

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

Blue Sheet No. 20060792

- 1. ACTION REQUESTED/PURPOSE:** Approve and execute Grant of Easement to North Fort Myers Utilities, Inc. (NFMU) for placement of a new re-use/force main into a twenty foot (20') wide strip of Lee County property located in North Fort Myers.
- 2. WHAT ACTION ACCOMPLISHES:** Grants an easement for utility purposes to NFMU.
- 3. MANAGEMENT RECOMMENDATION:** Approval and execution of Grant of Easement.

4. Departmental Category: 12 **A 12E** **5. Meeting Date:** **June 27, 2006**

6. Agenda: <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify) <input checked="" type="checkbox"/> Statute <u>125.01</u> <input type="checkbox"/> Ordinance _____ <input type="checkbox"/> Admin. Code _____ <input type="checkbox"/> Other _____	8. Request Initiated: Commissioner _____ Department <u>County Attorney</u> Division <u>General Services</u> By: <u>Scott S. Covert</u> Scott S. Covert Assistant County Attorney
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9. Background:

On June 21, 2002, Lee County acquired, by condemnation, a one-hundred foot (100') parcel of land running north from Del Prado Boulevard Extension to the Charlotte County line. This strip of land was formerly known as the Seaboard Air Line Railroad. Lee County Utilities and Natural Resources paid \$442,080 for the property. Lee County Utilities is using the center of one-hundred foot (100') parcel of land for a water transmission line and Natural Resources is using the eastern portion of the property as a storm water flow way.

As part of an expansion to its wastewater utility system, NFMU desires to extend a reuse line through the subject property owned by the County and requested a utility easement from Lee County. The proposed twenty foot (20') wide easement will be located on the western portion of the former Seaboard Air Line Railroad and will extend from Del Prado Boulevard to Nalle Grade Road.

County Lands has established a value of two-hundred thousand (\$200,000) for the easement, and NFMU has agreed to pay this amount.

Affected County departments have provided their input for the easement document text and construction methodology. Lee County Utilities is requesting appropriate amount of sale proceeds be credited to their account.

Attachment: Grant of Easement with Exhibit

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services			County Manager/P.W. Director
				<u>5/12/06</u>	Analyst <u>GA</u>	Risk <u>WMP 6-14-06</u>	Grants <u>6/3/06</u>	<u>6-15-06</u>

11. Commission Action:

Approved
 Deferred
 Denied
 Other

RECEIVED BY
 COUNTY ADMIN:
6/12/06 3pm MP

CO. ATTY.
 FORWARDED TO:
Adm. 6/12/06
76

COUNTY ADMIN
 FORWARDED TO:
6/15/06
gmm

This Instrument Prepared By:
Lee County Attorney's Office
P.O. Box 398
Fort Myers, Florida 33902

THIS SPACE RESERVED FOR RECORDING

GRANT OF EASEMENT

THIS GRANT OF EASEMENT is made and entered into this 27th day of **June, 2006**, by and between LEE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "GRANTOR", whose address is Post Office Box 398, Fort Myers, Florida 33902, and NORTH FORT MYERS UTILITY, INC., a Florida Corporation, hereinafter referred to as "GRANTEE", whose address is Post Office Box 2547, Fort Myers, Florida 33902.

WITNESSETH:

1. For and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, paid to and received by GRANTOR on or before the execution of this instrument, the receipt and sufficiency of which is hereby acknowledged, GRANTOR has granted, and by these presents does grant unto GRANTEE, its successors and assigns forever for the purpose hereinafter stated the easement situated and being in Lee County, Florida, hereinafter referred to as "Property", located and described as set forth in Exhibit "A", attached hereto and made a part hereof.

2. GRANTOR hereby permanently grants, sets over, conveys and delivers to GRANTEE, its successors and assigns the right, privilege and easement to construct, reconstruct, lay, install, operate, maintain, relocate, repair, replace, improve, remove and inspect wastewater lines and all appurtenances thereto and all appurtenant equipment in, under, upon, over and across the Property with full right of ingress and egress through the Property for the accomplishment of the foregoing rights. The utility lines provided for under this easement must be placed with the top of pipe no higher than 15.0 NGVD for that portion north of the 20 foot east-west crossing and placed with the top of pipe no higher than 13.0 NGVD for that portion south of the 20 foot east-west crossing. The elevations of the ground surface above said utility lines must remain at the surrounding natural ground elevations.

3. The Grant of Easement to GRANTEE shall be an encumbrance running with the Property and shall be binding upon the successors and assigns of GRANTOR, and all purchasers of the Property and all those persons or entities acquiring right, title or interest in the Property by, through or under GRANTOR.

4. GRANTEE, by acceptance of the Grant of Easement, agrees that all easements and grants herein to be utilized in accordance with generally accepted practices of the wastewater industry and all rules, regulations, ordinances, and laws established by governmental authorities having jurisdiction over such matters.

5. GRANTOR, for itself, its mortgagees, successors and assigns, and for all persons claiming by, through or under GRANTOR, specifically reserve the right of ingress and egress over the Property, including the right to pave the Property, use the same as a parking area, and place improvements thereon, including but not limited to roadways, driveways, sidewalks, underground conduits, pipes, mains, cables, wires and other structures, together with other reasonable rights of use, provided same do not materially and adversely affect the operation of the wastewater facilities and all appurtenances thereto, located with the Property. The utility lines will be designed and installed so as to be safe and secure considering the placement of an open channel/water stormwater facility(ies) with a bottom elevation no lower than 15.0 NGVD within that area south of the 20 foot east-west crossing.

6. GRANTEE, by acceptance of this Grant of Easement, covenants that in the event GRANTEE or GRANTEE's agents, employees, licensees, contractors, invitees, or guests, enters upon the Property which results in damage to any improvements, pavement, turf, sod, shrubbery or plants within the Property, GRANTEE, its successors or assigns, shall restore the Property or such improvements in at least as good condition prior to said permitted activities.

7. Should the wastewater reuse line constructed by GRANTEE within the Property need to be relocated as a result of construction required by GRANTOR, such relocation shall be at GRANTEE's sole expense. If such relocation should occur, then GRANTOR shall provide GRANTEE, at no cost to GRANTEE, a substitute easement within which GRANTEE could relocate the wastewater line.

8. In the event of any litigation arising between the Parties out of this Agreement, the prevailing Party shall be entitled to attorney's fees and costs.

9. The foregoing Grant of Easement shall be for such period of time as GRANTEE, its successors and assigns, requires such rights, privileges and easements to provide wastewater service to the public. Should GRANTEE cease to use the Property for wastewater lines and appurtenant facilities, then this Easement shall revert to GRANTOR.

10. This Easement conveys only the interest of the County and its Board of County Commissioners in the Property herein described, and does not warrant the title or represent any state of facts concerning the title.

(End of Provisions)

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

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Secretary

BY: _____
Tammara Hall, Chairwoman

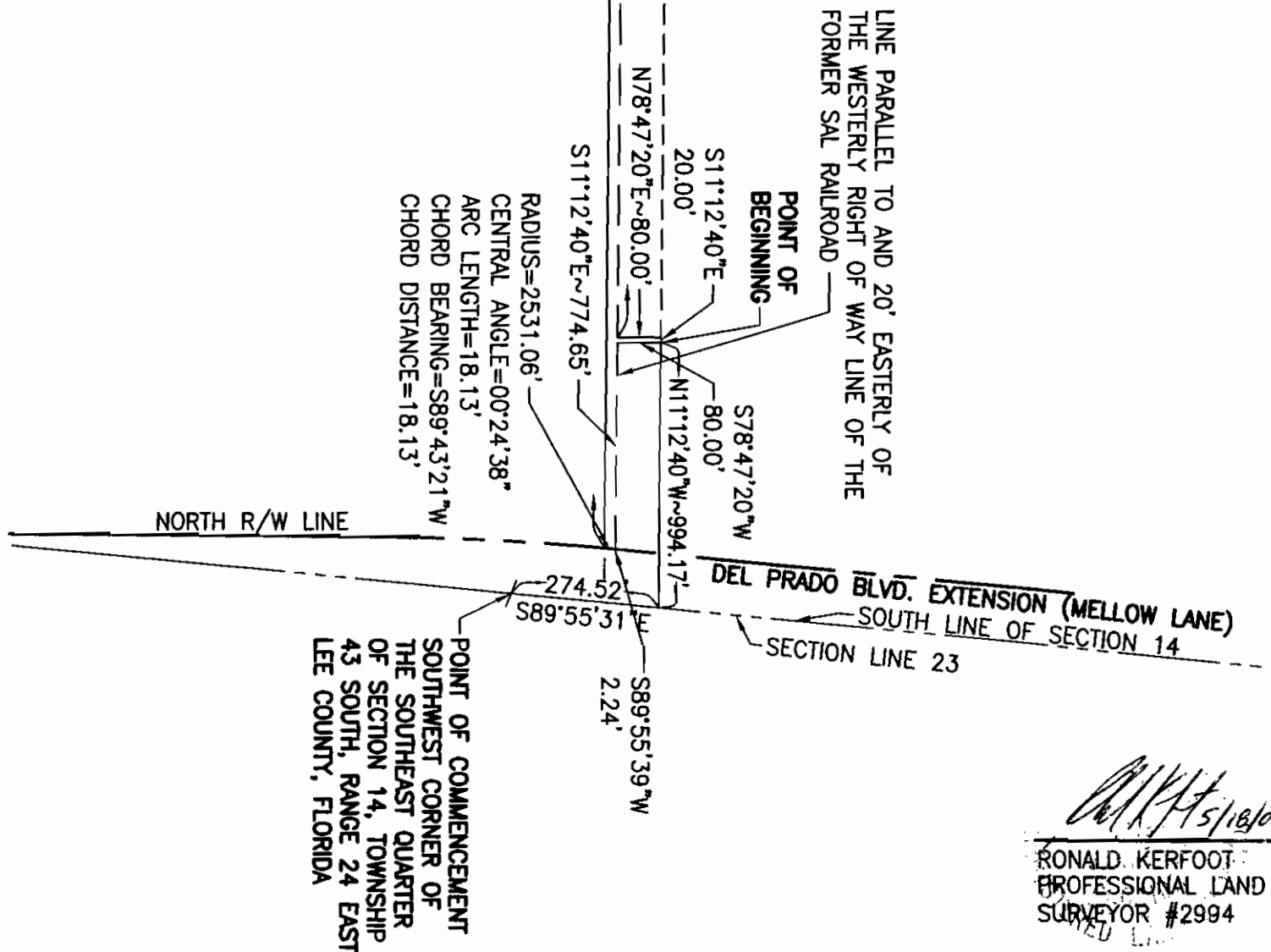
APPROVED AS TO FORM:

BY: _____
Office of the County Attorney



NOTES:

1. THIS IS NOT A SURVEY.
2. THIS DOCUMENT IS NOT VALID WITHOUT THE SIGNERS EMBOSSED SEAL.
3. BEARINGS ARE BASED ON THE SOUTH LINE OF SECTION 14, TOWNSHIP 43 SOUTH, RANGE 25 EAST, BEING S89°55'31"E.
4. O.R. INDICATES OFFICIAL RECORD.
5. R/W INDICATES RIGHT OF WAY.



Ronald Kerfoot 5/18/06
 RONALD KERFOOT
 PROFESSIONAL LAND
 SURVEYOR #2994

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MATCH LINE SEE SHEET 3 OF 4



S11°12'40"E 8593.11'
 N11°12'40"W 9387.87'

LINE PARALLEL TO AND 20' EASTERLY OF THE WESTERLY RIGHT OF WAY LINE OF THE FORMER SAL RAILROAD

WESTERLY LINE OF FORMER SAL RAILROAD RIGHT OF WAY


 RONALD KERFOOT
 PROFESSIONAL LAND SURVEYOR #2994

SEE SHEET 1 OF 4

JRI Engineering, Inc.

Planning Engineering Surveying Aerial Photography & Photogrammetry Services

2328 Hancock Bridge Parkway, Suite. 114, Cape Coral, Florida 33990
 Phone: 239.458.5544 Fax: 239.458.2233 www.jriengineeringinc.com
 Surveying Business Certificate of Authorization No. 6673

FORCEMAIN/RE-USE MAIN EXTENSION TO HERONS GLEN

SKETCH OF NORTH FORT MYERS UTILITY, INC. EASEMENT

SCALE: 1"=300'

BY: RK

DATE: 5-16-06

SHEET No. 2 OF 4

NALLE GRADE ROAD EXTENSION
O.R. BOOK 881, PAGE 183

S89°58'03"E
20.39'



NORTH R/W LINE

20' EASEMENT

100' FORMER SAL RAILROAD RIGHT OF WAY

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SKETCH OF NORTH FORT MYERS UTILITY, INC.
 EASEMENT

SCALE: 1"=300'

BY: RK

DATE: 5-16-06

SHEET No. 3 OF 4

DESCRIPTION:

A 20.00 FEET WIDE UTILITY EASEMENT OVER, UNDER AND ACROSS THE PARCEL DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; THENCE S89°55'31"E ALONG THE SOUTH LINE OF SAID SECTION 14 FOR A DISTANCE OF 274.52 FEET TO THE EASTERLY LINE OF THE FORMER SAL RAILROAD RIGHT OF WAY; THENCE N11°12'40"W ALONG SAID EASTERLY RIGHT OF WAY LINE FOR A DISTANCE OF 994.17 FEET TO THE POINT OF BEGINNING; THENCE S78°47'20"W FOR A DISTANCE OF 80.00 FEET; THENCE S11°12'40"E ALONG A LINE PARALLEL TO AND 20.00 FEET EASTERLY OF THE WESTERLY RIGHT OF WAY LINE OF SAID FORMER RAILROAD FOR A DISTANCE OF 774.65 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF DEL PRADO BLVD. EXTENSION; THENCE S89°55'39"W ALONG SAID NORTHERLY RIGHT OF WAY LINE FOR A DISTANCE OF 2.24 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING THE FOLLOWING ELEMENTS: A RADIUS OF 2531.06 FEET, A CENTRAL ANGLE OF 00°24'38", A CHORD BEARING AND DISTANCE OF S89°43'21"W AND 18.13 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 18.13 FEET; THENCE N11°12'40"W ALONG THE WESTERLY RIGHT OF WAY LINE OF SAID FORMER RAILROAD FOR A DISTANCE OF 9387.87 FEET TO THE NORTH RIGHT OF WAY LINE OF NALLE GRADE ROAD EXTENSION, OFFICIAL RECORD BOOK 881, PAGE 183; THENCE S89°58'03"E FOR A DISTANCE OF 20.39 FEET; THENCE S11°12'40"E ALONG A LINE PARALLEL TO AND 20.00 FEET EASTERLY OF THE SAID WESTERLY RIGHT OF WAY LINE OF THE FORMER SAL RAILROAD FOR A DISTANCE OF 8593.11 FEET; THENCE N78°47'20"E FOR A DISTANCE OF 80.00 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF THE FORMER SAL RAILROAD; THENCE ALONG THE SAID EASTERLY RIGHT OF WAY LINE S11°12'40"E FOR A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 4.35 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF SECTION 14, TOWNSHIP 43 SOUTH, RANGE 25 EAST, BEING S89°55'31"E.

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

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FORCEMAIN/RE-USE MAIN EXTENSION TO HERONS GLEN

DESCRIPTION OF NORTH FORT MYERS UTILITY, INC. EASEMENT

SCALE: NTS

BY: RK

DATE: 5-16-06

SHEET No. 4 OF 4