

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

Blue Sheet No. 20020199

1. REQUESTED MOTION:

ACTION REQUESTED: Accept the donation of Parcel 100 E consisting of two perpetual easements for the Cypress Lake Drive Widening, Project No. 4064; pay necessary costs and fees to close; authorize the Division of County Lands to handle and accept all documentation necessary to complete this transaction.

WHY ACTION IS NECESSARY: The easements are needed for the Cypress Lake Drive Widening, Project No. 4064. All real estate acquisitions must be approved by the Board of County Commissioners pursuant to Florida Statute.

WHAT ACTION ACCOMPLISHES: Acquires the easements during the voluntary phase of the project, thereby the Board avoids the need to exercise its power of Eminent Domain at a future date.

2. DEPARTMENTAL CATEGORY: 06
COMMISSION DISTRICT #: 3

CLB

3. MEETING DATE:
04-09-2002

4. AGENDA:
 CONSENT
 ADMINISTRATIVE
 APPEALS
 PUBLIC
 WALK ON
TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)
 STATUTE FS 125
 ORDINANCE
 ADMIN.
 OTHER

6. REQUESTOR OF INFORMATION

A. COMMISSIONER
B. DEPARTMENT Independent
C. DIVISION County Lands
BY: Karen L. W. Forsyth, Director *[Signature]*

7. BACKGROUND: The Division of County Lands has been requested by the Department of Transportation to acquire right of way and easements for the Cypress Lake Drive Widening, Project No. 4064. This acquisition consists of a Perpetual Non Exclusive Right-of-Way Easement for Bikepath/Sidewalk and a Perpetual Public Utility Easement interest in approximately 69 square feet, located at 7790 Cypress Lake Drive (University Grill), Fort Myers, Florida; STRAP No. 23-45-24-55-00000.0030.

Majik West, Inc a Florida Corporation, has agreed to donate the subject parcel. Lee County will be required to pay customary title examination, search and closing fees, and title insurance of approximately \$500 and attorney fees of \$500.00.

Staff recommends the Board approve the Requested Motion.

Funds are available in Account No. 20406418804.506110

- 20 Capital Improvement Project
- 4064 Cypress Lake Drive Widening
- 18804 Impact Fees - Sft Myers/San Carlos
- 506110 Purchase of Land & Related Costs

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
					QA	PM	RISK	GC	
<i>[Signature]</i>	<i>n/a</i>	<i>n/a</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

10. COMMISSION ACTION:
 APPROVED
 DENIED
 DEFERRED
 OTHER

Rec. by CoAtty
Date: *3/25/02*
Time: *11:40 AM*
Forwarded To:
Co Admin
3-25-02 1:00

RECEIVED BY
COUNTY ADMIN.
3/25/02
2:30 PM
3/28 8AM

This Instrument Prepared by:
COUNTY LANDS DIVISION
P.O. Box 398
Fort Myers, FL 33902-0398
Parcel: 100E
Project: Cypress Lake Drive
Widening, No. 4064
STRAP No.: 23-45-24-55-00000.0030

ORIGINAL DOCUMENTS RETAINED IN
COUNTY LANDS FILES FOR HANDLING
UPON BOARD ACCEPTANCE.

THIS SPACE FOR RECORDING

GRANT OF PERPETUAL PUBLIC UTILITY EASEMENT

This INDENTURE, made and entered into this 6th day of Feb., 2002, between Majik West, Inc., a Florida corporation, Owner, whose address is University Grill, 7790 Cypress Lake Drive, Fort Myers, FL 33907, hereinafter "Grantor", and **LEE COUNTY**, a political subdivision of the State of Florida, whose address is P.O. Box 398, Fort Myers, FL 33902-0398, hereinafter "Grantee":

WITNESSETH

1. For and in consideration of the sum of One Dollar and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor hereby grants and transfers to the Grantee, its successors and assigns, the use of a perpetual public utility easement situated in Lee County, Florida, and located and described as set forth in Exhibit "A" attached.

2. Grantee, its successors, appointees, heirs and assigns, are hereby granted the right, privilege, and authority to construct, replace, renew, extend and maintain public utility facilities, to include, but not be limited to: electrical power, telephone, water systems, sewer transmission and collection systems with all appurtenances thereto, to be located on, under, above, across, through and within the easement which is located on the property described (Exhibit "A"), with the additional right, privilege and authority to remove, replace, repair and enlarge said facilities within said easement, and to trim and remove roots, trees, shrubs, bushes and plants and remove fences or any other improvements which may affect the operation of the public utility facilities or Grantee's use of the easement.

3. The public utility easement will not be limited to any particular diameter size or type and/or number of connections to other similar facilities for providing public utility service to this and any adjacent properties. The total area of this public utility easement is to be reserved for the public utility lines, poles, mains, or other utility facilities and for any landscaping (excluding trees), walkways, roadways, drainage ways, or similar type uses. Houses, fences, buildings, carports, garages, storage sheds or any other structures will not be constructed upon or placed within this easement at any time, present or future, by Grantor, or its heirs, successors or assigns.

4. Title to any public utility facilities constructed hereunder will remain in the Grantee, Grantee's successors, appointees and/or assigns, or the public utility providing the service.

5. Subject to any existing easements for public highways or roads, railroads, laterals, ditches, pipelines and electrical transmission or distribution lines and telephone and cable television lines covering the land herein described, Grantors covenant that they are lawfully seized and possessed of the described real property (Exhibit "A"), have good and lawful right and power to convey it, and that the property is free and clear of all liens and encumbrances, except as recorded in the Public Records, and accordingly, Grantors will forever warrant and defend the title and terms to this said easement and the quiet possession thereof against all claims and demands of all other entities.

6. Grantee will have a reasonable right of access across Grantor's property for the purposes of reaching the described easement (Exhibit "A") on either paved or unpaved surfaces. Any damage to Grantor's property or permitted improvements thereon as the result of such access to the described easement or the construction, maintenance, or repairs located within the above-described easement will be restored by the County or the particular utility providing service, to the condition in which it existed prior to the damage.

7. THIS AGREEMENT will be binding upon the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, Majik West, Inc., GRANTOR, has caused this document to be signed on the date first above written.

SIGNED, SEALED AND DELIVERED
TWO SEPARATE WITNESSES:

GRANTOR:
Majik West, Inc.

Martha Murphy
1st Witness Signature

By: Michael T. Schelling
MICHAEL L. SCHELLING
Printed Name

MARTHA MURPHY
Printed name of 1st Witness

Title: President

Steven E Wolfe
2nd Witness Signature

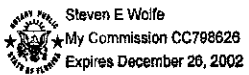
(CORPORATE SEAL)

Steven E. Wolfe
Printed name of 2nd Witness

STATE OF Florida
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 6th day of Feb, 2002, by Michael Schelling - Pres.
(name of officer or agent, title of officer or agent)
of Majik West Inc., a Florida
(name of corporation acknowledged) (State or place of incorporation)
corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ as identification.
(type of identification)

Steven E Wolfe
(Signature of Notary Public)



Steven E. Wolfe
(Name typed, printed or stamped)
(Title or Rank)
(Serial Number, if any)

Exhibit "A"

COUNTY PROJ. NO.

CN-97-01

COUNTY PROJ. NO. CN-97-01 (S.T.A. NO. 18) CYPRESS LAKE DRIVE LEE COUNTY DESCRIPTION

Page 1 of 2

PARCEL 100E

PERPETUAL EASEMENT

That portion of Lot 3, University Crossing, a subdivision in Section 23, Township 45 South, Range 24 East, as per plat thereof recorded in Plat Book 59, Page 63, Public Records of Lee County, Florida.

Being more particularly described as follows:

BEGIN at the southeast corner of said Lot 3; said point lying on the northerly right of way line of Cypress Lake Drive and also lying N 00°51'22"W, 56.55 feet from survey base line station 124+07.62 of Cypress Lake Drive (per Lee County Project Number CN-97-01, Contract Number III, S.T.A. Number 18); thence along the south line of said Lot 3 and said northerly right of way line, N 87°09'53"W, a distance of 47.84 feet; thence N 89°21'48"E, a distance of 47.74 feet to the east line of said Lot 3; thence along said east line, S 00°51'22"E, a distance of 2.90 feet to the POINT OF BEGINNING.

Said lands containing 69 square feet, more or less.

NOT A SURVEY

DEPARTMENT OF TRANSPORTATION
LEE COUNTY

RIGHT OF WAY PARCEL SKETCH

CYPRESS LAKE DRIVE LEE COUNTY

	BY	DATE	APPROVED BY	DATE
PRELIM	DKT	4-17-01		
FINAL	DKT	4-19-01		
CHECKED	MJZ	4-19-01		

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PREPARED BY:
AIM ENGINEERING & SURVEYING, INC.

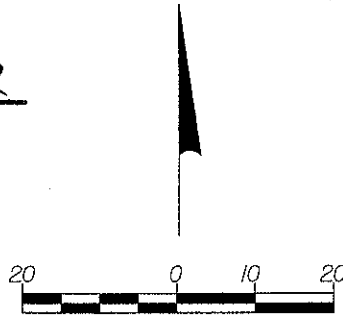
[Signature] 6/7/01
MICHAEL J. ZOLTEK
REGISTERED SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5751
LICENSED BUSINESS #3114

AIM ENGINEERING & SURVEYING, INC.
5300 LEE BLVD.
P.O. BOX 1235
LEHIGH ACRES
FLORIDA 33970
1-800-226-4569
FX1941/932-8734



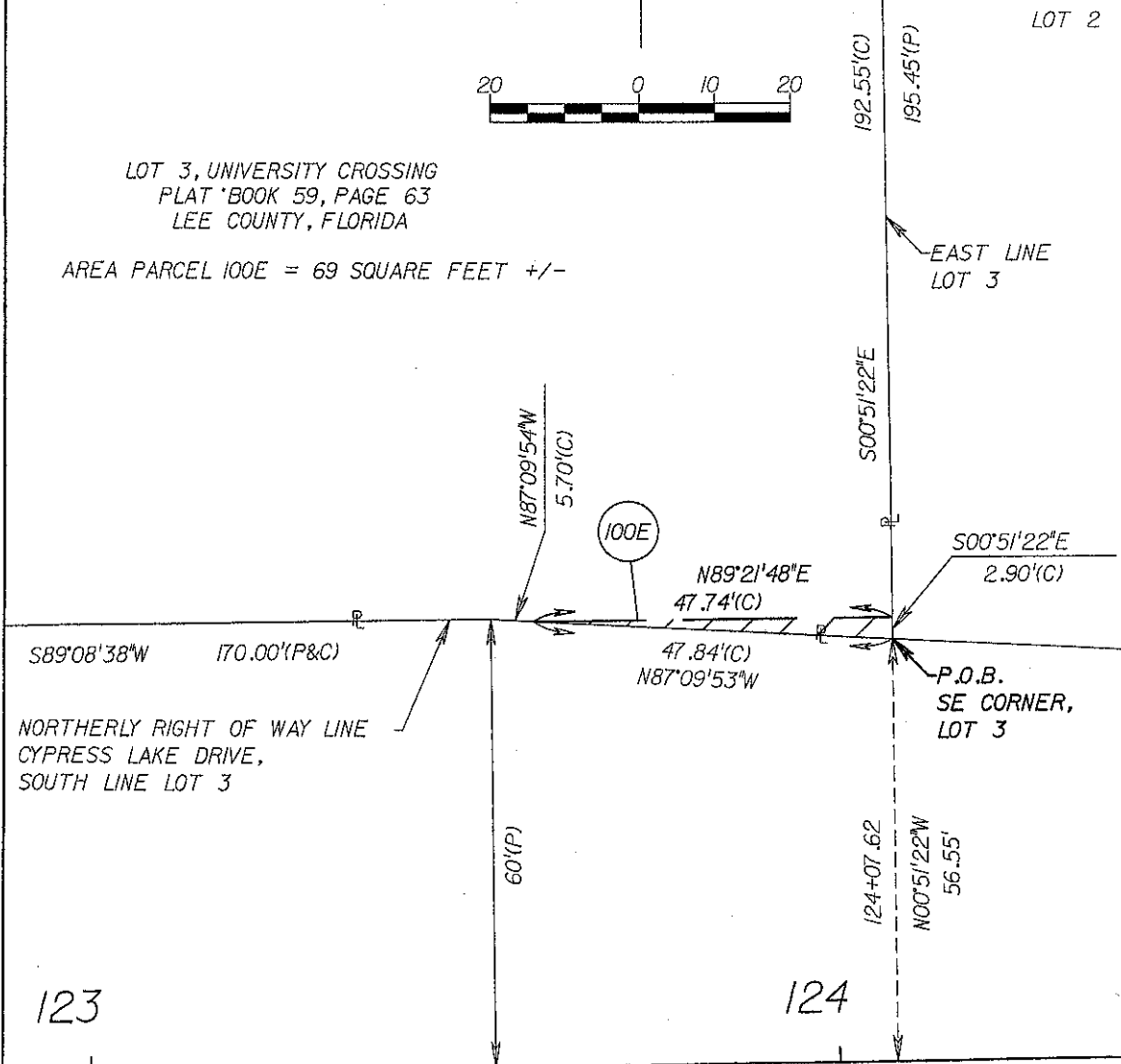
REVISION	BY	DATE	MAPS PREPARED BY AIM ENG. & SURVEYING, INC.	FIELD BOOK NO.'S N/A
			S.T.A. NO. 18	SCALE: N/A
			CONTRACT No. III	SHEET 1 OF 2

Exhibit "A"



LOT 3, UNIVERSITY CROSSING
PLAT BOOK 59, PAGE 63
LEE COUNTY, FLORIDA

AREA PARCEL 100E = 69 SQUARE FEET +/-



N 89°08'38" E SURVEY BASE LINE
CYPRESS LAKE DRIVE

NOT A SURVEY

DEPARTMENT OF TRANSPORTATION			
LEE COUNTY			
RIGHT OF WAY PARCEL SKETCH			
CYPRESS LAKE DRIVE		LEE COUNTY	
BY	DATE	APPROVED BY	DATE
PRELIM DKT	4-17-01		
FINAL DKT	4-19-01		
CHECKED MJZ	4-19-01		
MAPS PREPARED BY		FIELD BOOK NO.'S	
ATM ENG. & SURVEYING, INC.		N/A	
S.T.A. NO. 18		SCALE: 1" = 20'	
CONTRACT No. III			SHEET 2 OF 2

AIM ENGINEERING & SURVEYING, INC.
5900 LEE BLVD.
P.O. BOX 1298
LEHIGH ACRES
FLORIDA 33970
1-800-226-4569
FX:941/392-8794

REVISION	BY	DATE

THIS INSTRUMENT PREPARED BY:

Lee County
Post Office Box 398
Fort Myers, Florida 33902

Parcel: 100E
Project: Cypress Lake Drive
Widening Project No. 4064
Strap No.: 23-45-24-55-00000.0030

ORIGINAL DOCUMENTS RETAINED IN
COUNTY LANDS FILES FOR HANDLING
UPON BOARD ACCEPTANCE.

**GRANT OF PERPETUAL
NON EXCLUSIVE RIGHT-OF-WAY EASEMENT
FOR BIKEPATH/SIDEWALK**

This **INDENTURE**, made and entered into this 6th day of Feb., 2002, between Majik West, Inc., a Florida corporation, whose address is University Grill, 7790 Cypress Lake Drive, Fort Myers, Florida 33907, hereinafter referred to as "Grantor", and **LEE COUNTY**, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398, hereinafter referred to as "County":

WITNESSETH:

1. For good and valuable consideration, which is hereby acknowledged, Grantor hereby transfers to the County a perpetual non-exclusive public right-of-way easement for a bikepath/sidewalk situated in Lee County, Florida, located and described as set forth in Exhibit "A" attached hereto.

2. The County is hereby granted the right to construct, replace, renew, extend and maintain a public bikepath/sidewalk and appurtenant drainage system.

3. This right-of-way easement does not limit the construction of the bikepath/sidewalk or drainage system to a particular type, style, material or design.

4. Title to the improvements constructed hereunder will remain in the County.

5. The County will be responsible for maintenance of the bikepath/sidewalk facility.

6. Grantors covenant that they are lawfully seized and possessed of the property described in Exhibit "A", and have lawful right to convey this non-exclusive easement subject to existing easements for public highways or roads, railroads, laterals, ditches, pipelines and electrical transmission or distribution lines and telephone and cable television lines. Grantor will not place any interfering landscape material in the easement. Also, the Grantor will prevent the creation of obstructions or conditions which are or may become dangerous to the public within the easement.

7. The County will have a reasonable right of access for the purposes of reaching the described easement on either paved or unpaved surfaces. Any damage to Grantor's property or permitted improvements thereon as the result of such access to the described easement or the construction, maintenance, or repairs located within that easement will be restored by the County to the condition in which it existed prior to the damage.

8. THIS AGREEMENT shall be binding upon the parties hereto, their successors and assigns.

9. Grantor, by signing this easement grant, and Grantee, by accepting this easement grant, agree to abide by the terms and conditions contained herein.

IN WITNESS WHEREOF, Majik West, Inc., Grantor has caused this document to be signed on the date first above written.

TWO SEPARATE WITNESSES:

Martha Murphy
1st Witness Signature

MARTHA MURPHY
Printed name of 1st Witness

Steven E. Wolfe
2nd Witness Signature

Steven E. Wolfe
Printed name of 2nd Witness

GRANTOR:

Majik West, Inc.

By: Michael J. Schilling

MICHAEL L. SCHILLING
Printed Name

Title: President

(CORPORATE SEAL)

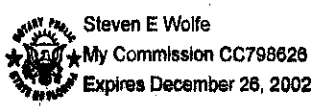
STATE OF Florida)
COUNTY OF Lee)

SWORN TO AND SUBSCRIBED before me this 6th day of Feb., 2002 by

Michael Schilling, Pres. of Majik West Inc a
name of officer or agent, title of officer or agent) (name of corporation acknowledged)

Florida corporation, on behalf of the corporation.
(state or place of incorporation)

He/She is personally known to me or has produced _____ as
identification. (type of identification)



Steven E. Wolfe
(Signature of Notary Public)

Steven E. Wolfe
(Name typed, printed or stamped)
(Title or Rank)
(Serial Number, if any)

Exhibit "A"

Page 1 of 2

COUNTY PROJ. NO.
CN-97-01

COUNTY PROJ. NO. CN-97-01 (S.T.A. NO. 18) CYPRESS LAKE DRIVE LEE COUNTY DESCRIPTION

PARCEL 100E

PERPETUAL EASEMENT

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Said lands containing 69 square feet, more or less.

NOT A SURVEY

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PREPARED BY:
AIM ENGINEERING & SURVEYING, INC.
[Signature] 6/7/01
MICHAEL J. ZOKTEK
REGISTERED SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5751
LICENSED BUSINESS #3114

AIM ENGINEERING & SURVEYING, INC.
5900 LEE BLVD.
P. O. BOX 1235
LEHIGH ACRES
FLORIDA 33970
1-800-226-4569
FX941/392-8734

DEPARTMENT OF TRANSPORTATION LEE COUNTY			
RIGHT OF WAY PARCEL SKETCH			
CYPRESS LAKE DRIVE		LEE COUNTY	
	BY	DATE	APPROVED BY
PRELIM	DKT	4-17-01	
FINAL	DKT	4-19-01	
CHECKED	MJZ	4-19-01	
MAPS PREPARED BY AIM ENG. & SURVEYING, INC.		FIELD BOOK NO.'S N/A	
S.T.A. NO. 18		SCALE: N/A	
CONTRACT No. 111			SHEET 1 OF 2

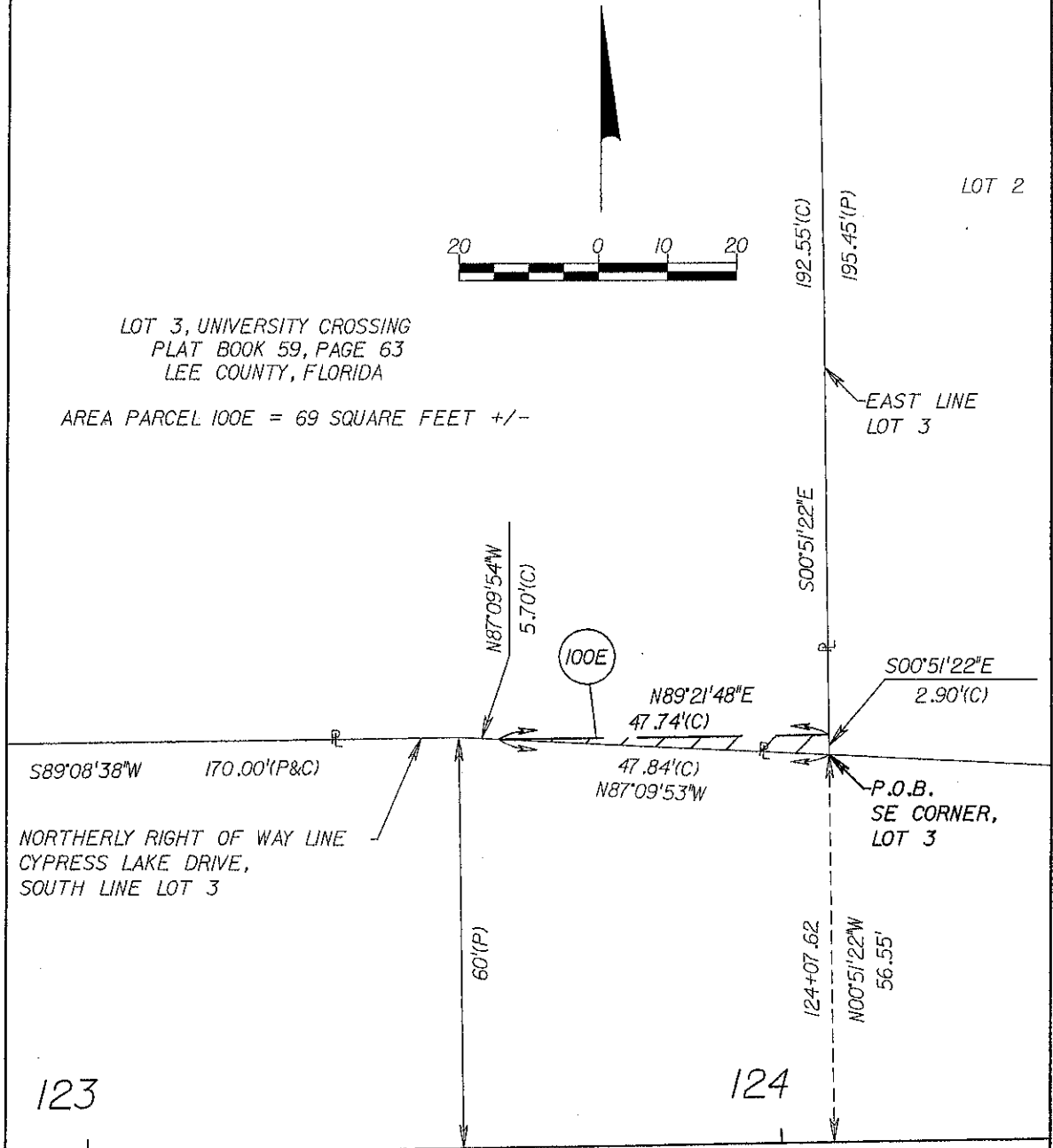
REVISION	BY	DATE

Exhibit "A"

Page 2 of 2

SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST

COUNTY PROJ. NO.
CN-97-01



NOT A SURVEY

DEPARTMENT OF TRANSPORTATION LEE COUNTY			
RIGHT OF WAY PARCEL SKETCH			
CYPRESS LAKE DRIVE		LEE COUNTY	
	BY	DATE	APPROVED BY
PRELIM	DKT	4-17-01	
FINAL	DKT	4-19-01	
CHECKED	MJZ	4-19-01	
MAPS PREPARED BY AIM ENG. & SURVEYING, INC.		FIELD BOOK NO.'S N/A	
S.T.A. NO. 18		SCALE: 1" = 20'	
CONTRACT No. 111			SHEET 2 OF 2

AIM ENGINEERING & SURVEYING, INC.
5300 LEE BLVD.
P.O. BOX 1236
LEHIGH ACRES
FLORIDA 33970
1-800-226-4569
FX1941/392-8734



REVISION	BY	DATE

Ownership and Easement Search

Search No. 21869/C

Date: February 25, 2002

Parcel: -

Project: Cypress Lake Drive Widening
#4064

To: Karen L. W. Forsyth
Director

From: Shelia A. Bedwell, CLS
Real Estate Title Examiner

STRAP: 23-45-24-55-00000.0030

Effective Date: February 15, 2002, at 5:00 p.m.

Subject Property: Lot 3, University Crossing, a subdivision according to the map or plat thereof filed and recorded in the Office of the Clerk of the Circuit Court, in Plat Book 59, Pages 62 and 63, Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

Majik West, Inc., a Florida Corporation

by that certain instrument dated March 15, 1997, recorded March 21, 1997, in Official Record Book 2803, Page 3845, Public Records of Lee County, Florida.

Easements:

1. Lake Maintenance Easement across the Northerly ten feet (10ft.) of subject property, as shown on plat. [does not abut Cypress Lake Drive or SR-869]
2. Private Ingress/Egress Easement dedicated for the benefit of present and future owners within University Crossing Subdivision along a Northeasterly portion of the subject lot; said easement being nine feet (9') in width and sixty-two feet (62') in length, as shown on plat. [does not abut Cypress Lake Drive or SR-869]
3. Ten feet (10 ft.) by twenty feet (20 ft.) Florida Power & Light Company Easement lying in the Southwesterly corner of subject property, as shown on plat and as recorded in Official Record Book 2099, Page 1773, Public Records of Lee County, Florida. [abuts Cypress Lake Drive right of way]
4. United Telephone Company of Florida Easement shown on plat and recorded in Official Record Book 1581, Page 145, Public Records of Lee County, Florida. Said easement varies in width across the Westerly boundary of subject property but looks as though it encumbers five feet (5ft.) of the subject property at its widest point. [parallels SR-869, however, does not appear to abut the right of way]

Ownership and Easement Search
Search No. 21869/C
Date: February 25, 2002
Parcel: -
Project: Cypress Lake Drive Widening
#4064

5. Florida Power & Light Company Easement shown on plat and recorded in Official Record Book 2781, Page 3971, Public Records of Lee County, Florida. Said easement runs along the Westerly boundary of subject lot and appears to be from 12.14 feet to 12.79 feet in width at varying points along said Westerly boundary. [parallels SR-869, however, does not appear to abut the right of way]
6. Exclusive And Perpetual Gravity Sewer Main Easement Grant to Florida Cities Water Company, as recorded in Official Record Book 2849, Pages 2828 through 2845, Public Records of Lee County, Florida; said easement is 290 square feet \pm and lies in the Northeasterly corner of subject lot. [does not abut Cypress Lake Drive or SR-869]
7. Non-exclusive Easement granted to Florida Power & Light Company for utility purposes, as recorded in Official Record Book 2901, Page 2869, Public Records of Lee County, Florida. Said easement varies in width from ten feet (10') to twelve feet (12') along a portion of the Southerly boundary of subject lot. [abuts Cypress Lake Drive right of way]
8. The subdivision developer reserves the right to erect signs and make all other uses of the land underlying all easements granted, provided such uses do not materially interfere with said easements, as recited on plat. [NOTE: Said right was subsequently conveyed by the original developer to E & A University Crossing Limited Partnership by deed recorded in Official Record Book 3175, Page 4031, Public Records of Lee County, Florida].
9. Subject to various access, utility and maintenance easements held by the property developer, the owners and the owners' associations over any "common areas" of the subdivision lots, as recited in the University Center Master Declaration recorded in Official Record Book 2535, Page 3142 and First Amendment to the Master Declaration recorded in Official Record Book 2782, Page 193 Public Records of Lee County, Florida and as recited in paragraphs 16, 17, 20 and 21 of University Crossing Subdivision Declaration recorded in Official Record Book 2803, Page 3830, Public Records of Lee County, Florida. [NOTE: The individual lots fail to reflect the exact location of said "common areas"; however, it appears that the various Declarations general describe the common areas as roadways, green areas together with any portion of the surface water management system].
10. Various easements for access and utility purposes granted over and across "common areas", as recited in Memorandum Of Shopping Center Ground Lease given to Albertson's, Inc. as tenant and recorded in Official Record Book 2684, Page 2880, Public Records of Lee County, Florida.

Ownership and Easement Search
Search No. 21869/C
Date: February 25, 2002
Parcel: -
Project: Cypress Lake Drive Widening
#4064

11. Maintenance and Cross Easement Agreement by and between University Center Owners Association, Inc. and Seven Lakes Association, Inc. for the purpose of entering upon the land of each other with regard to the operation and maintenance of a surface water management system, as recorded and more fully described in Official Record Book 3219, Page 3375, Public Records of Lee County, Florida.

Tax Status: 2001 Ad Valorem Taxes are PAID IN FULL.
(The end user of this report is responsible for verifying tax and/or assessment information.)

The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.