

Lee County Board Of County Commissioners **Date Critical**
Agenda Item Summary **Blue Sheet No. 20060785**

1. ACTION REQUESTED/PURPOSE: Approve an exchange of real property interests under §125.37, F.S., on property located on the south side of Del Prado Extension/Mellow Drive, North Fort Myers, Florida; authorize the Chairwoman to sign all documents necessary to complete the exchange; and authorize the Office of the County Attorney to do those things necessary to complete the transaction.

2. WHAT ACTION ACCOMPLISHES: Authorizes an exchange of real property interests under §125.37, F.S., and authorizes the Chairwoman to sign and accept documents to complete the transaction.

3. MANAGEMENT RECOMMENDATION:

4. Departmental Category:

A12D

5. Meeting Date:

June 27, 2006

6. Agenda:

7. Requirement/Purpose: (specify)

8. Request Initiated:

<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Statute	125.37, F.S.
<input checked="" type="checkbox"/> Administrative	<input type="checkbox"/> Ordinance	
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code	
<input type="checkbox"/> Public	<input type="checkbox"/> Other	
<input type="checkbox"/> Walk-On		

Commissioner	
Department	County Attorney
Division	Land Use
By:	<i>John J. Fredyma</i>
	John J. Fredyma, Asst. Cty Atty

9. Background: Pursuant to §125.37, F.S., the County has received a request from the owners of the Crane Landing/Palermo Residential Planned Development site to exchange the County's interest in a drainage easement for replacement easements and property on other portions of the project site located on the south side of Del Prado Extension/Mellow Drive. The request comes from the property owner, CL Ventures, LLC.

The real property interests to be received by the County in the transaction will be used for public benefit as drainage and water management facilities and possible future development of a linear park (in the Greenway system).

The exchange of property interests is the entire consideration for this transaction. The property owner will be responsible for all costs of publication and (if approved) recording fees. No County funding is required for the exchange transaction.

The conveyance or release by the County will be by statutory deed. The proposed conveyance has been reviewed and approved by County staff in Natural Resources, the Department of Transportation, and Parks & Recreation.

Attachments: *Resolution Approving Exchange of Property - with Agreement for Exchange Pursuant to 125.37, F.S. & Covenant to Maintain Drainage Easement (including all legals and sketches)*

S:\L\U\J\F\J\F\BLUE\Blue Sheet - Palermo Exchange 125 37 (June 27).wpd

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
				<i>[Signature]</i>	Analyst <i>[Signature]</i>	Risk <i>[Signature]</i>	Grants <i>[Signature]</i>	Mgr. <i>[Signature]</i>	<i>[Signature]</i> 06-15-06

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

CO. ATTY.
FORWARDED
TO CO. ADMIN.
6/13/06 9AM

RECEIVED BY
COUNTY ADMIN: *[Signature]*
6/13/06 12:50 PM
COUNTY ADMIN
FORWARDED TO: *[Signature]*
[Signature]
9AM

RESOLUTION NO. 06 - _____
RESOLUTION APPROVING EXCHANGE OF PROPERTY

WHEREAS, Lee County, a political subdivision of the State of Florida (“*Lee County*”), is desirous of maintaining an interest in public utility easements; and

WHEREAS, CL Ventures, LLC, a Florida Limited Liability Company (“*CL Ventures*”), desires to relocate certain County drainage easements located on their property on the south side of Del Prado Extension/Mellow Drive in Sections 22 and 23, Township 43 South, Range 24 East, North Fort Myers, Lee County, Florida; and

WHEREAS, the parties have determined the relocation of certain drainage and water management easements will facilitate improved surface water management and facilities within the subject area; and

WHEREAS, the proposed exchange may also facilitate Lee County’s future development of a linear park or Greenway within a portion of the real property to be conveyed to Lee County in the subject exchange; and

WHEREAS, Lee County owns a real property interest in a drainage easement on the Crane Landing/Palermo Residential Planned Development (RPD) site on the south side of Del Prado Extension/Mellow Drive in Sections 22 and 23, Township 43 South, Range 24 East, North Fort Myers, Lee County, Florida; and

WHEREAS, CL Ventures and Lee County, in accordance with the terms of a document entitled “Agreement for Exchange Pursuant to §125.37, F.S., & Covenant to Maintain Drainage Facilities” a copy of which is attached hereto and incorporated herein (the “*Agreement*”), will exchange the real property interests identified and described in the attached Agreement; and

WHEREAS, each of the parties will exchange their respective interests in the real property described in the Agreement; and

WHEREAS, the Board believes it is in the best interest of the public to exchange the real property interests described herein.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, Florida, that, in consideration of the mutual covenants and commitments contained herein, the parties hereby agree to the following as the operative provision to effect a property exchange addressing each of the above referenced concerns:

The Board accepts the terms and conditions of the exchange of real property interests as set forth in the Agreement for Exchange Pursuant to §125.37, F.S., between the parties.

The Chairwoman, on behalf of the Board of County Commissioners, will execute the Agreement for Exchange Pursuant to §125.37, F.S. & Covenant to Maintain Drainage Facilities, and bind the County to act in accordance with the terms and conditions as set forth therein, with Lee County to convey by County Deed (statutory form) the real property interest described in Exhibit "A" of the Agreement to CL Ventures; in exchange for CL Ventures, as appropriate and required under the terms of the Agreement, conveying the real property interests described in Exhibit "B" and "C" of the Agreement to Lee County.

This exchange has been duly noticed and complies with Section 125.37, Florida Statutes (2006).

The foregoing resolution was offered by Commissioner _____ to move its adoption. The motion was seconded by Commissioner _____, and being put to a vote, the vote was as follows:

Robert P. Janes	_____
Douglas R. St. Cerny	_____
Ray Judah	_____
Tammara Hall	_____
John E. Albion	_____

Duly passed and adopted this _____ day of _____, 2006.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chairwoman

Approved as to form by:

John J. Fredyma
Assistant County Attorney
County Attorney's Office

Attachment: *Agreement for Exchange Pursuant to §125.37, F.S.
& Covenant to Maintain Drainage Facilities..*

This Instrument Prepared By:

Lee County Attorney's Office
P.O. Box 398
Fort Myers, Florida 33902

Strap Number: 23-43-24-00-00001.0000

THIS SPACE RESERVED FOR RECORDING

**AGREEMENT FOR EXCHANGE
PURSUANT TO §125.37, F.S.,
& COVENANT TO MAINTAIN DRAINAGE FACILITIES**

This Agreement for Exchange Pursuant to §125.37, F.S., & Covenant to Maintain Drainage Facilities ("*Agreement*") is made this ____ day of _____, 2006, by and between **CL VENTURES, LLC**, a Florida Limited Company, owner, whose address is 11934 Fairway Lakes Drive, Fort Myers, Florida 33913 ("*CL Ventures*") and **LEE COUNTY**, a political subdivision of the State of Florida, whose mailing address is Post Office Box 398, Fort Myers, Florida 33902-0398 ("*County*"), as follows:

1. **PURPOSE:** The purpose of this Agreement is to:
 - a. Facilitate the exchange of real property interests between the parties hereto relating to the development of a residential planned development, a flow-way; a linear park (or "Greenway"); and off-site stormwater and surface water drainage and other water management uses; and
 - b. To establish the obligation of CL Ventures to construct and maintain certain drainage facilities.

2. **CONSIDERATION:** For and in consideration of the promises and agreements of the parties hereto, and other good and valuable consideration, the receipt of which is hereby mutually acknowledged and accepted, the parties hereto agree to the terms and conditions of this Agreement.

3. AGREEMENT TO EXCHANGE: In consideration of this Agreement and subject to the terms and conditions set forth below, the parties agree to exchange the following parcels:
- a. County to CL Ventures: County will convey, by County Deed (statutory form), to CL Ventures all of its interest in the drainage easement legally described in attached Exhibit "A."
 - b. CL Ventures to County: CL Ventures will convey, by Warranty Deed, to County, fee title in the real property described in attached Exhibit "B."
 - c. CL Ventures to County: CL Ventures will convey, by Perpetual Stormwater and Drainage Easement Grant & Covenant to Maintain, to County, an easement for stormwater drainage and covenant for perpetual maintenance over the property legally described in attached Exhibit "C" and in the form as set forth in attached Exhibit "E."
4. CONDITION OF PROPERTY; RISK OF LOSS: The parties have inspected the property to be conveyed and agree to accept it as is, or as otherwise provided in this Agreement. Any loss or damage to the property to be conveyed occurring between the date this Agreement is executed and the closing date will be at the current property owner's sole risk and expense. In the event the property to be conveyed is damaged either or both parties may agree to accept the damaged property or cancel this Agreement without obligation.
5. EXCHANGE DOCUMENTS AND EXPENSES:
- a. It is CL Venture's responsibility to pay for and provide:
 - 1. All taxes or special assessments attributable to the property described in Exhibit "B" and "C," due and payable on or before the closing date.
 - 2. Recording fees for the documents necessary to effect the exchange.
 - 3. State documentary stamps for both documents.
 - 4. Advertising of the exchange pursuant to §125.37, F.S.
6. AGREEMENT TO CONSTRUCT AND COVENANT TO MAINTAIN CERTAIN DRAINAGE IMPROVEMENTS OR FACILITIES:
- a. As a condition of this exchange, CL Ventures agrees to construct and covenants to maintain in perpetuity certain drainage improvements within the drainage easement described in attached Exhibit "C." The easement area described in attached Exhibit "C" is contained within the Residential Planned Development known "Crane Landing," n/k/a "Palermo," and rezoned as DCI2003-00023 and Lee County Zoning Resolution No. Z-04-019, and described in attached Exhibit "D," and abuts the south side of Del Prado Extension/Mellow Drive.

- b. The improvements to be constructed by CL Ventures must include an unobstructed, grassed, open-channel conveyance facility with a minimum 15 foot bottom width and 3 (h) to 1 (v) side slopes. Any culvert crossing(s) are to consist of a minimum 2 – 38" x 60" ERCP or equivalent. The channel and culverts must have a maximum invert elevation of 16.0 feet N.G.V.D. and must extend from the easterly to westerly property boundary of the property described in attached Exhibit "C."
- c. CL Ventures agrees to include the improvements described in the above paragraphs in the first Development Order for the property described in attached Exhibit "D." CL Ventures has made an application with the County to permit development of the property described in attached Exhibit "D" as a residential planned development or project identified above as "Crane Landing," n/k/a "Palermo," under Lee County Development Order Number DOS2005-00244. CL Ventures further agrees to construct the improvements described in the above paragraphs within 180 days of the issuance of first Development Order for the residential planned development.
- d. CL Ventures is responsible for obtaining all required permits and approvals necessary to achieve compliance with applicable county, state and Federal regulations.
- e. CL Ventures also understands and agrees that the County's Division of Natural Resources will retain final development approval authority with respect to the development plans and the final inspection and approval of the above-described improvements required and agreed to be constructed.
- f. County will have the right, privilege, and authority to convey stormwater flows for that portion of the contributory watershed area north of Del Prado Extension (a/k/a Mellow Drive) and known as Yellow Fever Creek – East Branch, through the stormwater conveyance easement area described in attached Exhibit "C," together with the additional right, privilege and authority to install, remove, replace, repair, and modify appurtenances to said easement, provided that the work is completed in accordance with appropriate permits issued for construction, operation and maintenance. Lee County agrees to accept responsibility for the conveyance of stormwater flows from offsite, thru/across the project and offsite (downstream).
- g. CL Ventures will be responsible for the maintenance of the easement area located in the stormwater conveyance easement area described in attached Exhibit "C." County also has the right, but not the obligation of maintenance, and provisions for inspection, monitoring, and maintenance access. CL Ventures may only plant vegetation consisting of short grasses within the easement area.

- h. CL Ventures may not use the easement area for any utilities, signage, landscaping, fencing, walkways, trails, paths, or similar passive/active uses that would obstruct the cross sectional area, except for those utilities as shown on the development plans permitted by Lee County under Development Order Number DOS2005-00244 for the residential planned development or project identified as either Crane Landing or Palermo and located within the easement area, so long as they are secured and do not obstruct the cross sectional area.
 - i. CL Ventures, on behalf of itself, its successors or assigns, agrees to assume all liability for any damage or injury resulting while the improvements described above are being constructed; and further agrees to hold County harmless against any claim of injury, damage or loss as a result of the construction of the above-described improvements and as a result of the CL Venture's agreement to provide future maintenance of the constructed improvements as set forth herein and under the terms of the Perpetual Stormwater and Drainage Easement Grant & Covenant to Maintain Drainage Facilities in attached Exhibit "E."
 - j. CL Ventures understands and agrees that no impact fee credits will be issued for the construction of the above-described drainage improvements.
7. BINDING EFFECT: Execution of this document constitutes an agreement for the exchange of property binding upon the parties, their successors and assigns to the terms and conditions herein. It is understood and agreed that the terms and conditions of this Agreement will survive the closing and transfer of the real property interests that are the subject of this exchange.
8. DATE AND LOCATION OF CLOSING: The closing for this transaction may not take place before the statutory public notice for Resolution of Exchange has been published and the Lee County Board of County Commissioners ("*Board*") adopts a Resolution authorizing the exchange, thereafter:
- a. CL Ventures to must convey to County the real property interests described in attached Exhibits "B" and "C" within 30 days of the Board's approval of the exchange.
 - b. County will convey to CL Ventures the real property interest described in attached Exhibit "A" once Lee County Development Order Number DOS2005-00244 (containing the drainage improvements or facilities to be constructed by CL Ventures on the property described in attached Exhibit "C") has been approved and issued, or as otherwise may mutually agreed to by the parties.

9. CONFLICT OF LAWS: This Agreement will be construed in accordance with the laws of the State of Florida. The venue for any action arising from this Agreement lies in Lee County, Florida.
10. AUTHORITY OF THE CHAIRWOMAN: The County hereby authorizes its Chairwoman, or her designee, to accept and execute all documents on behalf of the County and to do all other things prudent and necessary to effectuate the terms of this Agreement and the exchange of real property interests contemplated herein.
11. ATTORNEY'S FEES: The prevailing party in any litigation concerning this Agreement is entitled to recover reasonable attorney's fees and costs.
12. AMENDMENT: OTHER AGREEMENTS: Any amendments to the provisions of the Agreement must be in writing, attached and incorporated into this document and signed or initialed by all parties. This Agreement represents the entire agreement between the parties.
13. RECORDING: Upon approval by the Board, this Agreement must be recorded in the Public Records of Lee County, Florida.

[End of provisions.]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals intending to be bound as of the date first written above.

CL Ventures, LLC
A Florida Limited Liability Company

By Beazer Homes Corporation,
A corporation authorized to do
business in the State of Florida,
Its Managing Member

[1st Witness' Signature]

[Type or print name]

[2nd Witness' Signature]

[Type or print name]

BY: _____
[Signature]

[Type or print name]

[Corporate Title]

STATE OF FLORIDA
COUNTY OF _____

The foregoing was acknowledged before me this ____ day of _____, 2006,
by _____, the _____ of Beazer Homes Corporation, a
corporation authorized to do business in the State of Florida and the managing member
of CL Ventures, LLC, a Florida Limited Liability Company, on behalf of the company.
He/she is personally known to me or provided _____ as
identification.

[Stamp or seal]

Notary Public

ATTEST:

CHARLIE GREEN, CLERK

By: _____
Deputy Clerk

**LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

By: _____
Chairwoman

APPROVED AS TO FORM:

By: _____
John J. Fredyma
Assistant County Attorney
Office of County Attorney

Banks Engineering

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTIONS 22 AND 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

(EASEMENT VACATION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTIONS 22 AND 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 23; THENCE S.00°12'52"E. ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23 FOR 140.00 FEET; THENCE N 89°59'56" E FOR 54.79 FEET TO THE **POINT OF BEGINNING** OF A PARCEL OF LAND HEARIN DESCRIBED; THENCE S 00°12'19" E FOR 119.87 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 1,045.00 FEET ; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°26'49" FOR 227.02 FEET ; THENCE S 12°39'08" E FOR 386.43 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1,155.00 FEET ; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°26'49" FOR 250.91 FEET ; THENCE S 00°12'19" E FOR 432.13 FEET; THENCE N 89°51'07" W FOR 54.57 FEET; THENCE S 00°12'52" E FOR 67.50 FEET; THENCE S 89°51'07" E FOR 2,940.91 FEET; THENCE N 11°11'14" W FOR 84.01 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 30.00 FEET AND TO WHICH POINT OF CURVE A RADIAL LINE BEARS S 59°32'50" E; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59°41'43" FOR 31.26 FEET ; THENCE N 89°51'07" W FOR 2,784.35 FEET; THENCE N 00°12'19" W FOR 432.50 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 1,215.00 FEET ; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°26'49" FOR 263.95 FEET ; THENCE N 12°39'08" W FOR 386.43 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 985.00 FEET ; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°26'49" FOR 213.98 FEET ; THENCE N 00°12'19" W FOR 89.55 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 30.00 FEET ; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°12'15" FOR 47.23 FEET ; THENCE S 89°59'56" W FOR 90.11 FEET TO **THE POINT OF BEGINNING**.

BEARINGS, DISTANCES, AND COORDINATES UNLESS OTHERWISE SHOWN ARE BASED ON "THE STATE PLANE COORDINATES SYSTEM" FLORIDA WEST ZONE 1983/90 ADJUSTMENT WHEREIN THE NORTH LINE OF THE NORTH WEST QUARTER OF SECTION 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST BEARS S. 89°59'56" W. THE HORIZONTAL COORDINATES WERE ESTABLISHED BY CLASSICAL GEODETIC METHODS AND ADJUSTED BY THE NATIONAL GEODETIC SURVEY IN MAY 1991. THE SURVEY MARK IS A SURVEY DISC SET IN TOP OF A CONCRETE MONUMENT. THE MARK DESIGNATION IS "A136". THE AVERAGE SCALE FACTOR IS 0.99994291.

SAID PARCEL CONTAINING 6.51 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED: 05-24-06

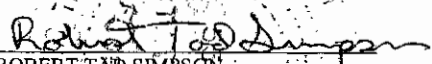

ROBERT TAD SIMPSON
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 5559

EXHIBIT "A" (Page 1 of 2)

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SKETCH OF DESCRIPTION

OF
A TRACT OR PARCEL OF LAND LYING IN
SECTIONS 22 AND 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA
(EASEMENT VACATION)

Banks Engineering

PROFESSIONAL ENGINEERS, LAND SURVEYORS & PLANNERS
FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690
10511 SIX MILE CYPRESS PARKWAY - SUITE 101
PORT MYERS, FLORIDA 33912
(888) 899-5490



1" = 600'

CURVE TABLE

CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	1048.00'	12°26'49"	227.02'	226.57'	N 06°25'44" W
C2	1155.00'	12°26'49"	250.91'	250.42'	S 06°25'44" E
C3	30.00'	59°41'43"	31.26'	29.86'	S 60°18'07" W
C4	1218.00'	12°26'49"	263.95'	263.43'	S 06°25'43" E
C5	995.00'	12°26'49"	213.98'	213.56'	N 05°25'44" W
C6	30.00'	90°12'15"	47.23'	42.50'	N 44°53'48" E

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 00°12'57" E	140.00'
L2	N 89°59'56" E	54.79'
L3	S 00°12'19" E	119.97'
L4	S 12°18'08" E	398.43'
L5	S 00°12'19" E	412.13'
L6	N 89°51'07" W	54.47'
L7	S 00°12'59" E	67.50'
L8	S 89°51'07" E	2940.91'
L9	N 11°11'14" W	84.01'
L10	N 89°51'07" W	2784.35'
L11	N 00°12'19" W	432.50'
L12	N 12°18'08" W	396.43'
L13	N 00°12'19" W	89.55'
L14	S 89°59'56" W	80.11'

LEGEND:

- O.R. INDICATES OFFICIAL RECORDS BOOK
- P.C. INDICATES PAGE
- P.I. INDICATES POINT OF INTERSECTION
- R/W INDICATES RIGHT-OF-WAY

NOTES:

- 1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.
- 2.) BEARINGS, DISTANCES, AND COORDINATES UNLESS OTHERWISE SHOWN ARE BASED ON "THE STATE PLANE COORDINATES SYSTEM" FLORIDA WEST ZONE 1983/90 ADJUSTMENT WHEREIN THE NORTH LINE OF THE NORTH WEST QUARTER OF SECTION 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST BEARS S. 89°59'56" W. THE HORIZONTAL COORDINATES WERE ESTABLISHED BY CLASSICAL GEODETIC METHODS AND ADJUSTED BY THE NATIONAL GEODETIC SURVEY IN MAY 1991. THE SURVEY MARK IS A SURVEY DISC SET IN TOP OF A CONCRETE MONUMENT. THE MARK DESIGNATION IS "A136". THE AVERAGE SCALE FACTOR IS 0.999994291.

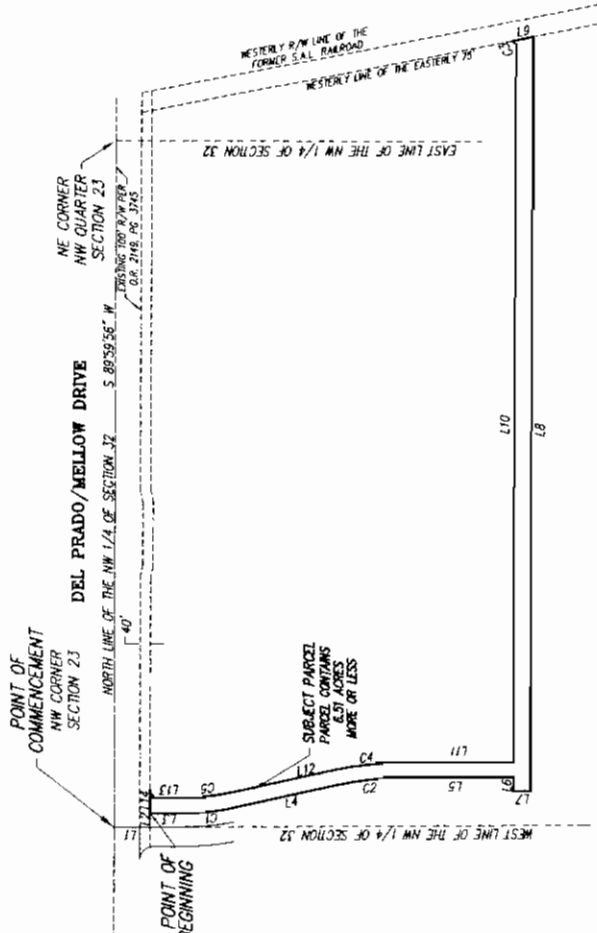
SEE SHEETS 1 FOR COMPLETE METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION IS NOT A BOUNDARY SURVEY

Robert J. Simpson
 ROBERT J. SIMPSON
 REGISTERED LAND SURVEYOR
 FLORIDA CERTIFICATION NO. 5559

THIS SKETCH OF DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

PREPARED 05-24-06
SHEET 2 OF 2



Banks Engineering

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

(EAST 75')

A TRACT OR PARCEL OF LAND LYING IN SECTION 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 23; THENCE RUN N.88°39'48"W. ALONG THE SOUTH LINE OF SAID SECTION 23 FOR 1401.90 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE FORMER SEABOARD AIRLINE RAILROAD, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUE N.88°39'48"W. ALONG SAID SOUTH LINE FOR 76.83 FEET; THENCE N. 11°11'14" W. PARALLEL WITH AND 75 FEET WESTERLY OF (AS MEASURED ON A PERPENDICULAR) SAID WESTERLY RIGHT-OF-WAY LINE FOR 5331.38 FEET; THENCE N.89°55'22"E. FOR 76.43 FEET TO AN INTERSECTION WITH SAID WESTERLY RIGHT-OF-WAY LINE; THENCE S.11°11'14"E. FOR 5333.31 FEET TO THE POINT OF BEGINNING.

BEARINGS, DISTANCES, AND COORDINATES UNLESS OTHERWISE SHOWN ARE BASED ON "THE STATE PLANE COORDINATES SYSTEM" FLORIDA WEST ZONE 1983/90 ADJUSTMENT WHEREIN THE WESTERLY RIGHT-OF-WAY LINE OF THE FORMER S.A.L. RAILROAD BEARS S. 11°11'14" E. THE HORIZONTAL COORDINATES WERE ESTABLISHED BY CLASSICAL GEODETIC METHODS AND ADJUSTED BY THE NATIONAL GEODETIC SURVEY IN MAY 1991. THE SURVEY MARK IS A SURVEY DISC SET IN TOP OF A CONCRETE MONUMENT. THE MARK DESIGNATION IS "A136". THE AVERAGE SCALE FACTOR IS 0.99994291.

PARCEL CONTAINS 9.18 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED: 06-01-06



THOMAS R. LEHNERT, JR., P.S.M.
FLORIDA CERTIFICATION NO. 5541

EXHIBIT "B"
(Page 1 of 2)

S:\Jobs\1960-31 SURVEYING DESCRIPTIONS 1960-E75 DESC.doc
S:\Jobs\1960-31 SURVEYING DESCRIPTIONS 1960-F75 DESC.dwg

SHEET 1 OF 2

SKETCH OF DESCRIPTION

OF

A TRACT OR PARCEL OF LAND LYING IN
SECTION 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA
(EAST 75')

Banka Engineering

PROFESSIONAL ENGINEERS, LAND SURVEYORS & PLANNERS
FLORIDA BUSINESS CERTIFICATION NUMBER JB 6690
10011 SIX MILE CYPRESS PARKWAY - SUITE 101
FORT MYERS, FLORIDA 33912
(239) 939-5400



1" = 300'



EXHIBIT "B"
(Page 2 of 2)

SEE SHEET 1 OF 2 FOR COMPLETE
METES AND BOUNDS DESCRIPTION.

**THIS SKETCH OF DESCRIPTION
IS NOT A BOUNDARY SURVEY**

Thomas R. Lehner
THOMAS R. LEHNER, JR. P.S.M.
FLORIDA CERTIFICATION NO. 5541

THIS SKETCH OF DESCRIPTION IS NOT VALID
WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

NOTES:

- 1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.
- 2.) BEARINGS, DISTANCES, AND COORDINATES UNLESS OTHERWISE SHOWN ARE BASED ON "THE STATE PLANE COORDINATES SYSTEM" FLORIDA WEST ZONE 1983/90 ADJUSTMENT WHEREIN THE WESTERLY RIGHT-OF-WAY LINE OF THE FORMER S.A.L. RAILROAD BEARS S. 11°11'14" E. THE HORIZONTAL COORDINATES WERE ESTABLISHED BY CLASSICAL GEODETIC METHODS AND ADJUSTED BY THE NATIONAL GEODETIC SURVEY IN MAY 1991. THE SURVEY MARK IS A SURVEY DISC SET IN TOP OF A CONCRETE MONUMENT. THE MARK DESIGNATION IS "A136" THE AVERAGE SCALE FACTOR IS 0.99994291.

LEGEND:

- O.R. INDICATES OFFICIAL RECORDS BOOK
- P.C. INDICATES PAGE
- P.I. INDICATES POINT OF INTERSECTION
- R/W INDICATES RIGHT-OF-WAY
- S.A.L. INDICATES SEABOARD AIRLINE

Banks Engineering

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTIONS 22 AND 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

(40' EASEMENT)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTIONS 22 AND 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 23; THENCE S.00°12'52"E. ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23 FOR 100.00 FEET TO THE POINT OF BEGINNING; THENCE N.89°57'35"W. FOR 124.78 FEET TO THE POINT OF CUSP OF A CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 78°27'47", A CHORD BEARING OF S.50°43'41"E. AND A CHORD LENGTH OF 63.25 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE FOR AN ARC LENGTH OF 68.47 FEET; THENCE S.89°57'35"E. FOR 75.80 FEET TO AN INTERSECTION WITH SAID WEST LINE; THENCE N.89°59'56"E. FOR 978.51 FEET; THENCE S.76°30'06"E. FOR 42.84 FEET; THENCE N.89°59'56"E. FOR 253.57 FEET; THENCE N.76°30'06"E. FOR 42.85 FEET; THENCE N.89°59'56"E. FOR 1356.41 FEET TO AN INTERSECTION WITH EAST LINE OF SAID NORTHWEST QUARTER; THENCE N.89°55'22"E. FOR 117.39 FEET; THENCE N.11°11'14"W. FOR 40.76 FEET; THENCE S.89°55'22"W. FOR 109.51 FEET TO AN INTERSECTION WITH SAID EAST LINE; THENCE S.89°59'56"W. FOR 1361.12 FEET; THENCE S.76°30'06"W. FOR 42.85 FEET; THENCE S.89°59'56"W. FOR 244.10 FEET; THENCE N.76°30'06"W. FOR 42.84 FEET; THENCE S.89°59'56"W. FOR 983.24 FEET TO THE POINT OF BEGINNING.

BEARINGS, DISTANCES, AND COORDINATES UNLESS OTHERWISE SHOWN ARE BASED ON "THE STATE PLANE COORDINATES SYSTEM" FLORIDA WEST ZONE 1983/90 ADJUSTMENT WHEREIN THE WEST LINE OF THE SOUTH WEST QUARTER OF SECTION 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST BEARS N. 00°02'44" E. THE HORIZONTAL COORDINATES WERE ESTABLISHED BY CLASSICAL GEODETIC METHODS AND ADJUSTED BY THE NATIONAL GEODETIC SURVEY IN MAY 1991. THE SURVEY MARK IS A SURVEY DISC SET IN TOP OF A CONCRETE MONUMENT. THE MARK DESIGNATION IS "A136". THE AVERAGE SCALE FACTOR IS 0.99994291.

PARCEL CONTAINS 2.64 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED: 06-08-06


ROBERT TAD SIMPSON
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 5559

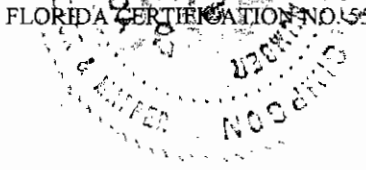


EXHIBIT "C"
(Page 1 of 2)

S. John 1967 1967 SUPPLYING DESCRIPTIONS 1967 40-EASE, DESCR. MFD. S. J. 1967
S. John 1967 1967 SUPPLYING DESCRIPTIONS 1967 40-EASE, DESCR. MFD. S. J. 1967

SHEET 1 OF 2

SKETCH OF DESCRIPTION

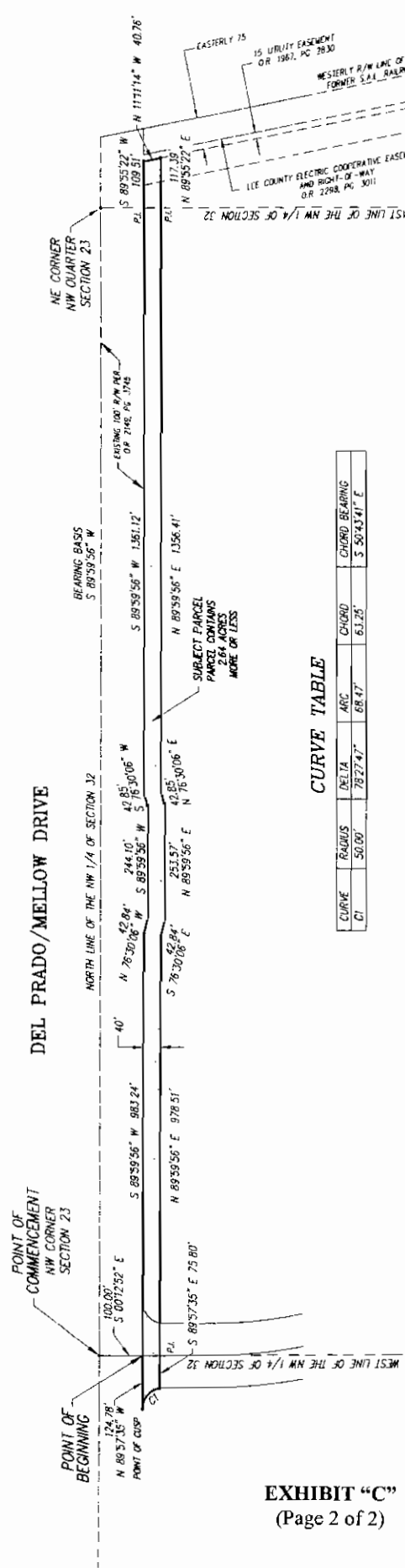
Banks Engineering

PROFESSIONAL ENGINEERS, LAND SURVEYORS & PLANNERS
 FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690
 10511 SIX MILE CYPRESS PARKWAY - SUITE 101
 FORT MYERS, FLORIDA 33912
 (239) 839-5490

OF
 A TRACT OR PARCEL OF LAND LYING IN
 SECTIONS 22 AND 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST,
 LEE COUNTY, FLORIDA
 (40' EASEMENT)



1" = 300'



CURVE TABLE

CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	50.00'	78°27'47"	68.47'	63.25'	S 50°43'41" E

NOTES:

- 1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.
- 2.) BEARINGS, DISTANCES, AND COORDINATES UNLESS OTHERWISE SHOWN ARE BASED ON "THE STATE PLANE COORDINATES SYSTEM" FLORIDA WEST ZONE 1983/90 ADJUSTMENT WHEREIN THE WEST LINE OF THE SOUTH WEST QUARTER OF SECTION 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST BEARS N. 00°02'44" E. THE HORIZONTAL COORDINATES WERE ESTABLISHED BY CLASSICAL GEODETIC METHODS AND ADJUSTED BY THE NATIONAL GEODETIC SURVEY IN MAY 1991. THE SURVEY MARK IS A SURVEY DISC SET IN TOP OF A CONCRETE MONUMENT. THE MARK DESIGNATION IS "A136". THE AVERAGE SCALE FACTOR IS 0.999994291.

LEGEND:

- O.R. INDICATES OFFICIAL RECORDS BOOK
- P.C. INDICATES PAGE
- P.I. INDICATES POINT OF INTERSECTION
- R/W INDICATES RIGHT-OF-WAY

SEE SHEETS 1 FOR COMPLETE METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION IS NOT A BOUNDARY SURVEY

Robert J. Spivey
 REGISTERED LAND SURVEYOR
 FLORIDA CERTIFICATION NO. 5559

THIS SKETCH OF DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

EXHIBIT "C"
 (Page 2 of 2)

EXHIBIT "D"
(Page 1 of 2)

DESCRIPTION:

A tract or parcel of land lying in Section 23, Township 43 South, Range 24 East, Lee County, Florida, described as follows:

Commencing at the Northwest corner of the aforesaid Section 23; thence run S.00°13'38"E. along the West line of said Section 23 for 100.00 feet to the South right-of-way line of Mellow Drive (100 feet wide per County right-of-way map for County Project # 4013) and the point of beginning; thence run N.89°59'07"E. (100 feet South of and parallel to the North line of the aforesaid Section 23) for 2671.98 feet; thence run N.89°54'44"E. for 110.03 feet to a point 75.00 feet West-erly of and parallel to the Westerly line of the former S.A.L. Railroad; thence run S.11°11'47"E. (75.00 feet West-erly of and parallel to the former S.A.L. Railroad) for 5331.57 feet to a point on the South line of the aforesaid Section 23; thence run N.88°39'56"W. along the South line of said Section 23 for 1149.28 feet to the Southwest corner of the Southeast Quarter (S.E.1/4) of said Section 23; thence run S.89°49'54"W. along the South line of said Section 23 for 634.40 feet to the East right-of-way line of Garden Street (60.00 feet wide); thence run N.00°01'02"E. along said East right-of-way line for 568.00 feet; thence run S.89°49'54"W. for 505.00 feet; thence run S.00°01'02"W. for 568.00 feet to the South line of the aforesaid Section 23; thence run S.89°49'54"W. along the South line of said Section 23 for 1519.91 feet to the Southwest corner of said Section 23; thence run N.00°01'31"E. along the West line of said Section 23 for 2650.26 feet to a point of curvature; thence run Northeasterly for 122.07 feet along the arc of a curve concave Southeasterly, with a radius of 1175.00 feet, a delta of 05°57'08", a chord bearing of N.03°00'16"E. and a chord distance of 122.01 feet to a point of tangency; thence run N.05°58'50"E. for 435.69 feet to a point of curvature; thence run Northeasterly for 111.05 feet along the arc of a curve concave Northwesterly, with a radius of 1025.00 feet, a delta of 06°12'28", a chord bearing of N.02°52'36"E. and a chord distance of 111.00 feet to a point of tangency; thence run N.00°13'38"W. for 882.73 feet to a point of curvature; thence run Northwesterly for 222.67 feet along the arc of a curve concave Southwesterly, with a radius of 1025.00 feet, a delta of 12°26'49", a chord bearing of N.06°27'02"W. and a chord distance of 222.23 feet to a point of tangency; thence run N.12°40'27"W. for 386.43 feet to a point of curvature; thence run Northwesterly for 255.26 feet along the arc of a curve concave Northeasterly, with a radius of 1175.00 feet, a delta of 12°26'49", a chord bearing of N.06°27'02"W. and a chord distance of 254.76 feet to a point of tangency; thence run N.00°13'38"W. for 160.33 feet to the South right-of-way line of the aforesaid Mellow Drive; thence run S.89°58'21"E. along the South line of said Mellow Drive for 75.00 feet to the point of beginning.

Said tract contains 385.697 acres, more or less and is subject to easements, restrictions and reservations of record.

Bearings are based on the West line of the Northwest Quarter (N.W.1/4) of the aforesaid Section 23 as being N.00°13'38"W.

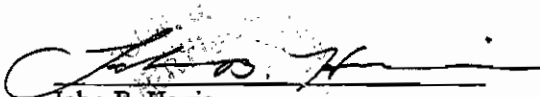

John B. Harris
P.S.M. #4631
October 13, 2003

EXHIBIT "D"
(Page 2 of 2)

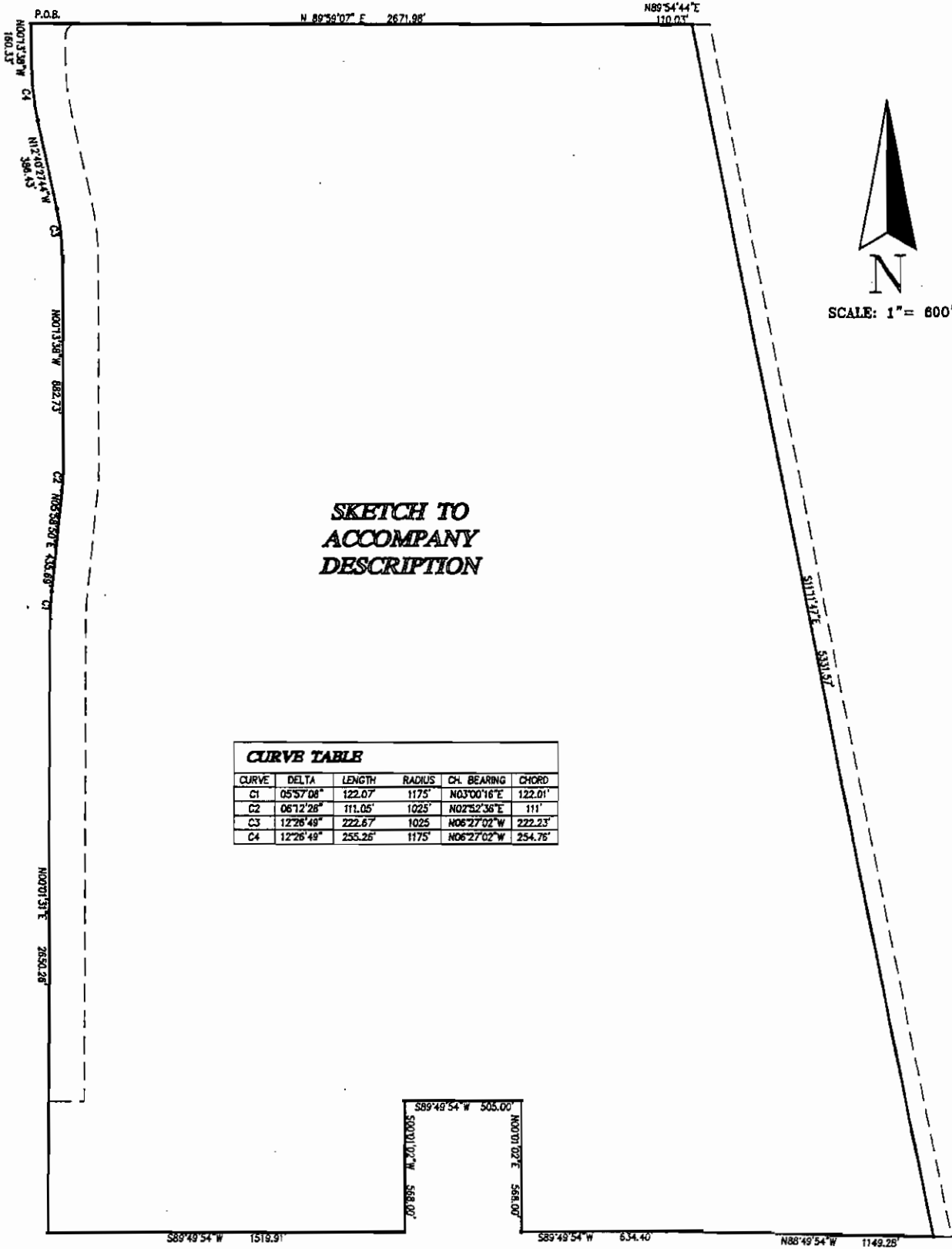


EXHIBIT "E"

(Page 1 of 4)

This Instrument Prepared By:

Lee County Natural Resources.
P.O. Box 398
Fort Myers, Florida 33902

Strap Number: 23-43-24-00-00001.0000

THIS SPACE RESERVED FOR RECORDING

**PERPETUAL STORMWATER AND
DRAINAGE EASEMENT GRANT
& COVENANT TO MAINTAIN DRAINAGE FACILITIES**

This Perpetual Stormwater and Drainage Easement Grant & Covenant to Maintain Drainage Facilities ("*Easement*") is given this _____ day of _____, 2006, by **CL VENTURES, LLC**, a Florida Limited Liability Company ("*Grantor*"), and whose mailing address is 11934 Fairway Lakes Drive, Fort Myers, Florida 33913; in favor of **LEE COUNTY**, a political subdivision of the State of Florida, whose mailing address is Post Office Box 398, Fort Myers, Florida 33902-0398 ("*Grantee*"), as follows:

WITNESSETH:

1. For and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged and accepted, GRANTOR hereby grants, bargains, sells and transfers to the GRANTEE, its successors and assigns, a perpetual stormwater and drainage easement situated in Lee County, Florida, located and described as set forth in Exhibit "A", attached hereto and made a part hereof.

2. Grantee will have the right, privilege, and authority to convey stormwater flows for that portion of the contributory watershed area north of Del Prado Extension (a/k/a Mellow Drive) and known as Yellow Fever Creek – East Branch, through the stormwater conveyance easement area described in attached Exhibit "A," together with the additional right, privilege and authority to install, remove, replace, repair, and modify appurtenances to said easement, provided that the work is completed in accordance with appropriate permits issued for construction, operation and maintenance. Lee County agrees to accept the responsibility for the conveyance of stormwater flows from offsite, thru/across the project and offsite (downstream).

3. Grantor covenants with Grantee that the Grantor will be responsible for the maintenance of the easement area. The Grantee further has the right, but not the obligation of maintenance, and provisions for inspection, monitoring, and maintenance access. The Grantor may only plant vegetation consisting of short grasses within the easement area.

4. Grantor may not use the easement area for any utilities, signage, landscaping, fencing, walkways, trails, paths, or similar passive/active uses that would obstruct the cross sectional area, except for those utilities as shown on the development plans permitted by Lee County under Development Order Number DOS2005-00244 for the residential planned development or project identified as either "Crane Landing" or "Palermo" (rezoned as DCI2003-00023 and Lee County Zoning Resolution No. Z-04-019) and located within the easement area, so long as they are secured and do not obstruct the cross sectional area.

5. Grantor warrants that subject to any existing public roadway or utility easements, Grantor is lawfully seized and possessed of the real property described in attached Exhibit "A," and has good and lawful right and power to sell and convey the property, and that the said property is free from any and all liens and encumbrances, except as herein stated, and accordingly, Grantor will forever defend the right, title and terms of this said Easement and the quiet possession thereof by Grantee against all claims and demands of all other entities.

6. Title to any appurtenances or modifications constructed by the Grantor for the benefit of the Grantee or by the Grantee in the easement area will remain with the Grantee, its successors or assigns.

7. This easement runs with the land and the terms and conditions herein will be binding on the parties herein, their successors and assigns.

[End of provisions.]

EXHIBIT "E"

(Page 3 of 4)

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

CL Ventures, LLC
By Beazer Homes Corp.
(or U.S. Home Corporation)
Its Managing Member

[1st Witness' Signature]

[Type or print name]

[2nd Witness' Signature]

[Type or print name]

BY: _____
[Signature]

[Type or print name]

[Corporate Title]

STATE OF FLORIDA
COUNTY OF _____

The foregoing was acknowledged before me this _____ day of _____, 2006, by _____, as the _____, of Beazer Homes Corp./U.S. Home Corporation, the Managing Member of CL Ventures, LLC, a Florida Limited Liability Company, on behalf of the company. He/she is personally known to me or provided _____ as identification.

[Stamp or seal]

Notary Public

EXHIBIT "E"

(Page 4 of 4)

Approved and accepted for and on behalf of Lee County, Florida, this ____ day
of _____, 20____.

ATTEST:

CHARLIE GREEN, CLERK

By: _____
Deputy Clerk

**LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

By: _____
Chairwoman

APPROVED AS TO FORM:

By: _____
John J. Fredyma
Assistant County Attorney
Office of the County Attorney