

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

**Blue Sheet No. 20060777**

**1. ACTION REQUESTED/PURPOSE:** Approve the Airspace Agreement with the Florida Department of Transportation for Estero Parkway. Also approve authorizing resolution for Chairwoman to execute the agreement.

**2. WHAT ACTION ACCOMPLISHES:** Allows County to proceed with the construction of Estero Parkway.

**3. MANAGEMENT RECOMMENDATION:** Approve agreement

<b>4. Departmental Category:</b> 09 <span style="font-size: 1.5em; margin-left: 50px;">C9H</span>		<b>5. Meeting Date:</b> 6-27-2006
<b>6. Agenda:</b> <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	<b>7. Requirement/Purpose: (specify)</b>	
	<input type="checkbox"/> Statute	
	<input type="checkbox"/> Ordinance	
	<input type="checkbox"/> Admin. Code	
	<input type="checkbox"/> Other	
		<b>8. Request Initiated:</b> Commissioner Department <u>TRANSPORTATION</u> Division By: <u>Scott M. Gilbertson, PE</u>

**9. Background:**

This agreement provides the county with a 99 year lease of airspace for the construction of the Estero Parkway overpass over SR 93 (I-75).

**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.	
<i>SMG</i> S. Gilbertson Date 6/13/06	N/A 6/13	N/A		<i>OS</i> 6/14/06	<i>2h</i> 6/14/06	<i>NOF</i> 6-14-06	<i>6/14/06</i>	<i>6/14/06</i>	<i>J. Lavender</i> Date 6/14/06

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

Rec. by CoAtty

Date 6/14/06

Time 10:25AM

Forwarded To:  
1:30pm  
6/14/06

RECEIVED BY  
COUNTY ADMIN:  
6-14-06 2:05

COUNTY ADMIN  
FORWARDED TO:  
6/14/06

**AIRSPACE AGREEMENT**

ITEM/SEGMENT NO.: \_\_\_\_\_  
 MANAGING DISTRICT: One  
 F.A.P. NO.: \_\_\_\_\_  
 STATE ROAD NO.: 93 (I-75)  
 COUNTY.: Lee  
 PARCEL NO.: \_\_\_\_\_

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2006, between  
 LEE COUNTY, a political\* \_\_\_\_\_ at Post Office Box 398, Fort Myers, Florida 33902-0398  
 (Lessee) and the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (Department), an agency  
 of the State of Florida (State). \*subdivision of the State of Florida

**WITNESSETH:**

**WHEREAS**, the Department may convey a leasehold in the name of the State, in any land, buildings, or other property, real or personal, acquired under Section 337.25, Florida Statutes; and

**WHEREAS**, the United States Department of Transportation, Federal Highway Administration (FHWA), requires any use of airspace above, and/or below the highway's established gradeline, lying within the approved right of way limits on a Federal Aid System, to be accomplished pursuant to an airspace agreement in accordance with 23 CFR, Part 710, and

**WHEREAS**, the Department has acquired sufficient legal right, title, and interest in the right of way of \_\_\_\_\_  
State Road 93 (I-75) which includes the property described in Exhibit "A" attached hereto and made a part hereof, which right of way is part of a highway on a Federal Aid System; and

**WHEREAS**, the Department desires to lease to Lessee the airspace above or below gradeline of the property described in Exhibit "A", attached and made a part hereof for the following purpose: Construction and maintenance of a  
four-lane vehicular bridge over and across the State Road 93 (I-75) corridor for the extension of  
Estero Parkway in Lee County, Florida.

**WHEREAS**, the proposed use will not impair the full use and safety of the highway, require or permit vehicular access to such space directly from the established gradeline of said highway, or interfere with the free flow of traffic on said highway.

**NOW, THEREFORE**, in consideration of the premises made a part hereof, and the covenants, promises, understandings, and agreements made by each party to the other as set forth herein, the Department and the Lessee do hereby mutually agree as follows:

**1. Premises**

The premises hereto are true and correct and form an integral part of this Agreement.

**2. Term**

The Department does hereby lease unto Lessee the airspace above or below gradeline of the property for a period of ninety-nine years beginning with the date of this Agreement. One renewal of this Agreement may be made for ninety-nine years. However, except for a public purpose conveyance, such renewal may not exceed five years. Nothing herein shall be construed to in any way grant an interest in the property lying below said airspace.

3. Rent

a. Lessee shall pay to the Department as rent each  month  quarter  year on or before the first day of each rent payment period, N/A plus applicable sales tax. When this Agreement is terminated, any unearned rent and sales tax payment shall be refunded to Lessee. However, no such refund shall be made where termination is due to Lessee's

b. The Department reserves the right to review and adjust the rental fee biennially and at renewal to reflect market conditions.

c. All rental payments are to be made by check or money order, payable to the State of Florida Department of Transportation and delivered on or before the due date to: N/A

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d. Lessee shall be responsible for all state, county, city, and local taxes that may be assessed, including real property taxes and special assessments. In the event that no rent is specified herein, then it has been determined that either the use by Lessee is a nonproprietary use by a governmental agency or an exception from the current fair market rental value requirement (23 U.S.C. Section 156) has been obtained for social, environmental, or economic mitigation (SEE) purposes. In the event that it should be determined at any time that the use is not a nonproprietary use by a governmental agency or that the SEE exception does not apply or has been revoked, Lessee agrees to pay, at that time, rent as determined to be the fair market rental value by an independent appraiser certified by the Department, and Lessee further agrees to pay such rent, under the remaining terms and conditions of this Paragraph 3, for the remaining term (including renewals) of this Agreement.

e. Any installment of rent not received within ten (10) days after the due date shall bear interest at the highest rate allowed by law from the due date thereof. This provision shall not obligate the Department to accept late rent payments or provide Lessee a grace period.

4. Use, Occupancy, and Maintenance

a. The Lessee shall be responsible for developing and operating the airspace as set forth herein.

b. The Lessee's proposed use of the airspace is as follows: Construction and maintenance of a four-lane vehicular bridge for the extension of Estero Parkway.

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c. The general design for the use of the airspace, including any facilities to be constructed, and the maps, plans, and sketches setting out the pertinent features of the use of the airspace in relation to the highway facility are set forth in composite Exhibit "B" attached hereto and by this reference made a part hereof. In addition, said composite Exhibit "B" also contains a three-dimensional description of the space to be used, unless the use is of a surface area beneath an elevated highway structure or adjacent to a highway roadway for recreation, public park, beautification, parking of motor vehicles, public mass transit facilities, or other similar uses, in which case, a metes and bounds description of the surface area, together with appropriate plans or cross sections clearly defining the vertical use limits, may be substituted for said three-dimensional description in said composite Exhibit "B".

d. Any change in the authorized use of the airspace or revision in the design or construction of the facility described in Exhibit "B" shall require prior written approval from the appropriate District Secretary of the Department, subject to concurrence by the FHWA.

e. The Department, through its duly authorized representatives, employees, and contractors, and any authorized FHWA representative, may enter the facility at any time for the purpose of inspection, maintenance, or reconstruction of the highway and adjacent facilities, when necessary; or for the purpose of surveying, drilling, monitoring well installations, sampling, remediation, and any other action which is reasonable and necessary to conduct an environmental assessment or to abate an environmental hazard.

f. Lessee, at Lessee's sole cost and expense, shall maintain the facility to occupy the airspace so as to assure that the structures and the area within the highway right of way boundaries will be kept in good condition, both as to safety and appearance. Such maintenance will be accomplished in a manner so as to cause no unreasonable interference with the highway use. In the event that Lessee fails to so maintain the facility, the Department, through its duly authorized representatives, employees, and contractors, may enter the facility to perform such work, and the cost thereof shall be chargeable to the Lessee and shall be immediately due and payable to the Department upon the performance of such work.

g. Portable or temporary advertising signs are prohibited.

h. The design, occupancy, and use of the airspace shall not adversely affect the use, safety, appearance, or enjoyment of the highway by smoke, fumes, vapors, odors, droppings, or any other objectionable discharges or emissions, or nuisances of any kind therefrom.

i. When, for the proposed use of the airspace, the highway requires additional highway facilities for the proper operation and maintenance of the highway, such facilities shall be provided by the Lessee without cost to either the Department or the FHWA and subject to both Department and FHWA approval.

j. The proposed use shall not cause or allow any changes in the existing drainage on the property under the airspace.

k. Lessee shall not occupy, use, permit, or suffer the airspace, the property, the facility, or any part thereof to be occupied or used for any illegal business use or purpose, for the manufacture or storage of flammable, explosive, or hazardous material, or any other hazardous activity, or in such manner as to constitute a nuisance of any kind, nor for any purpose or in any way in violation of any present or future federal, state, or local laws, orders, directions, ordinances, or regulations.

l. Any activities in any way involving hazardous materials or substances of any kind whatsoever, either as those terms may be defined under any state or federal laws or regulations, or as those terms are understood in common usage, are specifically prohibited. The use of petroleum products, pollutants, and other hazardous materials affecting the property is prohibited. Lessee shall be held responsible for the performance of and payment for any environmental remediation that may be necessary, as determined by the Department. Similarly, if any contamination either spread to or was released onto adjoining property as a result of Lessee's use of the airspace under lease, the Lessee shall be held similarly responsible. The Lessee shall indemnify, defend, and hold harmless the Department from any claim, loss, damage, cost, charge, or expense arising out of any such contamination.

m. Existing utilities and all corresponding easements shall remain in place and Lessee shall not disturb or interfere with the same.

Is Lessee a Government Agency?

5. Indemnification. To the extent provided by law, Lessee shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by Lessee, its officers, agents, or employees, during the performance of the Agreement, except that neither Lessee, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by Lessee in the performance of services required under this Agreement, the Department will immediately forward the claim to Lessee. Lessee and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of Lessee in the defense of the claim or to require that Lessee defend the Department in such claim as described in this section. The Department's failure to promptly notify Lessee of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Lessee. The Department and Lessee will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any.

6. Insurance. Lessee at its expense, shall maintain at all times during the term of this Agreement, public liability insurance protecting the Department and Lessee against any and all claims for injury and damage to persons and property, and for the loss of life or property occurring in, on, or about the land arising out of the act, negligence, omission, nonfeasance, or malfeasance of Lessee, its employees, agents, contractors, customers, licensees, and invitees. Such insurance shall be carried in a minimum amount of not less than per Florida Statute 768.28 (\$ 0.00) for bodily injury or death to any one person or any number of persons in any one occurrence and not less than per Florida Statute 768.26 (\$ 0.00) for property damage, or a combined coverage of not less than per Florida Statute 768.28 (\$ 0.00). All such policies shall be issued by companies licensed to do business in the State of Florida and all such policies shall contain a provision whereby the same cannot be canceled or modified unless the Department is given at least sixty (60) days prior written notice of such cancellation or modification. Lessee shall provide the Department certificates showing such insurance to be in place and showing the Department as additional named insured under the policies. If self-insured or under a risk management program, Lessee represents that such minimum coverage for liability will be provided for the property.

## 7. Termination

a. This Agreement may be terminated by either party without cause upon \_\_\_\_\_ ( 180 ) days prior written notice to the other party.

b. It is understood and agreed to by the Lessee that the Department reserves the right to terminate this Agreement immediately without prior notice, in the event the Lessee violates any of the conditions of this Agreement and such violation is not corrected within a reasonable time after written notice of noncompliance has been given. In the event the Agreement is terminated and the Department deems it necessary to request the removal of the facility on the property, the removal shall be accomplished by the Lessee in a manner prescribed by the Department at no cost to the Department or the FHWA.

c. The Lessee must notify the Department of its intention to renew this Agreement not later than thirty (30) days prior to the expiration of the original term. Lessee's failure to comply with the foregoing notice provision may result in the Department's refusal to renew the Agreement.

d. Upon termination of this Agreement, Lessee shall deliver the property to the Department, or its agents, in the condition existing at the commencement of this Agreement, normal wear and tear excepted, unless a facility, any improvement, or any part thereof has been constructed on the property.

e. If removal of the facility, improvements, or any part thereof is requested by the Department, any such structures shall be removed by the Lessee at Lessee's expense by midnight of the day of termination of this Agreement and the property restored as nearly as practicable.

f. This Agreement is terminable by the Department in the event that the facility ceases to be used for its intended purpose or is abandoned.

## 8. Eminent Domain

Lessee acknowledges and agrees that its relationship with the Department under this Agreement is one of landlord and tenant and no other relationship either expressed or implied shall be deemed to apply to the parties under this Agreement. Termination of this Agreement for any cause shall not be deemed a taking under any eminent domain or other law so as to entitle Lessee to compensation for any interest suffered or lost as a result of termination of this Agreement, including any residual interest in the Agreement or any other facts or circumstances arising out of or in connection with this Agreement.

Lessee hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort, including special damages, severance damages, removal costs, or loss of business profits, resulting from Lessee's loss of occupancy of the property specified in this Agreement, or any such rights, claims, or damages flowing from adjacent properties owned or leased by Lessee as a result of Lessee's loss of occupancy of the property specified in this Agreement. Lessee also hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort as set out above, as a result of Lessee's loss of occupancy of the property, when any or all adjacent properties owned or leased by Lessee are taken by eminent domain proceedings or sold under the threat thereof. This waiver and relinquishment applies whether this Agreement is still in existence on the date of taking or sale or has been terminated prior thereto.

## 9. Miscellaneous

a. The airspace and Lessee's rights under this Agreement shall not be transferred, assigned, or conveyed to another party without the prior written consent of the Department, subject to concurrence by the FHWA.

b. In conformance with the Civil Rights Act of 1964 (Title VI, Appendix "C") and 49 CFR Part 21, Lessee agrees as follows:

1. That as a part of the consideration hereof, Lessee does hereby covenant and agree as a covenant running with the land that (1) no person, on the ground of race, color, sex, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said property and facility; (2) that in connection with the construction of any improvements on said property and facility and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors; and (3) that the Lessee shall use the property and facility in compliance with all other requirements imposed pursuant to 15 CFR Part 8, Subpart A.

2. That in the event of breach of any of the above covenants, the Department shall have the right to terminate this Agreement and to re-enter and repossess said property and the facility thereon, and hold the same as if this Agreement had never been made or issued.

c. During the term of this Agreement Lessee shall, at Lessee's own cost and expense, promptly observe and comply with all present or future laws, requirements, orders, directions, ordinances, and regulations of the United States of America, the State of Florida, county or local governments, or other lawful authority whatsoever, affecting the land, property, and facility or appurtenances or any part thereof, and of all insurance policies covering the property, land, and facility, or any part thereof.

d. In addition to or in lieu of the terms and conditions contained herein, the provisions of any Addendum of even date herewith which is identified to be a part hereof is hereby incorporated herein and made a part hereof by this reference. In the event of any conflict between the terms and conditions hereof and the provisions of the Addendum(s), the provisions of the Addendum(s) shall control, unless the provisions thereof are prohibited by law.

e. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or negotiations with respect thereto. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.

f. This Agreement shall not be recorded in the public records of any state, city, county, or other governmental entity.

g. Lessee acknowledges that it has reviewed this Agreement, is familiar with its terms, and has had adequate opportunity to review this Agreement with legal counsel of Lessee's choosing. Lessee has entered into this Agreement freely and voluntarily. This Agreement contains the complete understanding of the parties with respect to the subject matter hereof. All prior understandings and agreements, oral or written, heretofore made between the parties and/or between Lessee and any previous owner of the property and landlord of Lessee are merged in this Agreement, which alone, fully and completely express the agreement between Lessee and the Department with respect to the subject matter hereof. No modification, waiver, or amendment of this Agreement or any of its conditions or provisions shall be binding upon the Department or Lessee unless in writing and signed by both parties.

h. Lessee shall be solely responsible for all bills for electricity, lighting, power, gas, water, telephone, and telegraph services, or any other utility or service used on the property.

i. This Agreement shall be governed by the laws of the State of Florida, and any applicable laws of the United States of America.

j. All notices to the Department shall be sent to the address for rent payments and all notices to Lessee shall be sent to the property address provided herein or otherwise provided in writing to the Department.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

LEE COUNTY, FLORIDA, BY ITS BOARD\*

LESSEE (Company Name, if applicable)

\*OF COUNTY COMMISSIONERS

By: \_\_\_\_\_

Name: Tammara Hall

Title: Chairwoman

Attest: \_\_\_\_\_ (Seal)

Name: \_\_\_\_\_

Title: Deputy Clerk

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Assistant County Attorney  
Office of County Attorney

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_

District Secretary

Name: \_\_\_\_\_

Attest: \_\_\_\_\_

Name/Title: Stanley M. Cann, P.E.

Legal Review:

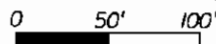
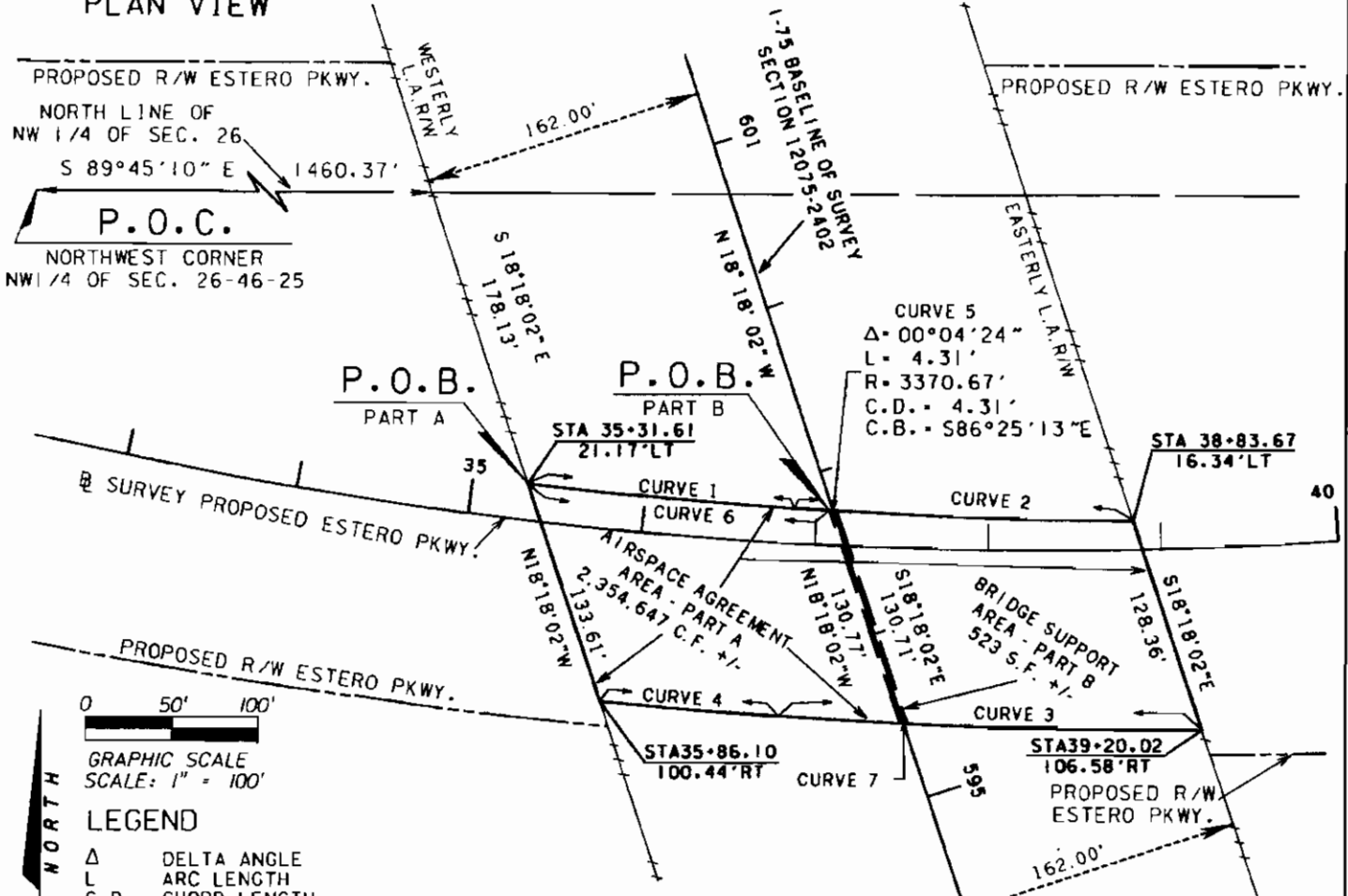
\_\_\_\_\_  
District Counsel

Name: \_\_\_\_\_

This sketch is NOT a survey.

SECTION 26, TOWNSHIP 46 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

PLAN VIEW




GRAPHIC SCALE  
SCALE: 1" = 100'

LEGEND

- Δ DELTA ANGLE
- L ARC LENGTH
- C.D. CHORD LENGTH
- C.B. CHORD BEARING
- L.A. LIMITED ACCESS
- P.I. POINT OF INTERSECTION
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- R RADIUS
- RNG. RANGE
- R/W RIGHT-OF-WAY
- SEC. SECTION
- C-F. CUBIC FEET
- TWP. TOWNSHIP
- +/- MORE OR LESS
- P.E. PROFESSIONAL ENGINEER
- BL BASELINE
- STA STATION
- S.F. SQUARE FEET
- EL ELEVATION

<b>CURVE 1</b> Δ = 02°37'05" L = 154.01' R = 3370.67' C.D. = 154.00' C.B. = S84°43'44"E	<b>CURVE 2</b> Δ = 03°19'16" L = 195.37' R = 3370.67' C.D. = 195.35' C.B. = S87°41'54"E	<b>CURVE 6</b> Δ = 02°57'50" L = 174.36' R = 3370.67' C.D. = 174.34' C.B. = S84°54'06"E
<b>CURVE 3</b> Δ = 04°00'17" L = 244.09' R = 3492.33' C.D. = 244.04' C.B. = N88°02'24"W	<b>CURVE 4</b> Δ = 01°41'44" L = 103.35' R = 3492.33' C.D. = 103.35' C.B. = N85°11'24"W	<b>CURVE 7</b> Δ = 00°04'13" L = 4.29' R = 3492.33' C.D. = 4.29' C.B. = N87°13'11"W

SEE SHEET 3 FOR DESCRIPTION & GENERAL NOTES

SKETCH AND DESCRIPTION	
EASEMENTS	
JOB NO. 100806.05	DATE 10/20/05
FIELD BOOK N/A	REV. 04/19/06
SCALE 1" = 100'	REV.
DRAWN BY. DMC	CHECKED BY. PMM
 <b>ENGINEERS, PLANNERS &amp; SURVEYORS</b> 5300 WEST CYPRESS STREET SUITE 200 TAMPA, FLORIDA 33607 (813)-282-7275	
SHEET 1 OF 3	

I hereby certify that the attached "Sketch and Description" is true and correct to the best of my knowledge and belief as recently prepared under my direction and that this sketch meets the intent of the minimum technical standards for surveying pursuant to Section 472.027, Florida Statutes and Chapter 61G17-6, Florida Administrative Code.

*Dianne M. Collins*

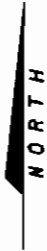
DIANNE M. COLLINS  
PROFESSIONAL SURVEYOR & MAPPER • 3936  
STATE OF FLORIDA



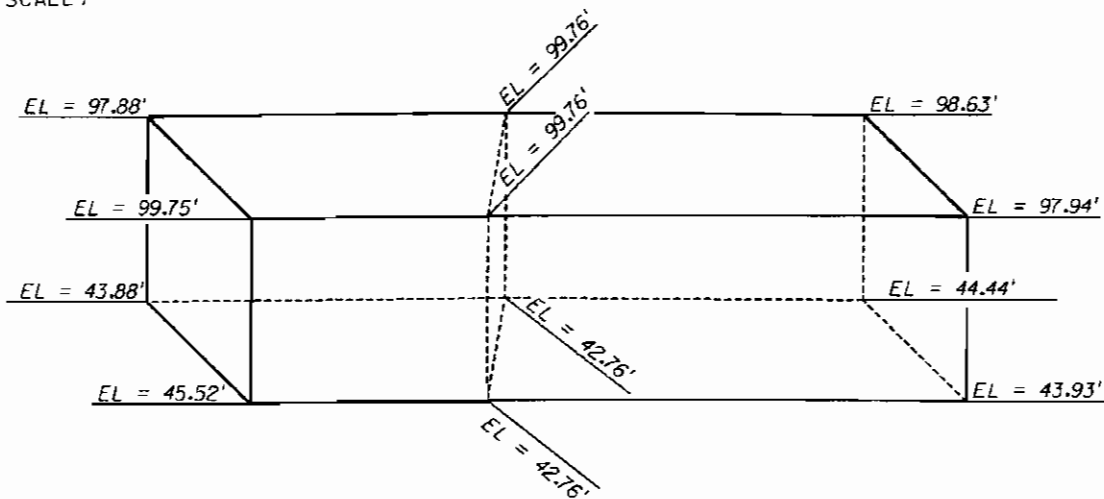
*This sketch is NOT a survey.*

SECTION 26, TOWNSHIP 46 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

ISOMETRIC VIEW



(NOT TO SCALE)



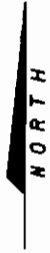
DRAWN BY:	DMC	CHECKED BY:	PMM
<b>PBSJ</b> ENGINEERS, PLANNERS & SURVEYORS 5300 WEST CYPRESS STREET, SUITE 300 TAMPA, FLORIDA 33607 (813)-282-7275			
		SHEET 2 OF 3	

SEE SHEET 3 FOR DESCRIPTION  
& GENERAL NOTES

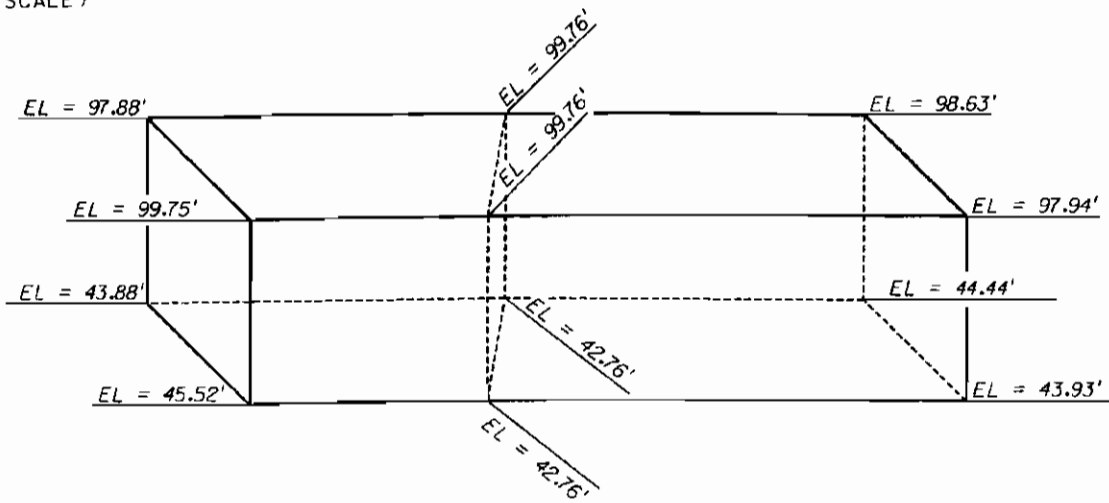
*This sketch is NOT a survey.*

SECTION 26, TOWNSHIP 46 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

ISOMETRIC VIEW



(NOT TO SCALE)



DRAWN BY: *DMC* CHECKED BY: *PMM*



ENGINEERS, PLANNERS & SURVEYORS  
5300 WEST CYPRESS STREET, SUITE 300  
TAMPA, FLORIDA 33607  
(813) 282-7275

SHEET 2 OF 3

SEE SHEET 3 FOR DESCRIPTION  
& GENERAL NOTES

DESCRIPTION

PART A: (AIRSPACE AGREEMENT)

AN AIRSPACE AGREEMENT AREA OVER A PORTION OF EXISTING RIGHT OF WAY FOR INTERSTATE 75 LYING IN THE NORTHWEST 1/4 OF SECTION 26, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA. ELEVATIONS ARE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 26, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE S89°45'10"E, ALONG THE NORTH LINE OF SAID NORTHWEST 1/4, A DISTANCE OF 1460.37 FEET TO THE WESTERLY LIMITED ACCESS RIGHT OF WAY LINE OF SAID INTERSTATE 75 PER FLORIDA DEPARTMENT OF TRANSPORTATION SECTION JOB 12075-2402; THENCE S18°18'02"E, ALONG SAID WESTERLY LIMITED ACCESS RIGHT OF WAY LINE, 178.13 FEET TO A POINT ON A CURVE CONCAVE NORTHERLY HAVING MINIMUM ELEVATION OF 43.88 FEET AND A MAXIMUM ELEVATION OF 97.88 FEET AND THE POINT OF BEGINNING; THENCE EASTERLY 154.01 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 3370.67 FEET, A CENTRAL ANGLE OF 02°37'05" AND A CHORD BEARING AND DISTANCE OF S84°43'44"E, 154.00 FEET TO A POINT HAVING A MINIMUM ELEVATION OF 42.76 FEET AND A MAXIMUM ELEVATION OF 99.76 FEET; THENCE CONTINUE EASTERLY 195.37 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 3370.67 FEET, A CENTRAL ANGLE OF 03°19'16" AND A CHORD BEARING AND DISTANCE OF S87°41'54"E, 195.35 FEET TO THE EASTERLY EXISTING LIMITED ACCESS RIGHT OF WAY LINE OF INTERSTATE 75 AT A POINT HAVING A MINIMUM ELEVATION OF 44.44 FEET AND A MAXIMUM ELEVATION OF 98.63 FEET; THENCE S18°18'02"E, ALONG SAID EASTERLY LIMITED ACCESS RIGHT OF WAY LINE, 128.36 FEET TO A POINT ON A CURVE CONCAVE NORTHERLY HAVING MINIMUM ELEVATION OF 43.93 FEET AND A MAXIMUM ELEVATION OF 97.94 FEET; THENCE WESTERLY 244.09 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 3492.33 FEET, A CENTRAL ANGLE OF 04°00'17" AND A CHORD BEARING AND DISTANCE OF N88°02'24"W, 244.04 FEET TO A POINT HAVING A MINIMUM ELEVATION OF 42.76 FEET AND A MAXIMUM ELEVATION OF 99.76 FEET; THENCE CONTINUE WESTERLY 103.35 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 3492.33 FEET, A CENTRAL ANGLE OF 01°41'44" AND A CHORD BEARING AND DISTANCE OF N85°11'24"W, 103.35 FEET TO THE SAID WESTERLY LIMITED ACCESS RIGHT OF WAY LINE AT A POINT HAVING A MINIMUM ELEVATION OF 45.52 FEET AND A MAXIMUM ELEVATION OF 99.75 FEET; THENCE N18°18'02"W, ALONG SAID WESTERLY LIMITED ACCESS RIGHT OF WAY LINE, 133.61 FEET TO THE SAID POINT OF BEGINNING.

CONTAINING 42386 SQUARE FEET AND 2,354,647 CUBIC FEET, MORE OR LESS.

PART B: (BRIDGE SUPPORT LOCATION)

A PARCEL OF LAND LYING WITHIN THE NORTHWEST 1/4 OF SECTION 26, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 26, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE S89°45'10"E, ALONG THE NORTH LINE OF SAID NORTHWEST 1/4, A DISTANCE OF 1460.37 FEET TO THE WESTERLY LIMITED ACCESS RIGHT OF WAY LINE OF SAID INTERSTATE 75 PER FLORIDA DEPARTMENT OF TRANSPORTATION SECTION JOB 12075-2402; THENCE S18°18'02"E, ALONG SAID WESTERLY LIMITED ACCESS RIGHT OF WAY LINE, 178.13 FEET TO A POINT ON A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 3370.67 FEET, A CENTRAL ANGLE OF 02°57'50" AND A CHORD BEARING AND DISTANCE OF S84°54'06"E, 174.34 FEET; THENCE EASTERLY 174.36 FEET ALONG THE ARC OF SAID CURVE TO THE POINT OF BEGINNING; THENCE CONTINUE 4.31 FEET ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 3370.67 FEET, A CENTRAL ANGLE OF 00°04'24", A CHORD BEARING AND DISTANCE OF S86°25'13"E, 4.31 FEET; THENCE S18°18'02"E, 130.71 FEET TO A POINT ON A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 3492.33 FEET, A CENTRAL ANGLE OF 00°04'13" AND A CHORD BEARING AND DISTANCE OF N87°13'11"W, 4.29 FEET; THENCE WESTERLY 4.29 FEET ALONG THE ARC OF SAID CURVE; THENCE N18°18'02"W, 130.77 FEET TO THE SAID POINT OF BEGINNING.

CONTAINING 523 SQUARE FEET, MORE OR LESS.

SURVEYOR'S NOTES:

1. Reproductions of this sketch are not valid without the signature and the original raised sealed of a Florida licensed Surveyor and Mapper.
2. The sketch shown hereon is for graphic representation only and does not represent a boundary survey.
3. Corner monuments were not set in conjunction with the preparation of this drawing.
4. Legal description prepared by PBS&J.
5. Bearings shown hereon are based on the Florida State Plane Coordinate System, West Zone, 1983 North American Datum, 1990 Adjustment, with the bearing of the North line of the NW 1/4 of Section 26, Township 46 South, Range 25 East, Lee County, Florida, being S89°45'10"E.
6. The purpose of this described Airspace Agreement area is to construct an overhead bridge with a center support over Interstate 75 and all vertical information in conjunction with this easement is located in the plans for Estero Parkway (Koreshari Boulevard Extension) from Three Oaks Parkway to Ben Hill Griffin Parkway.
7. Elevations shown hereon were supplied to PBS&J by Ben R. Homola, P.S.M. of McKim & Creed and are based on National Geodetic Vertical Datum of 1929.

DRAWN BY: *DMC* CHECKED BY: *PMM*



ENGINEERS, PLANNERS & SURVEYORS  
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TAMPA, FLORIDA 33607  
(813)-282-7275

SHEET 3 OF 3

**LEE COUNTY RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING LEE COUNTY TO ENTER  
INTO AN AIRSPACE AGREEMENT WITH THE FLORIDA  
DEPARTMENT OF TRANSPORTATION**

This is a Resolution of the Board of County Commissioners, Lee County, Florida, a political subdivision of the State, authorizing the execution of a Supplemental Agreement with the Florida Department of Transportation.

**WHEREAS**, Lee County, Florida, has the statutory authority to enter into this Airspace Agreement with the Florida Department of Transportation in accordance with Section 338.251, Florida Statutes.

**NOW THEREFORE, BE IT IS RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that:**

1. The Airspace agreement for the Estero Parkway Overpass project is hereby approved.
2. The Chairwoman or Chairman of and the Clerk, to the Board of County Commissioners of Lee County, Florida, or designee per Lee County Administrative Code 1-3 are hereby authorized to execute said Agreement.
3. The Clerk of the Circuit Court is hereby authorized and directed to transmit one (1) certified copy of this Resolution to the Florida Department of Transportation along with the executed Agreements.

The foregoing Resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and, being put to a vote, the vote was as follows:

DOUGLAS ST. CERNY \_\_\_\_\_  
BOB JANES \_\_\_\_\_  
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: \_\_\_\_\_  
Office of County Attorney