florida, whose mailing address is P.O. Box 398, Fort Myers, FL 33902-0398, hereinafter referred to as "Licensee", using an area within Company's right-of-way granted by that certain agreement recorded in O.R. Book 385, at Page 501, Public Records of Lee County, Florida. The said area within Company's right-of-way, is hereinafter referred to as the "Lands". The use of the Lands by Licensee, shall be solely for the purpose of outfall pipe crossing, as shown on the plans and specifications submitted by Licensee, attached hereto as Exhibit "A".

In consideration for Company's consent and for the other mutual covenants set forth below, and for Ten Dollars and No Cents (\$10.00) and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. Licensee agrees to obtain all necessary rights from the owners of the Lands in the event Licensee does not own said Lands; to obtain any and all applicable federal, state, and local permits required in connection with Licensee's use of the Lands; and at all times, to comply with all requirements of all federal, state, and local laws, ordinances, rules and regulations applicable or pertaining to the use of the Lands by Licensee pursuant to this Agreement.
2. Licensee understands and agrees that the use of the Lands pursuant to this Agreement is subordinate to the rights and interest of Company in and to the Lands and agrees to notify its employees, agents, and contractors accordingly. Company specifically reserves the right to maintain its facilities located on the Lands; to make improvements; add additional facilities; maintain, construct or alter roads; maintain any facilities, devices, or improvements on the Lands which aid in or are necessary to Company's business or operations; and the right to enter upon the Lands at all times for such purposes. Licensee understands that in the exercise of such rights and interest, Company from time-to-time may require Licensee, to relocate, alter, or remove its facilities and equipment, including parking spaces and areas, and other improvements made by Licensee pursuant to this Agreement which interfere with or prevent Company, in its opinion, from properly and safely constructing, improving, and maintaining its facilities. Licensee agrees to relocate, alter, or remove said facilities, equipment, parking spaces and areas, and other improvements within thirty (30) days of receiving notice from Company to do so. Such relocation, alteration, or removal will be made at the sole cost and expense of Licensee and at no cost and expense to Company; provided however, should Licensee, for any reason, fail to make such relocation, alteration, or removal, Company retains the right to enter upon the Lands and make said relocation, alteration, or removal of Licensee's facilities, equipment, parking spaces and areas, and other improvements and Licensee hereby agrees to reimburse Company for all of its costs and expense incurred in connection therewith upon demand.
3. Licensee agrees that it will not use the Lands in any manner which, in the opinion of Company, may tend to interfere with Company's use of the Lands or may tend to cause a hazardous condition to exist. Licensee agrees that no hazardous substance, as the term is defined in Section

101 (14) of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") (42 USC Section 9601 [14]), petroleum products, liquids or flammables shall be placed on, under, transported across, or stored on the Lands, which restricts, impairs, interferes with, or hinders the use of the Lands by Company or the exercise by Company of any of its rights thereto. Licensee agrees further that in the event it should create a hazardous condition, then upon notification by Company, Licensee shall, within seventy-two (72) hours, at its sole cost and expense, correct such condition or situation; provided however that the Company retains the right to enter upon the Lands and correct any such condition or situation at any time and, by its execution hereof, Licensee hereby agrees to indemnify and hold harmless Company from all loss, damage or injury resulting from Licensee's failure to comply with the provisions of this Agreement.

4. Licensee hereby agrees and covenants to prohibit its agents, employees, and contractors from using any tools, equipment, or machinery on the Lands capable of extending greater than fourteen (14) feet above existing grade and further agrees that no dynamite or other explosives shall be used within the Lands and that no alteration of the existing terrain, including the use of the Lands by Licensee as provided herein, shall be made which will result in preventing Company access to its facilities located within said Lands. Unless otherwise provided herein, Licensee agrees to maintain a forty (40) foot wide setback, twenty (20) feet on each side, from Company's facilities.

5. Trees, shrubs, and other foliage planted or to be planted upon the Lands by Licensee are not to exceed a height of fourteen (14) feet above existing grade.

6. Outdoor lighting installed or to be installed upon the Lands by Licensee are not to exceed a height of fourteen (14) feet above existing grade and all poles or standards supporting light fixtures are to be of a non-metallic material.

7. Sprinkler systems installed or to be installed by Licensee upon the Lands are to be constructed of a non-metallic material and sprinkler heads are to be set so the spray height does not exceed fourteen (14) feet above existing grade and does not make contact with any Company's facilities. Aboveground systems shall not be installed within or across Company patrol or finger roads and underground systems crossing said patrol and finger roads are to be buried at a minimum depth of one (1) foot below existing road grade.

8. Licensee agrees to warn its employees, agents, contractors and invitees of the fact that the electrical facilities and appurtenances installed or to be installed by Company within the Lands are of high voltage electricity and agrees to use all safety and precautionary measures when working under or near Company's facilities.

9. Licensee agrees, at all times, to maintain and keep the Lands clean and free of debris. Except as provided herein, Licensee further understands and agrees that certain uses of the Lands are specifically prohibited; such uses include but are not limited to recreational purposes, hunting and camping, and Licensee agrees to notify its employees, agents, contractors, and invitees accordingly.

10. The use of the Lands by Licensee shall be at the sole risk and expense of Licensee, and Company is specifically relieved of any responsibility for damage or loss to Licensee or other persons resulting from Company's use of the Lands for its purposes.

11. Notwithstanding any provision contained herein, Licensee agrees to reimburse Company for all cost and expense for any damage to Company's facilities resulting from Licensee's use of the Lands and agrees that if, in the opinion of Company, it becomes necessary as a result of Licensee's use of the Lands for Company to relocate, rearrange or change any of its facilities, to promptly reimburse Company for all cost and expense involved with such relocation, rearrangement or change.

12. Each party hereto agrees that it shall be responsible for its own negligent acts or omissions. Nothing contained in the Section shall be construed to be a waiver or any protections under sovereign immunity, Section 768.28, Florida Statutes, or any other similar provision of law. Nothing contained herein shall be construed to be a consent by either party to be sued by third parties in any matter arising out of this Agreement.

13. The Board of Lee County Commissioners is self insured for all liability claims and related expenses pursuant to the provisions of Florida Statute 768.28.

14. This Agreement will become effective upon execution by Company and Licensee and will remain in full force and effect until completion of Licensee's use of the Lands pursuant to this Agreement, unless earlier terminated upon ninety (90) days written notice by Company to Licensee, or at the option of Company, immediately upon Licensee failing to comply with or to abide by any or all of the provisions contained herein.

15. The use granted herein as shown on Exhibit "A" shall be under construction by Licensee within one (1) year of the effective date of this Agreement and the construction shall be diligently pursued to completion. Licensee shall give Company ten (10) days prior written notice of its commencement of construction. "Under construction" is the continuous physical activity of placing the foundation or continuation of construction above the foundation of any structure or improvement permitted hereunder. Under construction does not include application for or obtaining a building permit, a site plan approval or zoning approval from the appropriate local government agency having jurisdiction over the activity, purchasing construction materials, placing such construction materials on the site, clearing or grading the site (if permitted) in anticipation of construction, site surveying, landscaping work or reactivating construction after substantially all construction activity has remained stopped for a period of two (2) months or more. Licensee acknowledges that failure to have the use under construction within the one (1) year time period will result in immediate termination of this Agreement in accordance with Paragraph 14 herein for failing to comply with the provisions contained herein unless Licensor grants a written extension for a mutually agreed upon time. Any request for an extension of time shall be submitted in writing by Licensee no later than thirty (30) days prior to the expiration of the one (1) year period for the project to be under construction.

16. The term "Licensee" shall be construed as embracing such number and gender as the character of the party or parties require(s) and the obligations contained herein shall be absolute and

primary and shall be complete and binding as to each, including its successors and assigns, upon this Agreement being executed by Licensee and subject to no conditions precedent or otherwise.

17. Should any provision of this Agreement be determined by a court of competent jurisdiction to be illegal or in conflict with any applicable law, the validity of the remaining provisions shall not be impaired. In the event of any litigation arising out of enforcement of this Consent Agreement, the prevailing party in such litigation shall be entitled to recovery of all costs, including reasonable attorneys' fees.

18. Licensee may assign its rights and obligations under this Agreement to a solvent party upon prior written consent of the company, which consent shall not be unreasonably withheld.

The parties have executed this Agreement this _____ day of _____, 2003.

Witnesses:

FLORIDA POWER & LIGHT COMPANY

Signature:
Print Name: _____

By: _____
Its: West Area Real Estate Manager
Print Name: C. W. Mathys

Signature:
Print Name: _____

ATTEST:
CHARLIE GREEN, CLERK
By: _____
Deputy Clerk

LICENSEE:
LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS
By: _____
Chairperson

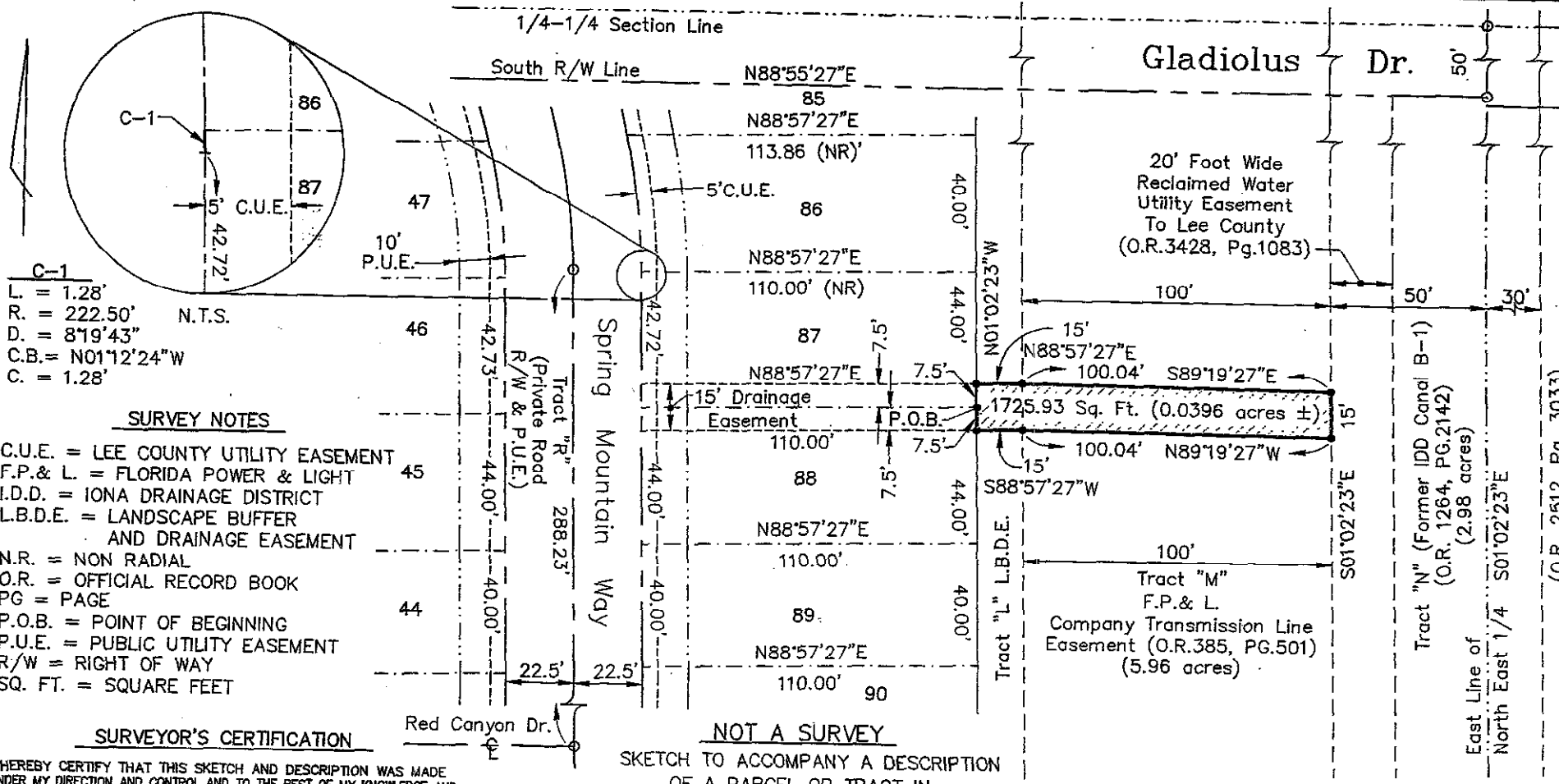
APPROVED AS TO LEGAL FORM:
By: _____
Office of County Attorney

EXHIBIT A

THAT PORTION OF THE FOLLOWING DESCRIBED PROPERTY LYING WITHIN TRACT "M", LAGUNA LAKES, A SUBDIVISION IN SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST AS RECORDED IN PLAT BOOK 74 AT PAGES 1 THROUGH 8 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA:

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C-1
 L. = 1.28'
 R. = 222.50' N.T.S.
 D. = 8°19'43"
 C.B. = N01°12'24"W
 C. = 1.28'

SURVEY NOTES

C.U.E. = LEE COUNTY UTILITY EASEMENT
 F.P. & L. = FLORIDA POWER & LIGHT
 I.D.D. = IONA DRAINAGE DISTRICT
 L.B.D.E. = LANDSCAPE BUFFER AND DRAINAGE EASEMENT
 N.R. = NON RADIAL
 O.R. = OFFICIAL RECORD BOOK
 PG = PAGE
 P.O.B. = POINT OF BEGINNING
 P.U.E. = PUBLIC UTILITY EASEMENT
 R/W = RIGHT OF WAY
 SQ. FT. = SQUARE FEET

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THIS SKETCH AND DESCRIPTION WAS MADE UNDER MY DIRECTION AND CONTROL AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS IN ACCORDANCE WITH CHAPTER 61G17-6 FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES.

DATE: 11/18/03
 Arthur W. Parsons, County Surveyor
 Professional Surveyor & Mapper
 Florida Certificate No. 2987

NOT A SURVEY

SKETCH TO ACCOMPANY A DESCRIPTION OF A PARCEL OR TRACT IN

LAGUNA LAKES
 A SUBDIVISION
 SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST,
 RECORDED IN PLAT BOOK 74, PAGE 1 - 8,
 LEE COUNTY, FLORIDA.

LEE COUNTY DEPARTMENT OF PUBLIC WORKS TRANSPORTATION DIVISION		
Designed by: A.P.	Date: 11/03	Disk 03001
Drawn by: W.E.H.	Date: 11/03	Scale: 1" = 40'
Chk'd: A.P.	Date: 11/03	030632801.Dwg.

SHEET NO.
 2 of 2

Exhibit "A"
Parcel 2

RIGHT-OF-WAY CONSENT AGREEMENT

FLORIDA POWER & LIGHT COMPANY, a Florida corporation, whose mailing address is P.O. Box 14000, Juno Beach, Florida 33408-0420, Attn: Corporate Real Estate Department, hereinafter referred to as "Company", hereby consents to LEE COUNTY, a political subdivision of the State of Florida, whose mailing address is P.O. Box 398, Fort Myers, FL 33902-0398, hereinafter referred to as "Licensee", using an area within Company's right-of-way granted by that certain agreement recorded in O.R. Book 385, at Page 501, Public Records of Lee County, Florida.

The said area within Company's right-of-way, is hereinafter referred to as the "Lands". The use of the Lands by Licensee, shall be solely for the purpose of outfall pipe crossing, as shown on the plans and specifications submitted by Licensee, attached hereto as Exhibit "A".

In consideration for Company's consent and for the other mutual covenants set forth below, and for Ten Dollars and No Cents (\$10.00) and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. Licensee agrees to obtain all necessary rights from the owners of the Lands in the event Licensee does not own said Lands; to obtain any and all applicable federal, state, and local permits required in connection with Licensee's use of the Lands; and at all times, to comply with all requirements of all federal, state, and local laws, ordinances, rules and regulations applicable or pertaining to the use of the Lands by Licensee pursuant to this Agreement.

2. Licensee understands and agrees that the use of the Lands pursuant to this Agreement is subordinate to the rights and interest of Company in and to the Lands and agrees to notify its employees, agents, and contractors accordingly. Company specifically reserves the right to maintain its facilities located on the Lands; to make improvements; add additional facilities; maintain, construct or alter roads; maintain any facilities, devices, or improvements on the Lands which aid in or are necessary to Company's business or operations; and the right to enter upon the Lands at all times for such purposes. Licensee understands that in the exercise of such rights and interest, Company from time-to-time may require Licensee, to relocate, alter, or remove its facilities and equipment, including parking spaces and areas, and other improvements made by Licensee pursuant to this Agreement which interfere with or prevent Company, in its opinion, from properly and safely constructing, improving, and maintaining its facilities. Licensee agrees to relocate, alter, or remove said facilities, equipment, parking spaces and areas, and other improvements within thirty (30) days of receiving notice from Company to do so. Such relocation, alteration, or removal will be made at the sole cost and expense of Licensee and at no cost and expense to Company; provided however, should Licensee, for any reason, fail to make such relocation, alteration, or removal, Company retains the right to enter upon the Lands and make said relocation, alteration, or removal of Licensee's facilities, equipment, parking spaces and areas, and other improvements and Licensee hereby agrees to reimburse Company for all of its costs and expense incurred in connection therewith upon demand.

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9. Licensee agrees, at all times, to maintain and keep the Lands clean and free of debris. Except as provided herein, Licensee further understands and agrees that certain uses of the Lands are specifically prohibited; such uses include but are not limited to recreational purposes, hunting and camping, and Licensee agrees to notify its employees, agents, contractors, and invitees accordingly.

10. The use of the Lands by Licensee shall be at the sole risk and expense of Licensee, and Company is specifically relieved of any responsibility for damage or loss to Licensee or other persons resulting from Company's use of the Lands for its purposes.

11. Notwithstanding any provision contained herein, Licensee agrees to reimburse Company for all cost and expense for any damage to Company's facilities resulting from Licensee's use of the Lands and agrees that if, in the opinion of Company, it becomes necessary as a result of Licensee's use of the Lands for Company to relocate, rearrange or change any of its facilities, to promptly reimburse Company for all cost and expense involved with such relocation, rearrangement or change.

12. Each party hereto agrees that it shall be responsible for its own negligent acts or omissions. Nothing contained in the Section shall be construed to be a waiver or any protections under sovereign immunity, Section 768.28, Florida Statutes, or any other similar provision of law. Nothing contained herein shall be construed to be a consent by either party to be sued by third parties in any matter arising out of this Agreement.

13. The Board of Lee County Commissioners is self insured for all liability claims and related expenses pursuant to the provisions of Florida Statute 768.28.

14. This Agreement will become effective upon execution by Company and Licensee and will remain in full force and effect until completion of Licensee's use of the Lands pursuant to this Agreement, unless earlier terminated upon ninety (90) days written notice by Company to Licensee, or at the option of Company, immediately upon Licensee failing to comply with or to abide by any or all of the provisions contained herein.

15. The use granted herein as shown on Exhibit "A" shall be under construction by Licensee within one (1) year of the effective date of this Agreement and the construction shall be diligently pursued to completion. Licensee shall give Company ten (10) days prior written notice of its commencement of construction. "Under construction" is the continuous physical activity of placing the foundation or continuation of construction above the foundation of any structure or improvement permitted hereunder. Under construction does not include application for or obtaining a building permit, a site plan approval or zoning approval from the appropriate local government agency having jurisdiction over the activity, purchasing construction materials, placing such construction materials on the site, clearing or grading the site (if permitted) in anticipation of construction, site surveying, landscaping work or reactivating construction after substantially all construction activity has remained stopped for a period of two (2) months or more. Licensee acknowledges that failure to have the use under construction within the one (1) year time period will result in immediate termination of this Agreement in accordance with Paragraph 14 herein for failing to comply with the provisions contained herein unless Licensor grants a written extension for a mutually agreed upon time. Any request for an extension of time shall be submitted in writing by Licensee no later than thirty (30) days prior to the expiration of the one (1) year period for the project to be under construction.

16. The term "Licensee" shall be construed as embracing such number and gender as the character of the party or parties require(s) and the obligations contained herein shall be absolute and

primary and shall be complete and binding as to each, including its successors and assigns, upon this Agreement being executed by Licensee and subject to no conditions precedent or otherwise.

17. Should any provision of this Agreement be determined by a court of competent jurisdiction to be illegal or in conflict with any applicable law, the validity of the remaining provisions shall not be impaired. In the event of any litigation arising out of enforcement of this Consent Agreement, the prevailing party in such litigation shall be entitled to recovery of all costs, including reasonable attorneys' fees.

18. Licensee may assign its rights and obligations under this Agreement to a solvent party upon prior written consent of the company, which consent shall not be unreasonably withheld.

The parties have executed this Agreement this _____ day of _____, 2003.

Witnesses:

FLORIDA POWER & LIGHT COMPANY

Signature:
Print Name: _____

By: _____
Its: West Area Real Estate Manager
Print Name: C. W. Mathys

Signature:
Print Name: _____

ATTEST:
CHARLIE GREEN, CLERK
By: _____
Deputy Clerk

LICENSEE:
LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS
By: _____
Chairperson

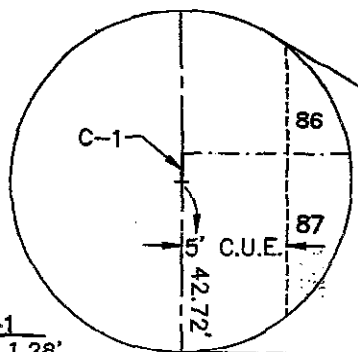
APPROVED AS TO LEGAL FORM:
By: _____
Office of County Attorney

EXHIBIT A

THAT PORTION OF THE FOLLOWING DESCRIBED PROPERTY LYING WITHIN TRACT "M", LAGUNA LAKES, A SUBDIVISION IN SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST AS RECORDED IN PLAT BOOK 74 AT PAGES 1 THROUGH 8 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA:

A STRIP OF LAND (15.00 FEET IN WIDTH) LYING WITHIN TRACT "L", PLATTED AS A LANDSCAPE AND BUFFER EASEMENT AND ALSO TRACT "M" DESIGNATED AS A 100 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY TRANSMISSION EASEMENT (OFFICIAL RECORD BOOK 385, PAGE 501) AS SHOWN ON THE PLAT OF LAGUNA LAKES, A SUBDIVISION IN SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST AS RECORDED IN PLAT BOOK 74 AT PAGES 1 THROUGH 8 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID 15.00 FOOT WIDE STRIP OF LAND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 87, LAGUNA LAKES, A SUBDIVISION IN SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST AS RECORDED IN PLAT BOOK 74 AT PAGES 1 THROUGH 8 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND THE POINT OF BEGINNING OF THE 15.00 FOOT WIDE STRIP OF LAND DESCRIBED HEREIN, THENCE RUN N01°02'33" W ALONG THE EAST LINE OF SAID LOT 87 FOR A DISTANCE OF 7.50 FEET, THENCE RUN N88°57'27" E ALONG THE EASTERLY PROLONGATION OF THE NORTHERLY LINE OF A 15.00 WIDE DRAINAGE EASEMENT AS SHOWN ON PLAT OF SAID LAGUNA LAKES TO A POINT ON THE EASTERLY LINE OF AFORESAID TRACT "L" AND THE WESTERLY LINE OF AFORESAID FLORIDA POWER AND LIGHT COMPANY EASEMENT FOR A DISTANCE OF 15.00 FEET; THENCE RUN S89°19'27"E FOR A DISTANCE OF 100.04 FEET TO THE EAST LINE OF SAID FLORIDA POWER AND LIGHT COMPANY EASEMENT AS RECORDED IN OFFICIAL RECORD BOOK 385, PAGE 501 OF SAID PUBLIC RECORDS; AND THE WESTERLY LINE OF IONA DRAINAGE DISTRICT EASEMENT B-1 AS RECORDED IN OFFICIAL RECORD BOOK 1264, PAGE 2142 OF SAID PUBLIC RECORDS; THENCE RUN S 01°02'23"E ALONG SAID EAST LINE FOR A DISTANCE OF 15.00 FEET; THENCE (DEPARTING SAID EAST LINE) RUN N89°19'27"W FOR A DISTANCE OF 100.04 FEET TO A POINT ON THE EASTERLY LINE OF SAID TRACT "L" AND THE WESTERLY LINE OF SAID FLORIDA POWER AND LIGHT COMPANY EASEMENT; THENCE RUN S88°57'27"W ALONG THE EASTERLY PROLONGATION OF THE SOUTHERLY LINE OF A 15.00 WIDE DRAINAGE EASEMENT AS SHOWN ON PLAT OF SAID LAGUNA LAKES TO A POINT ON THE EASTERLY LINE OF LOT 88 OF SAID LAGUNA LAKES; THENCE RUN N01°02'33"W ALONG THE EAST LINE OF SAID LOT 88 FOR A DISTANCE OF 7.50 FEET TO THE NORTHEAST CORNER OF SAID LOT 88 AND THE POINT OF BEGINNING. CONTAINING 1725.93 SQUARE FEET (0.0396 ACRES) MORE OR LESS.



C-1
 L = 1.28'
 R = 222.50' N.T.S.
 D = 8°19'43"
 C.B. = N01°12'24"W
 C. = 1.28'

SURVEY NOTES

- C.U.E. = LEE COUNTY UTILITY EASEMENT
- F.P. & L. = FLORIDA POWER & LIGHT
- I.D.D. = IONA DRAINAGE DISTRICT
- L.B.D.E. = LANDSCAPE BUFFER AND DRAINAGE EASEMENT
- N.R. = NON RADIAL
- O.R. = OFFICIAL RECORD BOOK
- PG = PAGE
- P.O.B. = POINT OF BEGINNING
- P.U.E. = PUBLIC UTILITY EASEMENT
- R/W = RIGHT OF WAY
- SQ. FT. = SQUARE FEET

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THIS SKETCH AND DESCRIPTION WAS MADE UNDER MY DIRECTION AND CONTROL AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS IN ACCORDANCE WITH CHAPTER 61G17-6 FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES.

Arthur W. Parsons, County Surveyor
 Professional Surveyor & Mapper
 Florida Certificate No. 2987
 DATE: 11/18/03

NOT A SURVEY

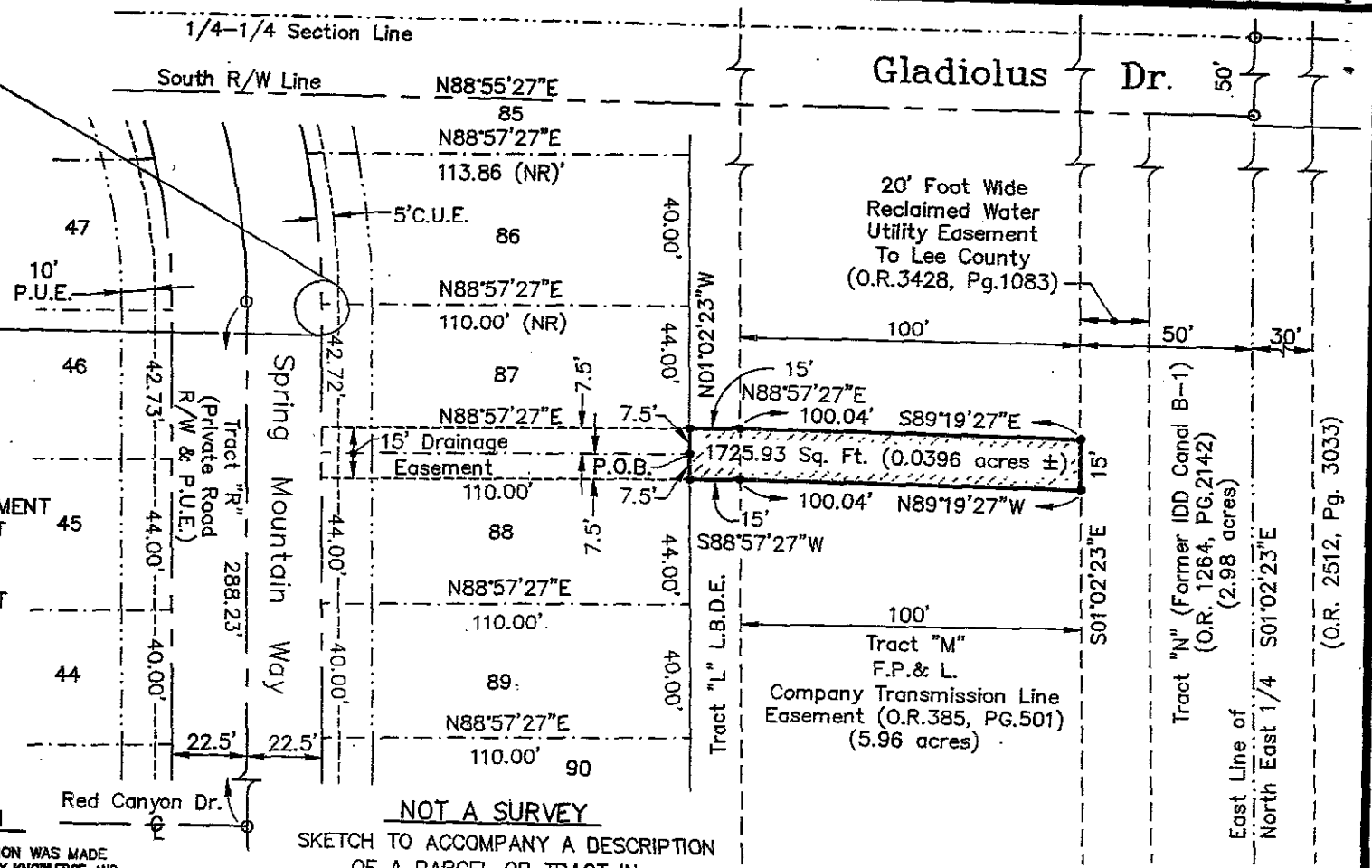
SKETCH TO ACCOMPANY A DESCRIPTION OF A PARCEL OR TRACT IN

LAGUNA LAKES
 A SUBDIVISION
 SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST,
 RECORDED IN PLAT BOOK 74, PAGE 1 - 8,
 LEE COUNTY, FLORIDA.

Designed by: A.P.	Date: 11/03	Disk 03001
Drawn by: W.E.H.	Date: 11/03	Scale: 1" = 40'
Chkd: A.P.	Date: 11/03	030632801.Dwg.

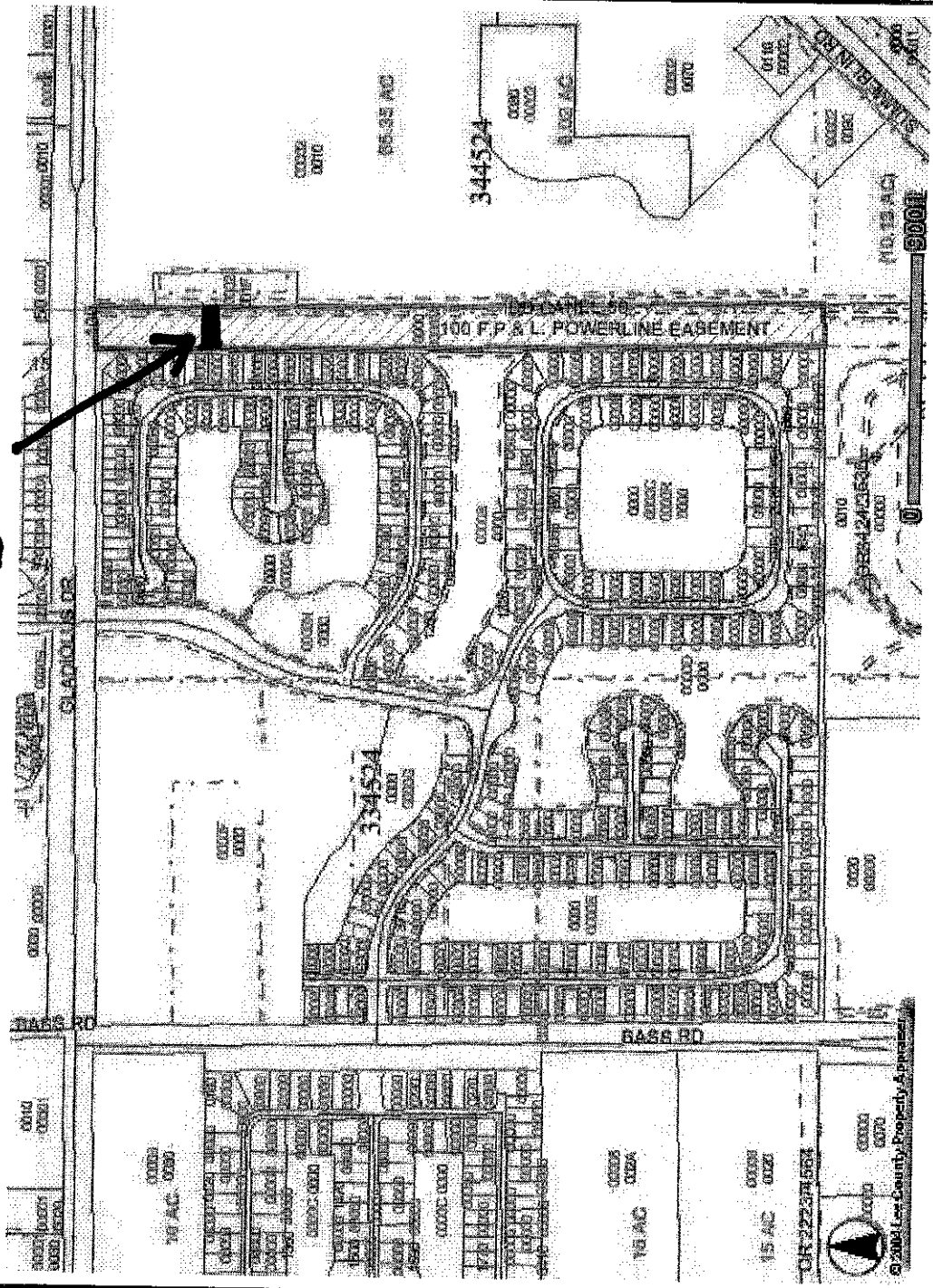
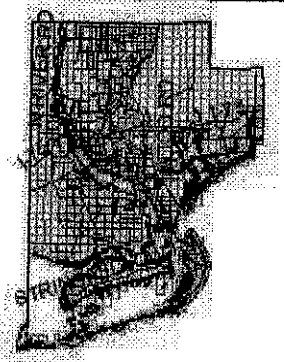
SHEET NO.
 2 of 2

Exhibit "A"
Parcel 2



Location Map

Subject



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

From: Kenneth Pitt
Title Examiner

STRAP: 33-45-24-15-0000M.0000

Effective Date: December 3, 2003.

Subject Property: Tract M, on the plat of Laguna Lakes, recorded in Plat Book 74 Page 1, Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

Transeastern Laguna Lakes, LLC, a Florida limited liability company

by that certain instrument dated April 22, 2002, recorded April 30, 2002, in Official Record Book 3634, Page 4120, Public Records of Lee County, Florida.

Easements:

1. Right-of-Way Agreement to Florida Power & Light Company, recorded in Official Record Book 385, Page 501, Public Records of Lee County, Florida.
2. Grant of Perpetual Non-Exclusive Reclaimed Water Utility Easement and Agreement to Lee County, recorded in Official Record Book 3426, Page 1983, Public Records of Lee County, Florida.
3. Subject to the Master Declaration for Laguna Lakes, recorded in Official Record Book 3905 Page 1527, Public Records of Lee County, Florida.
4. Dedication of All Transmission Line Easements shown as Tract M for Installation and Maintenance of Transmission Lines-to Florida Power and Light Company as shown in Dedication on the plat "Laguna Lakes" recorded in Official Record Book 74 Page 1, Public Records of Lee County, Florida.

NOTE(1): Covenant of Unified Control, recorded in Official Record Book 3619, Page 4331, Public Records of Lee County, Florida.

NOTE(2): Mortgage, Security Agreement and Fixture Financing Statement with Assignment of Leases and Rents executed by Transeastern Laguna Lakes, LLC, a Florida limited liability company in favor of RBC Mortgage Company, dated April 25, 2002, recorded April 30, 2002, in Official Record Book 3634, Page 4123, as partially released by instrument recorded in Official Record Book 3693, Page 3696, said mortgage was later assigned by that certain instrument recorded in Official Record Book 4064 Page 560 Public Records of Lee County, Florida.

- NOTE(3): U.C.C. between Transeastern Laguna Lakes, LLC, a Florida limited liability company and RBC Mortgage Company, recorded April 30, 2002 in Official Record Book 3634, Page 4156, Public Records of Lee County, Florida.
- NOTE(4): Notice of Development Order Approval, recorded in Official Record Book 3691, Page 4077, Public Records of Lee County, Florida.
- NOTE(5): Conveyance to Lee County of a fifty foot strip along the Westerly boundary, as described in Official Record Book 3693, Page 3691, Public Records of Lee County, Florida.
- NOTE(6): Mortgage and Security Agreement executed by Transeastern Laguna Lakes, LLC, a Florida limited liability company in favor of City National Bank of Florida, dated August 14, 2002, recorded August 27, 2002, in Official Record Book 3714, Page 1890, as subordinated by instrument recorded in Official Record Book 3714, Page 1915, said Mortgage and Security Agreement was later Modified by Agreement recorded in Official Record Book 4156 page 2049, Public Records of Lee County, Florida.
- NOTE(7): Collateral Assignment of Leases, Rents and Profits between Transeastern Laguna Lakes, LLC, a Florida limited liability company and City National Bank of Florida, dated August 14, 2002, recorded August 27, 2002, in Official Record Book 3714, Page 1930, said Assignmet was later Modified by Agreement recorded in Official Record Book 4156 Page 2049, Public Records of Lee County, Florida.
- NOTE(8): U.C.C. between Transeastern Laguna Lakes, LLC, a Florida limited liability company and City National Bank of Florida, recorded August 27, 2002, in Official Record Book 3714, Page 1935, said Financing Statement was later Modified by Agreement recorded in Official Record Book 4156 Page 2053, Public Records of Lee County, Florida.
- NOTE(9): Notice of Commencement recorded November 24, 2002 in Official Record Book 3785, Page 4775, Public Records of Lee County, Florida.
- NOTE(10): Declaration of Consent to Jurisdiction of Laguna Lakes Community Development District and to the Imposition of Special Assessments, recorded in Official Record Book 3914 Page 167, Public Records of Lee County, Florida.
- NOTE(11): Subject to Lien of Record of Laguna Lakes Community Development District, recorded in Official Record Book 3914 Page 170, Public Records of Lee County, Florida.

Tax Status: \$29,673.63 due & owing for Tax Year 2003.

(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.