

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

Blue Sheet No. 20051463

1. ACTION REQUESTED/PURPOSE: Adopt a resolution accepting the donation of a 60' wide surplus parcel, located in Sections 25 and 36, Township 46 South, Range 25 East, from the State of Florida Department of Transportation for the Pinewoods Water Treatment Plant Expansion Project No. 7155; authorize the Chairman to execute the attached Resolution; authorize the Division of County Lands to handle and accept all documentation necessary to complete transaction.

2. WHAT ACTION ACCOMPLISHES: Accepts surplus property from the State of Florida Department of Transportation for public purposes associated with the Pinewoods Water Treatment Facility.

3. MANAGEMENT RECOMMENDATION: Management recommends Board approve the Action Requested.

4. Departmental Category: 6

C6A

5. Meeting Date: 12-06-2005

6. Agenda:

- Consent
- Administrative
- Appeals
- Public
- Walk-On

7. Requirement/Purpose: (specify)

- Statute 125, 337
- Ordinance
- Admin. Code
- Other

8. Request Initiated:

Commissioner _____
 Department Independent
 Division County Lands
 By: Karen L.W. Forsyth, Director

9. Background:

Negotiated for: Lee County Utilities Division

Interest to Acquire: Fee-simple interest in ±11 acres, subject to existing public and private right of way uses.

Property Details:

Owner: Florida Department of Transportation
Address: 11501 Corkscrew Road, Estero 33928
STRAP Nos.: 36-46-25-00-00001.0000

Accounts: Fees for recording will be paid from Account No.: 20715548730.506210

Attachments: Resolution, Location Map, FDOT Letter Declaring Land Surplus

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
K. Forsyth	N/A	N/A	BAO 11/18/05	J. Smith	P.M. 11/21/05	11/21/05	11/21/05	11/21/05	11/21/05

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

Rec. by CoAtty
 Date: 11/9/05
 Time: 2:35pm
 Forwarded To:
 Admin.
 11/21/05 9:00am

RECEIVED BY
 COUNTY ADMIN
 11-21-05
 9:00
 COUNTY ADMIN
 FORWARDED TO:

RECEIVED BY
 COUNTY ADMIN
 FORWARDED TO:
 COUNTY ADMIN
 FORWARDED TO:

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS EXPRESSING AN INTEREST IN ACCEPTING A DONATION OF SURPLUS LANDS OWNED BY THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, LOCATED IN SECTIONS 25 AND 36, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, FOR PUBLIC PURPOSE AND USE.

WHEREAS, the Board of County Commissioners of Lee County, Florida, has concluded that it is in the best interest of citizens of Lee County for the County to express interest in accepting a donation of certain property from the State of Florida, Department of Transportation; and

WHEREAS, this property is described as Florida Department of Transportation Right of Way, Section 12075-2402, Parcel #118.1, designated as Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, said property was acquired as a designated right-of-way, by Florida Department of Transportation and in accordance with the terms and conditions of that Final Judgment and Stipulation, recorded in Official Records Book 1474, Page 213, of the Public Records of Lee County, Florida, designated as Exhibit "B", attached hereto and made a part hereof; and

WHEREAS, the Board of County Commissioners of Lee County, Florida, has concluded that it is in the best interest of citizens of Lee County for the County to express interest in accepting a donation of the property from the State of Florida, Department of Transportation; and

WHEREAS, pursuant to §337.25, F.S., the State of Florida may offer any land declared to be surplus to the County in which the surplus land lies, to be used for a specific public purpose, and the receiving County at its option, may elect to acquire the lands so offered without monetary payment; and

WHEREAS, this property is to be conveyed for Public Purpose use only, for uses associated with the Lee County Utilities Water Treatment Facility, or some similar use, and will revert to the Florida Department of Transportation if not used for public purposes; and

WHEREAS, Lee County, as successor in interest to the Florida Department of Transportation, and in accordance with said Final Judgment and Stipulation, shall be held harmless against all such liability for improvement, maintenance, and condition of said right-of-way and improvements;

WHEREAS, the acceptance of this property is for the stated purpose and not to be construed as either an acceptance of the responsibility to improve or to maintain said right-of-way;

Project: Pinewoods Water Treatment Plant, No. 7155
Parcel: 105/FDOT
STRAP No.: 36-46-25-00-00001.0000

Exhibit "A"

A parcel of land located in Estero, Florida, and being more particularly described as The East 60 feet of Section 25 lying South of the Right-of-Way of Corkscrew Road, and the East 60 feet of Section 36, all lying in Township 46 South, Range 25 East, Lee County, Florida.

137804

IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT,
IN AND FOR LEE COUNTY, FLORIDA.

DIVISION OF ADMINISTRATION,)
STATE OF FLORIDA DEPARTMENT)
OF TRANSPORTATION,)

Plaintiff,)

vs.)

OLEUM CORPORATION, et al.,)

Defendants.)

CIVIL ACTION NO. 76-1974-CA

PARCEL NO. 184

NR 1474 is 213

DOCKETED & FILED

DEC 11 1980

SAL GERACI, CLERK
BY J. Geraci 018

FINAL JUDGMENT AND STIPULATION

THIS CAUSE having come on upon joint motion for the entry of a Final Judgment made by the Plaintiff and the Defendant set forth hereinbelow, and it appearing to the Court that the parties were authorized to enter into such motion, and the Court finding that the compensation to be paid by the Plaintiff is full, just and reasonable for all parties concerned, and the Court being fully advised in the premises, it is therefore,

ORDERED AND ADJUDGED that the Defendants, AEROPRODUCTS, INC., and HANS HAFNER, Personal Representative of the Estate of JOHN J. BAESSLER, deceased, Owners of Parcel No. 184, do have and recover of and from the Plaintiff, the sum of FIVE HUNDRED THOUSAND (\$500,000) and no./100 dollars, in full payment of the property designated Parcel 184, herein taken and for damages to the remainder if less than the entire property was taken and for all other damages of any nature. It is further,

ORDERED that upon entry of this Final Judgment, the Plaintiff shall deposit the additional sum of FOUR HUNDRED TWENTY-FIVE THOUSAND FIVE HUNDRED (\$425,500) and no/100 dollars into the Registry of the Court; and it is

ORDERED AND DIRECTED that the Clerk of this Court pay to the Defendants listed above, the aforesaid sum of FIVE HUNDRED THOUSAND (\$500,000) and no/100 dollars, less any sums heretofore paid to the above-named Defendants from monies deposited in this cause from the Plaintiff. It is further

ORDERED THAT title to the following described property, which vested in the Plaintiff pursuant to the Order of Taking and deposit of monies into the Registry of the Court heretofore made;

REF: 1474 to 214

FAP 1-75-5(2)320

REC. 1474 PG 215

AEROPRODUCTS, INC.

PARCEL 184-R

SECTION 12075-2401

That part of:

Sections 2 and 11, Township 47 South, Range 25 East; being described as follows:

BEGIN on the South line of said Section 11 at a point North $82^{\circ}29'35.18''$ West 43.036 feet from the SE corner of said Section 11, thence continue North $82^{\circ}29'35.18''$ West 415.197 feet along said South line, thence North $1^{\circ}34'05.18''$ West 10,490.291 feet (crossing the North line of said Section 11, into said Section 2) to the beginning of a curve concave to the Westerly having a radius of 5,567.578 feet, thence run North Westerly along said curve 625.960 feet through a central angle of $8^{\circ}29'59.76''$ to the North line of said Section 2, and the end of said curve, thence North $89^{\circ}59'53.95''$ East 369.120 feet along said North line to the beginning of a curve concave to the Westerly having a radius of 5,847.578 feet, thence from a tangent bearing of South $12^{\circ}20'44.24''$ East run Southeasterly along said curve 1,099.949 feet through a central angle of $10^{\circ}46'39.06''$ to the end of said curve, thence South $1^{\circ}34'05.18''$ East 10,276.140 feet (crossing the South line of Section 2, into said Section 11) to the POINT OF BEGINNING.

Containing 106.256 acres, more or less.

Together with all rights of ingress, egress, light, air and view between the grantors' remaining property and any facility constructed on the above described property.

IT IS FURTHER ORDERED that pursuant to stipulation of the parties in this cause and it appearing to the Court that the parties were authorized to enter into such stipulation,

IT IS FURTHER ORDERED that the Plaintiff has heretofore purchased right of way for the use and benefit of the eastern remainder of the parent tract of Parcel 184 along with the public in general, a copy of said deed is attached hereto and made a part hereof. It is understood and agreed between the parties that this right of way having been purchased by public monies will remain a public right of way and no private parties shall have any right to abridge or in any way interfere with the public's right to the utilization of the facility.

IT IS FURTHER ordered that pursuant to agreement and stipulation of the parties that the Defendants, AEROPRODUCTS, INC., and HANS HAFNER, Personal Representative of the Estate of JOHN J. BAESSLER, deceased, owners of Parcel 184, or their successors or assigns, will have permanent use of said right of way for ingress and egress and shall have the right to improve the said right of way for road purposes individually and in conjunction with others, upon proper application for permit to the State of Florida Department of Transportation and approval therefrom. Such approval shall not be unreasonably withheld. AEROPRODUCTS, INC., and HANS HAFNER, personal representative of the Estate of JOHN J. BAESSLER, deceased, agree to assume the cost of such improvements and agree to maintain said improvements and right of way in a safe condition at all times and do assume all liability for the improvement, maintenance and condition of said right of way and improvements, and to hold the State of Florida Department of Transportation harmless against all such liability.

Should the Defendants construct a facility in accordance with County standards and should the County therefore agree to assume maintenance responsibility, the aforementioned agreement with the Department of Transportation as to maintenance responsibility and liability therefor, shall be null and void.

DONE AND ORDERED in Chambers at Ft. Myers, Lee County, Florida, this 10th day of December, 1980.

REC 1474 16 217

16/16/80
CIRCUIT JUDGE

John Savlov
John Savlov, Esquire
STATE OF FLORIDA DEPARTMENT
OF TRANSPORTATION
HAYDON BURNS BUILDING
TALLAHASSEE, FLORIDA 32301
904/488-2611

Attorney for Plaintiff

Dated: 12/11/80

Ronald E. Lee
Ronald E. Lee, Attorney for
Defendants Owners of Parcel
184
6011 Rodman Street
Hollywood, Florida 33025
(305)985-7300

Dated: 12/10/80

CLERK OF CIRCUIT COURT
DEC 11 4 51 PM '80
RECORDS SECTION
LEE COUNTY, FLORIDA
RECORD VERIFIED

IN THE CIRCUIT COURT IN AND
FOR LEE COUNTY, FLORIDA.

CASE NO. 80-1867-CA RWP

JOE LOVETT,

1374683

Plaintiff,

-vs-

NATIONAL STANDARD LIFE
INSURANCE COMPANY, a
corporation,

REC. 1474 PG 218

Defendant.

DOCKETED & FILED

DEC 11 1980

STIPULATION, MOTION AND ORDER OF DISMISSAL

SAL GERACI, CLERK

BY J. Cook

D. G.

COME NOW the undersigned counsels and respectfully show unto this Court that the parties have amicably settled this matter, that there is no issue of law or fact yet to be decided by this Court, that the cause should be dismissed with prejudice as to all claims which were made or which could have been made by the parties hereto, with each party to bear his own costs, in accordance with Rule 1.420(a)(1) of the Florida Rules of Civil Procedure. Accordingly, the parties jointly move for the entry of the following Final Order of Dismissal.

EXECUTED this 4th day of December, 1980.

Bruce D. Frankel
BRUCE D. FRANKEL, ESQUIRE
GOLDBERG, RUBINSTEIN, & BUCKLEY, P.A.
Post Office Box 2366
Fort Myers, FL 33902
(813) 334-1146

Thomas B. Tart
THOMAS B. TART, ESQUIRE
GURNEY, GURNEY, AND HANDLEY, P.A.
Post Office Box 1273
Orlando, FL 32802
(305) 843-9500

FINAL ORDER OF DISMISSAL

Based on the above styled Stipulation, it is
ADJUDGED that this cause and all claims by the parties hereto which were made or which could have been made in this cause are hereby dismissed with prejudice, with each party to bear his own costs, pursuant to Rule 1.420(a)(1) of the Florida

Exhibit "B"

Page 6 of 10

(19)

REC: 1474 PG 219

Rules of Civil Procedure.

DONE AND ORDERED in Chambers, Lee County, FL, this
5 day of December, 1980.


CIRCUIT COURT JUDGE

I HEREBY CERTIFY that true and correct conformed copies
of the foregoing Stipulation, Motion and Order of Dismissal and
the Final Order of Dismissal have been furnished to BRUCE D.
FRANKEL, Goldberg, Rubinstein, & Buckley, P. A., Post Office Box
2366, Fort Myers, FL 33902, Attorney for Plaintiff and THOMAS
B. TART, Gurney, Gurney, & Handley, P. A., Post Office Box 1273,
Orlando, FL 32802, Attorney for Defendant, by U. S. mail, this
9th day of December, 1980.


SECRETARY TO CIRCUIT COURT JUDGE

CLERK OF CIRCUIT COURT
SAL VERRA
DEC 11 4 54 PM '80
RECORDS SECTION
LEE COUNTY, FLORIDA
RECORD VERIFIED

T.S. M-24993, m.s. 1 1229561

This instrument prepared and legal description approved
Date 5-9-79 By J. V. BEANE
City TALLAHASSEE, Florida
State of Florida Department of Transportation
(IND. WD)

PARCEL NO. 118.1
SECTION 12075-2402
STATE ROAD 93(I-75)
COUNTY Lee
FAP NO. I-75-5(4)328

FORM 738-03
5-73

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

DEED

1989-1991

THIS INDENTURE made this 14th day of August, A. D. 19 79
between CORKSCREW PROPERTIES, LTD.

as part ies of the first part and the STATE OF FLORIDA, for the use and benefit of the State of Florida Department of Transportation, as party of the second part.

WITNESSETH, That the said part ies of the first part, for and in consideration of the sum of One Dollar and other valuable considerations, paid, receipt of which is hereby acknowledged, do hereby grant, bargain, sell, and convey unto the party of the second part, its successors and assigns, the following described land, situate, lying and being in the County of Lee State of Florida, to-wit:

PARCEL 118

SECTION 12075-2402

The East 60 feet of Section 36 and the East 60 feet of Section 25 lying South of the Right of Way of Corkscrew Road, all lying in Township 46 South, Range 25 East;

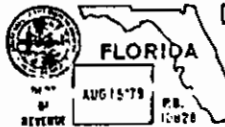
Containing 11.12 acres, more or less.

The Grantor hereby reserves an easement over aforesaid property for ingress and egress.

DOCUMENTARY STAMPS
STATE
COUNTY

RECORD VERIFIED - SCL CLERK
BY WYLLIA PETERS D.C.

LEE COUNTY
6 5 5 9 9



DOCUMENTARY SUR TAX
70.40

LEE COUNTY
1 5 4 1 9 4

STATE OF FLORIDA
DOCUMENTARY STAMP TAX
DEPT. OF REVENUE
AUG 15 79
192.00

TO HAVE AND TO HOLD THE SAME, together with all and singular the appurtenances thereto belonging or in anywise incident or appertaining forever, and the said part ies of the first part do hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever.

TO WITNESS WHEREOF, said part ies of the first part have hereunto set their hand and seal the date first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF
(SIGNATURE OF TWO WITNESSES REQUIRED BY FLORIDA LAW)

Betty Lou Rosen
(Witnessed as to all parties)
STATE OF Florida
COUNTY OF LEE

CORKSCREW PROPERTIES, LTD. (SEAL)
Maurice J. Hillmyer (SEAL)
Morton A. Goldberg (SEAL)
F.B. Carroll (Seal)
Howell F. Davis (Seal) General Partners

Before me personally appeared MAURICE J. HILMYER, MORTON A. GOLDBERG, F.B. CARROLL,
and HOWELL F. DAVIS, GENERAL PARTNERS OF CORKSCREW PROPERTIES, LTD., to me well known and known to me to be the individuals described in and who executed the foregoing instrument and acknowledged before me that they executed the same for the purposes therein expressed.

WITNESS my hand and official seal this 14 day of August, A. D. 19 79

(Notarial Seal)

Betty Lou Rosen
Notary Public in and for the County
and State aforesaid. **NOTARY PUBLIC STATE OF FLORIDA AT LARGE**
MY COMMISSION EXPIRES **APR. 24 1982**
BONDED - THIS GENERAL NOT. UNDERWRITERS

Exhibit "B"

Page 8 of 10

700 Billed

T.S. M-24993, m.s.

1229562

This instrument prepared and legal description approved
Date 5-9-79 By: J. V. BEANE
City TALLAHASSEE, Florida
State of Florida Department of Transportation

PARCEL NO. 118.2
SECTION 12075-2402
STATE ROAD 93(I-75)
COUNTY Lee
FAP NO. I-75-5(4)328

FORM NO. 738.12

OFF REC: 1369 FC1962

Corporation

SUBORDINATION OF ENCUMBRANCE TO PROPERTY RIGHTS TO STATE OF FLORIDA

KNOW ALL MEN BY THESE PRESENTS: That Whereas, it is proposed by the STATE OF FLORIDA, by and through its component agency, The State of Florida, Department of Transportation, to locate, construct, maintain and/or improve a portion of State Road 93(I-75), Section 12075 in Lee County, Florida, in accordance with survey and plans on file in the office of the State of Florida, Department of Transportation; and,

WHEREAS, A portion of the lands involved and necessary to said section of road is subject to MORTGAGE held by the undersigned; and,

WHEREAS, On behalf of the State of Florida a request has been made for the undersigned to subordinate said encumbrance to the property rights of the State of Florida in and to the portion of the premises hereinafter described.

NOW, THEREFORE, WITNESSETH: That for and in consideration of the premises and one dollar and other good and valuable considerations, paid, receipt of which is hereby acknowledged, the undersigned subordinates said encumbrance to the property rights of the State of Florida, to locate, construct, maintain and/or improve said section of road over, through, upon, and/or across the following described lands, being a portion of the encumbered premises in Lee County, Florida, to-wit:

PARCEL 118

SECTION 12075-2402

The East 60 feet of Section 36 and the East 60 feet of Section 25 lying South of the Right of Way of Corkscrew Road, all lying in Township 46 South, Range 25 East;

Containing 11.12 acres, more or less.

RECORD VERIFIED—SAL GERARDI CLERK
BY WYLLA PETERS D.C.

Exhibit "B"

Page 9 of 10

insofar as said premises are affected by the following described encumbrance, now held by the undersigned:

Nature of Encumbrance	Date	From or Against	In Favor of	Recorded Book Page
Mortgage	9-15-76	Corkscrew Properties Ltd.	Alico, Inc.	O.R. 1158 - 1878 Aug 15 1979 CLERK OF COURT SUNSHINE COUNTY, FLA.

PROVIDED, ALWAYS, NEVERTHELESS, and it is expressly understood and agreed that this instrument subordinates said encumbrance insofar as same affects the rights and privileges of the State of Florida in its use of the land specifically above described, for highway purposes only, and that nothing herein contained shall in any way affect, alter, impair, minimize or diminish the effect of said encumbrance or the remedies at law or in equity for recovering thereout, or against the parties charged thereby, the full amount of all sums secured by and/or due under the same. It is further understood and agreed that in the event said above described premises are abandoned by the State and cease to be used for highway construction and maintenance purposes that in such event the subordination of said encumbrance shall terminate in and to such portion abandoned and no longer used as aforesaid, and the encumbrance become of the same status with reference to such abandoned portion as if the subordination had never been made.

In WITNESS WHEREOF the said holder of said encumbrance has duly executed this instrument this 27 day of July, A.D. 1979.

Signed, sealed and delivered in the presence of:

Signature of TWO witnesses required by Florida Law

Judy D. Madison
Deborah J. Russell
(Corporate Seal)

ALICO, INC.
By: R. E. Byrd
R. E. Byrd Its Executive Vice President
ATTEST: Gloria B. Allen
Its Secretary

STATE OF FLORIDA
COUNTY OF HENDRY

Before me, the undersigned authority, this day personally appeared R. E. Byrd

and Gloria B. Allen.

to me well known and known to me to be the individuals described in and who executed the foregoing instrument as Executive Vice President and Secretary respectively, of the Corporation named in the foregoing instrument, and they severally acknowledged to and before me that they execute said instrument on behalf of and in the name of said corporation as such officers; that the seal affixed to said instrument is the corporate seal of said corporation and that it was affixed thereto by due and regular corporate authority; that they are duly authorized by said corporation to execute said instrument and that said instrument is the free act and deed of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal this 27th day of July, A.D. 1979.

My Commission expires:
Feb. 16, 1983

Judy D. Madison
Notary Public in and for the County and State aforesaid

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES FEB. 16 1983
BONDED THRU GENERAL INS. UNDERWRITERS

Ret. Atty. Gen. Transportation, P.O. Box 1204
Tallahassee, Fla.
(att. Underwriters) Dep. Transportation

Exhibit "B"

Page 10 of 10



Florida Department of Transportation **COUNTY LANDS**

JEB BUSH
GOVERNOR

June 14, 2005

JOSÉ ABREU
SECRETARY

Lee County Southwest Florida
Division of County Lands
Attn.: Mr. J. Keith Gomez
Property Acquisition Agent
Post Office Box 398
Fort Myers, Florida 33902-0398

Re:	FM#:	2009411	County:	Lee
	Sec/Job:	12075-2402	State Road:	93 (I-75)
	FAP#:	I-75-5(4)328	Parcel:	118.1
	PM Log#:	04-70		

Dear Mr. Gomez:

The property of interest has been declared surplus for conveyance to the County to be utilized for public purpose. As discussed previously, the County will need to prepare a resolution to be approved and reviewed by our legal staff. A sample draft of an acceptable resolution is enclosed for your guidance in preparing the document.

The instrument of conveyance will be a Public Purpose Quitclaim Deed with a reverter clause stated within the deed. Should the use of the property be discontinued by the County, the County shall return ownership of the property back to the Department.

Also, the subject property is now being used as a public access road and serves as an access easement for the property owner to the south (see the attached Final Judgment). The conveyance and use of this property by the County should in no way hinder the property owner's use nor the general public's use.

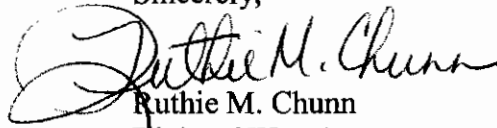
Page 1 of 2

Page 2 of 2
June 14, 2005
FM#: 2009411

Upon receipt and approval of the resolution, the Department will move forward with the conveyance of the subject parcel. I look forward to finalizing this transfer.

If you have any questions or concerns, please contact me at (863) 519-2442.

Sincerely,

A handwritten signature in black ink, appearing to read "Ruthie M. Chunn". The signature is fluid and cursive, with the first name being the most prominent.

Ruthie M. Chunn
Right of Way Agent
Property Management

RMC/jps
Enclosure

cc: C.D. Kintner, G.W. Strouse; File, Daily File

District One-Right of Way Department-Property Management
801 North Broadway Avenue*Post Office Box 1249*Bartow, FL 33831-1249
(863)519-2413*(863)534-7168(FAX)*MS 1-66

